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INSTRUMENTS

2021 Rhif 1292 (Cy. 327)

2021 No. 1292 (W. 327)

ANIFEILIAID, CYMRU

ANIMALS, WALES

IECHYD ANIFEILIAID

ANIMAL HEALTH

**Gorchymyn Ffliw Adar (H5N1
mewn Adar Gwyllt) (Cymru)
(Diwygio) 2021**

**The Avian Influenza (H5N1 in Wild
Birds) (Wales) (Amendment) Order
2021**

NODYN ESBONIADOL

EXPLANATORY NOTE

(Nid yw'r nodyn hwn yn rhan o'r Gorchymyn)

(This note is not part of the Order)

Mae'r Gorchymyn hwn, sy'n gymwys yng Nghymru yn unig, yn diwygio Gorchymyn Ffliw Adar (H5N1 mewn Adar Gwyllt) (Cymru) 2006 (O.S. 2006/3310 (Cy. 300)) ("y prif Orchymyn") ac yn dirymu Penderfyniad y Comisiwn dyddiedig 11 Awst 2006 ynghylch mesurau amddiffyn penodol mewn perthynas â fflw adar pathogenig iawn o'r is-deip H5N1 mewn adar gwyllt yn y Gymuned ac sy'n diddymu Penderfyniad 2006/115/EC ("Penderfyniad y Comisiwn").

This Order, which applies in Wales only, amends the Avian Influenza (H5N1 in Wild Birds) (Wales) Order 2006 (S.I. 2006/3310 (W. 300)) ("the principal Order") and revokes the Commission Decision of 11 August 2006 concerning certain protection measures in relation to highly pathogenic avian influenza of subtype H5N1 in wild birds in the Community and repealing Decision 2006/115/EC ("the Commission Decision").

Mae erthygl 4 yn diwygio erthygl 5 o'r prif Orchymyn ac yn rhoi disgrisiwn i Weinidogion Cymru i ddatgan ardal rheoli adar gwyllt ac ardal monitro adar gwyllt o dan amgylchiadau penodol, yn lle'r rhwymedigaeth a oedd arnynt i wneud hynny.

Article 4 amends article 5 of the principal Order and replaces the obligation on the Welsh Ministers to declare a wild bird control area and a wild bird monitoring area in certain circumstances with a discretion to do so.

Mae erthyglau 2, 5 a 7 yn gwneud diwygiadau canlyniadol.

Articles 2, 5 and 7 make consequential amendments.

Mae erthygl 6 yn diwygio erthygl 11(1) o'r prif Orchymyn fel bod rhaid i Weinidogion Cymru, ymysg pethau eraill, sicrhau bod arolygydd milfeddygol yn ymweld â'r mangreodd hynny o fewn yr ardal rheoli adar gwyllt mor aml ag y mae Gweinidogion Cymru yn ystyried ei bod yn angenrheidiol er mwyn monitro lledaeniad posibl fflw adar.

Article 6 amends article 11(1) of the principal Order so that, amongst other things, the Welsh Ministers must ensure that a veterinary inspector visits such premises within the wild bird control area at such frequency as the Welsh Ministers consider necessary to monitor the possible spread of avian influenza.

Mae erthygl 8 yn diwygio paragraff 4(b) o Atodlen 3 i'r prif Orchymyn fel bod y gofyniad bod rhaid i berson sy'n mynd i fangre neu'n ei gadael sicrhau nad yw'r tu allan i'r cerbyd wedi ei faeddu â llaid, ysgarthion anifeiliaid neu adar etc. hefyd yn gymwys i gerbydau sy'n cludo dofednod.

Mae erthygl 9 yn dirymu Penderfyniad y Comisiwn.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Aseidiadau Effaith Rheoleiddiol mewn perthynas â'r Gorchymyn hwn. O ganlyniad, ystyriwyd nad oedd yn angenrheidiol cynnal aseiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Gorchymyn hwn.

Article 8 amends paragraph 4(b) of Schedule 3 to the principal Order so that the requirement that a person entering or leaving a premises must ensure the outside of the vehicle is not soiled with mud, animal or bird faeces etc. also applies to vehicles carrying poultry.

Article 9 revokes the Commission Decision.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to this Order. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with this Order.

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**Gorchymyn Ffliw Adar (H5N1
mewn Adar Gwyllt) (Cymru)
(Diwygio) 2021**

**The Avian Influenza (H5N1 in Wild
Birds) (Wales) (Amendment) Order
2021**

Gwnaed am 5.55 p.m. ar 19 Tachwedd 2021

Made at 5.55 p.m. on 19 November 2021

Yn dod i rym yn unol ag erthygl 1(2)

*Coming into force in accordance with article
1(2)*

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddir gan adrannau 1, 8(1), 15(5), 17(1), 23 a 25 o Ddeddf Iechyd Anifeiliaid 1981(1) yn gwneud y Gorchymyn a ganlyn:

The Welsh Ministers, in exercise of the powers conferred by sections 1, 8(1), 15(5), 17(1), 23 and 25 of the Animal Health Act 1981(1) make the following Order:

Enwi a chychwyn

Title and commencement

1.—(1) Enw'r Gorchymyn hwn yw Gorchymyn Ffliw Adar (H5N1 mewn Adar Gwyllt) (Cymru) (Diwygio) 2021.

1.—(1) The title of this Order is the Avian Influenza (H5N1 in Wild Birds) (Wales) (Amendment) Order 2021.

(2) Daw'r Gorchymyn hwn i rym yn union ar ôl iddo gael ei wneud.

(2) This Order comes into force immediately after it is made.

(1) 1981 p. 22. Mae swyddogaethau "the Ministers" o dan Ddeddf Iechyd Anifeiliaid 1981 (p. 22) (fel y'u diffinnir yn adran 86(1) o'r Ddeddf honno) yn arferadwy gan Weinidogion Cymru (o ran Cymru), yn rhinwedd Gorchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672), Gorchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 2004 (O.S. 2004/3044) ac adran 162 o Ddeddf Llywodraeth Cymru 2006 (p. 32), a pharagraff 30 o Atodlen 11 iddi. Mae'r pwerau yn Neddf Iechyd Anifeiliaid 1981, wrth eu darllen gyda pharagraff 5 o Atodlen 8 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 (p. 16), yn caniatáu gwneud addasiadau i fân ddeddfwriaeth uniongyrchol UE a ddargedwir fel y diffinnir "retained direct minor EU legislation" yn adran 7(6) o'r Ddeddf. Mae "modify" wedi ei ddiffinio yn adran 20(1) o Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 ac mae'n cynnwys "amend, repeal or revoke".

(1) 1981 c. 22. Functions of "the Ministers" under the Animal Health Act 1981 (c. 22) (as defined in section 86(1) of that Act) are exercisable by the Welsh Ministers (in relation to Wales), by virtue of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), the National Assembly for Wales (Transfer of Functions) Order 2004 (S.I. 2004/3044) and section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32). The powers in the Animal Health Act 1981, when read with paragraph 5 of Schedule 8 to the European Union (Withdrawal) Act 2018 (c.16), allow for modifications to be made to retained direct minor EU legislation as defined in section 7(6) of the Act. "Modify" is defined in section 20(1) of the European Union (Withdrawal) Act 2018 and includes "amend, repeal or revoke".

Diwygio Gorchymyn Ffliw Adar (H5N1 mewn Adar Gwyllt) (Cymru) 2006

2. Mae Gorchymyn Ffliw Adar (H5N1 mewn Adar Gwyllt) (Cymru) 2006(1) wedi ei ddiwygio fel a ganlyn.

Diwygio erthygl 2 (dehongli)

3. Yn erthygl 2 (dehongli)—

- (a) yn y diffiniad o “wild bird control area” hepgorer “or 5(3)”;
- (b) yn y diffiniad o “wild bird monitoring area” hepgorer “or 5(3)”.

Diwygio erthygl 5 (cadarnhau neu amau bod H5N1 mewn adar gwyllt)

4. Yn erthygl 5 (cadarnhau neu amau bod H5N1 mewn adar gwyllt)—

- (a) ym mharagraff (2)—
 - (i) yn lle “If the wild bird or carcase was found in Wales, the” rhodder “The”;
 - (ii) yn lle “must declare” rhodder “, after considering a risk assessment, may declare”;
- (b) hepgorer paragraffau (3), (4) a (5);
- (c) ym mharagraff (6) hepgorer “, (3)(a) or (3)(b)”;
- (d) ym mharagraff (7) hepgorer “, (3)(a) or (3)(c)”.

Diwygio erthygl 6 (rhychwant ardaloedd rheoli a monitro adar gwyllt)

5. Yn erthygl 6 (rhychwant ardaloedd rheoli a monitro adar gwyllt), ym mharagraff (9), yn lle “5(3)” rhodder “5(2)”.

Diwygio erthygl 11 (dyletswydd i arolygu mangreuedd dofednod)

6. Yn erthygl 11 (dyletswydd i arolygu mangreuedd dofednod), yn is-baragraff (1)(b), yn lle “all premises where poultry are kept within the wild bird control area as often” rhodder “such premises within the wild bird control area at such frequency”.

Amendments to the Avian Influenza (H5N1 in Wild Birds) (Wales) Order 2006

2. The Avian Influenza (H5N1 in Wild Birds) (Wales) Order 2006(1) is amended as follows.

Amendment to article 2 (interpretation)

3. In article 2 (interpretation)—

- (a) in the definition of “wild bird control area” omit “or 5(3)”;
- (b) in the definition of “wild bird monitoring area” omit “or 5(3)”.

Amendment to article 5 (confirmation or suspicion of H5N1 in wild birds)

4. In article 5 (confirmation or suspicion of H5N1 in wild birds)—

- (a) in paragraph (2)—
 - (i) for “If the wild bird or carcase was found in Wales, the” substitute “The”;
 - (ii) for “must declare” substitute “, after considering a risk assessment, may declare”;
- (b) omit paragraphs (3), (4) and (5);
- (c) in paragraph (6) omit “, (3)(a) or (3)(b)”;
- (d) in paragraph (7) omit “, (3)(a) or (3)(c)”.

Amendment to article 6 (extent of wild bird control and monitoring areas)

5. In article 6 (extent of wild bird control and monitoring areas), in paragraph (9), for “5(3)” substitute “5(2)”.

Amendment to article 11 (duty to inspect poultry premises)

6. In article 11 (duty to inspect poultry premises), in sub-paragraph (1)(b), for “all premises where poultry are kept within the wild bird control area as often” substitute “such premises within the wild bird control area at such frequency”.

(1) O.S. 2006/3310 (Cy. 300) fel y'i diwygiwyd gan O.S. 2014/517 (Cy. 60). Mae diwygiadau eraill nad ydynt yn berthnasol i'r Gorchymyn hwn.

(1) S.I. 2006/3310 (W. 300) as amended by S.I. 2014/517 (W. 60). There are other amendments not relevant to this Order.

Diwygio erthygl 12 (cynnal ardaloedd)

7. Yn erthygl 12 (cynnal ardaloedd), ym mharagraff 2(c) yn lle “at least one visit to each of those premises” rhodder “such visits as considered necessary”.

Diwygio Atodlen 3 (mesurau bioddiogelwch)

8. Yn Atodlen 3 (mesurau bioddiogelwch), ym mharagraff 4(b), hepgorer “(unless it is carrying poultry)”.

Dirymu

9. Mae Penderfyniad y Comisiwn dyddiedig 11 Awst 2006 ynghylch mesurau diogelu penodol mewn perthynas â fflw adar pathogenig iawn o'r is-deip H5N1 mewn adar gwyllt yn y Gymuned ac sy'n diddymu Penderfyniad 2006/115/EC(1) wedi ei ddirymu.

Amendment to article 12 (maintenance of areas)

7. In article 12 (maintenance of areas), in subparagraph 2(c) for “at least one visit to each of those premises” substitute “such visits as considered necessary”.

Amendment to Schedule 3 (biosecurity measures)

8. In Schedule 3 (biosecurity measures), in paragraph 4(b), omit “(unless it is carrying poultry)”.

Revocation

9. Commission Decision of 11 August 2006 concerning certain protection measures in relation to highly pathogenic avian influenza of subtype H5N1 in wild birds in the Community and repealing Decision 2006/115/EC(1) is revoked.

Lesley Griffiths

Y Gweinidog Materion Gwledig a Gogledd Cymru, a'r Trefnydd, un o Weinidogion Cymru
Am 5.55 p.m. ar 19 Tachwedd 2021

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Minister for Rural Affairs and North Wales, and Trefnydd, one of the Welsh Ministers
At 5.55 p.m. on 19 November 2021

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