

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

**S.I. No.123 of 2006**

**European Communities (Protection Measures in relation to Avian Influenza in Poultry)**

**Regulations 2006**

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**S.I. No.123 of 2006**

**European Communities (Protection Measures in relation to Avian Influenza in Poultry) 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 2006/135/EC of 22 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 Poultry) Regulations 2006.

**Interpretation.**

2. (1) In these Regulations -

“Areas A and B” shall be construed in accordance with Article 1(3) of the Commission Decision;

“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 2006/135/EC of 22 February 2006<sup>1</sup>;

“Minister” means Minister for Agriculture and Food;

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<sup>1</sup> OJ No. L52, 23.2.2006, p41.

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

(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 areas A and B.**

3. (1) Immediately following an outbreak or suspected outbreak of highly pathogenic avian influenza caused by influenza A virus of subtype H5 suspected or confirmed to be of the neuraminidase type N1, the Minister shall establish areas A and B having regard to the geographical, administrative, ecological and epizootiological factors relating to avian influenza.

(2) The Minister may abolish the measures taken in relation to areas A and B if the neuraminidase type is confirmed as being different from N1 or the virus is of low pathogenicity.

(3) Notice of the establishment of Areas A and B or their abolition 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 from areas A and B to other Member States and to third countries,
- (b) dispatch from areas A and B to the remaining part of the State,
- (c) transport within areas A and B, or
- (d) move between areas A and B,

live poultry or live birds other than poultry and hatching eggs.

(2) A person shall not -

- (a) dispatch from areas A and B to other Member States,
- (b) dispatch from areas A and B to the remaining part of the State,
- (c) transport between areas A and B,

products, other than hatching eggs, of the species referred to in paragraph (1) and of wild feathered game.

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

**Derogations.**

5. (1) The Minister, based on the favourable outcome of a risk assessment, may authorise, the dispatch of the following -

- (a) live birds (including day-old chicks) in accordance with Article 4 of the Commission Decision,
- (b) hatching eggs in accordance with the provisions of Article 5 of the Commission Decision,
- (c) meat, minced meat, meat preparations, mechanically separated meat and meat products in accordance with the provisions of Article 6 of the Commission Decision,
- (d) eggs for human consumption and egg products in accordance with the provisions of Article 7 of the Commission Decision,
- (e) animal by-products in accordance with the provisions of Article 8 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 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.

**Conditions for movement.**

6. (1) Where the movement of poultry and products thereof referred to in Regulation 5 is authorised, all appropriate biosecurity measures specified in the authorisation shall be taken by the holder of the authorisation to avoid the spread of avian influenza.

(2) Where the dispatch, movement or transport of products referred to in Regulation 5(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 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.

(3) A consignment of eggs for human consumption referred to in Regulation 5(1)(d) must be accompanied by a commercial document stating -

“The consignment complies with the animal health conditions laid down in Commission Decision 2006/135/EC.”.

(4) A person who fails to comply with this Regulation commits an offence.

**Powers of authorised officer.**

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 -

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

**Penalties.**

8. (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 Notices in legal proceedings, etc.**

9. (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,

14th 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 2006/135/EC and provide for the measures to be applied in the event of a suspect or confirmed outbreak of H5N1 Avian Influenza in poultry in Ireland.*