STATUTORY INSTRUMENTS

2006 No. 3249

The Avian Influenza (H5N1 in Wild Birds) (England) Order 2006

PART 2

Confirmation or suspicion of H5N1

Confirmation or suspicion of H5N1 in wild birds

5.—(1) This article applies if the Chief Veterinary Officer advises the Secretary of State that—

(a) the avian influenza virus of the H5 subtype is present in a wild bird or the carcase of a wild bird in Great Britain; and

(b) either—

(i) she suspects that the neuraminidase may be N1; or

(ii) the neuraminidase has been confirmed as N1.

(2) If the wild bird or carcase was found in England, the Secretary of State must declare—

(a) a wild bird control area; and

(b) a wild bird monitoring area.

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

(a) subject to sub-paragraphs (b) and (c), the Secretary of State may declare a wild bird control area or a wild bird monitoring area;

(b) the Secretary of State must declare a wild bird control area if the wild bird or carcase was found within three kilometres of the border with England;

(c) the Secretary of State must declare a wild bird monitoring area if the wild bird or carcase was found within ten kilometres of the border with England.

(4) Paragraphs (2), (3)(b) and (3)(c) do not apply if the Secretary of State is satisfied, pursuant to a risk assessment, that—

(a) H5N1 is not present in poultry, other captive birds or wild birds in the area which would otherwise be declared as the wild bird monitoring area; and

(b) the infected wild bird or carcase did not present a risk of spreading that virus to such birds in that area.

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

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

(a) the Secretary of State amends the declaration made under paragraph (2)(a), (3)(a) or (3)(b) so that the area within its boundaries becomes part of the wild bird monitoring area; or

(b) the Secretary of State revokes the declaration.

(7) An area remains a wild bird monitoring area until the Secretary of State revokes the declaration made under paragraph (2)(b), (3)(a) or (3)(c).

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

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