
EXPLANATORY NOTE

(This note is not part of the Order)

This Order extends to Scotland only and implements Commission Decision [2006/563/EC](#) concerning certain protection measures in relation to highly pathogenic avian influenza of subtype H5NI in wild birds in the Community and repealing Decision [2006/115/EC](#) (O.J. No. L 222, 15.8.2006, p.11). It also specifies the health mark, and the alternative health mark pursuant to Directive [2002/99/EC](#), to be applied to fresh and processed poultry meat and meat products which are to be moved out of a wild bird control area to another part of the UK. These marks are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health of 1st December 2006.

This Order provides that if the Chief Veterinary Officer (Scotland) advises the Scottish Ministers that avian influenza of subtype H5 is present in a wild bird or a wild bird carcass and that the Chief Veterinary Officer (Scotland) suspects or confirms that the neuraminidase type is N1, the Scottish Ministers must, subject to a derogation, declare a wild bird control area and a wild bird monitoring area (articles 5, 6 and 7) (article 5(4) sets out the exception to the requirement to make a declaration). Article 8 sets out the measures to apply in such areas by reference to the Schedules, and the circumstances in which the Scottish Ministers can amend a declaration to disapply certain measures in those areas. Article 9 provides that the Scottish Ministers may impose additional measures to those set out in the Schedules. Article 12 sets out the circumstances in which the Scottish Ministers can either amend a declaration of a wild bird control area so that it becomes part of the wild bird monitoring area or revoke the declaration of either area.

The Scottish Ministers must ensure that veterinary inspectors inspect commercial premises in a wild bird control area or a wild bird monitoring area to monitor the spread of avian influenza (article 11).

Articles 13 to 23 relate to record keeping, cleansing and disinfection, provision of reasonable assistance and powers of inspectors.

Schedule 1 sets out the measures that are to apply in respect of a wild bird control area including measures relating to the movement of birds (Part 1), the movement of hatching eggs and SPF eggs (Part 2), the movement of controlled meat (Part 3), the movement of by products (Part 4) and the use or movement of manure, the hunting or release of birds and bird gatherings (Part 5) and other provisions relating to the measures to be taken at premises receiving birds or their products from the area. Schedule 2 sets out the measures that are to apply in respect of a wild bird monitoring area including measures relating to the movement of birds and prohibitions on bird gatherings and the hunting or release of birds. Schedule 3 set out the biosecurity measures that are to apply in respect of premises where poultry or other captive birds are kept in a wild bird control area or a wild bird monitoring area.

This Order is enforced by the local authority (article 24).

This Order revokes the Avian Influenza (H5NI in Wild Birds) (Scotland) Order 2006 (article 25).

Failure to comply with this Order is an offence under section 73 of the Animal Health Act [1981 \(c. 22\)](#), punishable in accordance with section 75 of that Act.

No Regulatory Impact Assessment has been prepared in respect of this Order.