
WELSH STATUTORY INSTRUMENTS

2023 No. 1179 (W. 206)

ANIMALS, WALES

ANIMAL HEALTH

**The Avian Influenza (Miscellaneous
Amendments) (Wales) Order 2023**

Made - - - - 6 November 2023

Coming into force - - 8 November 2023

The Welsh Ministers, in exercise of the powers conferred by sections 1, 7(1) and (2), 8(1), 15(5), 17(1), 23 and 25 of the Animal Health Act 1981(1), make the following Order.

Title and coming into force

1.—(1) The title of this Order is the Avian Influenza (Miscellaneous Amendments) (Wales) Order 2023.

(2) This Order comes into force on 8 November 2023.

(1) 1981 c. 22. (“the 1981 Act”). Section 8(1) of the 1981 Act was amended by section 34(2) of the Agriculture Act 2020 (c. 21). Section 87(4) of the 1981 Act provides that subject to provisions mentioned in subsection (5) the Act has effect in relation to poultry as it has effect in relation to animals. Section 87(4) of the 1981 Act was amended by section 2(2) of the Animal Health and Welfare Act 1984 (c. 40). Article 3(1) of the Avian Influenza and Influenza of Avian Origin in Mammals (Wales) (No 2) Order 2006 (S.I. 2006/2927) (W. 262)) extends, for the purpose of that Order, the definition of “poultry” under section 87(4) of the 1981 Act to include all birds and the definition of “disease” under section 88(1) of the 1981 Act to include any infection in mammals caused by influenza virus of avian origin. Functions under the 1981 Act of “the appropriate Minister” and of “the Ministers” (the latter in so far as exercisable by the Secretary of State for Wales) were transferred, so far as exercisable in relation to Wales, to the then National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). “The appropriate Minister” and “the Ministers” are defined in section 86(1) of the 1981 Act. The functions under the 1981 Act, so far as exercisable by the Secretary of State, the Secretary of State for Scotland or the Secretary of State for Wales, were transferred to the Minister of Agriculture, Fisheries and Food by the Transfer of Functions (Agriculture and Food) Order 1999 (S.I. 1999/3141). All functions of the Minister of Agriculture, Fisheries and Food were then transferred to the Secretary of State by the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794). Relevant functions of the Secretary of State were transferred to the then National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 2004 (S.I. 2004/3044). The functions of the National Assembly for Wales are now exercisable by the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).

Amendments to 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) (No 2) Order 2006(2) is amended in accordance with articles 3 to 11.

Amendments to article 2 (interpretation)

3. In article 2—

(a) for the definition of “brood-and-move Galliformes” substitute—

““brood-and-move poultry” means poultry that have been, are being or are to be moved for the purposes of growing or fattening to premises other than those where they were reared”;

(b) for the definition of “non-commercial premises” substitute—

““non-commercial premises” means any premises where all poultry or other captive birds (including those kept as pets), their eggs or other poultry products are kept by their keeper for personal consumption, or for use, exclusively within or for the purposes of the same household;”;

(c) for the definition of “poultry” substitute—

““poultry” means a bird reared or kept in captivity for any of the following purposes—

- (i) the production of meat or eggs for consumption or other poultry products;
- (ii) restocking supplies of game;
- (iii) any breeding programme for the production of such categories of birds or products specified in (i) and (ii);

but does not include any birds that are kept for the purposes of a single household, where the birds and their keeper have no direct or indirect contact with other poultry or poultry facilities, and the birds and products of the birds are used exclusively within, or for the purposes of the same household;”;

(d) after the definition of “poultry” insert—

““poultry product” means anything originating or made (whether in whole or in part) from any living or dead poultry, and includes the carcass of any poultry;”.

Amendment to article 22 (measures on special category premises)

4. In article 22—

(a) in paragraph (3), after sub-paragraph (g) insert—

“(h) “wildlife rescue and rehabilitation centres.”;

(b) in paragraph (5), at the end insert—

“and “wildlife rescue and rehabilitation centre” means any facility dedicated to the sole purpose of providing treatment and temporary care of injured, orphaned or sick wild animals or birds including any facility for their housing, feeding and treatment under the supervision of a veterinary surgeon for the primary purpose of their release back into the wild”.

Amendment to article 33 (alternative measures where avian influenza is confirmed at a hatchery or in other captive birds on special category premises)

5. In article 33(1)—
- (a) after “hatchery or in” insert “any”;
 - (b) after “special category premises,” insert “or any birds on special category premises listed in article 22(3)(a) to (e) or (h),”.

Amendment to article 63 (measures relating to slaughter and to poultry meat)

6. In article 63, after paragraph (7) insert—
- “(8) No person is to—
 - (a) feed raw poultry meat produced from poultry originating in the protection zone to animals or birds;
 - (b) permit raw poultry meat produced from poultry originating in the protection zone to be used in the production of raw pet food.
 - (9) Nothing in this article requires the application of a special mark to poultry meat which is produced by an on-farm slaughter facility registered under Regulation (EC) No 853/2004 of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin(3).”.

Amendment to article 64 (poultry moved to premises outside controlled zones other than for slaughter)

7. In article 64—
- (a) in paragraph (2) for “or brood-and-move Galliformes” substitute “or brood-and-move poultry”;
 - (b) after paragraph (6) insert—
 - “(7) The occupier of any premises to which poultry is moved under this article must, for at least 21 days from the date on which the poultry was moved to the premises, take such measures as may be directed by a veterinary inspector to reduce the risk of spread of avian influenza to poultry, other captive birds or wildlife, including a requirement to house or otherwise keep that poultry separate from other birds or mammals on the premises.”.

Amendment to article 85 (enforcement)

8. In article 85, after paragraph (1) insert—
- “(1A) But in relation to designated slaughterhouses, this Order is enforced by the Food Standards Agency.”.

Amendment to Schedule 4 (measures in a protection zone)

- 9.—(1) Schedule 4 is amended as follows.
- (2) In paragraph 13—
- (a) the existing provision becomes sub-paragraph (1);
 - (b) after sub-paragraph (1) insert—

(3) EUR 2004/853, amended by S.I. 2019/640 and 2022/1351. S.I. 2019/640 was amended by S.I. 2020/1504.

- “(2) For the purpose of this paragraph, game birds include any pheasant, partridge, grouse (or moor game), black (or heath) game or ptarmigan or ducks bred for shooting.”.
- (3) In paragraph 14—
- (a) in the heading, for “and carcasses” substitute “, semen, blood samples and carcasses”;
 - (b) in the words before sub-paragraph (a), for the words “any poultry” to “or carcasses” substitute “any poultry or other captive birds, or any eggs, poultry meat, semen, blood samples or carcasses from any poultry or any other captive birds into,”.
- (4) In paragraph 16—
- (a) in sub-paragraph (f), for “or brood-and-move Galliformes” substitute “or brood-and-move poultry”;
 - (b) after sub-paragraph (m) insert—
 - “(n) semen to a breeding premises or to a designated premises for scientific, diagnostic or pharmaceutical purposes;
 - (o) blood to a laboratory or veterinary practice for scientific or diagnostic purposes.”.
- (5) In paragraph 17(a), for “must have examined” substitute “must have inspected and where necessary examined the”.
- (6) In paragraph 20(1), omit paragraph (c).
- (7) In paragraph 22—
- (a) in the heading, for “brood-and-move Galliformes” substitute “brood-and-move poultry”;
 - (b) the existing provision becomes sub-paragraph (1);
 - (c) in sub-paragraph (1), for “or brood-and-move Galliformes”, in both places it occurs, substitute “or brood-and-move poultry”;
 - (d) after sub-paragraph (1) insert—
 - “(2) The occupier of premises to which ready-to-lay poultry or brood-and-move poultry are moved must not move that poultry from that premises for a period of at least 21 days from the day on which that poultry was moved onto the premises.”.

Amendment to Schedule 5 (measures in a surveillance zone)

10.—(1) Schedule 5 is amended as follows.

(2) After paragraph 8 insert—

“Restrictions on the movement of carcasses of poultry and other captive birds within the zone

8A.—(1) No person is to remove carcasses of poultry or other captive birds from premises in the zone.

(2) But a veterinary inspector or an inspector under the direction of a veterinary inspector may licence the removal of carcasses of poultry or other captive birds for the purpose of disposal or diagnosis from premises in the zone.”.

(3) In paragraph 10—

- (a) the existing provision becomes sub-paragraph (1);
- (b) after sub-paragraph (1) insert—

“(2) For the purpose of this paragraph, game birds include any pheasant, partridge, grouse (or moor game), black (or heath) game or ptarmigan or ducks bred for shooting.”.

- (4) In paragraph 11—
- (a) the existing provision becomes sub-paragraph (1);
 - (b) in sub-paragraph (1), after “no person is to move any poultry or eggs” insert “into or”;
 - (c) after sub-paragraph (1) insert—
 - “(2) The occupier of premises to which poultry is moved, must not move that poultry from that premises for a period of at least 21 days from the day on which that poultry was moved onto the premises.”.
- (5) In paragraph 15—
- (a) in the heading, for “and eggs” substitute “, eggs, poultry meat, semen, blood samples and carcasses”;
 - (b) in sub-paragraph (1), for “poultry or eggs” substitute “poultry or other captive birds, or any eggs, semen, blood samples or carcasses from any poultry or any other captive birds”;
 - (c) in sub-paragraph (1)(b), after “veterinary inspector” insert “or by an inspector under the direction of a veterinary inspector”;
 - (d) in sub-paragraph (2)(d), for “or brood-and-move Galliformes” substitute “or brood-and-move poultry”;
 - (e) after sub-paragraph (2)(i) insert—
 - “(j) semen to a breeding premises or to a designated premises for scientific, diagnostic or pharmaceutical purposes;
 - (k) blood samples to a laboratory or veterinary practice for scientific or diagnostic purposes.”.
- (6) For paragraph 17 (including the heading) substitute—

“Requirements for the movement of poultry from premises in the zone to a designated slaughterhouse

17. Poultry must not be moved from premises in the zone to a designated slaughterhouse outside the zone unless—

- (a) the movement commences within 24 hours of the completion of a veterinary inspection of the poultry at the premises, and
- (b) the appropriate minister responsible for the designated slaughterhouse has authorised the movement of that poultry.”.

Amendment to Schedule 7 (measures in a low pathogenic avian influenza restricted zone)

- 11.**—(1) Schedule 7 is amended as follows.
- (2) In paragraph 5—
- (a) the existing provision becomes sub-paragraph (1);
 - (b) after sub-paragraph (1) insert—
 - “(2) For the purpose of this paragraph, game birds include any pheasant, partridge, grouse (or moor game), black (or heath) game or ptarmigan or ducks bred for shooting.”.
- (3) In paragraph 6, after “or eggs” insert “into or”.
- (4) For paragraph 7(2)(f) substitute—
- “(f) eggs to a designated egg packing centre in disposable packaging or packaging which has been cleansed and disinfected in accordance with the instructions of a veterinary inspector or an inspector under the direction of a veterinary inspector and in accordance

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

with biosecurity requirements specified by a veterinary inspector or an inspector under the direction of a veterinary inspector;”.

6 November 2023

Lesley Griffiths
Minister for Rural Affairs and North Wales, and
Trefnydd, one of the Welsh Ministers

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Avian Influenza and Influenza of Avian Origin in Mammals (Wales) (No 2) Order 2006 (S.I. 2006/2927 (W. 262)) (“the 2006 Order”).

The amendments include; amendment to the definition of “poultry” to provide alignment with the World Organisation for Animal Health (WOAH) definition; amendment to the definition of “non-commercial premises” to provide alignment with the WOAH Terrestrial Code and to provide clarity in relation to poultry and other captive birds which are kept as pets but also produce eggs; amendment to the list of special category premises to include wildlife rescue and rehabilitation centres; and provides for a definition of game bird for the purpose of paragraph 13 of Schedule 4, paragraph 10 of Schedule 5 and paragraph 5 of Schedule 7 to the 2006 Order. The amendments also provide for the Food Standards Agency to enforce the 2006 Order in relation to designated slaughterhouses. A small number of minor amendments are made to correct or clarify previous amendments made to the 2006 Order.

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.