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WELSH STATUTORY INSTRUMENTS

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**2006 No. 2927**

**The Avian Influenza and Influenza of Avian  
Origin in Mammals (Wales) (No 2) Order 2006**

**PART 1**

Introduction

**Title, application and commencement**

1.—(1) The title of this Order is the Avian Influenza and Influenza of Avian Origin in Mammals (Wales) (No 2) Order 2006.

(2) This Order applies in relation to Wales and comes into force on 13th November 2006.

**Interpretation**

2. In this Order, unless the context otherwise requires—

“the Act” means the Animal Health Act 1981;

“avian influenza” means an infection of poultry or other captive birds caused by any influenza A virus of the subtypes H5 or H7 or with an intravenous pathogenicity index in six-week old chickens greater than 1.2;

“avian influenza prevention zone” means an avian influenza prevention zone declared under article 6(1)(a);

“avian influenza (restrictions on mammals) zone” means an avian influenza (restrictions on mammals) zone declared under article 61(1)(b);

“bird carcase” means the carcase of any bird and includes any part of a bird carcase;

“border inspection post” means a place specified as such in Schedule 2 to the Animals and Animal Products (Import and Export) (Wales) Regulations 2006(1);

“carcase” means any bird carcase or mammal carcase;

“the Chief Veterinary Officer” means the Chief Veterinary Officer appointed by the National Assembly;

“commercial poultry premises” means commercial premises where poultry are kept;

“commercial premises” means premises where poultry or other captive birds are kept for commercial purposes and does not include premises where all such birds and their eggs are kept by their owners for their own consumption or use or as pets;

“contact premises”—

(a) in Part 3, has the meaning given in article 26(2);

(b) in Part 6, has the meaning given in article 53(2);

(c) in Part 7, has the meaning given in article 61(2); and

(d) in Part 8, has the meanings given in articles 26(2), 53(2) and 61(2);

“controlled zone” means a protection zone, a surveillance zone, a restricted zone, a temporary movement restriction zone, a temporary control zone, a low pathogenic avian influenza restricted zone, an avian influenza prevention zone, or an avian influenza (restrictions on mammals) zone;

“day-old chicks” means all poultry less than 72 hours old which have not yet fed and muscovy ducks (*Cairina moschata*) and their crosses less than 72 hours old, whether or not fed;

“designated” means designated by the National Assembly in accordance with article 71;

“egg processing plant” means an establishment for the manufacture of egg products, as referred to in Chapter II of Section X of Annex III to Regulation (EC) No 853/2004(2);

“highly pathogenic avian influenza” means an infection of poultry or other captive birds caused by—

- (a) avian influenza viruses of the subtypes H5 or H7 with genome sequences codifying for multiple basic amino acids at the cleavage site of the haemagglutinin molecule similar to that observed for other highly pathogenic avian influenza viruses, indicating that the haemagglutinin molecule can be cleaved by a host ubiquitous protease; or
- (b) avian influenza viruses with an intravenous pathogenicity index in six-week old chickens greater than 1.2;

“infected premises” means—

- (a) in Part 4, premises where the Chief Veterinary Officer has confirmed that highly pathogenic avian influenza or highly pathogenic avian influenza virus exists;
- (b) in Part 6, premises where the Chief Veterinary Officer has confirmed that low pathogenic avian influenza or low pathogenic avian influenza virus exists;
- (c) in Parts 8 and 9 and in Schedule 3, premises where the Chief Veterinary Officer has confirmed that highly pathogenic avian influenza, highly pathogenic avian influenza virus, low pathogenic avian influenza or low pathogenic avian influenza virus exists;

“keeper” means any person responsible for birds or animals, whether on a permanent or temporary basis, but does not include a person responsible for them solely because he or she is transporting them;

“local authority” means in relation to an area the county council or county borough council for that area;

“low pathogenic avian influenza” means an infection of poultry or other captive birds caused by avian influenza viruses of subtypes H5 or H7 other than avian influenza viruses of subtypes H5 or H7 which cause highly pathogenic avian influenza;

“low pathogenic avian influenza restricted zone” means a low pathogenic avian influenza restricted zone declared under article 55;

“mammal” means any mammal, except man;

“mammal carcase” means the carcase of any mammal and includes any part of a mammal carcase;

“National Assembly” means the National Assembly for Wales of Cathays Park, Cardiff CF10 3NQ;

“occupier” means the person in charge of premises;

(2) OJ No L 226, 25.6.2004, p. 16.

“other captive bird” means a bird kept in captivity which is not poultry and includes a pet bird and a bird kept for shows, races, exhibitions, competitions, breeding or for sale;

“poultry” means a bird reared or kept in captivity for the production of meat or eggs for consumption, or of other products, for restocking supplies of game or for the purposes of any breeding programme for the production of such categories of birds;

“premises” includes any land, building or other place;

“protection zone” means a protection zone declared under article 28(1) to (4);

“racing pigeon” means any pigeon transported or intended for transport from its pigeon house so that it may be released and freely fly back there or to another destination;

“regulated place” means a slaughterhouse or border inspection post;

“restricted zone” means a restricted zone declared under article 28(5);

“slaughterhouse” means an establishment used for slaughtering poultry, the meat of which is intended for human consumption;

“special category premises” has the meaning given in article 22(3);

“surveillance zone” means a surveillance zone declared under article 28 (1) to (4);

“suspect premises” means premises subject to restrictions under article 9 or article 10;

“temporary control zone” means a temporary control zone declared under article 13(c);

“temporary movement restriction zone” means a temporary movement restriction zone declared under article 13(a);

“unregulated period of infection” has the meaning given in article 23(3);

“vehicle” includes any means of transport and includes—

(d) a trailer, semi-trailer or other thing designed or adapted to be towed by another vehicle;  
a)

(e) a detachable part of any vehicle;  
b)

(fc) a container or other structure designed or adapted to be carried on a vehicle;

“veterinary surgeon” means a person who is registered in the register of veterinary surgeons maintained by the Royal College of Veterinary Surgeons or in the supplementary register maintained by the College;

“wild birds” means birds which are not poultry or other captive birds.

(2) Other expressions used in this Order and in Council Directive [2005/94/EC](#) on Community measures for the control of avian influenza and repealing Directive [92/40/EEC](#)(3) have their meaning in that Directive.

### **Scope of the Act and of this Order**

**3.**—(1) For the purposes of the Act in its application to avian influenza and to this Order—

(a) the definition of “poultry” in section 87(4) of the Act is extended to include all birds;

(b) the definition of “animals” in section 87(1) of the Act is extended to include all mammals, except man; and

(c) the definition of “disease” in section 88(1) of the Act is extended to include any infection in mammals caused by influenza virus of avian origin.

(2) Section 32 of the Act applies to any infection in mammals caused by influenza virus of avian origin and references in this Order to that section are to that section as it applies to such infection.

(3) References in this Order to paragraph 5 of Schedule 3 to the Act are to that paragraph as it applies to avian influenza.

(4) This Order does not apply to anything done in accordance with a licence under the Specified Animal Pathogens Order 1998<sup>(4)</sup>.

(5) This Order does not apply to quarantine centres and quarantine facilities approved under Regulation 19 of the Animals and Animal Products (Import and Export) (Wales) Regulations 2006.

### **Declarations, licences, notices and designations under this Order**

#### **4.—(1) Declarations of controlled zones under this Order—**

- (a) must be in writing;
- (b) may be amended or revoked by further declaration at any time;
- (c) must designate the extent of the controlled zone being declared;
- (d) must list or refer to the measures which apply in such a zone and, if they apply in only part of the zone, state in which part they apply; and
- (e) must state which categories of birds the measures apply to.

#### **(2) Licences under this Order—**

- (a) must be in writing;
- (b) may be general or specific;
- (c) may, in addition to any conditions required by this Order, be made subject to such conditions as the person granting the licence considers necessary to control avian influenza; and
- (d) may be amended, suspended or revoked, in writing, at any time.

#### **(3) Notices under this Order—**

- (a) may be amended or revoked, by further notice, at any time;
- (b) must specify whether they apply to all or to part of the premises to which they relate; and
- (c) must, if they apply to part of premises, specify to which part they apply.

#### **(4) Designations of premises under this Order—**

- (a) must be in writing;
- (b) must, if they apply to only part of the premises, specify to which part they apply.
- (c) may be made subject to such conditions as the National Assembly considers necessary to control avian influenza; and
- (d) may be amended, suspended or revoked in writing at any time.

(5) The National Assembly must ensure that the extent of any zone declared under this Order, the nature of the restrictions and requirements applicable within it and the dates of its declaration and termination are publicised.

(6) Licences granted in Scotland or England for activities which could be licensed in Wales under this Order have effect in Wales as if they were licences granted under this Order but an inspector acting under the direction of the National Assembly may serve a notice on any person moving any thing under the authority of such a licence, directing him or her to move it or to keep it on premises specified in the notice or move it out of Wales.

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(4) S.I. 1998/463, to which there is an amendment not relevant to this Order.

(7) Premises in Scotland, England and Northern Ireland designated respectively by the Scottish Ministers, the Department for Environment Food and Rural Affairs or by the Department for Agriculture and Rural Development of Northern Ireland for the same purposes as they may be designated under this Order are deemed to be designated by the National Assembly for the purposes of this Order.

(8) A person moving anything under the authority of a specific licence granted under this Order must—

- (a) keep the licence or a copy of it with him at all times during the licensed movement;
- (b) on demand by a veterinary inspector or other officer of the National Assembly or by an inspector, produce the licence or copy and allow a copy or extract to be taken; and
- (c) on such demand, provide his or her name and address.

(9) A person moving anything under the authority of a general licence granted under this Order must—

- (a) keep with him or her, at all times during the licensed movement, a consignment note that contains details of—
  - (i) what is moved, including its quantity;
  - (ii) the date of the movement;
  - (iii) the name of the consignor;
  - (iv) the address of the premises from which the movement started;
  - (v) the name of the consignee;
  - (vi) the address of the premises of destination;
- (b) on demand by a veterinary inspector or other officer of the National Assembly or by an inspector, produce the consignment note and allow a copy or extract to be taken; and
- (c) on such demand, provide his or her name and address.

(10) Unless the National Assembly states otherwise, in a declaration of a controlled zone or by notice to the occupier of any premises or to the owner or occupier of any vehicle, any movement which has already started when such a declaration comes into force may be completed.

### **Controlled zones**

**5.—(1)** Subject to paragraphs (2) and (3), premises which are only partly in a controlled zone are deemed to be wholly within the controlled zone.

(2) Premises in any controlled zone other than an avian influenza (restrictions on mammals) zone which are partly in one of the following zones and partly in another are deemed to be wholly in the zone furthest up the following list—

- (a) protection zone;
- (b) surveillance zone;
- (c) restricted zone;
- (d) temporary control zone;
- (e) temporary movement restriction zone;
- (f) low pathogenic avian influenza restricted zone;
- (g) avian influenza prevention zone.

(3) Premises which are in any of the controlled zones set out in paragraph (2) and also in an avian influenza (restrictions on mammals) zone are subject to the restrictions and requirements applicable in both zones.

(4) Every controlled zone, other than an avian influenza prevention zone, is an infected area for the purposes of the Act.

## PART 2

### Preventive measures

#### Measures to reduce the risk of transmission of avian influenza

6.—(1) If, after carrying out a risk assessment, the National Assembly considers such action necessary to reduce the risk of transmission of avian influenza to poultry or other captive birds from wild birds or from any other source, it must—

- (a) declare an avian influenza prevention zone in all or part of Wales; or
- (b) serve or require an inspector to serve a notice on the occupier of any premises where poultry, other captive birds or any categories of poultry or captive birds specified in the notice are kept.

(2) A declaration or notice under paragraph (1) must impose such measures as the National Assembly considers necessary to reduce the risk of transmission of avian influenza.

(3) When deciding the measures to impose under paragraph (2), the National Assembly must consider whether measures are necessary—

- (i) to prevent direct or indirect contact which wild birds might otherwise have with poultry and other captive birds;
- (ii) to reduce the risk of feed and water provided to poultry and other captive birds being contaminated with avian influenza virus; and
- (iii) to reduce the risk of the spread of avian influenza between premises.

(4) The power of the National Assembly to impose measures by declaration or notice under this article includes the power—

- (a) to require poultry and other captive birds to be housed or otherwise kept separate from wild birds;
- (b) to require poultry or other captive birds or categories of such birds specified in the declaration or notice to be housed or otherwise kept separate from other poultry and captive birds;
- (c) to require that poultry and other captive birds are provided with feed and water to which wild birds have no access;
- (d) to require keepers of poultry and other captive birds and others who come into contact with such birds to cleanse and disinfect their footwear and take such other biosecurity measures as a veterinary inspector or an inspector under the direction of a veterinary inspector may require;
- (e) to ban or limit the collection of poultry or other captive birds at any fair, market, show, exhibition, race or other gathering;
- (f) to ban or limit the use of birds of the orders Anseriformes (including ducks, geese and swans) and Charadriiformes (including gulls, murre, terns, avocets, puffins, woodcock, oystercatchers, sandpipers, plovers, surfbirds, snipes and skimmers) as decoys during bird hunting.

### **Surveillance for avian influenza**

7.—(1) The National Assembly must carry out surveillance at such premises and of such birds as it considers necessary—

- (a) to detect the prevalence in different species of poultry of infection with avian influenza virus subtypes H5 and H7; and
- (b) to assess the risk of the spread of influenza of avian origin by wild birds.

(2) The National Assembly must give notice to the occupier of premises selected by it for the purposes of such a survey.

## **PART 3**

### **Measures on suspicion of avian influenza**

#### **Disapplication of measures to regulated places**

8. Articles 9(1)(b) and 10 to 17 do not apply to regulated places.

#### **Notification procedures and precautions to be taken where avian influenza is suspected**

9.—(1) A person who has in his or her possession or under his or her charge any bird or bird carcase which has, or which he or she suspects may have, avian influenza must—

- (a) immediately notify the Divisional Veterinary Manager; and
- (b) take all reasonable steps to ensure that the measures in Schedule 1 are complied with.

(2) A person who examines or inspects any bird or bird carcase, or who analyses any sample taken from any bird or bird carcase, must immediately inform the Divisional Veterinary Manager if—

- (a) he or she suspects the presence of avian influenza in the bird or bird carcase; or
- (b) he or she detects evidence of antibodies to avian influenza virus in the bird or bird carcase.

(3) A person who examines or inspects any mammal or mammal carcase, or who analyses any sample taken from any mammal or mammal carcase, must immediately inform the Divisional Veterinary Manager if—

- (a) he or she suspects the presence of influenza of avian origin in the mammal or mammal carcase; or
- (b) he or she detects evidence of antibodies to influenza virus of avian origin in the mammal or mammal carcase.

(4) “The Divisional Veterinary Manager” means the veterinary inspector with this title appointed by the National Assembly for the area in which premises are located.

#### **Notice of restrictions where avian influenza is suspected on premises**

10.—(1) Subject to article 11 and whether or not notification has been made under article 9, an inspector must serve a notice of restrictions on the occupier of any premises where he or she suspects that avian influenza, influenza of avian origin or a virus causing such diseases exists or may have existed within the preceding 56 days.

(2) Subject to article 11, the notice of restrictions must require the occupier of the premises to comply with the measures in Schedule 1.

(3) An inspector must not withdraw the notice of restrictions unless instructed to do so by the Chief Veterinary Officer.

**Derogations from restrictions applicable at suspect premises**

**11.**—(1) A notice served under article 10 on the occupier of a laboratory where low pathogenic avian influenza virus is kept must—

- (a) be served by a veterinary inspector; and
- (b) impose such of the measures in Schedule 1 and such measures relating to the operation of the laboratory as the veterinary inspector considers necessary.

(2) In a notice served under article 10 on the occupier of premises other than those referred to in paragraph (1) of this article, or by licence to such an occupier, a veterinary inspector or an inspector acting under his or her direction may grant derogations from paragraphs 2, 3, 4 and 6 of Schedule 1.

(3) No person is to grant a derogation under paragraph (2) or authorise the granting of such a derogation unless he or she has considered—

- (a) the risk of the possible spread of avian influenza were the derogation to be granted;
- (b) any precautionary measures which have been or could be taken; and
- (c) the destination of any birds or things which would be moved were the derogation to be granted.

(4) In a notice served under article 10 or by licence, a veterinary inspector or an inspector acting under the direction of a veterinary inspector may also grant a derogation from the disinfection requirement in paragraph 9 of Schedule 1 if—

- (a) the premises the subject of the derogation are non-commercial premises;
- (b) the premises contain other captive birds but no poultry;
- (c) he or she has considered the risk of the possible spread of avian influenza were the derogation to be granted and any precautionary measures which have been or could be taken.

(5) “Non-commercial premises” means premises where poultry or other captive birds are kept by their owners for their own consumption or use or as pets.

**Veterinary inquiries and sampling**

**12.**—(1) The National Assembly must ensure that a veterinary inquiry is started at suspect premises as soon as reasonably practicable if it suspects that poultry or other captive birds on or moved from those premises may be infected with avian influenza.

(2) If the National Assembly has authorised a veterinary inspector or another veterinary surgeon to take samples from poultry or other captive birds on premises other than suspect premises or other than for the purposes of the veterinary inquiry referred to in paragraph (1), it must direct by notice to the occupier of the premises whether any of the measures in Schedule 1 apply to the premises.

**Measures to minimise the risk of the spread of avian influenza from suspect premises**

**13.** If the National Assembly considers such a measure necessary to minimise the risk of the spread of avian influenza or of avian influenza virus from suspect premises in England, Wales, Scotland or Northern Ireland, it must take one or more of the following measures—

- (a) declare a temporary movement restriction zone in such part of Wales as it considers necessary;
- (b) serve a notice on the owner or occupier of suspect premises in Wales requiring him or her to comply with such of the measures in Schedule 2 as are specified in the notice;
- (c) declare a temporary control zone in such part of Wales and of such size as he or she considers necessary around suspect premises.



### **Measures to be taken into account in respect of vehicles**

14. A person exercising powers under articles 10 to 13 must take into account any measures taken in respect of vehicles under articles 38, 42, 43 and 45.

### **Measures in a temporary movement restriction zone**

15.—(1) In a declaration of a temporary movement restriction zone and in relation to all or such part of the zone as he thinks fit, the National Assembly must ban or restrict the movement of such of the following as it considers necessary—

- (a) poultry;
- (b) other captive birds;
- (c) eggs;
- (d) vehicles used to transport poultry, other captive birds, eggs or anything else likely to transmit avian influenza;
- (e) mammals.

(2) If the National Assembly bans or restricts the movement of mammals within a temporary movement restriction zone, it must lift the ban or restriction within 72 hours of it being imposed unless (notwithstanding any continuing restrictions on the movement of other things listed in paragraph (1)) it is satisfied that its continuation is necessary to minimise the risk of the spread of avian influenza.

(3) If the ban or restriction on the movement of mammals continues for more than 72 hours from when it was originally declared, the National Assembly must review each decision to continue it within 72 hours.

### **Additional restrictions at suspect premises**

16. In a notice served under article 13(b), the National Assembly must state if the measures specified in the notice apply—

- (a) to all poultry and other captive birds on the premises;
- (b) only to certain categories of poultry or other captive birds;
- (c) only to poultry or other captive birds which it suspects are infected;
- (d) to all or only a specified part of the premises.

### **Declaration of a temporary control zone**

17. In a declaration of a temporary control zone, the National Assembly must impose, in relation to premises in all or such part of the zone as it thinks fit, such measures as it considers necessary to reduce the risk of the spread of avian influenza.

## **PART 4**

### **Measures on confirmation of highly pathogenic avian influenza at premises other than regulated places**

#### **Disapplication of measures to regulated places**

18. This Part does not apply to regulated places.

**Restrictions on confirmation of highly pathogenic avian influenza**

19.—(1) Paragraph (2) applies if the Chief Veterinary Officer confirms that highly pathogenic avian influenza or highly pathogenic avian influenza virus exists on any premises.

(2) A veterinary inspector must impose, by notice to the occupier of the infected premises, the measures in Schedule 2 in addition to the measures in Schedule 1.

**Killing of birds on premises**

20. Subject to article 21, the National Assembly must ensure that poultry and other captive birds to be killed on infected premises under paragraph 5 of Schedule 3 to the Act, are killed there without delay.

**Movement of birds off premises for killing**

21. If the National Assembly considers that killing birds other than on infected premises would limit the risk of the spread of avian influenza more effectively, a veterinary inspector may—

- (a) direct, by notice to the occupier of the infected premises, that killing of the birds specified in the notice be carried out at a place specified in the notice; and
- (b) license the movement of those birds to that place.

**Measures on special category premises**

22.—(1) A veterinary inspector must not license the movement of birds not killed under paragraph 5 of Schedule 3 to the Act from infected premises which are special category premises unless he or she is satisfied, following tests on the birds, that they are not infectious.

(2) A veterinary inspector must not license a movement to another member State unless the movement is authorised by the competent authority of that member State.

(3) The following are special category premises—

- (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 endangered species;
- (g) premises or parts of premises where only breeds of poultry or other captive birds which the National Assembly considers to be rare are kept.

(4) “Non-commercial premises” has the meaning it has in article 11(5).

**Tracing of meat and eggs from infected premises**

23.—(1) Subject to paragraph (2), the National Assembly or any person required by it, by notice, must endeavour to trace the following from infected premises—

- (a) the meat of all poultry slaughtered during the unregulated period of infection;
- (b) poultry eggs laid at the premises during that period; and
- (c) poultry hatched from such eggs.

(2) The National Assembly need not trace or require the tracing of meat or poultry eggs once they have moved from wholesale or retail premises.

(3) “Unregulated period of infection” means the period from the date when, in the opinion of a veterinary inspector, avian influenza may first have been introduced to premises to the date when measures were imposed in relation to the premises under article 10.

#### **Measures when meat and eggs have been traced**

**24.**—(1) The National Assembly must—

- (a) dispose of meat traced from infected premises under article 23; or
- (b) require its disposal, by notice to the person in possession of the meat.

(2) The National Assembly must—

- (a) dispose of eggs traced from infected premises under article 23;
- (b) require their disposal, by notice to the person in possession of the eggs; or
- (c) license the movement of the eggs directly to an egg processing plant.

(3) The National Assembly must require, by notice to the occupier of any premises to which poultry already hatched from eggs traced under article 23 have been moved, that the poultry are not moved off those premises for at least 21 days from the date they arrived there.

(4) A person moving eggs under a licence granted under paragraph 2(c) must ensure that—

- (a) each consignment of eggs is sealed by a veterinary inspector or in accordance with his or her instructions before dispatch;
- (b) vehicles used to transport the eggs to the plant have been cleansed and disinfected before the eggs are loaded.

(5) No person is to tamper with a seal attached under sub-paragraph 4(a) or remove it before the consignment arrives at its destination.

#### **Veterinary inquiry at infected premises**

**25.** The National Assembly must ensure that veterinary inquiries continue at all infected premises for such period as it considers necessary.

#### **Identification of contact premises**

**26.**—(1) A veterinary inspector must serve a notice on the occupier of any premises if he or she suspects that highly pathogenic avian influenza—

- (a) may have been carried there from other premises; or
- (b) may have been carried to other premises from there.

(2) Premises in respect of which a notice is served under this article are contact premises for the purposes of this Part.

#### **Restrictions at contact premises**

**27.**—(1) Subject to paragraph (2), the measures in Schedule 1 apply to contact premises until a veterinary inspector notifies the occupier that those measures are withdrawn or that the premises are infected premises.

(2) A veterinary inspector may, by notice to the occupier of contact premises or by licence, grant the same derogations in respect of contact premises as he or she can in respect of suspect premises under article 11.

(3) A veterinary inspector may, by notice to the occupier of contact premises, also require the occupier to comply with one or more of the measures in Schedule 2.

(4) When considering whether to require an occupier to comply with any of the measures in Schedule 2, a veterinary inspector must take the following criteria into account—

- (a) the existence of any clinical signs of avian influenza in any birds on the contact premises;
- (b) the susceptibility to avian influenza of the species of poultry on the contact premises;
- (c) any movements of poultry or other captive birds from infected premises to the contact premises after the earliest date a veterinary inspector considers avian influenza may have been introduced to the infected premises;
- (d) the density of poultry in the area where the contact premises are located;
- (e) the time passed since avian influenza was first confirmed and how far avian influenza has spread from infected premises;
- (f) the proximity of the contact premises to infected premises;
- (g) epidemiological links between the contact premises and infected premises;
- (h) the extent to which measures to control avian influenza are working.

(5) When considering the proximity of the contact premises to infected premises under paragraph 4(f), a veterinary inspector must give particular consideration to whether he or she should impose measures on premises which are—

- (a) within 500 metres of infected premises; or
- (b) 500 metres or more from infected premises but are in an area with a high density of poultry.

(6) When considering epidemiological links between the contact premises and infected premises in accordance with paragraph (4)(g), a veterinary inspector must give particular consideration to whether he or she should impose measures on premises with links to more than one infected premises.

(7) If the National Assembly requires poultry or other captive birds on a contact premises to be killed, it must ensure that samples are taken from the dead birds and tested for avian influenza.

### **Declaration of protection, surveillance and restricted zones**

**28.**—(1) On confirmation by the Chief Veterinary Officer of highly pathogenic avian influenza on premises in Wales, the National Assembly must declare a protection zone and a surveillance zone.

(2) On confirmation by the Chief Veterinary Officer of highly pathogenic avian influenza in an area of England which is 3 kilometres or less from Wales, the National Assembly must declare a protection zone and a surveillance zone in Wales.

(3) On confirmation by the Chief Veterinary Officer of highly pathogenic avian influenza in an area of England which is more than 3 and up to 10 kilometres from Wales, the National Assembly must—

- (a) declare a surveillance zone in Wales; and
- (b) declare a protection zone in Wales, if it considers it necessary to prevent the spread of avian influenza.

(4) The National Assembly may declare protection and surveillance zones in Wales on confirmation by the Chief Veterinary Officer of highly pathogenic avian influenza in an area of Scotland or England which is 10 or more kilometres from Wales.

(5) The National Assembly must, if it considers it necessary to reduce the risk of the spread of avian influenza, declare one or more restricted zones in addition to protection and surveillance zones.

(6) Paragraphs (1), (2) and (3) do not affect the power of the National Assembly to disapply measures or to apply alternative measures under articles 30(3), 31(3) and 33.

### **Size of zones**

**29.**—(1) A protection zone declared under paragraphs (1), (2) or (3) of article 28 must (subject to paragraph (8))—

- (a) be centred on the outbreak point; and
- (b) have a radius of at least 3 kilometres.

(2) A surveillance zone declared under paragraphs (1), (2) or (3) of article 28 must (subject to paragraph (8))—

- (a) be centred on the outbreak point; and
- (b) have a radius of at least 10 kilometres.

(3) A restricted zone must—

- (a) either
  - (i) be centred on the outbreak point; or
  - (ii) be adjacent to the surveillance zone or to another restricted zone; and
- (b) be of such size as the National Assembly considers necessary.

(4) The National Assembly must take account of the criteria set out in paragraph (5) when deciding—

- (a) what size zones to declare under paragraphs (1), (2) and (3) of article 28; and
- (b) whether to declare restricted zones under paragraph (5) of article 28.

(5) The criteria referred to in paragraph (4) are—

- (a) the results of veterinary inquiries;
- (b) the geographical features of the area around the infected premises;
- (c) the location and proximity of other premises containing poultry and other captive birds in the area;
- (d) patterns of movement of and trade in poultry and other captive birds in the area;
- (e) the facilities and personnel available to control movements within the zone (including any movement of poultry or other captive birds off premises for slaughter and disposal).

(6) Protection zones and surveillance zones declared under paragraph (4) of article 28 must be centred on the outbreak point, and must be of such size as the National Assembly considers necessary to reduce the risk of the spread of avian influenza.

(7) The “outbreak point” means, in relation to any premises where avian influenza has been confirmed, the part of the premises from which the National Assembly considers controlled zones should be measured, given the nature of that case of avian influenza.

(8) Where this article or article 56 requires the National Assembly to declare a zone of a minimum area and such an area would include land in England, it must declare a zone of such part of that area as is in Wales.

### **Measures in protection zones**

**30.**—(1) The measures in Schedule 4 apply in respect of a protection zone, subject to paragraphs (2) and (3) and articles 33 and 35.

(2) Paragraph (3) applies if the National Assembly has carried out a risk assessment and does not believe that the disapplication of any measure under that paragraph would endanger disease control.

(3) In a declaration of a protection zone, the National Assembly may—

- (a) disapply one or more of the measures in Schedule 4 to movements of racing pigeons into, from and within the zone;
- (b) disapply one or more of the measures in paragraph 14 of Schedule 4 and in article 63(2) if—
  - (i) the premises where avian influenza has been confirmed are special category premises; and
  - (ii) avian influenza has been confirmed in poultry on those premises.
- (4) The National Assembly must ensure that—
  - (a) premises containing poultry and other captive birds within a protection zone are identified as soon as possible; and
  - (b) a veterinary inspector examines poultry and other captive birds at all such premises, carrying out examinations at commercial premises as soon as possible.
- (5) The National Assembly may, notwithstanding paragraph (4)(b), authorise a reduced level of surveillance to that provided for in that paragraph if—
  - (a) the premises on which avian influenza is confirmed are special category premises; and
  - (b) it is satisfied that reduced surveillance would not endanger disease control.
- (6) The National Assembly must ensure that such veterinary inquiries as it considers necessary to monitor for avian influenza are carried out at premises to which things are moved within and out of a protection zone.

#### **Measures in surveillance zones**

- 31.**—(1) The measures in Schedule 5 apply in respect of a surveillance zone, subject to paragraph (3) and articles 33 and 35.
- (2) Paragraph (3) applies if the National Assembly has carried out a risk assessment and does not believe that the disapplication of any measure under that paragraph would endanger disease control.
- (3) In its declaration of a surveillance zone, the National Assembly may—
  - (a) disapply one or more of those measures to movements of racing pigeons into, from and within the zone;
  - (b) disapply one or more of the measures in paragraphs 6, 11 or 15 of Schedule 5 (restrictions on the movement of poultry and eggs within and outside the zone and of poultry, other captive birds and mammals onto premises) if—
    - (i) the premises where avian influenza has been confirmed are special category premises; and
    - (ii) avian influenza has been confirmed in poultry on those premises.
- (4) The National Assembly must ensure that all commercial poultry premises within a surveillance zone are identified as soon as possible.

#### **Restrictions on trade in things from areas where measures have been disapplied**

- 32.** Unless he or she is licensed by a veterinary inspector, no person is to supply any of the following for intra-Community or international trade if it has come from premises in respect of which any of the measures in Schedule 4 or 5 have been disapplied under articles 30 or 31—
- (a) poultry;
  - (b) other captive birds;
  - (c) hatching eggs;

- (d) used litter;
- (e) manure;
- (f) slurry.

**Alternative measures where avian influenza is confirmed at a hatchery or in other captive birds on special category premises**

**33.**—(1) If, following confirmation of highly pathogenic avian influenza at a hatchery or in other captive birds on special category premises, the National Assembly is satisfied that applying less stringent measures than those in articles 28 to 31 would not endanger disease control, it may decide—

- (a) not to make a declaration of any controlled zone around the premises;
- (b) to declare fewer zones than required under article 28;
- (c) to declare a controlled zone smaller in size than provided for in article 29;
- (d) to specify in his declaration of a controlled zone that one or more of the measures in Schedules 4 and 5 do not apply in that zone.

(2) The National Assembly must carry out a risk assessment before reaching a decision under paragraph (1).

**Measures in restricted zones**

**34.**—(1) The National Assembly must, in a declaration of a restricted zone under article 28(5), apply, in each zone so declared, such measures as he considers necessary to reduce the risk of the spread of avian influenza.

(2) These measures may include some or all of the measures in Schedules 4 and 5 and article 35.

**Additional measures in protection and surveillance zones**

**35.**—(1) If it considers such action necessary to reduce the risk of the spread of avian influenza, the National Assembly must impose by declaration measures additional to those in Schedules 4 and 5 in respect of a protection or surveillance zone.

(2) The National Assembly's power to declare additional measures includes the power to prohibit or restrict—

- (a) the movement of vehicles or people involved in—
  - (i) the supply of animal feed;
  - (ii) the supply of agricultural equipment;
  - (iii) the collection of eggs;
  - (iv) the transport of poultry to slaughterhouses;
  - (v) the collection of carcasses for disposal;
- (b) the movement of those working on premises, including veterinary surgeons;
- (c) the movement of any person onto any premises, including common, unenclosed and waste land and agricultural buildings, notwithstanding the existence of any public or private right of way or any other right of access to, or permission to gain access to, the premises.

(3) The power to prohibit or restrict movement under paragraph (2)(c) applies only in relation to a protection zone and does not include a power to prohibit or restrict movement onto premises by—

- (a) the owner or occupier of the premises;
- (b) any person whose principal residence or place of employment is those premises;

- (c) any person entering under the authority of a licence granted under this Order.

### **Ending of protection, surveillance and restricted zones**

**36.**—(1) The National Assembly may, by declaration, end a protection zone but must not, in the case of a protection zone declared under paragraph (1), (2) or (3) of article 28, do so until—

- (a) at least 21 days have elapsed since the completion at all infected premises in the zone of the preliminary cleansing and disinfection measures referred to in Part 2 of Schedule 3; and
- (b) a veterinary inquiry has been completed on all premises within the zone identified as containing poultry or other captive birds.

(2) On the ending of any protection zone, the area which formed that protection zone will become part of the surveillance zone centred on the same outbreak point as the protection zone.

(3) The National Assembly may, by declaration, end a surveillance zone but, in the case of a zone declared under paragraph (1), (2) or (3) of article 28, must not do so until at least 30 days have elapsed since the completion at all infected premises in the zone of the preliminary cleansing and disinfection measures referred to in Part 2 of Schedule 3.

## **PART 5**

### **Measures on suspicion or confirmation of highly pathogenic avian influenza in regulated places and vehicles**

#### **Veterinary measures at slaughterhouses**

**37.**—(1) If it suspects that highly pathogenic avian influenza exists at any slaughterhouse or if the Chief Veterinary Officer has confirmed that it exists there, the National Assembly must—

- (a) serve a notice on the occupier of the slaughterhouse informing him or her of this and applying the measures set out in paragraphs 3, 4 and 5 of Schedule 1; and
- (b) ensure that a veterinary inquiry is carried out at the slaughterhouse.

#### **Veterinary inquiry where avian influenza is suspected or confirmed in vehicles**

**38.** An inspector must ensure that a veterinary inquiry is carried out in relation to any vehicle on which he or she knows or suspects that highly pathogenic avian influenza or highly pathogenic avian influenza virus exists.

#### **Slaughter of birds in slaughterhouses where disease is suspected or confirmed**

**39.** The occupier of a slaughterhouse where highly pathogenic avian influenza is suspected or confirmed must ensure that all poultry present on the premises at the date a notice is served on him or her under article 37(1)(a) are slaughtered there without delay and in accordance with a veterinary inspector's instructions.

#### **Poultry meat and by-products in slaughterhouses where disease is suspected or confirmed**

**40.**—(1) The occupier of a slaughterhouse where highly pathogenic avian influenza is suspected or confirmed must, in accordance with a veterinary inspector's instructions—

- (a) keep poultry referred to in article 39 separate from any other poultry subsequently arriving at the slaughterhouse; and
- (b) keep the following separate from other bird carcasses, poultry meat and by-products—



- (i) bird carcasses and poultry meat from poultry referred to in article 39;
  - (ii) the by-products of such poultry;
  - (iii) poultry meat from any other poultry which may have been contaminated at the slaughterhouse during the killing of such poultry or the production process;
  - (iv) the by-products of the poultry referred to in paragraph (iii).
- (2) Paragraph (1) applies to poultry moved to a slaughterhouse—
- (a) from a border inspection post in accordance with article 41(2), as if references to article 39 were to that article; and
  - (b) on a vehicle in accordance with article 42, as if references to article 39 were to that article.
- (3) The occupier of a slaughterhouse where highly pathogenic avian influenza is confirmed must dispose of the things set out in paragraph (1)(b) in accordance with a veterinary inspector's instructions or assist him or her in removing those things from the premises.

### **Measures at border inspection posts**

**41.**—(1) The National Assembly must, if it considers it necessary to reduce the risk of the spread of avian influenza—

- (a) require a veterinary inquiry to be carried out at a border inspection post where avian influenza is suspected or has been confirmed; and
- (b) impose (by notice to the occupier of the border inspection post) such of the measures in Schedule 1 as it considers appropriate.

(2) The National Assembly must, by notice to the occupier of the border inspection post, direct where birds specified in the notice are to be killed, slaughtered or isolated.

(3) The National Assembly must ensure that poultry and other captive birds at border inspection posts which are to be killed under paragraph 5 of Schedule 3 to the Act are killed or slaughtered without delay.

(4) The National Assembly must ensure that poultry and other captive birds which are not to be so killed or slaughtered are kept isolated in accordance with a veterinary inspector's instructions.

### **Control of vehicles**

**42.**—(1) An inspector who knows or suspects that any poultry, other captive bird or any thing on any vehicle is infected or contaminated with highly pathogenic avian influenza may, by notice to the owner or driver of the vehicle or to the occupier of any premises—

- (a) require the detention at such place as the inspector directs of any vehicle, equipment or other thing suspected of being contaminated; and
- (b) direct that the vehicle be moved to such premises as the inspector directs.

(2) Any expenses arising from the movement or detention of any bird or any thing (including the cost of feeding and watering any bird) must be paid by its owner.

### **Cleansing and disinfection of regulated places and vehicles**

**43.**—(1) The occupier of any regulated place where highly pathogenic avian influenza is suspected or confirmed must cleanse and disinfect those premises and any equipment and vehicles on those premises which may be contaminated in accordance with a veterinary inspector's instructions.

(2) The owner or driver of any vehicle on which highly pathogenic avian influenza is suspected or confirmed must cleanse and disinfect the vehicle.

**Reintroduction of poultry and other captive birds**

44.—(1) No person is to reintroduce poultry to a slaughterhouse where highly pathogenic avian influenza was suspected or confirmed until an inspector has confirmed that the cleansing and disinfection referred to in article 43 has been carried out.

(2) No person is to reintroduce poultry or other captive birds to a border inspection post where highly pathogenic avian influenza was suspected or confirmed until an inspector has confirmed that the cleansing and disinfection referred to in article 43 has been carried out.

(3) If it considers it necessary to reduce the risk of the spread of avian influenza, the National Assembly may, by notice to the occupier of such a border inspection post, prohibit the introduction of animals other than birds onto the premises until the cleansing and disinfection referred to in article 43 has been carried out.

**Measures at other premises and for vehicles**

45.—(1) If the National Assembly suspects that highly pathogenic avian influenza or highly pathogenic avian influenza virus exists at any slaughterhouse or in any vehicle or if the Chief Veterinary Officer has confirmed that it exists there, the National Assembly must—

- (a) apply the measures in Schedule 1 to the premises of origin;
- (b) apply the measures in Schedule 1 to premises which it considers to be suspect premises (because of their epidemiological link with the premises of origin); and
- (c) apply the measures in Schedule 2 to the premises of origin, unless it is satisfied (having considered the results of veterinary inquiries) that this is not necessary.

(2) If the National Assembly suspects that highly pathogenic avian influenza exists at any border inspection post or if the Chief Veterinary Officer has confirmed that it exists there, the National Assembly must apply the measures in Schedule 1 to premises which it considers to be suspect premises because of their epidemiological link with the border inspection post.

(3) The National Assembly must apply measures under this article by notice to the occupier of the relevant premises.

(4) In this article, “premises of origin” means any premises from which poultry or other captive birds which may be infected were moved to the slaughterhouse or on the vehicle.

## PART 6

### Measures on confirmation of low pathogenic avian influenza

**Measures when low pathogenic avian influenza is confirmed**

46.—(1) If the Chief Veterinary Officer confirms that low pathogenic avian influenza or low pathogenic avian influenza virus exists on any premises other than regulated places, the National Assembly must—

- (a) apply, by notice to the occupier of the infected premises, such of the measures in Part 1 of Schedule 6 as it considers necessary to reduce the risk of the spread of avian influenza; and
- (b) ensure that a veterinary inquiry continues at the infected premises.

(2) If the Chief Veterinary Officer confirms that low pathogenic avian influenza or low pathogenic avian influenza virus exists at a regulated place, the National Assembly may apply, by notice to the occupier of that place, such of the measures in Part 1 of Schedule 6 as it considers necessary to reduce the risk of the spread of avian influenza.

(3) A veterinary inspector must not license any movement otherwise prohibited under Part 1 of Schedule 6 unless he or she is satisfied that it would not significantly increase the risk of the spread of low pathogenic avian influenza.

(4) When reaching a decision under paragraph (3), a veterinary inspector must, in particular, take into account the criteria in Part 2 of Schedule 6.

(5) An inspector who knows or suspects that any poultry, other captive bird or any thing on any vehicle is infected or contaminated with low pathogenic avian influenza may, by notice to the owner or driver of the vehicle or to the occupier of any premises—

(a) require the detention at such place as the inspector directs of any vehicle, equipment or other thing suspected of being contaminated; and

(b) direct that the vehicle be moved to such premises as the inspector directs.

(6) Any expenses arising from the movement or detention of any bird or any thing, including the cost of feeding and watering any bird, must be paid by its owner.

### **Killing of poultry and other captive birds**

47.—(1) The National Assembly must ensure that poultry and other captive birds on infected premises which are to be killed on the premises under paragraph 5 of Schedule 3 to the Act are killed as soon as possible.

(2) The occupier of a slaughterhouse must ensure that poultry from infected premises are slaughtered as soon as possible.

(3) The National Assembly must not authorise the movement of birds to a slaughterhouse unless it is satisfied that the movement would not significantly increase the risk of the spread of low pathogenic avian influenza.

(4) The National Assembly must ensure that birds are killed or slaughtered in such a way as to minimise the risk of the spread of avian influenza.

### **Movement of eggs from premises where low pathogenic avian influenza is confirmed**

48.—(1) If the National Assembly directs that poultry on infected premises are to be slaughtered at a slaughterhouse, it must not license the movement of eggs off the premises prior to the poultry being sent for slaughter unless it is satisfied that the movement would not significantly increase the risk of the spread of low pathogenic avian influenza.

(2) The National Assembly may only license the movement of such eggs—

(a) to a designated egg packing centre, in disposable packaging;

(b) to an egg processing plant; or

(c) for disposal.

### **Veterinary surveillance of poultry**

49. The National Assembly must carry out such veterinary surveillance as it considers necessary at premises where poultry are kept before being sent to a slaughterhouse under article 47.

### **Measures on special category premises**

50.—(1) The occupier of infected premises which are special category premises where poultry and other captive birds are not killed under paragraph 5 of Schedule 3 to the Act must ensure that—

(a) poultry and other captive birds are—

(i) housed; or

- (ii) isolated (if so directed by a veterinary inspector on the basis that housing is impractical or would adversely affect the birds' welfare to a significant degree);
- (b) no poultry or other captive bird is moved from the premises except—
  - (i) to a designated slaughterhouse or other premises in accordance with a licence granted by a veterinary inspector; or
  - (ii) to a slaughterhouse in another member State or to other premises in another member State, if the movement is licensed by a veterinary inspector and is authorised by the competent authority of that member State.
- (2) The occupier of the premises must take all reasonable steps to minimise contact between birds isolated under paragraph (1)(a)(ii) and wild birds.
- (3) A veterinary inspector must not grant a licence under paragraph (1)(b) unless he or she is satisfied, following tests on the birds, that there is not a significant risk that the proposed movement would spread highly pathogenic avian influenza.

### **Veterinary surveillance of birds**

**51.** The National Assembly must ensure that birds on infected premises which are special category premises not killed under paragraph 5 of Schedule 3 of the Act are monitored for avian influenza.

### **Tracing of poultry and eggs**

- 52.—**(1) The National Assembly must endeavour to trace the following from infected premises—
- (a) hatching eggs from poultry laid during the unregulated period of infection; and
  - (b) poultry hatched from eggs laid during that period.
- (2) The National Assembly must ensure that such veterinary inquiries as it considers necessary to monitor for avian influenza are carried out at premises to which eggs and poultry are so traced.

### **Identification of contact premises**

- 53.—**(1) The National Assembly must serve a notice on the occupier of any premises other than regulated places if it suspects that low pathogenic avian influenza—
- (a) may have been carried there from other premises; or
  - (b) may have been carried to other premises from there.
- (2) Premises in respect of which a notice is served under this article are contact premises for the purposes of this Part.

### **Restrictions at contact premises**

- 54.—**(1) The National Assembly must, by notice to the occupier of contact premises, apply such of the measures in Schedule 1 as it considers necessary to reduce the risk of the spread of avian influenza.
- (2) If it considers it necessary to prevent the spread of low pathogenic avian influenza, the National Assembly must—
- (a) direct that contact premises be deemed to be infected premises; and
  - (b) state, in its direction, which measures in this Part and in Schedule 6 apply to the contact premises.

(3) A direction under paragraph (2) must be by notice to the occupier of the contact premises and the National Assembly must not serve such a notice unless it has taken into account the criteria set out in paragraph (4) of article 27, as read with paragraphs (5) and (6) of article 27.

(4) If the National Assembly requires poultry or other captive birds on contact premises to be killed, it must ensure that samples are taken from the dead birds and tested for avian influenza.

### **Declaration of a low pathogenic avian influenza restricted zone**

**55.**—(1) On confirmation by the Chief Veterinary Officer of low pathogenic avian influenza on premises other than regulated places in Wales, the National Assembly must (subject to paragraph (4)), declare a low pathogenic avian influenza restricted zone.

(2) On confirmation by the Chief Veterinary Officer of low pathogenic avian influenza in an area of England which is 1 kilometre or less from Wales, the National Assembly must declare a low pathogenic avian influenza restricted zone in Wales.

(3) The National Assembly may declare a low pathogenic avian influenza restricted zone on confirmation by the Chief Veterinary Officer of low pathogenic avian influenza in an area of Scotland or England which is more than 1 kilometre from Wales.

(4) The National Assembly may, on the basis of a risk assessment, decide not to declare a low pathogenic avian influenza restricted zone if the premises where low pathogenic is confirmed are—

- (a) a hatchery; or
- (b) special category premises.

### **Size of zones**

**56.**—(1) A low pathogenic avian influenza restricted zone must—

- (a) be centred on the outbreak point; and
- (b) subject to article 29(8), have a radius of at least 1 kilometre.

(2) “Outbreak point” has the meaning it has in article 29.

### **Measures in low pathogenic avian influenza restricted zones**

**57.**—(1) The measures in Schedule 7 apply in respect of a low pathogenic avian influenza restricted zone, subject to paragraphs (2) and (3).

(2) The National Assembly may, in a declaration under article 55, disapply some or all of the measures in Schedule 7 if—

- (a) the infected premises are a hatchery or special category premises; and
- (b) it has carried out a risk assessment and does not believe that the disapplication would endanger disease control.

(3) The National Assembly may, if it considers it necessary to reduce the risk of the spread of avian influenza, impose, by declaration, measures additional to those in Schedule 7 in respect of the low pathogenic avian influenza restricted zone.

(4) The National Assembly must ensure that—

- (a) commercial premises in the low pathogenic avian influenza restricted zone are identified as soon as possible;
- (b) tests for avian influenza are carried out on commercial poultry premises within a radius of at least 1 kilometre of the boundary of the infected premises or, if it thinks it more appropriate, of the part of the infected premises where avian influenza was found.

## PART 7

### Measures to reduce the risk of the spread of influenza viruses of avian origin to other species

#### Tests on animals at premises where avian influenza is confirmed

**58.**—(1) The National Assembly must ensure that any pigs kept on premises where avian influenza is confirmed are tested for infection with influenza virus of avian origin.

(2) The National Assembly may, if it thinks it necessary to prevent the spread of avian influenza or influenza of avian origin, require such tests to be carried out on other mammals kept on the premises.

#### Killing of mammals

**59.** The National Assembly must ensure that mammals to be killed under section 32 of the Act because they are affected or suspected of being affected with influenza virus of avian origin or have been exposed to such disease are—

- (a) slaughtered as soon as possible, in accordance with a veterinary inspector's instructions; and
- (b) transported in accordance with a veterinary inspector's instructions (if they are moved off the premises for slaughter).

#### Movements off the premises

**60.**—(1) Subject to paragraph (2), no person is to move any mammal tested under article 58 off the premises until a veterinary inspector has confirmed that the mammal is not infective and licenses the movement.

(2) A veterinary inspector may license the movement of pigs and other mammals in which infection with influenza virus of avian origin is confirmed to other premises (including slaughterhouses) if he or she is satisfied (as a result of further tests on the animals) that the movement will not significantly increase the risk of the spread of avian influenza.

#### Other measures to control the spread of virus in mammals

**61.**—(1) If it considers it necessary to monitor or control the spread of avian influenza or influenza of avian origin in mammals, the National Assembly may—

- (a) do any of the following, after serving notice on the occupier of the premises—
  - (i) test pigs and other mammals on contact premises for influenza virus of avian origin;
  - (ii) prohibit the movement of mammals or categories of mammals off contact premises unless it is licensed by a veterinary inspector;
  - (iii) carry out surveillance or require surveillance to be carried out at any premises where mammals are kept; and
- (b) impose such measures additional to those set out in articles 58, 60 and 61(1) as it considers necessary, by declaration of an avian influenza (restrictions on mammals) zone or by notice to the occupier of any premises.

(2) Premises are contact premises for the purposes of this Part if, in the view of the National Assembly, they are premises—

- (a) to which influenza virus of avian origin may have been carried from premises where the virus has been confirmed; or

- (b) from which the virus may have been carried to premises where the virus has been confirmed.

## **PART 8**

### General measures on suspicion or confirmation of avian influenza

#### **Restrictions relating to things moved from Scotland, England or Northern Ireland**

**62.**—(1) Subject to paragraph (2), measures in this Order applying in respect of any thing moved from a controlled zone or from any of the premises referred to in paragraph (3) apply in respect of any such thing moved from an equivalent zone or equivalent premises in Scotland, England or Northern Ireland.

(2) Paragraph (1) only applies if the person to whom the measure applies is aware or should reasonably have been aware that the thing moved is from such an equivalent zone or equivalent premises.

- (3) The premises referred to in paragraph (1) are—
  - (a) suspect premises;
  - (b) contact premises;
  - (c) infected premises; and
  - (d) premises subject to restrictions under Part 7.

#### **Measures relating to slaughter and to poultry meat**

**63.**—(1) The occupier of a slaughterhouse to which poultry from premises in a protection zone are sent must ensure that—

- (a) the poultry are kept separate from poultry from outside the zone;
- (b) the poultry are slaughtered separately or at different times from poultry from outside the zone; and
- (c) the part of the slaughterhouse and any equipment and any other thing which has been used for the slaughter or subsequent processing of the poultry are cleansed and disinfected in accordance with a veterinary inspector's instructions before poultry from outside the zone are slaughtered.

(2) No person is to move poultry meat from poultry originating in a protection zone unless he or she is licensed to do so by a veterinary inspector and the poultry meat—

- (a) bears a mark (or is in packaging which bears a mark) approved by the National Assembly and which—
  - (i) identifies the poultry meat as coming from a protection zone; and
  - (ii) complies with paragraphs 9, 10, 11 and 13 of section 1(C) of Annex II to Regulation (EC) No 853/2004 laying down specific hygiene rules for food of animal origin<sup>(5)</sup>; and
- (b) is obtained, cut, transported and stored separately from poultry meat from outside the zone.

(3) No person is to move poultry meat from poultry from outside a protection zone unless the meat—

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(5) OJ No L 139, 30.4.2004, p. 55.

- (a) is obtained, cut, transported and stored separately from meat produced from poultry originating in the zone; and
  - (b) in the case of meat produced from poultry from an area which, subsequent to such production, becomes a protection zone—
    - (i) was produced at least 21 days before the date a veterinary inspector estimates as the date of earliest infection at premises in the protection zone; and
    - (ii) has been obtained, cut, transported and stored separately from meat produced after that date.
- (4) Poultry meat from poultry outside a protection zone which does not meet the requirements of paragraph (3)(b) is subject to the measures in paragraphs (2) and (5) applicable to meat from poultry originating in such a zone.
- (5) No person is to supply poultry meat from poultry originating in a protection zone for intra-Community or international trade.
- (6) No person other than the final consumer of meat marked with a mark referred to in paragraph (2)(a) is to deface, obliterate or remove that mark, unless licensed by the National Assembly.
- (7) In this article, “poultry meat” means poultry meat and any product containing it which has not been heat treated at a minimum temperature of 70°C, which temperature must be reached throughout the meat or product.

#### **Poultry moved to premises outside controlled zones other than for slaughter**

- 64.—**(1) The occupier of any premises not in a protection or surveillance zone to which day-old chicks are moved must ensure that they are not moved off the premises for at least 21 days from the date they arrived there if those chicks were—
- (a) hatched from eggs originating in such a zone or from eggs which have come into contact with such eggs; and
  - (b) moved from a hatchery in such a zone.
- (2) The occupier of any premises not in a protection zone or a surveillance zone to which ready-to-lay poultry from a protection or surveillance zone are moved must ensure that they are not moved off the premises for at least 21 days from the date they arrived there.
- (3) The occupier of any premises outside a low pathogenic avian influenza restricted zone to which poultry are moved from such a zone must ensure that poultry other than day old chicks hatched from eggs originating outside the zone are not moved off the premises for at least 21 days from the date they arrived there.
- (4) The occupier of any premises to which any thing is moved under this article must, for at least 21 days from the date the thing was moved to the premises, make the following daily records—
- (a) the number or approximate number of poultry on the premises;
  - (b) the number of poultry falling ill on the premises;
  - (c) the number of poultry dying on the premises;
  - (d) the amount of feed and, where possible, water being consumed by any poultry on the premises;
  - (e) any egg production on the premises.
- (5) Records made under paragraph (4) must be kept for at least 6 weeks from the date the last record was made.
- (6) The National Assembly must ensure that such veterinary inquiries as it considers necessary to monitor for avian influenza take place at the premises to which things are moved.



### **Movements to egg processing plants**

**65.**—(1) The occupier of an egg processing plant to which eggs are moved from suspect premises (under paragraph 6 of Schedule 1) or from infected premises during the unregulated period of infection (under article 24(2)(a)) must ensure that—

- (a) the eggs are kept separate from other eggs at the plant from the time they arrive until they are processed;
- (b) the shells of the eggs are disposed of;
- (c) the packaging used to transport the eggs is destroyed or cleansed and disinfected;
- (d) any person involved in the handling and processing of eggs takes appropriate biosecurity measures.

(2) The owner or driver of any vehicle used to transport eggs to an egg processing plant must ensure that it is cleansed and disinfected before the eggs are loaded and after they are unloaded.

(3) Any person involved in the transportation of eggs to an egg processing plant must take such biosecurity measures as he or she considers necessary to prevent the spread of disease.

### **Cleansing, disinfection and treatment**

**66.**—(1) Any person who is required by or under this Order to cleanse, disinfect or treat any premises (other than regulated places) or any thing (including any vehicle under his control) on those premises must do so in accordance with Schedule 3.

(2) Any person who is required under this Order to cleanse, disinfect or treat regulated places, any thing on those premises or any vehicle not referred to in paragraph (1) must do so in accordance with a veterinary inspector's instructions.

(3) The occupier of any premises required to be cleansed or disinfected under this Order, or on which cleansing and disinfection of any vehicle is so required, must provide adequate facilities, equipment and materials to carry out such cleansing and disinfection.

(4) A veterinary inspector may, by notice to the occupier of premises referred to in paragraph (1), provide that part of the premises the subject of that notice and which would otherwise be subject to the measures in Schedule 3 are subject instead to the measures in paragraph (2).

(5) Any person who is required to disinfect under this Order must—

- (a) use disinfectants approved by the National Assembly under the Diseases of Animals (Approved Disinfectants) Order 1978(6);
- (b) use them at the concentrations approved under that Order; and
- (c) use them in accordance with—
  - (i) the manufacturer's instructions (if any); or
  - (ii) (if different), the instructions of a veterinary inspector.

(6) A veterinary inspector may, by notice to the occupier of any premises where avian influenza has been confirmed—

- (a) prohibit the keeping of poultry or other captive birds on the premises or on any part of the premises where he or she believes avian influenza virus may still exist; and
- (b) prohibit the entry of any person, vehicle, poultry, other captive bird, mammal or thing onto any premises or part of premises which he or she believes cannot be cleansed and disinfected.

(7) A veterinary inspector must not revoke a notice served under paragraph (6) unless—

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(6) S.I. 1978/32, amended by S.I. 2005/583 (W. 49); there are other amending instruments but these are not relevant to this Order.

- (a) at least a year has passed since the date the notice was served; or
- (b) (in the case of fields on the premises or of any other part of the premises which is not a building or part of a building), the Chief Veterinary Officer has confirmed that he may do so.

### **Restocking**

**67.**—(1) Unless he or she is licensed by a veterinary inspector, no person is to restock with poultry or other captive birds suspect premises, infected premises or contact premises if poultry or other captive birds kept on those premises have been killed under paragraph 5 of Schedule 3 to the Act.

(2) A veterinary inspector must not license the restocking of commercial poultry premises until at least 21 days after the date final cleansing and disinfection was completed at the premises in accordance with Part 2 of Schedule 3.

(3) Where premises subject to measures set out in Schedules 1, 2 or 6 have been restocked, a veterinary inspector may vary those measures, by notice to the occupier of the premises.

### **Surveillance at restocked commercial poultry premises**

**68.**—(1) The National Assembly must ensure that the following measures are taken not more than 21 days after the date any poultry are brought onto commercial poultry premises for restocking—

- (a) the examination of any poultry on the premises by a veterinary inspector;
- (b) the taking from such poultry of such samples as the National Assembly requires and the laboratory testing of such samples for avian influenza;
- (c) the testing for avian influenza of such poultry which die on the premises as a veterinary inspector considers necessary.

(2) A veterinary inspector who examines poultry under paragraph (1)(a) may carry out more than one examination of the birds and must ensure that he or she carries out at least one examination as close as possible to the end of the 21 day period referred to in paragraph (1).

### **Additional measures at restocked commercial poultry premises**

**69.**—(1) The occupier of commercial poultry premises which have been restocked must, for at least 21 days from the date of restocking, make the following daily records—

- (a) the number or approximate number of poultry on the premises;
- (b) the number of poultry falling ill on the premises;
- (c) the number of poultry dying on the premises;
- (d) the amount of feed and, where possible, water being consumed by poultry on the premises;
- (e) any egg production on the premises.

(2) The occupier of commercial poultry premises must ensure that records made under paragraph (1) are kept for at least 6 weeks from the date the last record was made.

### **Measures at other restocked premises**

**70.** The National Assembly may, in relation to other restocked premises where poultry or other captive birds are kept—

- (a) apply the measures in article 68; and
- (b) by notice to the occupier of the premises, require him or her to carry out the measures in article 69.

### **Designation of premises to which things may be moved**

**71.**—(1) On receipt of an application in writing by the occupier of the premises, the National Assembly may designate the following premises for the following purposes—

- (a) a slaughterhouse for the purpose of receiving poultry moved under a licence granted under this Order;
- (b) a hatchery for the purpose of receiving eggs moved under a licence granted under this Order;
- (c) an egg packing centre for the purpose of receiving eggs moved under a licence granted under this Order;
- (d) any premises for the purpose of receiving eggs moved under a licence granted under this Order for use for scientific, diagnostic or pharmaceutical purposes.

(2) The National Assembly must not make a designation unless it is satisfied that the risk of the transmission of avian influenza from the premises is minimal.

(3) The following premises are deemed to be designated under paragraph (1)(d), unless the National Assembly directs otherwise by notice to the occupier of the premises—

- (a) premises licensed to manufacture or assemble human vaccines under section 8(2) of the Medicines Act 1968(7);
- (b) premises authorised to manufacture animal vaccines under Regulation 5 of the Veterinary Medicines Regulations 2005(8);
- (c) premises licensed under sections 4 or 5 of the Animals (Scientific Procedures) Act 1986(9);
- (d) premises licensed under article 4 of the Specified Animal Pathogens Order 1998(10).

### **Duty to provide reasonable assistance**

**72.**—(1) Any person required to give reasonable assistance or information to a person executing this Order must, unless he or she has reasonable cause, do so without delay.

(2) The occupier of any premises from or to which he wishes any thing to be moved under licence under this Order must allow an inspector or any person authorised by the National Assembly to enter those premises for the purposes of deciding whether or not such a licence should be granted or maintained.

### **Provision of information**

**73.** No person is to provide information which he or she knows to be false or misleading to a person executing this Order.

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

**74.**—(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;

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(7) 1968 c. 67, as amended by S.I. 2004/1031 and S.I. 2005/2789.

(8) S.I. 2005/2745.

(9) 1986 c. 14.

(10) S.I. 1998/463; to which there is one amendment not relevant to this Order.

- (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.

### **Retention and production of records**

- 75.—(1) Any person who is required by this Order to make or keep a record must—
- (a) retain it for at least twelve months from the date the record is made (unless otherwise required under this Order); and
  - (b) produce it on demand to an inspector and provide him or her with copies, if required.
- (2) An inspector may enter any premises for the purpose of inspecting any records required to be kept under this Order and may—
- (a) copy such records (in whatever form they are held);
  - (b) require any computer records to be produced in a form which can be taken away; and
  - (c) remove any record and retain it until he or she has carried out his or her functions under this Order.

### **Duty to comply with declarations, licences and notices**

- 76.—(1) Any person to whom any requirement in a declaration, licence, notice or designation under this Order applies must—
- (a) comply with the requirement (unless authorised otherwise by licence); and
  - (b) comply with any reasonable requests which an inspector may make to him or her to ensure that the requirement is met.
- (2) Subject to articles 42(2), 46(5) and 77(4), the costs incurred by any person in taking any action required under this Order, or of refraining from taking action prohibited under it, must be met by that person unless the National Assembly directs otherwise in writing.

### **Change of occupation of premises under restriction**

- 77.—(1) This article applies if the keeper of any poultry, other captive bird or mammal is unable to move it from premises on the termination of his or her right of occupation because of a movement restriction imposed by or under this Order and continues to apply for seven days after any such restriction has been removed.
- (2) The person entitled to occupation of the premises following that termination must—
- (a) provide such facilities for feeding, tending or otherwise using the poultry, other captive bird or mammal (including selling it) as the keeper may reasonably require; and
  - (b) allow entry to the premises to that keeper and any person authorised by him at reasonable times for feeding, tending or otherwise using the poultry, other captive bird or mammal.
- (3) If the keeper is unable or unwilling to feed or tend the poultry, other captive bird or mammal, the person entitled to occupation of the premises must take such steps as are necessary to ensure it is properly fed and tended.

(4) The keeper of the poultry, other captive bird or mammal is liable to pay the reasonable costs incurred under this article by any person feeding or tending it, or providing facilities for feeding, tending or otherwise using it.

#### **Killing of birds and destruction of things which may be contaminated**

**78.**—(1) Before causing poultry or other birds to be killed under paragraph 5 of Schedule 3 to the Act, the National Assembly must give notice of its intention to do so to the occupier of the premises where the birds are kept or to their keeper.

(2) Before causing any mammal to be killed under section 32 of the Act, the National Assembly must give notice of its intention to do so to the occupier of the premises where the mammal is kept or to its keeper.

(3) Before causing the seizure of any thing under the Diseases of Animals (Seizure) Order 1993<sup>(11)</sup> for the purposes of this Order, an inspector must give notice of his intention to do so—

- (a) to the occupier of the premises where the thing is kept; or
- (b) to the owner or keeper of the thing.

#### **Duty of the local authority to erect signs**

**79.**—(1) The local authority must, if reasonably practicable, ensure that the boundaries of controlled zones other than avian influenza (restrictions on mammals) zones are indicated by signs erected in a conspicuous position on roads entering the zones on which poultry are likely to be moved.

(2) The local authority must, if reasonably practicable, ensure that the boundaries of avian influenza (restrictions on mammals) zones are indicated by signs erected in a conspicuous position on roads entering the zones on which mammals, or mammals specified in the declaration of the zones, are likely to be moved.

(3) The local authority must cause a notice of any restriction or prohibition on the movement of any person onto any premises in a protection zone declared under article 35(2)(c) (“a restriction notice”) to be displayed at—

- (a) every entrance to the premises;
- (b) at such places on any public or private right of way the subject of the declaration as it considers appropriate; and
- (c) at any other location it considers appropriate.

## **PART 9**

### **Inspection, enforcement, offences, amendments and revocations**

#### **Disapplication of measures to those executing this Order**

**80.** Measures in this Order prohibiting or restricting the movement of any person or the use of any thing do not apply to the following in their execution of the Order—

- (a) the National Assembly;
- (b) the local authority;
- (c) any person authorised by the National Assembly or the local authority to execute the Order.

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(11) S.I. 1993/1685.

**Veterinary investigations**

**81.**—(1) An inspector executing this Order may—

- (a) mark, or cause to be marked, for identification purposes any bird, mammal, carcase or other thing;
- (b) count birds and mammals;
- (c) take samples from any bird, mammal, carcase or other thing;
- (d) take with him or her such people and things as he or she considers necessary.

(2) Any person who enters premises under paragraph (2)(d) may return unaccompanied to take any further steps necessary to carry out the relevant functions.

(3) A person carrying out a veterinary investigation who suspects that avian influenza or influenza virus of avian origin exists or has existed on the premises must seek to establish—

- (a) the length of time avian influenza has existed on the premises or on any vehicle,
- (b) the possible origin of avian influenza on the premises,
- (c) which premises may have been exposed to contamination by avian influenza from the same origin or from the premises under investigation, and
- (d) the extent to which avian influenza may have been carried to or from the premises under investigation by the movement of birds, people, animals, vehicles, eggs, carcasses, implements or any other thing.

(4) The occupier of the premises under investigation and any person appearing to the person carrying out the investigation to have charge of birds or mammals on the premises must provide such assistance as the person carrying out the investigation may reasonably require.

(5) No person is to deface, obliterate or remove any mark applied under paragraph (1)(a) except with the written authority of a veterinary inspector.

(6) Any person who carries out an investigation under this Order must keep a record of the dates he or she visits premises, of his or her findings at the premises and of any action he or she has required the occupier of the premises to take.

(7) Any person who imposes any requirements or restrictions under this Order must take account of the results of any relevant veterinary inquiries of which he or she should reasonably be aware.

**General powers of inspectors**

**82.**—(1) An inspector executing this Order may require the detention and isolation of any vehicle, equipment or other thing, by serving a notice on the occupier of the premises where it is kept, or on the person in charge of it.

(2) A veterinary inspector executing this Order, or an inspector acting under his or her direction, may—

- (a) cleanse and disinfect any premises and any thing;
- (b) require the cleansing and disinfection of any thing, by serving a notice on the occupier of the premises where it is kept, or on the person in charge of it;
- (c) require the cleansing and disinfection of any premises, by serving a notice on the occupier of the premises;
- (d) require, by notice, the occupier of any premises or the keeper of any animal or bird—
  - (i) to keep or isolate the animal or bird in a specified place; and
  - (ii) to separate the animal or bird from any other animal or bird.

(3) For the purposes of section 65A of the Act, a controlled zone is a designated area until it ceases to be a controlled zone.

### **Powers of inspectors in case of default**

**83.**—(1) If any person fails to comply with a requirement of this Order or of a declaration, licence, notice or designation under it, an inspector may take the steps he or she considers necessary to ensure the requirement is met at the expense of that person .

(2) An inspector’s powers under paragraph (1) include powers to—

- (a) direct any person to take or refrain from specified action in respect of any place, animal, bird, vehicle, or other thing; and
- (b) seize and detain any thing.

### **Offences by bodies corporate**

**84.**—(1) If an offence against the Act committed by a body corporate is shown—

- (a) to have been committed with the consent or connivance of an officer; or
- (b) to be attributable to any neglect on his part,

the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with his or her functions of management as if he were a director of the body.

(3) In this article, “officer”, in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.

### **Enforcement**

**85.**—(1) The local authority must enforce this Order.

(2) The National Assembly may direct, in relation to cases of a particular description or to particular cases, that it will enforce this Order instead.

### **Amendment, revocation and savings**

**86.**—(1) In article 2 of the Diseases of Animals (Approved Disinfectants) Order 1978, the definition of “Diseases of Poultry Order” is substituted by—

““Diseases of Poultry Order” means the Diseases of Poultry (Wales) Order 2003 and the Avian Influenza and Influenza of Avian Origin in Mammals (Wales) (No 2) Order 2006;”

(2) The Avian Influenza and Influenza of Avian Origin in Mammals (Wales) Order 2006(12) is revoked but any notice, licence or designation under that Order having effect at the coming into force of this Order remains in force as if it were a notice, licence or designation under this Order.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(13).

7 November 2006

*D. Elis-Thomas*  
The Presiding Officer of the National Assembly