

**R E G U L A T I O N S**

**S.I. No. 125 of 2006**

**European Communities (Protection Measures in relation to Avian  
Influenza in Wild Birds) Regulations 2006**

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## **S.I. No. 125 of 2006**

### **European Communities (Protection Measures in relation to Avian Influenza in Wild Birds) Regulations 2006**

I, Mary Coughlan, Minister for Agriculture and Food, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) for the purpose of giving effect to Commission Decision 2006/115/EC of 17 February 2006<sup>1</sup>, hereby make the following regulations:

#### **Citation.**

1. These Regulations may be cited as the European Communities (Protection Measures in relation to Avian Influenza in Wild Birds) Regulations 2006.

#### **Interpretation.**

2. (1) In these Regulations -

“authorised officer” means an authorised officer within the meaning of section 17A (inserted by the Diseases of Animals (Amendment) Act 2001 (No. 3 of 2001)) of the Diseases of Animals Act 1966 (No. 6 of 1966);

“Commission Decision” means Commission Decision 2006/115/EC of 17 February 2006<sup>1</sup>;

“Minister” means Minister for Agriculture and Food;

“poultry”, “other captive birds”, “hatching eggs” and “wild feathered game” have the meanings assigned to them, respectively, in Article 1(2) of the Commission Decision;

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<sup>1</sup> OJ No. L48, 18.2.2006, p28.

“protection zone” and “surveillance zone” shall be construed in accordance with Regulation 3.

(2) A word or expression that is used in these Regulations and is also used in the Commission Decision has, unless the contrary intention appears, the same meaning in these Regulations as it has in the Commission Decision.

### **Establishment of protection and surveillance zones.**

3. (1) The Minister shall, taking into account Article 2 of the Commission Decision, establish around the area where the presence of highly pathogenic avian influenza caused by influenza A virus of subtype H5 in wild birds is confirmed and the neuraminidase type N1 is either suspected or confirmed -

- (a) a protection zone with a radius of at least 3 kilometres, and
- (b) a surveillance zone with a radius of at least 10 kilometres, including the protection zone.

(2) Notice of the establishment of a protection and a surveillance zone shall be published in the *Iris Oifigiúil* and at least one newspaper published in the State and circulating in the area referred to in paragraph (1) and by any other method the Minister considers appropriate.

### **Precautionary measures for protection and surveillance zones.**

4. (1) The Minister may give a direction to persons who own or control poultry or any captive bird in holdings within a protection or surveillance zone in relation to -

- (a) the implementation of appropriate on-farm biosecurity measures, including disinfection at the entrances and exits of holdings and, in particular, the housing of the poultry or other captive birds or their confinement to places where the direct and indirect contact with wild birds can be prevented, and
- (b) the biosecurity measures provided for in the European Communities (Avian Influenza) (Precautionary Measures) Regulations 2006 (S.I. No. 121 of 2006).

(2) A direction under paragraph (1) may be given generally by publishing a notice of it in the *Iris Oifigiúil* and in at least one newspaper published in the State and circulating in the protection and surveillance zone or directly to a person by being given to the person or left at the holding concerned in the protection and surveillance zone by an authorised officer.

(3) A person who fails to comply with a direction under paragraph (1) commits an offence.

### **Specific measures for protection zones.**

5. (1) The following are prohibited in a protection zone -

- (a) the removal of poultry or other captive birds from the holding on which they are kept,
- (b) the assembly of poultry or other captive birds at fairs, markets, shows, or other gatherings,
- (c) the transport through the zone of poultry or other captive birds, except transit on major roads or railways and transport to a slaughterhouse for direct slaughter,
- (d) the dispatch from the zone of hatching eggs,
- (e) the dispatch from the zone of fresh meat, minced meat, meat preparations and meat products from poultry or other captive birds or wild feathered game,
- (f) the transport or spread outside the zone of unprocessed used litter or manure from holdings within the zone, except transport for treatment in accordance with Regulation (EC) No. 1774/2002<sup>2</sup>, or
- (g) the hunting of wild birds.

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<sup>2</sup> O.J No. L 273, 10.10.2002, p.1

(2) A person who contravenes or causes another to contravene this Regulation commits an offence.

**Specific measures for surveillance zones.**

6. (1) The following are prohibited in a surveillance zone -

- (a) the movement of poultry or other captive birds out of the zone for the first 15 days following the establishment of the zone,
- (b) the assembly in the zone of poultry or other captive birds at fairs, markets, shows or other gatherings, or
- (c) the hunting of wild birds.

(2) A person who contravenes or causes another to contravene this Regulation commits an offence.

**Duration of measures within protection and surveillance zones.**

7. The Minister may in accordance with Article 5 of the Commission Decision abolish the measures provided for in Regulations 4, 5 and 6 and a protection and surveillance zone. Notice of the abolition shall be published in the *Iris Oifigiúil* and at least one newspaper published in the State and circulating in the protection and surveillance zone concerned and by such other means as the Minister considers appropriate.

**Arrangements for movements of poultry and poultry products in and from protection and surveillance zones.**

**8.** (1) Notwithstanding of Regulations 5 and 6, the Minister, based on the favourable outcome of a risk assessment, may authorise, any of the following -

- (a) the transport of live birds (including day-old chicks) in accordance with Article 6 of the Commission Decision,
- (b) the transport or dispatch of hatching eggs in accordance with Article 7 of the Commission Decision,
- (c) the dispatch of meat, minced meat, meat preparations, mechanically separated meat and meat products in accordance with Article 8 of the Commission Decision,
- (d) the dispatch of animal by-products in accordance with Article 9 of the Commission Decision.

(2) Where the movement of birds and products thereof referred to in paragraph (1) is authorised, all appropriate biosecurity measures specified in the authorisation shall be taken to avoid the spread of avian influenza.

(3) Where the dispatch, movement or transport of products referred to in paragraph (1) (other than subparagraph (a)) are authorised, subject to justified conditions or

limitations specified in the authorisation, they must be obtained, handled, treated, stored and transported without compromising the animal health status of other products fulfilling all the animal health requirements for trade, placing on the market or export to third countries.

(4) An authorisation under this Regulation may be given generally by publishing a notice of it in the *Iris Oifigiúil* and in at least one newspaper published in the State and circulating in the area to which the movement relates and by such other means as the Minister considers appropriate or directly to a person by being given to the person or left at the holding concerned by an authorised officer.

(5) The holder of an authorisation under this Regulation who fails to comply with paragraph (2) or (3) commits an offence.

#### **Powers of authorised officer.**

9. (1) An authorised officer may, for the purpose of enforcing these Regulations and the Commission Decision, exercise all or any of the powers conferred on an authorised officer under section 17A of the Diseases of Animals Act 1966 and any reference in that section to -

- (a) poultry includes a reference to other captive birds, and
- (b) disease includes a reference to avian influenza.



(2) An authorised officer, being an inspector of the Minister, in exercising his or her powers under section 17A of the Diseases of Animals Act 1966 may in making a clinical inspection of poultry or other captive birds collect samples for laboratory examination.

**Penalties, etc.**

**10.** (1) A person guilty of an offence under these Regulations is liable on summary conviction to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 3 months, or to both.

(2) An offence under these Regulations may be prosecuted by the Minister.

(3) Where an offence under these Regulations has been committed by a body corporate and it is proved to have been so committed with the consent or connivance of or to be attributable to any neglect on the part of any person who, when the offence was committed, was a director, manager, secretary or other officer of the body corporate, or a person purporting to act in any such capacity, that person, as well as the body corporate, commits an offence and is liable to be proceeded against and punished as if he or she committed the first-mentioned offence.

(4) If the affairs of a body corporate are managed by its members, paragraph (3) applies in relation to the acts and defaults of a member in connection with the functions of management as if such a member were a director or manager of the body corporate.

**Production of notice in legal proceedings, etc.**

**11.** (1) A copy of the *Iris Oifigiúil* purporting to contain a notice under these Regulations may be produced in every court and in all legal proceedings and is evidence, unless the contrary is shown, of the notice.

(2) A copy of a notice under these Regulations, which has endorsed on it a certificate purporting to be signed by an officer of the Minister (authorised in that behalf by the Minister) stating that the copy is a true copy of the notice may, without proof of signature of that officer, be produced in every court and in all legal proceedings and is evidence, unless the contrary is shown, of the notice.

(3) The Minister may authorise in writing an officer of the Minister to issue a notice under these Regulations.

GIVEN under my Official Seal,

14<sup>th</sup> March 2006.

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Minister for Agriculture and Food.

## **EXPLANATORY NOTE.**

*(This note is not part of the Instrument and does not purport to be a legal interpretation.)*

These Regulations transpose the measures set down in Commission Decision 2006/115/EC and provide for the establishment of protection and surveillance zones and the measures to be applied therein in the event of a suspect or confirmed incidence of H5N1 Avian Influenza in wild birds in Ireland.