

**2005 No. 485**

**ANIMALS**

**ANIMAL HEALTH**

**The Avian Influenza (Preventive Measures) Regulations  
(Northern Ireland) 2005**

*Made* - - - -

*4th November 2005*

The Department of Agriculture and Rural Development(a), is designated(b) for the purposes of section 2(2) of the European Communities Act 1972(c) in relation to the common agricultural policy of the European Community(d). Exercising the powers conferred upon it by that section, it makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Avian Influenza (Preventive Measures) Regulations (Northern Ireland) 2005 and come into operation on 4th November 2005.

**Interpretation**

2.—(1) In these Regulations—

“the 2005 avian influenza survey” means the survey for avian influenza being carried out by the Department in accordance with Commission Decision 2005/464/EC on the implementation of survey programmes for avian influenza in poultry and wild birds to be carried out in the Member States(e) and with the national plan approved by Commission Decision 2005/732/EC approving the programmes for the implementation of Member States’ surveys for avian influenza in poultry and wild birds during 2005 and laying down reporting and eligibility rules for the Community financial contribution to the implementation costs of those programmes(f);

“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 any area declared as such under regulation 4(2)(a);

“the Commission Decision” means Commission Decision 2005/734/EC(g) laying down biosecurity measures to reduce the risk of transmission of highly pathogenic avian influenza caused by influenza A virus of subtype H5N1 from birds living in the wild to poultry and

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(a) The Department of Agriculture for Northern Ireland was renamed the Department of Agriculture and Rural Development by Article 3(4) of the Departments Order 1999 (S.I. 1999/283 (N.I. 1))

(b) S.I. 2000/2812

(c) 1972, c.68

(d) S.I. 1972/1811

(e) O.J. No. L No 164, 24.6.2005, p. 52, as amended by Commission Decision 2005/726/EC (OJ No L 273, 19.10.2005, p. 21)

(f) O.J. No. L 274, 20.10.2005, p. 95

(g) O.J. No. L 274, 20.10.2005, p. 105

other captive birds and providing for an early detection system in areas at particular risk, as amended by Commission Decision 2005/745/EC(a);

“the Department” means the Department of Agriculture and Rural Development;

“general licence” means a licence issued under these Regulations which applies to all persons, or any class of persons specified therein;

“inspector” means a person appointed to be an inspector for the purpose of these Regulations or under the Order by the Department;

“the Order” means the Diseases of Animals (Northern Ireland) Order 1981(b);

“other captive bird” means any bird other than poultry kept in captivity, including any bird kept for shows, races, exhibitions and competitions, such as ornamental birds and racing pigeons;

“poultry” means all birds that are reared or kept in captivity for the production of meat or eggs for consumption, the production of other commercial products, for restocking supplies of game or for the purposes of any breeding programme for the production of these categories of birds;

“premises” means land, with or without buildings;

“restrictions notice” means a notice served under regulation 4(2)(b);

“specific licence” means a licence issued under these Regulations which only applies to the applicant therefor.

(2) The Interpretation Act (Northern Ireland) 1954(c) shall apply to these Regulations as it applies to an Act of the Assembly.

### **Licences, notices and declarations**

3.—(1) A notice or declaration under these Regulations shall be in writing, may be subject to conditions and may be amended, suspended or revoked in writing at any time.

(2) A licence under these Regulations shall be in writing, may be subject to conditions and may be either a general licence or a specific licence.

(3) A general licence shall be issued by the publication of it in such manner and to such extent as appears to the Department to be sufficient to bring it to the notice of those persons likely to be affected by it.

(4) The Department may amend, suspend or revoke any licence under these Regulations—

(a) in the case of a general licence, by a notice published so far as is practicable, in the same manner and to the same extent as the licence; and

(b) in the case of a specific licence, by a notice served on the person to whom the licence was issued.

(5) The Department may amend, suspend or revoke a general licence insofar as it applies to any particular person by notice served on that person.

(6) The Department shall take such steps as it considers necessary to ensure that notices or declarations are brought to the attention of those who may be affected by them and, in particular, shall ensure that the extent of any zone declared under these Regulations, the nature of the restrictions and requirements applicable within it and the dates of its declaration and revocation (and any suspension of it) are publicised.

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(a) O.J. No. L 279, 22.10.2005, p.79

(b) 1981 No. 1115 (N.I. 22) as amended by S.I. 1984/702 (N.I. 2) Article 17 and S.I.1994/1891 (N.I. 6) Articles 19, 22 and 23

(c) 1954 c.33 (N.I.)

## **Risk assessment and imposition of restrictions**

4.—(1) The Department shall evaluate the risk of the transmission of avian influenza virus (in particular virus of the subtype H5N1) from wild birds to poultry or other captive birds in Northern Ireland, taking into account the criteria and risk factors set out in Annex I to the Commission Decision.

(2) Having carried out such an evaluation, the Department shall, if it considers it necessary to reduce the risk of transmission of avian influenza (in particular virus of the subtype H5N1)—

- (a) declare an avian influenza prevention zone in all or part of Northern Ireland; and
- (b) serve a restrictions notice on the occupier of any premises where poultry, other captive birds or any specified species of poultry or captive birds are kept.

(3) The Department shall, in a declaration of an avian influenza prevention zone under paragraph (2)(a) or in a restrictions notice, impose to the extent that they are appropriate and practicable, such of the following requirements as it considers necessary—

- (a) poultry and other captive birds must be housed or otherwise kept separate from wild birds;
- (b) domestic ducks and geese must be housed or otherwise kept separate from other poultry and other captive birds;
- (c) poultry and other captive birds must be fed and provided with drinking water indoors or under a shelter which prevents wild birds from gaining access to the food or water supply;
- (d) bodies of water to which poultry have access for animal welfare reasons must be sufficiently screened off from wild waterfowl;
- (e) drinking water provided to poultry and other captive birds must not be sourced from surface water reservoirs unless the water has been treated to render any virus it may contain inactive;
- (f) 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) must not be used as decoys during bird-hunting except—
  - (i) for the purpose of attracting birds for sampling as part of the 2005 avian influenza survey; and
  - (ii) under the authority of a licence issued by the Department;
- (g) keepers of poultry or other captive birds must immediately notify the Department of the following as regards any flock of such birds—
  - (i) any drop in feed and water intake of more than 20%;
  - (ii) any drop in egg production of more than 5% for more than 2 days;
  - (iii) a mortality rate greater than 3% in a week;
- (h) keepers of poultry and other captive birds and any other persons who come into contact with such birds or who enter or leave premises where they are kept must take appropriate biosecurity measures;
- (i) such other appropriate and practicable requirements as the Department considers necessary—
  - (i) to prevent any direct or indirect contact which wild birds might otherwise have with poultry and other captive birds; and
  - (ii) to ensure separation between domestic ducks and geese on the one hand and other poultry on the other.

(4) A declaration of an avian influenza prevention zone under paragraph (2)(a) shall—

- (a) specify the boundaries of the avian influenza prevention zone; and
- (b) specify the restrictions or requirements which apply in the zone.

(5) Subject to paragraph (6) any premises which are partly inside and partly outside an avian influenza prevention zone shall be deemed to be wholly within it.

(6) Nothing in paragraph (5) should deem any part of a premises outside Northern Ireland to be within an avian influenza prevention zone.

(7) A person to whom restrictions or requirements in a declaration or a notice under these Regulations apply shall comply with such restrictions or requirements, except to the extent that he is authorised to do otherwise by a licence issued by the Department.

### **Prohibition on markets, fairs, shows and other gatherings**

5.—(1) A person shall not cause or permit birds to be collected at any market, fair, show, exhibition or other gathering except under the authority of a licence issued by the Department.

(2) The Department shall only grant a licence if a veterinary risk assessment has been carried out and it is satisfied that the gathering and the transit of birds to and from the gathering would not significantly increase the risk of the transmission of avian influenza virus (in particular of virus of the subtype H5N1).

### **Identification of poultry premises**

6.—(1) Subject to paragraph (4), a person who keeps poultry on any premises shall give notice to the Department containing particulars of—

- (a) the name and address of the owner of the poultry and the person with day to day management of the premises where they are kept (if different);
- (b) the address of the premises and—
  - (i) where cattle are kept on the premises, any unique identification code allocated under regulation 3(1)(b) of the Cattle Identification (No.2) Regulations (Northern Ireland) 1998(a);
  - (ii) where pigs are kept on the premises, any holding number allocated under Article 3(3) of the Aujeszky's Disease Scheme Order (Northern Ireland) 1994(b);
  - (iii) where sheep are kept on the premises, any holding number allocated under Article 3(3) of the Identification and Movement of Sheep and Goats Order (Northern Ireland) 2004(c).
- (c) the contact telephone number for the owner/site; and
- (d) the species, number and type of poultry and the nature of any production relating to them at the premises.

(2) The Department may by notice require any person giving notice under paragraph (1) or having been deemed to have given notice under paragraph (4) to give such other information as it requires for the purpose of carrying out a risk assessment under regulation 4 or 5 or otherwise complying with the Commission Decision.

(3) In the case of premises used for keeping poultry on the date these Regulations come into operation the notice required by paragraph (1) shall be given within 60 days of that date and in any other case shall be given within 30 days of the premises first being used to keep poultry.

(4) A person who immediately before the making of these Regulations—

- (a) is registered under paragraph 3(2) or 4(2) of the Schedule to the Poultry Breeding Flocks and Hatcheries Scheme Order (Northern Ireland) 1994(d);
- (b) is registered under regulation 3 of the Registration of Establishments (Laying Hens) Regulations (Northern Ireland) 2003(e);

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(a) S.R. 1998 No. 279 as amended by S.R. 1999 No. 324

(b) S.R. 1994 No. 199

(c) S.R. 2004 No. 491

(d) S.R. 1994 No. 118 as amended by S.R. 2000 No. 110

(e) S.R. 2003 No. 538

(c) is a member of the Northern Ireland Poultry Health Assurance Scheme operated by the Department; or

(d) has provided the Department with the particulars specified in paragraph (1)(a) and (b) under any other statutory provision or any provision of European Community legislation, shall be deemed to have given a notification to the Department for the purpose of paragraph (1).

(5) Where in relation to any premises on which poultry is kept there is a change in—

- (a) the identity of the person keeping poultry on the premises; or
- (b) any other particulars notified under this regulation,

the keeper of the poultry shall notify the Department within 30 days of such change occurring.

(6) Notwithstanding any other provision of these Regulations, the Department may at any time require a person who gave notice under paragraph (1) or (2) to submit a further notice giving the particulars and information referred to in paragraphs (1) and (2) in such form and within such period as the Department shall determine.

(7) Any person who is required to give information or particulars under this regulation shall keep a copy thereof for such period as the Department may require.

(8) In this regulation “poultry” includes any other captive birds but does not include any bird kept as a pet.

### **Powers of inspectors**

7.—(1) An inspector may enter any land for the purpose of ascertaining whether these Regulations (or any declaration, notice or licence under them) are being or have been complied with and may—

- (a) inspect and copy any records (in whatever form they are held) kept under these Regulations, or remove such records to enable them to be copied;
- (b) inspect and check the operation of any computer and any associated apparatus or material which is or has been in use in connection with the records; and for this purpose may require any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material to afford him such assistance as he may reasonably require (including providing him with any necessary passwords) and, where a record is kept by means of a computer, may require the records to be produced in a form in which they may be taken away;
- (c) mark any bird or other thing for identification purposes; and
- (d) take with him such persons and equipment as he considers necessary.

(2) Any person who defaces, obliterates or removes any mark applied under paragraph (1)(c) shall be guilty of an offence.

(3) If an inspector enters any unoccupied premises he shall leave them as effectively secured against unauthorised entry as he found them.

### **Enforcement and offences**

8. The following provisions of the Order shall apply as if these Regulations were an order made under that Order—

- (a) Article 42 (Functions of constables);
- (b) Article 52 (Offences);
- (c) Article 54 (Defences and evidence);
- (d) Article 55 (Extension of time for bringing summary proceedings);
- (e) Article 56 (Venue).

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

9.—(1) If a person fails to comply with a restriction or requirement of these Regulations or of a licence, notice or declaration under them, an inspector may take any steps he considers necessary to ensure the restriction or requirement is complied with, including—

- (a) seizing, detaining or disposing of any bird moved, kept or otherwise dealt with in breach of these Regulations and of any such licence, notice or declaration; and
- (b) directing a person to take or refrain from any specified action in respect of any place, bird, animal, vehicle, product or other thing.

(2) Any steps taken are without prejudice to proceedings for an offence arising out of the default.

(3) The person in default shall reimburse any reasonable expenses incurred by the Department in taking such steps and any such reimbursement is recoverable summarily.

Sealed with the official seal of the Department of Agriculture and Rural Development on  
4th November 2005



*Liam McKibben*

A senior officer of the Department of Agriculture and Rural Development

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations give effect to Commission Decision 2005/734/EC laying down biosecurity measures to reduce the risk of transmission of highly pathogenic avian influenza caused by influenza A virus of subtype H5N1 from birds living in the wild to poultry and other captive birds and providing for an early detection system in areas at particular risk (O.J. No. L 274, 20.10.2005, p. 105), as amended by Commission Decision 2005/745/EC (O.J. No. L 279, 22.10.2005, p.79).

These Regulations require the Department to evaluate the risk of the transmission of avian influenza virus and to take appropriate measures to reduce that risk through the establishment of preventative zones and restricted premises. Certain measures may be imposed in such zones or premises including the housing of poultry or the feeding of poultry indoors (regulation 4).

The collection of birds for marketing or public display is prohibited except in accordance with the conditions of a licence issued by the Department (regulation 5).

A keeper of poultry or captive birds is required to submit certain information to the Department within specified time limits and keep records of that information (regulation 6).

The Regulations provide enforcement powers for inspectors and establish offences and other related matters (regulations 7 to 9).