

**2023 No. 361**

**ANIMALS**

**The Avian Influenza and Influenza of Avian Origin in Mammals  
(Scotland) Amendment Order 2023**

*Made* - - - - 30th November 2023

*Laid before the Scottish Parliament* 4th December 2023

*Coming into force* - - 19th December 2023

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 1, 8(1), 15(4), 17(1), 23, 25 and 87(5) of the Animal Health Act 1981(a) and all other powers enabling them to do so.

**Citation and commencement**

1. This Order may be cited as the Avian Influenza and Influenza of Avian Origin in Mammals (Scotland) Amendment Order 2023 and comes into force on 19 December 2023.

**Amendment of the Avian Influenza and Influenza of Avian Origin in Mammals (Scotland) Order 2006**

2.—(1) The Avian Influenza and Influenza of Avian Origin in Mammals (Scotland) Order 2006(b) is amended as follows.

(2) In article 2 (interpretation)—

(a) after the definition of “the Act”, insert—

““the appropriate Minister” means—

- (i) in relation to England, the Secretary of State,
- (ii) in relation to Scotland, the Scottish Ministers,
- (iii) in relation to Wales, the Welsh Ministers;”

(b) for the definition of “authorised veterinary inspector”, substitute—

““authorised veterinary inspector” means a veterinary inspector authorised by the Scottish Ministers to receive information about—

- (a) birds or carcasses infected with avian influenza or suspected of being infected with avian influenza,
- (b) mammals or mammal carcasses in which—

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(a) 1981 c. 22; section 8(1) was amended by Animal Health and Welfare (Scotland) Act 2006 (asp 11), schedule 2, paragraph 1(a) and Agriculture Act 2020 (c.21) section 34(2)(a). Powers to make Orders were originally conferred on “the Ministers”, as defined in section 86(1) of the Animal Health Act 1981. The functions of the Ministers were, in so far as within devolved competence, transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(b) S.S.I. 2006/336; relevant amending instruments are S.S.I. 2013/173 and S.S.I. 2019/71.

- (i) the presence of influenza of avian origin is suspected, or
- (ii) evidence of antibodies to influenza virus of avian origin is detected;”,
- (c) for the definition of “border inspection post”, substitute—
  - ““border control post” means a place (together with the facilities at that place) designated by the Scottish Ministers in accordance with Article 59 of the Official Controls Regulation<sup>(a)</sup> for the purpose of official controls as specified in Article 47(1) of that Regulation;”,
- (d) after the definition of “border inspection post”, insert—
  - ““brood-and-move poultry” means poultry that have been, are being or are to be moved for the purposes of growing or fattening to premises other than those where they were reared;”,
- (e) for the definition of “carcase”, substitute—
  - ““carcase” means, except in the expression “mammal carcase”, the carcase of any bird and includes any part of a carcase;”,
- (f) after the definition of “dispose”, insert—
  - ““game birds” means any birds reared or kept in captivity prior to release for sporting purposes;”,
- (g) after the definition of “mammal”, insert—
  - ““mammal carcase” means the carcase of any mammal and includes any part of a mammal carcase;”,
- (h) in the definition of “non-commercial premises”, omit “by their owners for their own consumption, use or”,
- (i) after the definition of “racing pigeon”, insert—
  - ““ready to lay poultry” means birds which are intended for use as productive egg layers, and for these purposes includes both female and male birds;”,
- (j) in the definition of “regulated place”, for “inspection” substitute “control”,
- (k) for the definition of “special category premises”, substitute—
  - ““special category premises” means—
    - (a) non-commercial premises,
    - (b) circuses,
    - (c) zoos,
    - (d) pet shops,
    - (e) wildlife parks,
    - (f) fenced areas where poultry or other captive birds are kept for scientific purposes or for purposes related to the conservation of protected or endangered species,
    - (g) premises or parts of premises where only breeds of poultry or other captive birds which require to be registered under section 7 of the Wildlife and Countryside Act 1981<sup>(b)</sup> or which the Scottish Ministers consider to be rare are kept,
    - (h) locations where veterinary assistance of animals takes place,
    - (i) premises keeping up to 50 other captive birds which do not have direct or indirect contact with—
      - (i) poultry; or
      - (ii) other premises keeping captive birds;”.

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(a) EUR 2017/625, relevantly amended by S.I. 2020/1481.

(b) 1981 c. 69.

(3) In article 4(1) (declarations, licences, notices and designations under this order), before sub-paragraph (a), insert—

“(za) may be made by a member of staff of the Scottish Ministers.”.

(4) In article 9 (notification procedures and precautions to be taken where avian influenza is suspected), after paragraph (2), insert—

“(3) A person who examines or inspects any mammal or mammal carcass, or who analyses any sample taken from any mammal or mammal carcass, must immediately inform an authorised veterinary inspector if the person—

- (a) suspects the presence of influenza of avian origin in the mammal or mammal carcass, or
- (b) detects evidence of antibodies to influenza virus of avian origin in the mammal or mammal carcass.”.

(5) In article 11(1) (derogations from restrictions applicable at suspect premises), after sub-paragraph (c), insert—

“(d) the restrictions on the movement of eggs.”.

(6) In article 28(2) (measures in protection zones), omit sub-paragraph (b).

(7) In article 29(2) (measures in surveillance zones), omit sub-paragraph (b).

(8) In article 31 (alternative measures where avian influenza is confirmed at a hatchery or in other captive birds on special category premises)—

- (a) in the heading, omit “in other captive birds”,
- (b) in paragraph (1), after the first “in”, insert “poultry or”.

(9) In article 38(2)(a) (poultry meat and by-products in slaughterhouses where disease is suspected or confirmed), for “inspection” substitute “control”.

(10) In article 39 (measures at border inspection posts), in each place it occurs, including the heading, for “inspection” substitute “control”.

(11) In article 41 (disposal or removal of things which may be contaminated), in both places where it occurs, for “inspection” substitute “control”.

(12) In article 43 (reintroduction of poultry and other captive birds), in both places where it occurs, for “inspection” substitute “control”.

(13) In article 44(2) (measures at other premises), in both places where it occurs, for “inspection” substitute “control”.

(14) After article 55 (measures in low pathogenic avian influenza restricted zones), insert—

#### **“Ending of low pathogenic avian influenza restricted zones**

**55A.**—(1) The Scottish Ministers may, by declaration, end a low pathogenic avian influenza restricted zone but must not do so until—

- (a) the minimum period has elapsed, or
- (b) the Scottish Ministers are satisfied, on the basis of veterinary enquiries and tests carried out in the low pathogenic avian influenza restricted zone, and a risk assessment, that the risk of the spread of low pathogenic avian influenza is negligible.

(2) In paragraph (1), “the minimum period” means—

- (a) where preliminary cleansing and disinfection has been carried out in accordance with article 65, 21 days following completion of that preliminary cleansing and disinfection, or
- (b) in any other case, 42 days following the date on which the existence of low pathogenic avian influenza is confirmed.”.

(15) In article 61(2)(d) (treatment, labelling and movement of meat from poultry from a protection zone), for “28(2)(b)” substitute “31”.

(16) In article 62 (poultry and eggs moved to premises outside controlled zones other than for slaughter)—

- (a) in paragraph (2), after “poultry”, insert “or brood-and-move poultry”,
- (b) in paragraph (3), for “including”, substitute “other than”,
- (c) after paragraph (3), insert—

“(3A) The occupier of any premises to which poultry is moved must, for at least 21 days from the date on which the poultry was moved to the premises, take such measures to reduce the risk of spread of avian influenza to poultry, other captive birds or wildlife, as may be directed by a veterinary inspector.”.

(17) For article 73 (records of movements authorised by general licence), substitute—

#### **“Records of movements authorised by licence**

**73.**—(1) Any person moving poultry, other captive birds or their products under a licence granted under this Order must, as soon after the movement as is reasonably practicable, make a record of—

- (a) what is moved, including its quantity,
- (b) the date of the movement,
- (c) the name of the consignor,
- (d) the address of the premises from which the movement started,
- (e) the registration number of any vehicle used,
- (f) the name of the consignee, and
- (g) the address of the destination.

(2) The person making such a record must retain it for at least six weeks from the date the movement was completed.”.

(18) In Schedule 4 (measures in a protection zone)—

- (a) in paragraph 17 (permitted movements within, into or out of a protection zone)—
  - (i) in sub-paragraph (f), after the first “poultry” insert “or brood-and-move poultry”,
  - (ii) in sub-paragraph (l), after “disposal” insert “or diagnosis”,
  - (iii) after sub-paragraph (l), insert—

“(m)poultry or other captive birds to a location where veterinary assistance of animals takes place for treatment or return to the premises of origin following such a movement.”,
- (b) in paragraph 18 (requirements for the transport of poultry from premises in the zone for immediate slaughter at a designated slaughterhouse)—
  - (i) omit the “and” immediately following sub-paragraph (a),
  - (ii) after sub-paragraph (b), insert—

“(c) where the movement is within Great Britain, the appropriate Minister responsible for the designated slaughterhouse has authorised the movement of that poultry.”,
- (c) in paragraph 23 (requirements for the movement of ready to lay poultry)—
  - (i) in the heading, after “lay” insert “poultry and brood-and-move”,
  - (ii) in the first sentence, after “poultry” insert “and brood-and-move poultry”,
  - (iii) in sub-paragraph (a), for “examined” substitute “inspected”,
  - (iv) in sub-paragraph (b), after “poultry” insert “and brood-and-move poultry”.

(19) In schedule 5 (measures in surveillance zones)—

- (a) in paragraph 12 (restrictions on the movement of poultry and eggs within the surveillance zone), after “eggs”, insert “into or”,
- (b) in paragraph 16 (restrictions on the movement of poultry and eggs out of the surveillance zone)—
  - (i) in the heading, after “poultry”, insert “, carcasses”,
  - (ii) in the first sentence, after “poultry”, insert “, carcasses”,
  - (iii) in sub-paragraph (d), after the first “poultry”, insert “or brood-and-move poultry”,
  - (iv) after sub-paragraph (h), insert—
    - “(i) poultry to a location where veterinary assistance of animals takes place for treatment or return to the premises of origin following such a movement,
    - (j) carcasses for disposal or diagnosis if any licence conditions are met.”.
- (c) for paragraph 18 (requirements for the transport of poultry from premises in the surveillance zone for immediate slaughter at a designated slaughterhouse), substitute—
  - “**18.** Poultry must not be moved to a designated slaughterhouse unless—
    - (a) a veterinary inspector has clinically inspected poultry at the premises no more than 24 hours before the poultry leaves the premises, and
    - (b) where the movement is within Great Britain, the appropriate Minister responsible for the designated slaughterhouse has authorised the movement of that poultry.”.

*GILLIAN MARTIN*

Authorised to sign by the Scottish Ministers

St Andrew’s House  
Edinburgh  
30th November 2023

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the Avian Influenza and Influenza of Avian Origin in Mammals (Scotland) Order 2006 (“the 2006 Order”), which makes provision for the control of avian influenza.

Article 2(2)(b) amends the definition of “authorised veterinary inspector” to include a veterinary inspector authorised by the Scottish Ministers to receive information about mammals and mammal carcasses, where the presence of influenza of avian origin is suspected or the presence of antibodies to influenza virus of avian origin is detected. Article 2(4) adds a requirement to notify an authorised veterinary inspector in such circumstances. Article 2(2)(e) amends the definition of “carcase” consequent to the insertion of a definition of “mammal carcase” by article 2(2)(g).

Article 2(2)(c) amends the definition of “border inspection post” to mean a border control post, together with the facilities there, designated by the Scottish Ministers in accordance with the Official Controls Regulation. Subsequent references to “border inspection post” throughout the 2006 Order are amended accordingly by article 2(9) to (13).

Article 2(2)(f) inserts a definition of “game birds”.

Article 2(2)(h) amends the definition of “non-commercial premises” to mean premises where poultry or other captive birds are kept as pets. Article 2(2)(k) extends the list of premises considered “special category premises”, where the Scottish Ministers may, following a risk assessment, apply less stringent measures where avian influenza is confirmed. Article 2(8) amends article 31 of the 2006 Order to allow less stringent measures to be applied, following a risk assessment, where avian influenza is confirmed in poultry or other captive birds on special category premises. The amendment to article 31 provides for the situation in controlled zones previously provided for by articles 28(2)(b) and 29(2)(b) of the 2006 Order, which are omitted by article 2(6) and 2(7) respectively.

Article 2(3) inserts provision to allow declarations made by the Scottish Ministers under the 2006 Order to be made by a member of staff of the Scottish Ministers.

Article 2(5) extends the list of measures applicable where avian influenza is suspected on premises which Scottish Ministers may choose to disapply following a risk assessment, to include restrictions on the movement of eggs.

Article 2(14) inserts provision in respect of the ending of controlled zones imposed where low pathogenic avian influenza is confirmed on premises.

Article 2(16) extends the requirement for poultry to remain at premises outside a controlled zone for 21 days following movement from a protection zone to include brood-and-move poultry and excludes day-old chicks moved from a low pathogenic avian influenza restricted zone from this requirement. Definitions of “brood-and-move poultry” and “ready to lay poultry” are inserted by article 2(2)(d) and 2(2)(i) respectively.

Article 2(17) amends the requirements for any person moving poultry, other captive birds or their products under any licence granted under the 2006 Order to keep records of the movement, including the quantity of what was moved, the registration of any vehicle used and addresses of the premises of origin and destination.

Article 2(18) amends Schedule 4 of the 2006 Order to extend the movement restrictions applicable in protection zones to include brood-and-move poultry, extends movements permitted under licence to include the movement of brood-and-move poultry, the movement of poultry and other captive birds to, and return from, a location where veterinary assistance of animals takes place for treatment, and adds the requirement for Ministerial approval for the movement of poultry to a designated slaughterhouse for immediate slaughter where the slaughterhouse is situated in a different constituent territory of Great Britain. Article 2(2)(a) inserts a definition of “the appropriate Minister”.

Article 2(19) amends Schedule 5 of the 2006 Order to extend the movement restrictions applicable in surveillance zones to include carcasses and brood-and-move poultry and extends movements permitted under licence to include the movement of brood-and-move poultry, the movement of poultry and other captive birds to, and return from, a location where veterinary assistance of animals takes place for treatment, and adds the requirement for Ministerial approval for the movement of poultry to a designated slaughterhouse for immediate slaughter where the slaughterhouse is situated in a different constituent territory of Great Britain.

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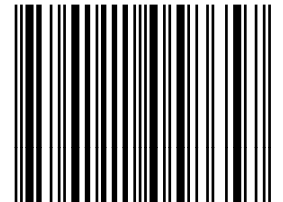
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