

**EXPLANATORY MEMORANDUM TO
THE AVIAN INFLUENZA (PREVENTIVE MEASURES) REGULATIONS 2005**

2005 No. 2989

**THE AVIAN INFLUENZA (PREVENTIVE MEASURES IN ZOOS) REGULATIONS
2005**

2005 No. 2990

1. This explanatory memorandum has been prepared by Department for Environment, Food and Rural Affairs (Defra) and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments

2. **Description**

- 2.1 The Statutory Instruments transpose three decisions taken by the European Commission. These decisions require member states to make risk assessments and to take appropriate preventive measures to reduce the risk of the transmission of avian influenza from wild birds to poultry and other captive birds.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

- 3.1 The European Commission decisions which these Regulations transpose require member States to introduce transposing legislation immediately. Because of the need to introduce these Regulations as quickly as possible, they come into force without being sent first to the Joint Committee. The Department apologises for the fact that there was no opportunity for the Joint Committee to see the Regulations before they come into force and for the fact that no transposition note has been prepared in respect of them.

4. **Legislative Background**

- 4.1 The Statutory Instruments transpose three decisions taken by the European Commission on 19 and 21 October (Commission Decisions 2005/734/EC, 2005/745/EC (which amends Decision 2005/734/EC) and 2005/744/EC).
- 4.2 These Regulations are made under section 2(2) of the European Communities Act 1972.

5. **Extent**

- 5.1 These instruments apply to England.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- 7.1 These SIs have been introduced after the Commission's urgent Decisions in the light of the spread of avian influenza H5N1 for example into Romania and Turkey. The majority of the protective measures are to be introduced only after a risk assessment is undertaken by the member state and that risk assessment indicates that protective action needs to be taken. The risk assessment for the UK is being kept under review.
- 7.2 However the ban on bird fairs, shows and other gatherings does come into force immediately. There is scope for gatherings to be licensed by the competent authority following a risk assessment.
- 7.3 In order to undertake risk assessments and model outbreaks of disease, the implementing Regulations introduce a registration system for poultry keepers. Registration systems are to be introduced anyway for such keepers under EU hygiene legislation and under the proposed new control directive for avian influenza.

8. Impact

- 8.1 A Regulatory Impact Assessment has not been prepared for these instruments as they are required to be made urgently.

9. Contact

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