

2024 No. 558

ANIMALS, ENGLAND

ANIMAL HEALTH

The Exotic Disease (Amendment) (England) Order 2024

Made - - - - *24th April 2024*

Coming into force *25th April 2024*

The Secretary of State, in exercise of the powers conferred by sections 1, 8(a), 15(4), 17, 23(b) and (c), 25 and 88(2) of the Animal Health Act 1981(b), makes the following Order.

Citation, commencement, extent and application.

1.—(1) This Order may be cited as the Exotic Disease (Amendment) (England) Order 2024 and comes into force on 25th April 2024.

(2) This Order—

- (a) extends to England and Wales;
- (b) applies in relation to England only.

(3) In this Order, “the Act” means the Animal Health Act 1981.

Extension of the definition of “disease”

2. For the purposes of the Act, the definition of “disease” in section 88(1) is extended so as to comprise bluetongue.

Amendments to the Movement of Animals (Restrictions) (England) Order 2002

3.—(1) The Movement of Animals (Restrictions) (England) Order 2002(c) is amended as follows.

(2) After article 5 (declaration of a temporary control zone) insert—

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- (a) Section 8(1) of the Animal Health Act 1981 (c. 22) is amended by section 34(2) of the Agriculture Act 2020 (c. 21).
 - (b) 1981 c. 22. The expression “the Ministers” is defined in section 86(1)(c). These powers, so far as exercisable by the Secretaries of State for Scotland and Wales in relation to England, were transferred to the Minister of Agriculture, Fisheries and Food by S.I. 1999/3141 and were transferred to the Secretary of State by S.I. 2002/794. Section 87(4) of the Act provides that, subject to certain sections, the Act has effect in relation to poultry as it has effect in relation to animals. S.I. 2003/1078, made under (inter alia) section 87(5)(a), extended the definition of “poultry” to include all birds. Paragraphs 13 to 15 of the European Union (Withdrawal) Act 2018 (c. 16), which required the affirmative procedure, enhanced scrutiny procedure and explanatory statements for instruments which amend subordinate legislation made under section 2(2) of the European Communities Act 1972 (c. 68), were repealed by section 10(1) of the Retained EU Law (Revocation and Reform) Act 2023 (c. 28).
 - (c) S.I. 2002/3229, amended by S.I. 2007/2809.

“Declaration of an infected area

5A.—(1) If the Secretary of State considers that disease exists or has existed in the preceding 56 days on any premises, he may declare an area to be an infected area.

(2) An infected area declared under paragraph (1) must be of such size as the Secretary of State considers necessary in order to prevent the spread of disease.

(3) A declaration under paragraph (1) must specify one or more of the following—

- (a) the disease in respect of which the infected area is being declared;
- (b) the species of animals to which the declaration relates;
- (c) the premises within the infected area to which the declaration relates;
- (d) the biosecurity measures which must be taken on premises within the infected area; or
- (e) such other measures that are to apply in the infected area, or in any part of that area, as the Secretary of State considers necessary in order to prevent the spread of disease.

(4) No person shall move an animal belonging to a species to which a declaration under paragraph (1) relates, into or out of an area declared to be an infected area under this Order, except under the authority of a licence issued by a veterinary inspector or an inspector under the direction of a veterinary inspector.

(5) No person shall move an animal to or from premises within an area declared to be an infected area under this Order, except under the authority of a licence issued by a veterinary inspector or an inspector acting under the instructions of a veterinary inspector.

(6) For the purposes of this article, any premises which are partly inside and partly outside an infected area are deemed to be wholly within that area.

(7) Where an animal is transiting an area declared to be an infected area under this Order, the animal must be moved in a vehicle and by the shortest available route without being unloaded.

(8) A declaration made under this Order may be amended, suspended or revoked by the Secretary of State at any time.

(9) A declaration made under this Order and any amendment, suspension or revocation of the declaration must be in writing”.

(3) For article 12 (local authority to enforce order) substitute—

“Enforcement

12.—(1) Subject to paragraph (2), the provisions of this Order shall, except where otherwise expressly provided, be executed and enforced by the local authority.

(2) The Secretary of State may direct, in relation to cases of a particular description or to particular cases, that this Order is instead to be enforced by the Secretary of State.

(3) Where the Secretary of State makes a direction under paragraph (2), the Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under section 73 of the Act relating to this Order”.

Amendments to the Avian Influenza (Preventive Measures) (England) Regulations 2006

4.—(1) The Avian Influenza (Preventive Measures) (England) Regulations 2006^(a) are amended as follows.

(2) For regulation 7 (identification of poultry premises) substitute—

(a) S.I. 2006/2701; there are amendments not relevant to this Order.

“Notification of premises where poultry or other captive birds are kept

7.—(1) A person who keeps poultry or other captive birds at any premises must notify the Secretary of State in writing of the following information in relation to the premises—

- (a) the address and (if there is one) the holding number of the premises;
- (b) that person’s name and address and, if different from that person’s, those of—
 - (i) the owner of the poultry or other captive birds; and
 - (ii) the occupier of the premises;
- (c) the species of poultry or other captive birds kept at the premises;
- (d) the number of birds of each species of poultry or other captive birds kept at the premises; and
- (e) the purpose or purposes for which the poultry or other captive birds are kept.

(2) A person who keeps 50 or more poultry birds or other captive birds at any premises must notify the Secretary of State in writing of the following information in addition to the requirements set out in paragraph (1)—

- (a) in relation to poultry—
 - (i) the husbandry system or systems in use at the premises;
 - (ii) the purposes for which poultry is kept, whether for the production of meat, hatching eggs, eggs for consumption or any other purpose;
- (b) details of any seasonal stocking variations which are likely to result in a significant variation in the number or species of poultry or other captive birds on the premises at any time during any given 12-month period; and
- (c) details of the number and species of poultry or other captive birds with access to open air on the premises.

(3) The notification made under paragraph (1) or (2) must be—

- (a) made in writing on or before 1 October 2024;
- (b) updated online—
 - (i) before 1 October 2025; and
 - (ii) in each subsequent calendar year, within 12 months of the update last made under this paragraph or paragraph (5).

(4) A person who, after 1 September 2024 becomes the keeper of any poultry or other captive birds at any premises, must—

- (a) within 30 days of becoming the keeper, notify the Secretary of State in writing of the information mentioned in paragraph (1), and where 50 or more such birds are kept at the premises, paragraph (2); and
- (b) update that notification online in each subsequent calendar year, within 12 months of the update last made under this paragraph or paragraph (5).

(5) A person who has made a notification under this regulation must update the notification within 30 days of any change of the following kinds—

- (a) a change in any of the matters required to be notified under paragraph (1)(a), (b), (c), (e), or (2);
- (b) in relation to premises where 50 or more poultry birds or captive birds are kept, an increase or decrease of 20% or more in the number of poultry or other captive birds specified under paragraph (2) unless this change is due to—
 - (i) the emptying of poultry houses or hatcheries for immediate restocking; or
 - (ii) seasonal stocking.

(6) The Secretary of State may by notice, require a person making a notification under paragraph (1) or (2) to notify information additional to that required under the paragraph in question.

(7) A person required to notify information under paragraph (6) must do so within 30 days of receiving notice from the Secretary of State.

(8) In this regulation and regulation 7A, “access to open air” means—

- (a) permanent or temporary housing of poultry or other captive birds in a fully or partially meshed, netted or caged outdoor structure, whether fixed or mobile, which is not fully enclosed within a building; or
- (b) temporary removal of poultry or other captive birds from their housing in order to be flown freely outdoors;”.

(3) After regulation 7 (notification of premises where poultry or other captive birds are kept) insert—

“Notification of premises where birds are kept: exceptions

7A. The requirement to notify the Secretary of State under regulation 7 does not apply to keepers of captive birds at any premises where the only captive birds kept—

- (a) belong to the order Psittaciformes or Passeriformes; and
- (b) are housed on the premises fully within a dwelling or within a bird house with no access to open air”.

Amendments to the Bluetongue Regulations 2008

5.—(1) The Bluetongue Regulations 2008(a) are amended as follows.

(2) In regulation 2(2), omit “by notice”.

(3) For regulation 9 (suspected or infected premises) substitute—

“Measures at suspected or infected premises

9.—(1) If the presence of bluetongue or bluetongue virus is suspected or confirmed at any premises, a veterinary inspector or inspector acting under the instructions of a veterinary inspector may serve a notice on the occupier or keeper of those premises, prohibiting the movement of animals or germinal products to or from the premises except in accordance with a licence.

(2) A notice served under paragraph (1) may impose the following requirements on the occupier or keeper—

- (a) to make and maintain daily, an inventory of all animals and germinal products on the premises, recording, for each species—
 - (i) the total number of animals;
 - (ii) the total number and type of germinal products;
 - (iii) the number of animals or germinal products affected or suspected of being affected with bluetongue or bluetongue virus;
 - (iv) the number of animals which die or germinal products which are destroyed;
 - (v) the number and destination of any animals or germinal products which are moved from the premises;
- (b) to keep a record of the inventory for a minimum period of two years from the date on which notice is served;
- (c) to ensure all animals are kept indoors, or in accordance with the instructions of a veterinary inspector or inspector acting under the instructions of a veterinary inspector;

(a) S.I. 2008/962, amended by S.I. 2009/2712, 2012/1977, 2023/1415; there are other amendments, but none is relevant to the Order.

(d) to subject animals on the premises to the midge control measures specified in the notice.

(3) A licence granted under paragraph (1) must impose such conditions on the movement of animals or germinal products as a veterinary inspector or a veterinary inspector acting under the instructions of a veterinary inspector considers necessary to prevent the spread of bluetongue virus.

(4) A veterinary inspector or inspector acting under the instructions of a veterinary inspector may—

(a) serve a notice under paragraph (1) on the occupier of premises or keeper of animals on those premises if the veterinary inspector or inspector acting under the instructions of a veterinary inspector suspects that animals on the premises have been exposed to bluetongue virus;

(b) include such of the measures in paragraph (2) as are considered necessary to prevent the spread of bluetongue virus”.

(4) In regulation 10(4), after “veterinary inspector”, insert “or by an inspector or officer of the Secretary of State acting under the instructions of a veterinary inspector”.

(5) In regulation 11(1), for “the veterinary inspector”, substitute “a veterinary inspector or by an inspector acting under the instructions of a veterinary inspector”.

(6) In regulation 12 (measures on confirmation of the bluetongue virus)—

(a) in paragraph (1)—

(i) omit “on epidemiological, geographical, ecological or meteorological grounds”;

(ii) for “must” substitute “may”.

(b) in paragraph (3), after “veterinary inspector” insert “or by an inspector acting under the instructions of a veterinary inspector”.

(7) In regulation 13(restrictions in protection and surveillance zones)—

(a) in paragraph (1)(a), for “must” substitute “may”;

(b) in paragraph (2)—

(i) for “semen, ovum or embryo” substitute “or germinal product”;

(ii) for “an inspector” substitute “a veterinary inspector or by an inspector or officer of the Secretary of State acting under the direction of a veterinary inspector”;

(c) in paragraph (3)—

(i) after “animal” insert “or germinal product”;

(ii) after “protection”, insert “or surveillance”;

(iii) for “an inspector” substitute “a veterinary inspector or by an inspector or officer of the Secretary of State acting under the direction of a veterinary inspector”;

(d) after paragraph (3), insert—

“(3A) A declaration under paragraph (1) may include a prohibition on the movement of animals or germinal products onto or from premises within a zone, except under the authority of a licence granted by a veterinary inspector or by an inspector or officer of the Secretary of State acting under the direction of a veterinary inspector”;

(e) omit paragraph (4).

(8) After regulation 13, insert—

“Measures where bluetongue virus is present but not circulating

13A.—(1) If bluetongue virus is confirmed in an animal or germinal product and the Chief Veterinary Officer considers

(a) that the virus is not circulating; and

(b) there is a disease control benefit from doing so,

- (c) the Secretary of State may declare an appropriate area to be a restricted zone.
- (2) A restricted zone declared under this regulation must—
 - (a) be centred on the location of the animal or germinal product in which bluetongue virus is confirmed; and
 - (b) be of such size as is considered necessary by the Chief Veterinary Officer for the prevention of spread of bluetongue virus.
- (3) No person may move an animal or germinal product out of a restricted zone declared under this regulation except under the authority of a licence granted by a veterinary inspector or an inspector acting under the direction of a veterinary inspector.

Measures to reduce the risk of incursion or spread of bluetongue virus

13B.—(1) If, after carrying out a risk assessment, the Secretary of State considers such action necessary to reduce the risk of incursion of bluetongue virus into any part of England or spread of bluetongue virus to animals or germinal products from any source, the Secretary of State may—

- (a) declare a bluetongue prevention zone in all or any part of England; and
- (b) serve, or require an inspector to serve, a notice on the occupier of premises or keeper of animals at premises where animals or germinal products specified in the notice are kept.
- (2) A notice or declaration under paragraph (1) may—
 - (a) impose such measures as the Secretary of State considers necessary to reduce the risk of incursion of bluetongue virus into any part of England or spread of bluetongue virus;
 - (b) subject to paragraph (3), restrict the movement of animals or germinal products—
 - (i) within a bluetongue prevention zone, or
 - (ii) from premises within the zone to an area which is not in the bluetongue prevention zone.
- (3) No person may move animals or germinal products within or from a bluetongue prevention zone except under the authority of a licence granted by a veterinary inspector or by an inspector or officer of the Secretary of State acting under the direction of a veterinary inspector.
- (4) No person may move animals within or from a bluetongue prevention zone if the animal shows clinical signs of bluetongue on or before the day of transport”.
- (9) In regulation 14 (slaughterhouses), omit paragraph (3).
- (10) After regulation 14, insert—

“Other designated premises

14A.—(1) The Secretary of State may designate any premises for the purpose of collecting, processing, handling or storing germinal products.

(2) A designation under this regulation may contain such measures as the Secretary of State considers necessary to prevent the spread of bluetongue virus”.

- (11) In regulation 15 (movement of animals or other things)—
 - (a) in paragraph (1)—
 - (i) for “a premises within a temporary control zone” substitute “premises within a temporary control zone, protection zone, surveillance zone”;
 - (ii) after “a veterinary inspector” insert “or inspector acting under the direction of a veterinary inspector”;

(b) in paragraph (2), for “an inspector” substitute “a veterinary inspector or by an inspector or officer of the Secretary of State acting under the direction of a veterinary inspector”.

(12) In regulation 19(3), after “veterinary inspector” insert “or by an inspector or officer of the Secretary of State acting under the direction of a veterinary inspector”.

(13) Omit regulation 30 (review of these regulations).

Douglas-Miller

Parliamentary Under Secretary of State

Department for Environment, Food and Rural Affairs

24th April 2024

EXPLANATORY NOTE

(This note is not part of the Order)

This Order applies in relation to England only.

Article 2 extends the definition of “disease” in the Animal Health Act 1981 to include bluetongue.

Article 3 amends the Movement of Animals (Restrictions) (England) Order 2002 (S.I. 2002/3229) to re-insert a provision allowing the Secretary of State to declare an area to be an infected area. It provides for the Order to be enforced by the local authority, except where otherwise stated or where the Secretary of State directs that the Order is to be enforced by the Secretary of State in relation to cases of a particular description or particular cases; and confers power, where such a direction is made, for the Secretary of State to delegate prosecution functions to the Director of Public Prosecutions.

Article 4 amends the Avian Influenza (Preventive Measures) England Regulations 2006 (S.I. 2006/2701). The requirement for a person who keeps poultry to notify the Secretary of State of certain information is amended to apply irrespective of the number of birds kept and is extended to apply also in relation to other captive birds. Additional information must be provided as part of the notification procedure by keepers of 50 or more poultry birds or other captive birds. The information must be updated online once every 12 months. The obligation to notify is subject to an exception in the case of keepers of Psittaciformes (such as budgerigars or parrots) or Passeriformes (such as canaries or finches) which are housed in dwellings or bird houses with no outdoor access.

Article 5 amends the Bluetongue Regulations 2008 (S.I. 2008/962) establishing further disease control measures applicable in the event of suspicion of bluetongue, including a power for a veterinary inspector to serve a notice prohibiting the movement of animals or germinal products onto or from suspect premises, except under the authority of a licence (which may be subject to conditions); power to declare a restriction zone where bluetongue is confirmed but not circulating; power to declare a bluetongue prevention zone as a precautionary measure where necessary to reduce the risk of an incursion of bluetongue virus into any part of England, and power to designate premises for the purposes of collecting, handling, processing or storing germinal products. Regulation 30, which required a review of the Regulations, is omitted.

No impact assessment has been produced as no, or no significant impact on the private, voluntary or public sector is foreseen.

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