

REGULATIONS

S.I. No. 478 of 2006

European Communities (Protection measures in relation to avian influenza in poultry and other captive birds) Regulations 2006

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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 Council Directive 2005/94/EC of 20 December 2005¹ hereby make the following regulations:

PART 1 – Citation and Interpretation

Citation

1. These Regulations may be cited as the European Communities (Protection measures in relation to avian influenza in poultry and other captive birds) Regulations 2006.

Interpretation

2. (1) In these Regulations -

“approved disinfectant” means a disinfectant which for the time being stands approved by the Minister in accordance with the Diseases of Animals (Disinfectants) Order 1975 (S.I. No. 273 of 1975) as amended by the Diseases of Animals (Disinfectants) Order 1975 (Amendment) Order 1978 (S.I. No. 345 of 1978);

“authorise” means to allow under licence 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);

“Council Directive” means Council Directive 2005/94/EC of 20 December 2005;

“HPAI” means highly pathogenic avian influenza as described in Annex 1(2) to the Council Directive;

“LPAI” means low pathogenic avian influenza as described in Annex 1(3) to the Council Directive;

“Minister” means Minister for Agriculture and Food.

¹ OJ No. L10, 14.1.2006, p16.

“official veterinarian” means an inspector of the Minister under the Diseases of Animals Act 1966.

(2) A derogation under these Regulations may be granted by licence or otherwise.

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

PART 2 – Suspected Outbreak

Notification of a suspected outbreak of Avian Influenza

3. A person in possession of or in control of poultry or any other captive bird and any other person who, by reason of an examination or otherwise, becomes aware or suspects or who should reasonably be aware that there is a suspected outbreak of avian influenza on a holding, border inspection post, slaughterhouse or means of transport, shall immediately notify the Minister by contacting the Department of Agriculture and Food or a local District Veterinary Office of the Department of Agriculture and Food of the suspected outbreak and in these Regulations such a holding, border inspection post, slaughterhouse or means of transport is referred to as a suspect holding.

Measures to be applied on holdings with a suspected outbreak

4. (1) A person who owns or controls poultry or any other captive bird on a suspect holding and where the presence of avian influenza has not been ruled out shall ensure that-

(a) all poultry and other captive birds are brought inside a building on the holding and kept there,

(b) no poultry or other captive birds enter or leave the holding,

- (c) no carcasses of poultry or other captive birds, meat of poultry including offal, poultry feed, utensils, materials, waste, droppings, manure of poultry or other captive birds, slurry, used litter or anything likely to transmit avian influenza leave the holding,
 - (d) no eggs leave the holding,
 - (e) no movement of persons, mammals of domestic species, vehicles and equipment takes place to or from the holding without authorisation from an authorised officer,
 - (f) appropriate means of disinfection with an approved disinfectant are used at the entrances and exits of buildings that house poultry or other captive birds and of the holding itself in accordance with a direction issued by an official veterinarian,
 - (g) full co-operation is given to authorised officers in -
 - (i) counting, or estimating by species, the numbers of birds and domestic mammals on the holding, and
 - (ii) compiling and updating lists of the number of such birds and domestic mammals already sick, dead or likely to be infected on the holding.
- (2) An official veterinarian may give a direction in respect of any or all of the measures referred to in paragraph (1).
- (3) Notwithstanding paragraph (1)(a), where it is impractical to bring poultry or other captive birds inside a building or if their welfare would be compromised by so doing, an official veterinarian may direct, on the basis of a risk assessment and taking into account the precautions taken, that they must instead be confined in another place on the same holding where they do not have contact with other poultry or other captive birds on other holdings and all reasonable steps must be taken to minimise their contact with wild birds.

- (4) Where movements are authorised under paragraph (1), all appropriate biosecurity measures must be applied so as to minimise any risk of spreading avian influenza.
- (5) The measures provided for in paragraph (1) shall remain in place until the possibility of avian influenza on the holding has been ruled out or until an official veterinarian determines that some or all of these measures need not be implemented.

Derogations from certain measures to be applied on a holding with a suspected outbreak

5. (1) An official veterinarian may grant derogations from the measures in Regulation 4(1)(b) and (c) on the basis of a risk assessment and taking into account the precautions taken and the destination of the poultry, other captive birds and products to be moved.
(2) Notwithstanding Regulation 4(1)(d), an official veterinarian may authorise the movement of eggs in accordance with Article 8 (3) of the Council Directive.
(3) An official veterinarian may grant derogations from the measures in Regulation 4(1)(f) in the case of other captive birds kept on non-commercial holdings.
(4) Where movements are authorised under paragraphs (1), (2) or (3), appropriate biosecurity measures must be applied so as to minimise any risk of spreading avian influenza.

Additional measures to be applied where there is a suspected outbreak

6. (1) The Minister may, by notice, having regard to preliminary results of an epidemiological inquiry, direct the application of some or all of the following measures particularly if the holding where the suspected outbreak of avian influenza is located in an area with a high density of poultry-

- (a) temporary restrictions on the movements of poultry, other captive birds and eggs and the movement of vehicles used by the poultry sector in a defined area or in the whole of the State,
 - (b) temporary restrictions on the movements of mammals of domestic species, for a period not exceeding 72 hours, unless a longer period can be justified,
 - (c) the measures provided for in Regulation 8 to the holding or if conditions permit, application of those measures only to the poultry or other captive birds suspected of being infected and their production units,
 - (d) a temporary control zone around the holding and application of some or all of the measures provided for in Regulation 4 as necessary to the holdings within that zone.
- (2) The Minister may, by notice, amend or withdraw the measures that may be introduced under paragraph (1).

PART 3 – Confirmed Outbreak of Highly Pathogenic Avian Influenza (HPAI)

Declaring a holding to be a holding with a confirmed outbreak of HPAI

7. Where an outbreak of HPAI in poultry or in a captive bird is confirmed on a holding, border inspection post, slaughterhouse or means of transport an official veterinarian shall declare that holding to be a holding with a confirmed outbreak of HPAI (“confirmed HPAI outbreak holding”).

Measures to be applied on holdings with a confirmed outbreak

- 8.(1) The following measures apply in the case of a confirmed outbreak holding -
- (a) the measures provided for in Regulation 4 will be applied in respect of the holding,

- (b) all poultry and other captive birds on the holding will be killed without delay and under official supervision,
- (c) all carcasses and eggs on the holding will be disposed of under official supervision,
- (d) poultry already hatched from eggs collected from the holding during the period between the probable date of introduction of HPAI on the holding and the application of control measures under Regulation 4 will be placed under official supervision,
- (e) meat of poultry slaughtered and eggs collected from the holding during the period between the probable date of introduction of HPAI to the holding and the application of control measures under Regulation 4 will, wherever possible, be traced and disposed of under official supervision,
- (f) all substances, such as feed, manure and waste, likely to be contaminated will be destroyed or must undergo a treatment ensuring the destruction of the avian influenza virus, in accordance with the directions of an official veterinarian.
However, manure, slurry and bedding likely to be contaminated will be required to undergo one or more of the procedures provided for in Regulation 38,
- (g) following the disposal of carcasses, the buildings used for housing them, pastures or land, the equipment likely to be contaminated and the vehicles used for transporting the poultry or other captive birds, carcasses, meat, feed, manure, slurry, bedding and any other material or substance likely to be contaminated will undergo one or more of the cleansing and disinfection procedures provided for in Regulation 38,
- (h) other captive birds or mammals of domestic species shall not enter or leave the holding without an authorisation from an authorised officer. However, this

restriction will not apply to mammals of domestic species which have access only to the living areas for humans,

(i) other measures, as may be required by an official veterinarian, shall be taken to limit any possible spread of avian influenza to any wild birds on the holding.

(2) An official veterinarian may give a direction in respect of the measures referred to in paragraph (1).

(3) Notwithstanding paragraph (1)(b), an official veterinarian may exempt certain species of poultry or other captive birds from being killed, on the basis of the results of an assessment of the risk of further spread of avian influenza and having regard to such conditions as may be determined by the Minister.

(4) The activities provided for in paragraph (1) shall be carried out in such a way as to avoid the risk of spreading avian influenza.

Derogations concerning certain holdings

9. (1) An official veterinarian may, on the basis of the results of an assessment of the risk of further spread of avian influenza and having regard to such conditions as may be determined by the Minister, grant derogations from the measures in Regulation 8(1)(b) in cases of outbreaks of HPAI in a non-commercial holding, a circus, a zoo, a pet bird shop, a wildlife park, a fenced area where poultry or other captive birds are kept for scientific purposes or for purposes related to the conservation of endangered species or officially registered rare breeds of poultry or other captive birds, provided that such derogations do not endanger disease control.

(2) Where a derogation is granted under paragraph (1), the person to whom it is granted must ensure that the poultry and other captive birds concerned by the derogation:

(a) are brought inside a building on their holding and kept there. Where this is impractical or if their welfare would be compromised by doing so, they must instead be confined in another place on the same holding such that they do not have contact with other poultry or other captive birds on other holdings and all reasonable steps must be taken to minimise their contact with wild birds;

(b) are subjected to further surveillance and testing in accordance with the directions of an official veterinarian and are not moved until the laboratory tests have indicated that they no longer pose a significant risk of further spreading of HPAI; and

(c) are not moved from their holding of origin, except for slaughter or to another holding:

(i) located in the State, in accordance with the directions of an official veterinarian; or

(ii) in another Member State, subject to the agreement of the Member State of destination.

(3) Notwithstanding the prohibition of movement of poultry or other captive birds under paragraph (2) (b), an official veterinarian may, on the basis of a risk assessment, authorise the transport under biosecurity measures of poultry or other captive birds which cannot be appropriately housed and kept under surveillance on the holding of origin to a designated holding, where further surveillance and testing will be carried out under official supervision.

- (4) An official veterinarian may, on the basis of a risk assessment, grant derogations from the measures provided for in Regulation 8(1)(e) for eggs to be sent directly to an establishment for the manufacture of egg products as set out in Chapter II of Section X of Annex III to Regulation (EC) No 853/2004² to be handled and treated in accordance with Chapter XI of Annex II to Regulation (EC) No 852/2004.³ In addition, any such derogations will be subject to the conditions set out in Annex III to the Council Directive.

Measures to be applied in cases of outbreaks of HPAI in separate production units

10. (1) In cases of an outbreak of HPAI in holdings which consist of two or more separate production units, an official veterinarian may grant derogations from the measures provided for in Regulation 8 (1)(b) for production units containing poultry or other captive birds where the presence of HPAI is not suspected, provided that such derogations do not endanger disease control.

(2) Derogations under paragraph (1) shall be granted only where the official veterinarian, on the basis of a risk assessment taking account of the structure, size, operation, type of housing, feeding, water source, equipment, staff and visitors to the holding, is satisfied that the units are completely independent of other production units in terms of location and day-to-day management of the poultry or other captive birds kept there.

Measures to be applied in contact holdings

11. (1) An official veterinarian may, based on an epidemiological inquiry, direct that a holding is to be considered as a contact holding.

² OJ No. L139 30.04.2004, p.55

- (2) The measures provided for in Regulation 4 will apply to a contact holding until the presence of HPAI on that holding has been excluded.
- (3) Based on epidemiological inquiries, an official veterinarian may, in addition to the measures in Regulation 4 and taking account of the criteria set out in Annex IV to the Council Directive, direct that the measures provided for in Regulation 8 are to be applied to contact holdings particularly if they are located in an area with a high density of poultry.
- (4) The owner or person in charge of any contact holding, where poultry or other captive birds are killed and disposed of and avian influenza is subsequently confirmed, must ensure that the buildings and any equipment likely to be contaminated and the vehicles used for transporting the poultry, other captive birds, carcasses, meat, feed, manure, slurry, bedding and any other material or substance likely to be contaminated, undergo one or more of the cleansing and disinfection procedures provided for in Regulation 38.
- (5) The repopulation of contact holdings with poultry shall take place in accordance with any directions given by an official veterinarian on the basis of the results of a risk assessment.

PART 4 – Protection, surveillance and further restricted zones

Establishment of protection, surveillance and further restricted zones

12. (1) The Minister shall, by notice, taking into account Article 16 (and in particular the criteria in paragraph (3)) of the Council Directive establish around the holding where the presence of HPAI in poultry or other captive birds is confirmed –

³ OJ No. L139 30.04.2004, p.1

- (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) In addition the Minister may, by notice, establish a further restricted zone around or adjacent to the protection and surveillance zones taking account of the criteria in paragraph (3) of Article 16 of the Council Directive.
- (3) If the outbreak of HPAI is confirmed in other captive birds in a non-commercial holding, circus, zoo, pet bird shop, wildlife park, a fenced area where other captive birds are kept for scientific purposes or purposes related to the conservation of endangered species or officially registered rare breeds of other captive birds that do not contain poultry, an official veterinarian may, following a risk assessment, grant a derogation to the extent necessary from the provisions of Regulations 12 to 21 concerning the establishment of the protection and surveillance zones and the measures to be applied therein, provided that such derogations do not endanger disease control.
- (4) Where a protection, surveillance or further restricted zone established in another Member State extends into the territory of the State, the measures provided for in these Regulations for such zones shall apply to the areas and holdings within the zones so established.
- (5) The measures provided for in Parts 5 to 8 of these Regulations shall apply to zones established under paragraphs (1) and (2).
- (6) A zone established under this Regulation is deemed to be abolished on the expiry of the periods provided for in Regulations 20 or 22, as appropriate.

PART 5 - Precautionary measures for protection and surveillance zones

Precautionary measures for both protection and surveillance zones.

- 13 (1) The Minister may, by notice, where epidemiological information or other evidence indicates, implement a preventive eradication programme, including preventive slaughtering or killing of poultry or other captive birds, in holdings and areas at risk within the protection and surveillance zones.
- (2) The Minister may, by notice, give a direction to persons who own or control poultry or other captive birds in holdings within a protection or surveillance zone in relation to -
- (a) facilitating the tracing of anything likely to spread the avian influenza virus including poultry, other captive birds, meat, eggs, carcasses, feed, litter, people that have been in contact with the infected poultry or other captive birds or vehicles with a link to the poultry industry,
 - (b) providing any relevant information to authorised officers concerning the poultry or other captive birds and eggs entering or leaving the holding,
 - (c) facilitating the conduct of a census of all the holdings in the zones,
 - (d) providing assistance in connection with visits to holdings by an official veterinarian for examination of the poultry and other captive birds and, if necessary, the collection of samples.

Measures to be applied in both protection and surveillance zones

14. (1) The Minister may, by notice, direct a person who owns or controls poultry or other captive birds on a holding in the protection and surveillance zones to ensure that -
- (a) appropriate on-farm biosecurity measures, in particular disinfection, are applied at the entrances and exits of holdings;

- (b) the biosecurity measures provided for in the European Communities (Avian Influenza) (Precautionary Measures) Regulations 2006 (S.I. No. 121 of 2006) are implemented;
 - (c) vehicles and equipment used for transporting live poultry or other captive birds, meat, feed, manure, slurry and bedding and any other material or substances likely to be contaminated, undergo one or more of the cleansing and disinfection procedures provided for in Regulation 38;
 - (d) poultry, other captive birds and domestic mammals do not enter or leave the holding without authorisation from an authorised officer. However, this restriction shall not apply to mammals which have access only to the living areas for humans in which they:
 - (i) have no contact with resident poultry or other captive birds, and
 - (ii) have no access to any cages or areas where such resident poultry or other captive birds are kept;
 - (e) any increased morbidity or mortality or significant drop in production data on the holding are immediately reported to the local District Veterinary Office;
 - (f) all persons entering or leaving the holding observe appropriate biosecurity measures aimed at preventing the spread of avian influenza.
- (2) The holding of fairs, markets, shows or other gatherings of poultry or other captive birds and the release of poultry or other captive birds for restocking of game is prohibited in the zones.

PART 6 - Measures for protection zones

Specific measures for protection zones

- 15 (1) The Minister may, by notice, direct that a person who owns or controls poultry or other captive birds in a protection zone shall ensure that -
- (a) all poultry and other captive birds are brought inside a building on the holding and kept there,
 - (b) carcasses are disposed of as soon as possible,
 - (c) all parts of vehicles used by persons that enter or leave the holding and are likely to have become contaminated undergo one or more of the cleansing and disinfection procedures provided for in Regulation 38,
 - (d) records of all persons visiting the holding, except dwellings, are kept and are made available upon request to an authorised officer. Such records do not have to be kept where the visitors are to holdings such as zoos and wildlife parks where they have no access to the areas where the birds are kept.
- (2) Notwithstanding paragraph (1)(a), where it is impractical to bring poultry or other captive birds inside a building or if their welfare would be compromised by so doing, an official veterinarian may direct that they must instead be confined in another place on the same holding where they do not have contact with other poultry or other captive birds on other holdings and all reasonable steps must be taken to minimise their contact with wild birds.

Prohibition on the removal or spreading of used litter, manure or slurry from holdings

16. The removal or spreading of used litter, manure or slurry from holdings in protection zones is prohibited. However, the movement of manure or slurry may be authorised by an authorised officer from holdings under biosecurity measures to a designated plant for treatment or for intermediate storage for subsequent treatment to destroy the possible presence of avian influenza viruses in accordance with Regulation (EC)

No 1774/2002⁴ or with specific rules that may be adopted in accordance with the procedure referred to in Article 64(2) of the Council Directive.

Prohibition on the movement and transport of birds, eggs, poultry meat and carcasses

17. (1) No person shall undertake or permit the movement or transport from holdings on to roads, excluding private service roads of holdings, or by rail, of poultry, other captive birds, ready-to-lay poultry, day-old chicks, eggs or carcasses within a protection zone.

(2) No person shall undertake or permit the transport of poultry meat from slaughterhouses, cutting plants and cold stores unless it has been produced:

(a) from poultry which has originated from outside the protection zone and has been stored and transported separately from the meat of poultry from within the protection zone, or

(b) on a date at least 21 days before the estimated date of earliest infection on a holding in the protection zone and which since production has been stored and transported separately from such meat produced after that date.

(3) The prohibitions in paragraphs (1) and (2) do not apply to transport which transits through the protection zone on roads or rail without unloading or stopping.

Derogations from prohibitions provided for in Regulation 17

18. Notwithstanding Regulation 17, an authorised officer may authorise any of the following –

⁴ OJ No.L273, 10.10.2002, p.1

- (a) the direct transport of poultry from a holding in a protection zone for immediate slaughter to a designated slaughterhouse in accordance with Article 23(1) of the Council Directive,
- (b) the direct transport of poultry from outside the protection zone for immediate slaughter to a designated slaughterhouse within the protection zone and subsequent movement of the meat derived from such poultry in accordance with Article 23(2) of the Council Directive,
- (c) the direct transport of day-old chicks, originating from holdings within the protection zone, to a holding or shed of that holding in the State, preferably located outside the protection and the surveillance zones, in accordance with Article 24(1) of the Council Directive,
- (d) the direct transport of day-old chicks, hatched from eggs originating from holdings located outside the protection and surveillance zones, to any other holding in the State, preferably located outside the protection and the surveillance zones, provided that the hatchery of dispatch can ensure by its logistics and by its hygienic working conditions that no contact has occurred between those eggs and any other hatching eggs or day-old chicks originating from poultry flocks within such zones and which are therefore of a different health status,
- (e) the direct transport of ready-to-lay poultry to a holding or shed of that holding preferably within the protection or the surveillance zone in which there is no other poultry, in accordance with Article 25 of the Council Directive,
- (f) the direct transport of hatching eggs either from any holding to a hatchery located in the protection zone and designated by an authorised officer or, from a holding located in the protection zone to any designated hatchery in accordance with Article 26(1) of the Council Directive,

(g) the direct transport of eggs:

(i) to a packing centre designated by an authorised officer provided that they are packed in disposable packaging and that all biosecurity measures required by an official veterinarian are applied,

(ii) to an establishment for the manufacture of egg products as set out in Chapter II of Section X of Annex III to Regulation (EC) No 853/2004 to be handled and treated in accordance with Chapter XI of Annex II to Regulation (EC) No 852/2004, or

(iii) for disposal,

(h) the direct transport of carcasses for disposal in accordance with Article 27 of the Council Directive.

Cleansing and disinfecting of means of transport

19. The owner or person in charge of the poultry, poultry product or other captive bird shall ensure that the vehicles and equipment used for the transport, as provided for in Regulation 18, undergo one or more of the cleansing and disinfection procedures provided for in Regulation 38.

Duration of measures

20. (1) The measures provided for in Regulations 13 to 19, in respect of protection zones, shall be maintained for at least 21 days following the date of completion of preliminary cleansing and disinfection on the infected holding by one or more of the procedures provided for in Regulation 38 and until poultry on holdings located in the

protection zone have been tested in accordance with directions given by the official veterinarian.

- (2) When the measures referred to in Regulations 13 to 19 are no longer to be maintained, as provided for in paragraph (1), the measures laid down in Regulation 21 shall apply in the former protection zone, until they are no longer to be applied as provided for in Regulation 22.

PART 7 - Measures for Surveillance Zones

Specific Measures for Surveillance Zones

21. (1) The Minister may, by notice, direct that a person shall not move or permit the movement of poultry, ready-to-lay poultry, day-old chicks or eggs within the surveillance zone except under an authorisation and, where authorised, movement must be undertaken in a way which ensures that appropriate biosecurity measures are applied to prevent the spread of avian influenza.
- (2) The prohibitions in paragraph (1) do not apply to transit through the surveillance zone on road or rail without unloading or stopping.
- (3) The Minister may, by notice, direct that a person shall not move or permit the movement of poultry, ready-to-lay poultry, day-old chicks and eggs to holdings, slaughterhouses, packing centres or an establishment for the manufacture of egg products located outside the surveillance zone.
- (4) Notwithstanding paragraphs (1) and (3), an authorised officer may authorise the direct transport of -
 - (a) poultry for slaughter to a designated slaughterhouse, for the purpose of immediate slaughter subject to Article 23 (1)(a), (b) and (d) of the Council Directive;

- (b) poultry from outside the protection and surveillance zones for immediate slaughter to a designated slaughterhouse within the surveillance zone and the subsequent movement of the meat derived from such poultry;
- (c) ready-to-lay poultry to a holding in the State in which there is no other poultry, in which case that holding shall be placed under official supervision following the arrival of the ready-to-lay poultry and the ready-to-lay poultry shall remain on the holding of destination for at least 21 days;
- (d) day-old chicks to a holding or shed of such holding in the State, in which case appropriate biosecurity measures shall be applied and the holding shall be placed under official supervision following the transport and the day-old chicks shall remain on the holding of destination for at least 21 days;
- (e) day-old chicks, hatched from hatching eggs originating from poultry holdings located outside the protection and surveillance zones, to any other holding, provided that the hatchery of dispatch can ensure, by its logistics and biosecurity working conditions, that no contact has occurred between these eggs and any other hatching eggs or day-old-chicks originating from poultry flocks within those zones and which are therefore of a different health status;
- (f) hatching eggs to a designated hatchery located inside or outside the surveillance zone in which case the eggs and their packaging shall be disinfected before dispatch and the tracing back of these eggs must be ensured;
- (g) table eggs to a designated packing centre, provided that they are packed in disposable packaging and that all biosecurity measures required by an official veterinarian are applied;

- (h) eggs to an establishment for the manufacture of egg products as set out in Chapter II of Section X of Annex III to Regulation (EC) No 853/2004 to be handled and treated in accordance with Chapter XI of Annex II to Regulation (EC) No 852/2004 located inside or outside the surveillance zone;
- (i) eggs for disposal.

- (5) The removal or spreading of used litter, manure or slurry is prohibited unless authorised by an authorised officer. The movement of manure may be authorised from a holding situated in the surveillance zone under biosecurity measures to a designated plant for treatment or for intermediate storage for subsequent treatment to destroy the possible presence of avian influenza viruses, in accordance with Regulation (EC) No 1774/2002 or with specific rules that may be adopted in accordance with the procedure referred to in Article 64(2) of the Council Directive.

Duration of measures

22. The measures provided for in Regulation 21, and as appropriate in Regulations 13 and 14 in respect of surveillance zones, will apply for at least 30 days following the date of completion of preliminary cleansing and disinfection on the infected holding in accordance with Regulation 38.

PART 8 - Further restricted zones

Measures to be applied in further restricted zones

23. (1) The Minister may, by notice, direct that some or all the measures provided for in Regulations 13 to 22 shall apply inside the further restricted zones that may be established under Regulation 12 (2).

- (2) The Minister may, by notice, where epidemiological information or other evidence indicates, implement a preventive eradication programme, including preventive slaughtering or killing of poultry or other captive birds, in holdings and areas at risk located in further restricted zones, in accordance with the criteria of Annex IV of the Council Directive.
- (3) The restocking of those holdings shall take place in accordance with the directions of an official veterinarian.

PART 9 – Derogations and additional biosecurity measures

Derogations

24. (1) The derogations provided for in Regulations 12(3) and 18 may be granted-
- (a) based on the results of a risk assessment, and
 - (b) following the definition of the detailed arrangements under which they may be granted including alternative appropriate measures and conditions.
- (2) Based on the results of a risk assessment, derogations may be granted by an official veterinarian from the measures provided for in Regulations 13 to 22 in the case of confirmation of HPAI in a hatchery.
 - (3) A derogation may be granted by an official veterinarian from the measures provided for in Regulation 14(1)(b) insofar as they relate to a surveillance zone, Regulation 17 and Regulation 21(1) and (3) in the case of an outbreak of HPAI in a non-commercial holding, a circus, a zoo, a wildlife park, a fenced area where poultry or other captive birds are kept for scientific purposes or purposes related to the conservation of endangered species or officially registered rare breeds of poultry or other captive birds.

- (4) On the basis of results of a risk assessment and by way of derogation from Regulations 13 to 22, specific measures may be introduced for movements of racing pigeons into, from and within the protection and surveillance zones.
- (5) Any derogations under paragraphs (1) to (4) will be granted only where they do not endanger disease control.
- (6) Any poultry (including day-old-chicks), other captive birds, hatching eggs, used litter, manure or slurry which come from a holding that has been granted a derogation under this Regulation, cannot be marketed outside the State unless otherwise allowed in accordance with the procedure referred to in Article 64(3) of the Council Directive.

Additional biosecurity measures

- 25. (1) In order to prevent the spread of avian influenza, the Minister may, by notice, and in addition to the measures provided for in Regulations 13 to 23, direct the implementation of additional biosecurity measures in respect of holdings in the protection and surveillance zones and in the further restricted zones, as well as other holdings or premises where poultry and other captive birds are kept in the State.
- (2) The measures that can be introduced under the provisions of paragraph (1) include restrictions on movements of vehicles or persons for feed supply, egg collection, the transport to slaughterhouses of poultry, the collection for disposal of carcasses and other movements of personnel, veterinarians or persons supplying farm equipment and controls on sporting and cultural events.

PART 10 – Measures for certain premises other than holdings

Measures to be applied in slaughterhouses

26. (1) Where HPAI is suspected or confirmed in a slaughterhouse, an official veterinarian shall, on the basis of a risk assessment, direct that all poultry present in the slaughterhouse are either killed or slaughtered as soon as possible under official supervision.
- (2) Where poultry are slaughtered as provided for in paragraph (1), the owner or person in charge of the slaughterhouse shall ensure that the poultry meat and any by-products derived from the poultry and poultry meat and by-products of any other poultry which may have been contaminated during the slaughter and production process, are kept separate and under official supervision until investigations have been completed.
- (3) If HPAI is confirmed, the owner or person in charge of the slaughterhouse shall ensure that the poultry meat and any by-products derived from the poultry and poultry meat and by-products of any other poultry which may have been contaminated during the slaughter and production process are disposed of as soon as possible under official supervision.

Measures to be applied in border inspection posts or means of transport

27. (1) Where HPAI is suspected or confirmed in a border inspection post or means of transport, an official veterinarian may, on the basis of a risk assessment, direct that all poultry and other captive birds present in the post or in the means of transport are killed, slaughtered or placed in isolation away from poultry or other captive birds and kept under official supervision until investigations are completed.

- (2) An official veterinarian shall direct that the measures provided for in Regulation 4 are applied to the border inspection post or means of transport as appropriate.
- (3) Notwithstanding paragraph (1), an official veterinarian may authorise the movement of the poultry or other captive birds to another place where they shall be killed, slaughtered or placed into isolation.
- (4) An official veterinarian may decide not to kill or slaughter the poultry or other captive birds present in the border inspection post that have not been in contact with the poultry or other captive birds suspected of being infected.
- (5) Where poultry are slaughtered in accordance with paragraphs (1) or (3), the owner or person in charge of the premises where they are slaughtered shall ensure that the poultry meat and any by-products derived from those poultry and poultry meat and by-products of any other poultry which may have been contaminated during the slaughter and production process, are kept separate and under official supervision until investigations have been completed.
- (6) If HPAI is confirmed, the owner or person in charge of the plant shall ensure that the poultry meat and any by-products derived from those poultry and poultry meat and by-products of any other poultry which may have been contaminated during the slaughter and production process are disposed of as soon as possible under official supervision.

Additional measures to be applied to slaughterhouses, border inspection posts or means of transport

28. (1) Where HPAI is suspected or confirmed in a slaughterhouse, border inspection post or means of transport, an official veterinarian may direct the owner or person in charge to ensure that-

- (a) poultry or other captive birds are not introduced into the slaughterhouse, the border inspection post or the means of transport until at least 24 hours after the cleansing and disinfection as provided for in subparagraph (b) is completed. In the case of border inspection posts, the prohibition on introduction may be extended by an official veterinarian to other animals;
 - (b) the cleansing and disinfection of contaminated buildings, equipment and vehicles takes place in accordance with one or more of the procedures in Regulation 38.
- (2) When HPAI is suspected or confirmed, an official veterinarian may direct that-
- (a) the measures provided for in Regulation 4 are applied to the holdings of origin of the infected poultry or carcasses and, as appropriate, to contact holdings, and
 - (b) unless otherwise indicated by an epidemiological inquiry and further investigations, the measures provided for in Regulation 8 are applied to the holding of origin.

PART 11 – LOW PATHOGENIC AVIAN INFLUENZA (LPAI)

Declaring a holding to be a holding with a confirmed outbreak of LPAI

29. (1) Where an outbreak of LPAI in poultry or in a captive bird is confirmed on a holding, border inspection post, slaughterhouse or means of transport an official veterinarian shall declare that holding to be a holding with a confirmed outbreak of LPAI (“confirmed LPAI outbreak holding”).

Measures to be applied on holdings where outbreaks are confirmed

- 30(1) Where an outbreak of LPAI is confirmed, an official veterinarian may, on the basis of a risk assessment and taking into account at least the criteria set out in Annex V of the Council Directive, direct the owner or person in charge of poultry to ensure that -

- (a) poultry, other captive birds and all mammals of domestic species on the holding are counted or, if appropriate, their numbers are estimated by the type of poultry or species of other captive bird;
- (b) a list is compiled of the approximate number of poultry, other captive birds and all mammals of domestic species already sick, dead or likely to be infected in each category on the holding and that this list is updated daily to take account of hatchings, births and deaths;
- (c) all poultry and other captive birds are brought inside a building on the holding and kept there. Where this is impractical or if their welfare would be compromised by so doing, an official veterinarian may direct that they must instead be confined in another place on the same holding such that they do not have contact with other poultry or other captive birds on other holdings and all reasonable steps must be taken to minimise their contact with wild birds;
- (d) before depopulation, as provided for in paragraphs (2) or (3), no poultry or other captive birds enter or leave the holding, border inspection post, slaughterhouse or means of transport unless authorised by an authorised officer;
- (e) no carcasses of poultry or other captive birds, meat of poultry including offal, poultry feed, utensils, materials, waste, droppings, manure of poultry or other captive birds, slurry, used litter or anything likely to transmit avian influenza, leave the holding, border inspection post, slaughterhouse or means of transport without an authorisation from an authorised officer, and where authorised appropriate biosecurity measures are observed to minimise any risk of spreading avian influenza;
- (f) no movement of persons, mammals of domestic species, vehicles and equipment takes place to or from the holding, border inspection post,

slaughterhouse or means of transport other than as authorised by an authorised officer;

(g) appropriate means of disinfection are used at the entrances and exits of buildings housing poultry or other captive birds and of the holding border inspection post, slaughterhouse or means of transport itself.

(2) An official veterinarian shall direct that all poultry on the holding, border inspection post, slaughterhouse or means of transport and all other captive birds of the species in which LPAI has been confirmed are to be depopulated under official supervision in such a way as to prevent the spread of avian influenza.

(3) In addition to paragraph (2), an official veterinarian may, based on the outcome of an assessment of the risk of the further spread of avian influenza, direct that the depopulation be extended to other captive birds on the holding and to other holdings considered as contact holdings, having regard to the results of an epidemiological inquiry.

(4) For the purpose of paragraphs (2) or (3), the depopulation shall be carried out in accordance with Directive 93/119/EC⁵ and the official veterinarian shall decide whether the poultry or other captive birds are –

(a) to be killed as soon as possible, or

(b) to be slaughtered in a designated slaughterhouse in accordance with paragraph (7).

(5) Where depopulation is to be undertaken in a designated slaughterhouse, the poultry shall be subjected to further surveillance and testing.

(6) Poultry shall not be moved from the holding, border inspection post, slaughterhouse or means of transport to the designated slaughterhouse until the official veterinarian

⁵ OJ No. L340, 31.12.1993, p.21

is satisfied that the risk of further spread of LPAI is minimal, taking account, in particular, of the results of investigations and laboratory tests to determine the extent of any excretion of the virus by the poultry and a risk assessment.

- (7) In relation to paragraphs (2), (3) or (4), slaughter in a designated slaughterhouse may take place only if-
- (a) the poultry are sent direct from the holding, border inspection post, slaughterhouse or means of transport to the designated slaughterhouse;
 - (b) each consignment is sealed before dispatch by the official veterinarian responsible for the holding or under his supervision;
 - (c) each consignment remains sealed throughout transport to the designated slaughterhouse;
 - (d) further biosecurity measures prescribed by the official veterinarian are complied with;
 - (e) the official veterinarian responsible for the designated slaughterhouse is informed and agrees to receive the poultry;
 - (f) vehicles and equipment used for transporting live poultry and any other material or substances likely to be contaminated are cleansed and disinfected without delay after contamination by one or more of the procedures provided for in Regulation 38; and
 - (g) the by-products of such poultry at the slaughterhouse are disposed of under official supervision.
- (8) An official veterinarian shall direct the owner or person in charge of the holding, border inspection post, slaughterhouse or means of transport to ensure that the following are disposed of under official supervision-
- (a) carcasses, and
 - (b) hatching eggs on the holding.

Additional measures to be applied where LPAI is confirmed on a holding

30. (1) The following measures shall apply in the case of a holding, border inspection post, slaughterhouse or means of transport where LPAI is confirmed -

- (a) hatching eggs collected from the holding during the period between the probable introduction of LPAI into the holding and the taking of the measures provided for in these Regulations, will whenever possible be traced and hatched in accordance with directions given;
- (b) poultry already hatched from eggs collected from the holding during the period between the probable introduction of LPAI into the holding and the taking of the measures provided for in these Regulations, will whenever possible be placed under official supervision;
- (c) eggs present on the holding and subsequently produced on the holding before depopulation, as provided for in paragraph (2) or (3) of Regulation 29, may be transported as follows provided that the risk of spread of LPAI is minimised-
 - (i) to a designated packing centre provided that they are packed in disposable packaging and that all biosecurity measures required by an official veterinarian are applied;
 - (ii) to an establishment for the manufacture of egg products as set out in Chapter II of Section X of Annex III to Regulation (EC) No 853/2004 to be handled and treated in accordance with Chapter XI of Annex II to Regulation (EC) 852/2004; or
 - (iii) for disposal.
- (d) any material or substance likely to be contaminated must be either treated in accordance with the directions of the official veterinarian or disposed of;

- (e) manure, slurry and bedding likely to be contaminated must undergo one or more of the procedures in Regulation 38;
 - (f) after depopulation, the buildings used for housing the poultry or other captive birds, the equipment likely to be contaminated and the vehicles used for transporting carcasses, feed, manure, slurry, and bedding or any other material or substance likely to be contaminated must undergo, without delay, one or more of the procedures in Regulation 38;
 - (g) mammals of domestic species must not enter or leave the holding without the authorisation of an authorised officer. This restriction shall not apply to mammals which have access only to the living areas for humans in which they-
 - (i) have no contact with resident poultry or other captive birds, and
 - (ii) have no access to any cages or areas where such resident poultry or other captive birds are kept.
- (2) An official veterinarian may give a direction in respect of any or all of the measures referred to in paragraph (1).

Derogations for certain holdings

- 31 (1) An official veterinarian may grant derogations from the measures provided for in Regulation 29 (1)(d), (2), (3) and (8) (b) in cases of an outbreak of LPAI in a non commercial holding, a circus, a zoo, a pet bird shop, a wildlife park, a fenced area where poultry or other captive birds are kept for scientific purposes or purposes related to the conservation of endangered species or officially registered rare breeds

of poultry or other captive birds, provided that such derogations do not endanger disease control.

- (2) Where a derogation is granted under paragraph (1), the owner or person in charge shall ensure that the poultry or other captive birds covered by the derogation-
 - (a) are brought inside a building on the holding and kept there. Where this is impractical or if their welfare would be compromised by doing so, an official veterinarian may direct that they must instead be confined in some other place on the same holding such that they do not have contact with other poultry or other captive birds on other holdings and all reasonable steps must be taken to minimise their contact with wild birds;
 - (b) are subjected to further surveillance and testing and are not moved until the laboratory tests have indicated that they no longer pose a significant risk of further spread of LPAI; and
 - (c) are not moved from the holding of origin, except for slaughter or to another holding –
 - (i) located in the State, in accordance with the directions of an official veterinarian, or
 - (ii) in another Member State, subject to the agreement of the Member State of destination.
- (3) An official veterinarian may, in cases of outbreaks of LPAI in hatcheries, based on a risk assessment, grant derogations from some or all of the measures provided for in Regulations 29 and 30.

Measures to be applied in cases of outbreaks of LPAI in separate production units

32. (1) In the case of outbreaks of LPAI in holdings which consist of two or more separate production units, an official veterinarian may grant derogations from the measures provided for in Regulation 29 (1)(d), (2) and (3) for production units containing healthy poultry provided that such derogations do not endanger disease control.

(2) Derogations provided for in paragraph (1) shall be granted in accordance with detailed rules and taking account of the animal health guarantees which may be obtained and which provide for alternative appropriate measures.

Measures to be applied in contact holdings

33. (1) Based on the results of an epidemiological inquiry, an official veterinarian may direct that a holding is to be considered as a contact holding and that the measures provided for in Regulation 4 are to be applied to such a holding until the presence of LPAI has been excluded.

(2) Based on the results of an epidemiological inquiry and taking account of the criteria in Annex IV of the Council Directive, an official veterinarian may direct that Regulations 29 and 30 are to be applied to contact holdings, particularly if they are located in an area with a high density of poultry.

(3) The owner or person in charge of any holding where poultry or other captive birds are slaughtered or killed and disposed of, and where LPAI is confirmed, shall ensure that the buildings and any pastures used, farm yards and any equipment likely to be contaminated and the vehicles used for transporting the poultry, other captive birds,

carcasses, meat, feed, manure, slurry, bedding and any other material or substance likely to be contaminated, undergo one or more of the cleansing and disinfection procedures in Regulation 38.

Establishment of restricted zones in cases of outbreaks of LPAI

34. Immediately following an outbreak of LPAI, a restricted zone with a radius of at least one kilometre shall, by notice, be established around the holding.

Measures to be applied in the restricted zone

35. (1) The following measures shall apply in the restricted zone –
- (a) a census of all commercial holdings will be undertaken;
 - (b) laboratory tests will be carried out on poultry from commercial poultry holdings;
 - (c) all movements of poultry, other captive birds, ready-to-lay poultry, day old chicks and eggs within or into the restricted zone will be subject to authorisation and to other control measures deemed appropriate by an official veterinarian. This restriction shall not apply to the transit through the restricted zone on road or rail without unloading or stopping;
 - (d) the movement of poultry, other captive birds, ready-to-lay poultry, day-old chicks and eggs from the restricted zone will be prohibited unless an authorised officer authorises the direct transport of-
 - (i) poultry for slaughter to a slaughterhouse in the State,
 - (ii) live poultry to a holding or shed in the State in which there is no other poultry. In such cases, the live poultry shall remain there for 21 days and the holding shall be placed under official supervision following their arrival,
 - (iii) day-old chicks:

- I. to a holding or shed of such holding in the State; in such cases the day old chicks shall remain there for 21 days and the holding shall be placed under official surveillance following their arrival; or
 - II. if hatched from eggs originating from poultry holdings located outside of the restricted zone to any other holding provided that the hatchery can ensure by its logistics and biosecurity working conditions that any contact is excluded with hatching eggs or day-old chicks originating from poultry flocks within the restricted zone and which are therefore of a different health status.
 - (iv) hatching eggs to a designated hatchery; in such cases the eggs and their packaging shall be disinfected before dispatch and the tracing back of these eggs must be ensured,
 - (v) table eggs to a packing centre provided that they are packed in disposable packaging and that all biosecurity measures required by an official veterinarian are applied,
 - (vi) eggs to an establishment for the manufacture of egg products as set out in Chapter II of Section X of Annex III to Regulation (EC) No 853/2004 to be handled and treated in accordance with Chapter XI of Annex II to Regulation (EC) No 852/2004 located inside or outside the restricted zone,
 - (vii) eggs for disposal;
- (e) carcasses must be disposed of;
 - (f) any person entering or leaving holdings in the restricted zone must observe appropriate biosecurity measures aimed at preventing the spread of avian influenza;
 - (g) vehicles and equipment used for transporting live poultry or other captive birds, feed, manure, slurry and bedding and any other material or substances likely to

be contaminated must be cleansed and disinfected without delay after contamination, by one or more of the procedures provided for in Regulation 38;

- (h) poultry, other captive birds or mammals of domestic species must not enter or leave a holding without authorisation of an authorised officer. This restriction shall not apply to mammals which have access only to the living areas for humans in which they:
 - (i) have no contact with resident poultry or other captive birds, and
 - (ii) have no access to any cages or areas where such resident poultry or other captive birds are kept,
 - (i) the removal or spreading of used litter, manure or slurry will be prohibited, unless authorised by an authorised officer; the movement of manure or slurry may be authorised from a holding situated in the restricted zone under biosecurity measures to a designated plant for treatment or for intermediate storage for subsequent treatment to destroy the possible presence of avian influenza viruses in accordance with Regulation (EC) No 1774/2002 or with specific rules which may be adopted in accordance with the procedure referred to in Article 64(2) of the Council Directive;
 - (j) fairs, markets, shows or other gatherings of poultry or other captive birds are prohibited, unless specifically authorised;
 - (k) poultry or other captive birds for restocking of game must not be released.
- (2) An official veterinarian may give a direction in respect of the measures referred to in paragraph (1).
- (3) The Minister may, by notice based on the results of a risk assessment, introduce further measures to prevent the spread of avian influenza in addition to the measures provided for in this Regulation.

Duration of measures

36. The measures provided for in this Part shall be maintained:

- (a) for at least 21 days following the date of completion of preliminary cleansing and disinfection of the infected holding by one or more of the procedures provided for in Regulation 38, and until an official veterinarian, based on the investigations and laboratory tests carried out in the restricted zone and a risk assessment, considers that the risk of spread of LPAI is negligible;
- (b) for at least 42 days following the date of confirmation of the outbreak and until an official veterinarian, based on the investigations and laboratory tests carried out in the restricted zone and a risk assessment, considers that the risk of spread of LPAI is negligible; or
- (c) for any other period and under conditions that may be established in accordance with the procedure referred to in Article 64(3) of the Council Directive.

Derogations

37. (1) Where LPAI is confirmed in a hatchery, an official veterinarian may, based on a risk assessment, grant derogations from some or all of the measures provided for in Regulations 34 and 35.

- (2) An official veterinarian may grant derogations from some or all of the measures provided for in this Part in cases of an outbreak of LPAI in a non-commercial holding, a circus, a zoo, a pet bird shop, a wild life park, a fenced area where poultry or other captive birds are kept for scientific purposes or purposes related to the conservation of endangered species or officially registered rare breeds of poultry or other captive birds, provided that such derogations do not endanger disease control.

PART 12 - CLEANSING, DISINFECTION AND REPOPULATION

Cleansing and disinfection

38. The following measures shall apply to cleansing, disinfection and procedures for eliminating avian influenza viruses-

- (a) the cleansing, disinfection and treatment of holdings and any materials or substances therein which are contaminated or likely to be contaminated with avian influenza viruses shall be carried out in accordance with:
 - (i) the directions of the official veterinarian; and
 - (ii) the principles and procedures for cleansing, disinfecting and treatment set out in Annex VI to the Council Directive;
- (a) any land or pastures used by poultry or other captive birds on a holding where avian influenza has been confirmed shall not be used by poultry or other captive birds until an official veterinarian is satisfied that any avian influenza virus present has been eliminated or inactivated;
- (b) the cleansing, disinfection and treatment of slaughterhouses, vehicles, trailers or any other means of transport, border inspection posts and any materials or substances therein which are contaminated or likely to be contaminated with avian influenza viruses shall be carried out in accordance with the directions of an official veterinarian;
- (c) any equipment, materials or substances therein which are contaminated or likely to be contaminated with avian influenza viruses and which cannot be effectively cleansed and disinfected or treated shall be destroyed;
- (d) only approved disinfectants and concentrations may be used.

Repopulation of Holdings

39. (1) Following depopulation of holdings as provided for in these Regulations, the owner or person in charge of a commercial poultry holding shall ensure that-
- (a) repopulation does not take place for a period of 21 days following the date of completion of the final cleansing and disinfection in accordance with Regulation 38;
 - (b) the local District Veterinary Office is notified of any poultry that die during the repopulation phase;
 - (c) any person entering or leaving the holding complies with appropriate biosecurity measures aimed at preventing the spread of avian influenza;
 - (d) during the repopulation phase, no poultry leave the holding without authorisation from an authorised officer;
 - (e) a record is kept on the production data, including morbidity and mortality data, which must be updated regularly;
 - (f) any significant change in production data, as referred to at (e), and other abnormalities are immediately reported to the local District Veterinary Office.
- (2) Based on a risk assessment, an official veterinarian may direct that the provisions in paragraph (1) are applied to holdings other than commercial poultry holdings or other species on a commercial poultry holding.

PART 13 - VACCINATION

General prohibitions of vaccination

40. (1) A person shall not undertake to permit vaccination of poultry or other captive birds except on the basis provided for in a notice issued by the Minister and in accordance with the conditions specified in -

- (a) Articles 53 to 55 of the Council Directive dealing with emergency vaccination,
or
 - (b) Articles 56 and 57 of the Council Directive dealing with preventative
vaccination.
- (2) Where vaccination is permitted, the following arrangements will apply-
- (a) the handling, manufacture, storage, supply, distribution and sale of avian
influenza vaccines shall be subject to official control;
 - (b) only vaccines authorised in accordance with Directive 2001/82/EC⁶ on the
Community code relating to veterinary medicinal products or Regulation (EC)
No 726/2004/EC⁷ laying down Community procedures for the authorisation
and supervision of medicinal products for human and veterinary use and
establishing a European Medicines Agency may be used.

PART 14 - Measures for pigs and other species

Measures concerning pigs and other species

41. (1) Where avian influenza is confirmed on a holding, the owner or person in charge of the
holding or of any pigs on the holding shall-
- (a) cooperate with an authorised officer in the taking of samples from the pigs for
laboratory testing, and
 - (b) ensure that the pigs are not moved from the holding pending the results of tests
and without the approval of an authorised officer.
- (2) Where laboratory tests provided for in paragraph (1) confirm positive findings for
avian influenza viruses in pigs, the movement of those pigs to other pig holdings or to
designated slaughterhouses may be authorised, provided that subsequent appropriate
tests have shown that the risk of spread of avian influenza is negligible.

- (3) Where laboratory tests provided for in paragraph (2) confirm a serious health threat, an official veterinarian shall direct that the pigs are to be killed as soon as possible under official supervision and in such a way as to prevent the spread of the avian influenza virus, in particular during transport, and in accordance with Directive 93/119/EC.
- (4) An official veterinarian may, following confirmation of avian influenza on any holding and based on a risk assessment, direct that the measures provided for in paragraphs (1), (2) and (3) are to be applied to any other mammals present on the holding and may extend those measures to contact holdings.
- (5) The owner or person in charge of the holding or of any pigs on the holding shall apply measures to prevent any further spread of avian influenza to other species as may be directed by an official veterinarian.
- (6) Additional measures to prevent the spread of influenza viruses of avian origin to other species may be adopted in accordance with the procedures referred to in Article 64(3) of the Council Directive.

PART 15 - DIAGNOSTIC PROCEDURES, DIAGNOSTIC MANUAL AND REFERENCE LABORATORIES

42. The procedures and provisions outlined in Articles 50 and 51 of the Council Directive shall apply in respect of diagnostic procedures, the diagnostic manual and reference laboratories in relation to avian influenza.

⁶ OJ No. L311, 28.11.2001, p.1

⁷ OJ No. L136, 30.4.2004, p.1

PART 16 - COMPENSATION

43. (1) The Minister may, subject to this Part, pay compensation (“compensation”) to the beneficial owner for -

- (a) poultry and other captive birds (other than pets) kept on commercial holdings which are killed or slaughtered under these Regulations, and
- (b) the product (other than a product of a wild bird or eggs of pigeons, doves, peafowl, swans or birds of the species psittaciformes) of such poultry or other captive birds,

if the poultry, captive bird, or product is destroyed to alleviate the risk of avian influenza, to prevent the spread of that disease, to eradicate that disease or is affected with that disease.

(2) Compensation payable will not exceed the open market value of the poultry, captive bird, or product immediately before destruction as if not affected with disease.

(3) In the interests of disease control and curtailing the spread of disease, the determination of compensation or ownership shall not delay the killing or slaughter of poultry or captive birds which shall proceed in accordance with the direction of an official veterinarian.

(4) If a person is convicted of an offence under these Regulations or under legislation transposing an act of the institutions of the European Communities relating to poultry, captive birds, or product, as a statutory consequence of conviction, he or she shall not be entitled to compensation in respect of the poultry, captive birds or product.

- (5) The Minister may postpone consideration or determination of an application for compensation pending the institution or determination of a prosecution for an offence in relation to poultry, captive birds or product that is the subject of the application.

Valuers

44. (1) The Minister may appoint persons who, in his or her opinion, have experience in valuing or knowledge of the current values of poultry, captive birds or products to carry out valuations for the purposes of assessing compensation.
- (2) The owners or persons in charge of the poultry, captive birds or products which are subject to a claim for compensation, their employees, servants or agents shall give all assistance required and co-operate with a valuer or a person accompanying a valuer.
- (3) If the Minister or owner of the poultry, captive birds or products is dissatisfied with the determination of a valuer, he or she may, within 7 days of the date of the valuation, request a second valuation. However, depopulation shall proceed forthwith notwithstanding the appeal.
- (4) If a person requests a second valuation, the valuation shall be carried out by a valuer chosen by the Minister.

Arbitration

45. If the Minister or owner of the poultry, captive birds or product is dissatisfied with the determination of the second valuer, he or she may, within 7 days, request that the matter be settled by arbitration in accordance with the Arbitration Acts 1954 and 1980.

Abatement of Compensation

46. The Minister may reduce or refuse to pay compensation provided for under this Part, if in his or her opinion, -

- (a) the applicant had failed to take reasonable measures to alleviate the risk or spread of disease,
- (b) the applicant had failed to take appropriate biosecurity measures,
- (c) the applicant has obstructed or impeded an authorised officer,
- (d) the applicant has delayed the depopulation of poultry or other captive birds or the destruction of products,
- (e) the applicant is not the owner of the poultry, captive bird or product to which the application relates,
- (f) the applicant has been convicted of an offence under -
 - (i) these Regulations,
 - (ii) the Animal Remedies Act 1993, or
 - (iii) regulations made under the European Communities Act 1972 relating to poultry, captive birds, wild birds or poultry products,
- (g) the poultry, captive bird or poultry product to which an application for compensation relates has been imported, sold, supplied, moved or otherwise dealt with in contravention of an enactment to which (f) refers.

PART 17 - Authorised Officers, Notices, Offences, Penalties and Saver

Powers of authorised officer

47. (1) An authorised officer may, for the purpose of enforcing these Regulations and the Council Directive, 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.

Notices, Directions, Authorisations, Derogations

48 (1) Where a notice is issued under Regulation 6, 13, 25 or 34, notice of it shall be published in the *Iris Oifigiúil* and in at least one newspaper published in the State and circulating in the areas referred to in the notice and by any other method the Minister considers appropriate.

(2) A notice, direction, derogation or authorisation under Regulation 12, 14, 15, 21, 23, 35 or 40 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 notice, direction, derogation or authorisation relates and by such other means as the Minister considers appropriate, or by an authorised officer giving it directly to a person or by leaving it at the holding concerned.

(3) A notice, direction, derogation or authorisation under Regulation 4, 5, 7, 8, 9, 10, 11, 16, 18, 24, 26, 27, 28, 29, 30, 31, 32, 33, 37, 38, 39 or 41 may be given either directly

to the person or may be left at the holding concerned by an authorised officer or by any other method as the Minister considers appropriate.

- (4) Where not explicitly provided for in a Regulation, an official veterinarian may, nevertheless, issue a direction to a person relating to a requirement in the Regulation, either by giving it directly to the person concerned or leaving it at the holding concerned or by any other method as the Minister considers appropriate.

Forgery

49 (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").

(2) A person shall not alter with intent to defraud or deceive, or 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".

(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.

Offences

50. A person who fails to comply with a requirement of these Regulations including any requirement in a notice, direction, derogation or an authorisation issued under them commits an offence.

Penalties, etc

51. (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.

- (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.

SProduction of notice in legal proceedings, etc.

52. (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.

Revocations

53. The European Communities (Avian Influenza) Regulations 1994 (S.I. No. 172 of 1994) are revoked.

GIVEN under my Official Seal,
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 Council Directive 2005/94/EC in relation to suspected and confirmed outbreaks of avian influenza in poultry and other captive birds.