

S.I. No. 491/2006 - European Communities (Protection Measures in Relation to Highly Pathogenic Avian Influenza of the Subtype H5N1 in Poultry) (No. 2) Regulations 2006

REGULATIONS

S.I. No. 491 of 2006

European Communities (Protection measures in relation to highly pathogenic avian influenza of the subtype H5N1 in poultry) (No. 2) 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 2006/415/EC of 14 June 2006¹, hereby make the following regulations:

- Citation 1. These Regulations may be cited as the European Communities (Protection measures in relation to highly pathogenic avian influenza of the subtype H5N1 in poultry) (No. 2) Regulations 2006.
- Interpretation 2. (1) In these Regulations -
“area A” and “area B” shall be construed in accordance with Regulation 3(1) (a) and (b) respectively;
“authorise” means to allow under license or other written form;
“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 2006/415/EC of 14 June 2006;
“Council Directive” means Council Directive 2005/94/EC² ;
“Minister” means Minister for Agriculture and Food.
- (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 area A and area B 3. (1) Following a suspected or confirmed outbreak of highly pathogenic avian influenza caused by highly pathogenic influenza A virus of subtype H5 suspected or confirmed to be of the neuraminidase type N1, the Minister shall establish -
- (a) area A - which shall be classified as a high risk area consisting of the protection and surveillance zones established pursuant to the requirements of Regulation 12 of the European Communities (Protection Measures in relation to Avian Influenza in Poultry and other Captive Birds) Regulations 2006 (S.I. No. xxx of

2006), and

- (b) area B - which shall be classified as a low risk area and which may include all or parts of the further restricted zone established pursuant to the requirements of Regulation 12 of the European Communities (Protection Measures in relation to Avian Influenza in Poultry and other Captive Birds) Regulations 2006 (S.I. No. xxx of 2006).
- (2) Area B shall be established having regard to the geographical, administrative, ecological and epizootiological factors relating to avian influenza and will separate area A from the disease free part of the State, if such part is identified, or from Northern Ireland.
 - (3) The measures provided for in these Regulations will be abolished if the neuraminidase type is confirmed as being different from N1.
 - (4) If the presence of highly pathogenic influenza A virus of the subtype H5N1 is confirmed in poultry, the measures provided for in Regulation 4 shall apply-
 - (a) for -
 - (i) at least 21 days in the case of the protection zone and 30 days in the case of the surveillance zone after the date of completion of the preliminary cleansing and disinfection on the outbreak holding; and
 - (ii) as long as is necessary having regard to the geographical administrative, ecological and epizootiological factors relating to avian influenza, or
 - (b) until the date indicated in a specific Decision of the Commission relating to an outbreak in the State.
 - (5) Notice of the establishment or abolition of an area A and an area B and of the measures applying therein shall be published in the *Iris Oifigiúil* and at least one newspaper published in the State and circulating in the area referred to in paragraphs (1) and (2) and by such other means as the Minister considers appropriate.

General prohibition

- 4. (1) A person shall not -
 - (a) dispatch live poultry, other captive birds or hatching eggs of poultry other captive birds or of wild feathered game birds from an area B to the remaining part of the State (if applicable), to other Member States or to third countries,
 - (b) dispatch products intended for human consumption derived from wild feathered game birds from an area A or an area B to the remaining part of the State (if

applicable), to other Member States or to third countries,

(c) transport animal by-products derived entirely or partially from avian species from an area A or an area B and which are subject to the provisions of Regulation (EC) No 1774/2002³ between an area A and an area B or dispatch such by-products from these areas to the remaining part of the State (if applicable), to other Member States or to third countries, or

(c) gather poultry or other captive birds at gatherings such as fairs, markets or shows within an area B.

(2) The prohibitions provided for in paragraph 1(a) do not apply to birds referred to in Article 2 (c) of the Commission Decision or to the hatching eggs of birds referred to in Article 2 (c)(ii) of the Commission Decision.

(3) The restrictions in paragraph (1) are additional to the restrictions on movement of poultry, other captive birds, their hatching eggs and products derived from such birds provided for in the European Communities (Protection measures in relation to avian influenza in poultry and other captive birds) Regulations 2006 (S.I. No. xxx of 2006) in relation to holdings in protection, surveillance and further restricted zones.

(4) A person who contravenes this Regulation commits an offence.

Derogations

5. (1) Subject to Regulation 6, the dispatch of the following may be authorised-

(a) live poultry (including day-old chicks) in accordance with Article 6 of the Commission Decision,

(b) hatching eggs and SPF eggs in accordance with Article 7 of the Commission Decision,

(c) meat, minced meat, mechanically separated meat of wild feathered game and meat preparations and meat products prepared from such meat in accordance with Article 8 of the Commission Decision, or

(d) animal by-products in accordance with Article 9 of the Commission Decision.

(2) An authorisation under this Regulation may be given generally by publishing 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 or by such other means as the Minister considers appropriate including the issue of authorisations by an authorised officer for individual

holdings, products or consignments.

(3) A person, who contravenes this Regulation, or a provision of an authorisation granted under it, commits an offence.

Conditions for movement	<p>6. (1) Authorisations for the movements of poultry and products thereof under Regulation 5 (1) shall be granted following a favourable outcome of a risk assessment and on the basis that all appropriate biosecurity measures specified in the authorisation will be taken by those involved in the dispatch so as to avoid the spread of avian influenza.</p> <p>(2) Where the dispatch, movement or transport of products referred to in Regulation 5(1) is authorised, subject to justified conditions or limitations specified in the authorisation, they must be obtained, handled, treated, stored and transported by the holder of the authorisation or his or her agent 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.</p> <p>(3) A person who fails to comply with this Regulation commits an offence.</p>
Powers of authorised officer	<p>7. 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 -</p> <p>(a) poultry includes a reference to other captive birds, and</p> <p>(b) disease includes a reference to avian influenza.</p>
Forgery	<p>8. (1) A person shall not forge or utter knowing it to be forged any notice, direction authorisation or derogation issued under these Regulations (hereafter in this Regulation referred to as “a forged document”).</p> <p>(2) A person shall not alter with intent to defraud or deceive, or to utter knowing it to be so altered a notice, direction, authorisation or derogation issued under these Regulations (hereafter in this Regulation referred to as “an altered document”).</p> <p>(3) A person shall not have, without lawful authority, in his or her possession or under his or her control a forged document or an altered document.</p>
Penalties	<p>9. (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 6 months, or to both.</p> <p>(2) An offence under these Regulations may be prosecuted by the Minister.</p> <p>(3) Where an offence under these Regulations has been committed by a body corporate and it is proved to have been so</p>

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 Notices in legal proceedings, etc

10. (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.

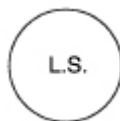
(3) The Minister may authorise in writing an officer of the Minister to issue a notice under these Regulations.

Revocation

11. The European Communities (Protection Measures in relation to Avian Influenza in Poultry) Regulations 2006 (S.I. No. 123 of 2006) are revoked.

GIVEN under my Official Seal,

13th September 2006



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 2006/415/EC and provide for additional measures to be applied in the event of a suspect or confirmed outbreak of H5N1 Avian Influenza in poultry in Ireland.

¹ OJ No. L 164, 16.6.2006, p51.

² OJ No. L 10, 14.1.2006, p 16.

³ OJ No.L273, 10.10.2002, p1