
WELSH STATUTORY INSTRUMENTS

2006 No. 1762

The Avian Influenza and Influenza of Avian Origin in Mammals (Wales) Order 2006

PART 9

Inspection, enforcement, offences, amendments and revocations

Redirection of mammals, birds and eggs in transit

80. A veterinary inspector may, by notice to the owner or driver of any vehicle moving any mammal, bird or egg or any other thing to any premises (including regulated places) where avian influenza or influenza virus of avian origin is suspected or confirmed, require any mammal, bird, egg or any other things specified in the notice to be moved to other premises specified in the notice instead.

Veterinary investigations

81.—(1) A veterinary inspector (or an inspector acting in accordance with a veterinary inspector's instructions) may enter any premises on which a veterinary inquiry, clinical examination, survey or other investigation into the presence or spread of avian influenza is required under this Order.

(2) A person who enters premises under this Order or under sections 63, 64 or 64A of the Act for the purposes of an investigation into the presence or spread of avian influenza or of influenza virus of avian origin must carry out such examinations and tests and take such samples (including live birds, live mammals and carcasses) as he or she considers necessary and may—

- (a) mark, or cause to be marked, for identification purposes any bird, mammal, carcase or other thing; and
- (b) count birds and mammals.

(3) If the person carrying out an investigation suspects that avian influenza or influenza virus of avian origin exists or has existed on the premises, he or she 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) A person who enters premises for the purposes of surveillance under article 7 may re-enter the premises to investigate any inconclusive findings of the survey.

(5) 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 inquiry may reasonably require.

(6) No person is to deface, obliterate or remove any mark applied under sub-paragraph (2)(a) except with the written authority of a veterinary inspector.

(7) 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.

(8) The National Assembly must take account of the results of veterinary inquiries when deciding what requirements and restrictions to impose under this Order.

Inspection of vehicles

82. For the purposes of section 65A of the Act (inspection of vehicles), any controlled zone is a designated area until it is ended or becomes part of another zone.

General powers of inspectors

83.—(1) Any person who enters premises under this Order may take with him or her, for any purpose relating to its execution and enforcement, such people and things as he or she considers necessary.

(2) Any person who so assists may return to the premises unaccompanied to take any further steps necessary to ensure the execution or enforcement of this Order.

(3) Provisions in this Order prohibiting or restricting the movement or use of any thing do not apply to any person in the execution or enforcement of the Order.

Powers of inspectors in case of default

84.—(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 such steps he or she considers necessary to ensure the requirement is met (including seizing and detaining any thing).

(2) In taking steps under this article, an inspector may direct any person to take or refrain from specified action in respect of any place, animal, bird, vehicle, or other thing.

(3) Any steps taken under this article are without prejudice to proceedings for an offence arising out of the default.

(4) The person in default must reimburse any reasonable expenses incurred by the National Assembly or the local authority in taking such steps and any such reimbursement is recoverable summarily.

Offences by bodies corporate

85.—(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 or her 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 or she were a director of the body.

(3) “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.

Ignorance of restriction or requirement

86. No person will be guilty of failing to comply with a restriction or requirement applying in a controlled zone if he or she satisfies the court that he or she did not know of the restriction or requirement and that he or she could not with reasonable diligence have obtained knowledge of it.

Enforcement

87.—(1) The local authority must, subject to paragraph (2), enforce this Order.

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

Revocations and amendments

88.—(1) The Diseases of Poultry (Wales) Order 2003⁽¹⁾ is amended by inserting after article 1(2)—

“(3) This Order does not apply in relation to avian influenza.”

(2) In article 2 of the Diseases of Animals (Approved Disinfectants) Order 1978⁽²⁾, 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) Order 2006;”.

(1) S.I.2003/1079.

(2) S.I. 1978/32, as amended by S.I. 1994/3141. Other amendments are not relevant to this Order.