

EXPLANATORY MEMORANDUM TO
THE AVIAN INFLUENZA (PREVENTIVE MEASURES) (ENGLAND)
REGULATIONS 2006

2006 No.2701

1. This explanatory memorandum has been prepared by The Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 The Avian Influenza (Preventive Measures) (No 2) Regulations 2005 consolidated two earlier pieces of legislation which transposed Commission Decisions providing for preventive biosecurity measures to be introduced on the basis of a Member State's risk assessment and banning bird gatherings.

2.2 The new regulations do the following:

(a) revoke and replace the Avian Influenza (Preventive Measures) (No 2) Regulations 2005 ("the 2005 Regulations");

(b) continue to give effect to paragraph 2 of article 2a of 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 as last amended by Commission Decision 2006/405/EC;

(c) give effect to Commission Decision 2006/474/EC concerning measures to prevent the spread of highly pathogenic avian influenza caused by influenza A virus of subtype H5N1 to birds kept in zoos and approved bodies, institutes and centres in the Member States and repealing Decision 2005/744/EC; and

(d) help to implement provisions requiring or dependant on the identification of poultry premises under Council Directive 2005/94/EC on Community measures for the control of avian influenza and repealing Directive 92/40/EC.

3. Matters of special interest to the Joint Committee on Statutory Instruments.

3.1 None

4. Legislative Background

4.1 The Regulations are being made to transpose Commission Decision 2006/474/EC and provide for the continued operation of the poultry register established under the Avian Influenza (Preventive Measures) Regulations 2005 and the Avian Influenza (Preventive Measures) (No2) Regulations 2005. They help to implement provisions requiring or dependant on the identification of poultry premises

under Council Directive 2005/94/EC on Community measures for the control of avian influenza and repealing Directive 92/40/EC.

5. Extent

5.1 This instrument applies to England only.

6. European Convention on Human Rights

6.1 The Minister of Local Environment, Marine and Animal Welfare, Mr Ben Bradshaw, has made the following statement regarding Human Rights

‘In my view the provisions of the Avian Influenza (Preventive Measures) (England) Regulations 2006 are compatible with the Convention rights.’

7. Policy background

7.1 Defra has prepared a preventive vaccination plan against avian influenza for zoo birds in the UK, for conservation purposes. This was approved by the Commission in Decision 2006/474/EC. The Regulations provide the legislative framework to implement the plan if necessary.

7.2 The Regulations contain a general prohibition on unauthorised vaccination of zoo birds, but allow the Secretary of State to vaccinate zoo birds, to require their vaccination or to license their vaccination, following a risk assessment. They set out restrictions on the movement of vaccinated zoo birds, and make provision for veterinary surveillance to be carried out where necessary. Defra is also making the Avian Influenza (Fees for the Vaccination of Zoo Birds) (England) Regulations 2006 to enable recovery of costs from zoos which opt to vaccinate, should a decision be taken to permit this. This will be laid before the Houses shortly.

7.3 The Regulations provide for the continued operation of the poultry register established under the Avian Influenza (Preventive Measures) Regulations 2005 and the Avian Influenza (Preventive Measures) (No2) Regulations 2005 (the old Regulations). The register enables Defra to communicate with poultry keepers quickly and helps manage any potential disease outbreak by targeting resources where they are needed most. It will enable us to control an avian influenza outbreak, if we get it.

7.4 Any person who keeps 50 or more poultry is required to notify the Secretary of State of specified information relating to those poultry. This requirement now applies to all premises, not just to commercial premises as was the case under the old Regulations. This simplifies the requirement, as there has been confusion amongst certain categories of poultry keepers about whether they were commercial or not. Those who have already registered under the old Regulations are not required to register again.

7.5 Newcomers to poultry keeping now need to register within 1 month of either the Regulations coming into force or from the date when the requirement to register arises. We currently have over 23,500 registered premises. In order to ensure that the data GB Poultry Register are kept up to date and to optimise our ability to effectively control a disease outbreak, a new obligation has been introduced to inform the

Secretary of State of a number of specified changes to this information (for example numbers of poultry kept, or a change of ownership) within one month of them occurring. Also, there is a provision that places an obligation on the person who registered premises to notify any change in the information placed on the register to the Secretary of State when given notice to do so.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument because it was made with a short timescale in order to implement our obligations under Commission Decision 2006/474/EC concerning measures to prevent the spread of highly pathogenic avian influenza caused by influenza A virus of subtype H5N1 to birds kept in zoos. The provisions on zoos have no impact on business, charities or voluntary bodies except zoos who choose to vaccinate their birds.

8.2 It is also considered that the poultry register has a minimal impact on business, charities or voluntary bodies, other than the time taken to comply with the requirement to register. The benefits to the wider industry are likely to outweigh the costs in the event of an outbreak of this disease.

8.2 The impact on the public sector is the cost of implementing and maintaining the Poultry Register, processing zoo applications, and maintaining the licensing system for Bird fairs.

9. Contacts

Andrew Jones (for zoo bird vaccination - Tel: 0207 904 8296 or e-mail: Andrew.jones@defra.gsi.gov.uk) or Caroline Hind (for the Poultry Register - Tel: 0207 904 6167 or e-mail: caroline.hind@defra.gsi.gov.uk) at the Department for Environment, Food and Rural Affairs can answer any queries regarding the instrument.