
SCOTTISH STATUTORY INSTRUMENTS

2007 No. 61

**The Avian Influenza (H5N1 in
Wild Birds) (Scotland) Order 2007**

PART 2

Confirmation or suspicion of H5N1

Confirmation or suspicion of H5N1 in wild birds

5.—(1) This article applies if the Chief Veterinary Officer (Scotland) advises the Scottish Ministers that—

- (a) the avian influenza virus of the H5 subtype is present in a wild bird or the carcase of a wild bird in Great Britain; and
- (b) either—
 - (i) the Chief Veterinary Officer (Scotland) suspects that the neuraminidase may be N1; or
 - (ii) the neuraminidase has been confirmed as N1.

(2) If the wild bird or carcase was found in Scotland, the Scottish Ministers must declare—

- (a) a wild bird control area; and
- (b) a wild bird monitoring area.

(3) If the wild bird or carcase was found in England or Wales—

- (a) subject to sub paragraphs (b) and (c), the Scottish Ministers may declare a wild bird control area or a wild bird monitoring area;
- (b) the Scottish Ministers must declare a wild bird control area if the wild bird or carcase was found within three kilometres of the border with Scotland;
- (c) the Scottish Ministers must declare a wild bird monitoring area if the wild bird or carcase was found within ten kilometres of the border with Scotland.

(4) Paragraphs (2), (3)(b) and (3)(c) do not apply if the Scottish Ministers are satisfied, pursuant to a risk assessment, that—

- (a) H5N1 is not present in poultry, other captive birds or wild birds in the area which would otherwise be declared as the wild bird monitoring area; and
- (b) the infected wild bird or carcase did not present a risk of spreading that virus to such birds in that area.

(5) The risk assessment under paragraph (4) must take into account any geographical and ecological considerations.

(6) An area remains a wild bird control area until—

- (a) the Scottish Ministers amend the declaration made under paragraph (2)(a), (3)(a) or (3)(b) so that the area within its boundaries becomes part of the wild bird monitoring area; or

(b) the Scottish Ministers revoke the declaration.

(7) An area remains a wild bird monitoring area until the Scottish Ministers revoke the declaration made under paragraph (2)(b), (3)(a) or (3)(c).

(8) Subject to paragraph (9), premises which are only partly in a wild bird control area or a wild bird monitoring area are deemed to be wholly within that area.

(9) Premises which are partly in a wild bird control area and partly in a wild bird monitoring area are deemed to be wholly in the wild bird control area.