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The Avian Influenza (Precautionary Measures) and Miscellaneous Provisions (Amendment) Ordinance, 2006

**The Avian Influenza (Precautionary Measures) and
Miscellaneous Provisions (Amendment) Ordinance, 2006**

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The Avian Influenza (Precautionary Measures) and Miscellaneous Provisions (Amendment) Ordinance, 2006

THE STATES, in pursuance of their Resolution of the 26th April, 2006^a, and in exercise of the powers conferred on them by sections 1 and 4 of the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994^b and of all other powers enabling them in that behalf, hereby order: -

PART I

ORDER MAKING POWERS TO MAKE DIRECTIONS IN RELATION TO PRECAUTIONARY MEASURES

Pre-conditions on exercise of powers to make directions by Order.

1. (1) The States Commerce and Employment Department ("**the Department**") may by Order make directions in accordance with the following provisions of this Ordinance provided that -

- (a) it has reasonable grounds to believe that it is necessary to give such directions to prevent or minimise the spread, or the risk of the spread, of avian influenza within or to Guernsey, and
- (b) it has first carried out an assessment of the risks to the health of birds and other animals and to public health in the event of avian influenza spreading within or to

^a Billet d'État No. IX of 2006.

^b Order in Council No. III of 1994.

Guernsey and has consulted with the States Veterinary Officer as to –

- (i) whether the measures are proportionate, and
- (ii) the need for, appropriateness and practicability of the proposed directions,

taking into account those risks.

Measures in relation to domestic birds.

2. Subject to section 1, the Department may by Order direct that –

(a) the owner or person in charge of any domestic bird registers any of the following details in relation to that bird with the Department –

- (i) its species and the species and number of any other domestic birds kept at the same premises,
- (ii) the name and address of the owner or person in charge of the bird,
- (iii) the address of the premises at which the bird is kept, or
- (iv) any changes to the information in subparagraphs (i) to (iii),

and the Department may by Order amend the matters

set out in sub-paragraphs (i) to (iv),

- (b) the movement of any domestic bird between or within premises is prohibited or restricted,
- (c) any domestic bird be isolated, confined, housed or kept in such manner, subject to such conditions, by such date and for such period as it may specify,
- (d) any domestic bird be fed and watered in such manner and subject to such conditions, by such date and for such period as it may specify,
- (e) any feed, bedding or litter or any other thing -
 - (i) intended for use by or for any domestic bird, be stored, held or otherwise kept at such place, in such manner, subject to such conditions, by such date and for such period as it may specify,
 - (ii) used by any domestic bird or any waste produced by such a bird, be disposed of or destroyed at such place, by such means, by such person and in accordance with such conditions as it may specify,
- (f) any domestic bird be inspected, tested or treated at such place, by such person and by such means as it may specify, or

- (g) any domestic bird be kept under supervision in such manner as it may specify for the purpose of reporting any specified significant changes in particular to mortality rates, egg production or uptake of food and water to the Department in such manner as the Department may specify.

Measures in relation to imported birds.

3. Subject to section 1, where any imported bird has been imported into Guernsey from any other part of the Bailiwick or another country or territory where there is an outbreak or a suspected outbreak of avian influenza or within 30 days of such an outbreak or suspected outbreak occurring and the Department has reasonable grounds to believe that such a bird represents a significant threat to the health of birds or other animals or to public health then the Department may by Order direct that -

- (a) such a bird be immediately returned to the part of the Bailiwick in question or to the country or territory of origin or last dispatch,
- (b) such a bird be isolated, confined, housed or kept in such manner and subject to such conditions, by such date and for such period as it may specify,
- (c) such a bird be inspected, tested or treated at such place, by such person and by such means as it may specify,
- (d) such a bird be compulsorily slaughtered and the carcase disposed of or destroyed at such place, by such

means and by such person as it may specify,

- (e) the owner or person in charge of such a bird shall not have contact with any domestic bird for such period as it may specify or other than in accordance with such conditions as it may specify, or
- (f) any feed, bedding, litter or any other thing used by such a bird and any waste produced by such a bird is –
 - (i) cleansed, disinfected or otherwise treated, or
 - (ii) disposed of or destroyed,

at such place, by such means, by such person and in accordance with such conditions as it may specify.

Measures in relation to wild birds.

4. Subject to section 1, where the Department has reasonable grounds to believe that any wild bird -

- (a) may have travelled to Guernsey from another part of the Bailiwick or from another country or territory in which there is an outbreak or a suspected outbreak of avian influenza or within 30 days of such an outbreak or a suspected outbreak occurring,
- (b) may have been in contact with any bird that might have been infected with avian influenza or in any other way exposed to infection by that disease in any place

referred to in paragraph (a), or

- (c) may have otherwise become infected with avian influenza,

then the Department may by Order direct that it is inspected, tested or treated at such a place, by such a person and by such means as it may specify.

Measures in relation to eggs.

5. Subject to section 1, where the Department has reasonable grounds to believe that any eggs represent a significant threat to the health of birds or other animals or to public health it may -

- (a) in the case of such a threat arising from eggs produced by domestic birds in Guernsey, by Order direct that -
 - (i) the removal of such eggs is prohibited or restricted,
 - (ii) such eggs are cleansed, disinfected or otherwise treated or disposed of or destroyed at such place, by such means, by such person and in accordance with such conditions as it may specify,
- (b) in the case of such a threat arising from eggs imported into Guernsey, by Order -
 - (i) direct that the import of such eggs, other than hatching eggs falling within section 1(1) of the

Poultry and Hatching Eggs (Importation and Exportation) Ordinance, 1962^c, is prohibited or restricted,

(ii) where such eggs have been imported into Guernsey from any other part of the Bailiwick or another country or territory in which there is an outbreak or a suspected outbreak of avian influenza or within 30 days of such an outbreak or suspected outbreak occurring -

(A) direct that such eggs be immediately returned to the part of the Bailiwick in question or to the country or territory of origin or last dispatch,

(B) direct that such eggs are cleansed, disinfected or otherwise treated, or disposed of or destroyed at such place, by such means, by such person and in accordance with such conditions as it may specify, or

(C) direct that such eggs be held at such place, subject to such conditions and for such period as it may specify, or

^c Recueil d'Ordonnances Tome XIII, p.130; amended by Tome XXII p. 107.

- (c) in the case of such a threat arising from eggs produced by wild birds in Guernsey, by Order direct that the eggs of any such birds be collected or disposed of or destroyed by such person, at such place and in such manner as the Department may specify.

Measures in relation to the use of fertilisers.

6. Subject to section 1, where the Department has reasonable grounds to believe that any fertiliser, which consists of or contains either bird excrement or any other bird product, represents a significant threat to the health of birds or other animals or to public health then it may by Order -

- (a) direct that the spreading or use of such fertiliser is prohibited or restricted, or
- (b) where such fertiliser has been imported into Guernsey from any other part of the Bailiwick or another country or territory where there is an outbreak or a suspected outbreak of avian influenza or within 30 days of such an outbreak or such a suspected outbreak occurring -
 - (i) direct that such fertiliser be immediately returned to the part of the Bailiwick in question or to the country or territory of origin or last dispatch, or
 - (ii) direct that such fertiliser or any packaging or containers in which it is transported is -

(A) cleansed, disinfected, treated, or disposed of or destroyed at such place, by such means, by such person and in accordance with such conditions as it may specify, or

(B) held at such place, subject to such conditions and for such period as it may specify.

Measures in relation to bird products or products intended for use by or for birds.

7. Subject to section 1, where the Department has reasonable grounds to believe that any bird product or bedding material, litter or any other thing intended for use by or for birds represents a significant threat to the health of birds or other animals or to public health then it may by Order –

(a) direct that the import of any such product other than –

(i) any poultry carcase the import of which is prohibited other than in accordance with a licence pursuant to sections 1 and 2 of the Poultry Carcasses Importation Ordinance, 1981^d, or

(ii) any product which falls within Schedule 1 to the Import and Export of Goods (Control)

^d Recueil d'Ordonnances Tome XXII, p. 109.

(Guernsey) Order, 1990^e,

is prohibited or restricted, or

- (b) where such product has been imported into Guernsey from any other part of the Bailiwick or another country or territory where there is an outbreak or a suspected outbreak of avian influenza or within 30 days of such outbreak or such suspected outbreak occurring, direct that such product -
 - (i) be immediately returned to the part of the Bailiwick in question or to the country or territory of origin or last dispatch,
 - (ii) be cleansed, disinfected or otherwise treated, or disposed of or destroyed at such place, by such means, by such person and in accordance with such conditions as it may specify,
 - (iii) be held at such place, subject to such conditions and for such period as it may specify, or
 - (iv) be subjected to such inspection or testing, by such person and by such means as the

^e Guernsey S.I. No. 24 of 1990 as amended by Guernsey S.I.s Nos. 19 of 1999, 12 of 2000, 26 of 2000 and 5, 7 and 9 of 2001.

Department may specify.

Measures in relation to eggs, fertiliser, bird products or products intended for use by or for birds which have been distributed or sold.

8. Subject to section 1, where the Department has reasonable grounds to believe that any eggs, fertiliser, bird product or bedding material, litter or any other thing intended for use by or for birds –

- (a) was imported into Guernsey from a place where the circumstances in Section 7(b) applied at the time of import,
- (b) represents a significant threat to the health of birds or other animals or to public health, and
- (c) has been distributed in Guernsey for sale or for final use or has been sold,

then the Department may by Order direct that such product be returned to such place as it may specify and may by Order make the same directions in respect of that product as it may make in respect of a product under section 7(b).

Measures in relation to personal possessions.

9. Subject to section 1, the Department may by Order direct that any possessions of, including any clothing worn by, a person travelling to Guernsey from any other part of the Bailiwick or another country or territory where there is an outbreak or a suspected outbreak of avian influenza or within 30 days of such an outbreak or such a suspected outbreak occurring, are cleansed or treated in such manner as the Department may specify –

- (a) prior to arrival in Guernsey, or
- (b) at a port or any other place in Guernsey.

Measures in relation to premises.

10. Subject to section 1, the Department may by Order –

- (a) direct that such biosecurity measures as the Department may specify are implemented on premises where any bird is present, and such measures may include any of the measures set out in Schedule 1, and
- (b) amend Schedule 1.

Measures in relation to the slaughter etc. of birds and the disposal or destruction of carcasses.

11. Subject to section 1, where any bird is slaughtered for meat or for any other purpose, is put down for humane reasons or culled the Department may by Order direct that –

- (a) such a bird is so slaughtered, put down or culled –
 - (i) in accordance with such conditions as it may specify, or
 - (ii) under the authority of and subject to any conditions attached to a licence issued by it,
- (b) the carcass of such a bird is transported for disposal or destruction by such means or person and in accordance

with such conditions as it may specify, or

- (c) the carcase of such a bird is disposed of or destroyed at such place, by such means and by such person as it may specify or under the authority of and subject to any conditions attached to a licence issued by it.

Measures in relation to the cleansing of vehicles.

12. Subject to section 1, the Department may by Order direct that any vehicle –

- (a) used to transport any bird, eggs, fertiliser or bird product or any feed, bedding, litter or any other thing used by or for a bird, or
- (b) landed at a port in Guernsey from any other part of the Bailiwick or any other country or territory,

be cleansed or disinfected at such times, in such manner and by such person as it may specify.

Measures in relation to the regulation of specified activities.

13. Subject to section 1, the Department may by Order direct that the holding or carrying out of the following activities is prohibited or restricted –

- (a) any show, display, fair, exhibition, competition or other event involving any gathering of birds,
- (b) the lawful carrying out of any of the actions specified in sections 2 to 4 of the Protection of Wild Birds

Ordinance 1949^f,

- (c) the flying of birds of prey,
- (d) the deliberate release of game birds, or
- (e) any such other activity as the Department may by Order prescribe.

PART II

ADDITIONAL ORDER MAKING POWERS IN RELATION TO PRECAUTIONARY MEASURES

Monitoring and surveillance programmes.

14. (1) Subject to subsection (2), the Department may by Order provide for such monitoring and surveillance programmes as it considers reasonably necessary to establish whether or not avian influenza is present on Guernsey and such monitoring or surveillance programmes may include any of the following -

- (a) the inspection and testing of any bird or animal,
- (b) the inspection and testing of any bird product, fertiliser, eggs or anything that may have been in contact with any bird, and

^f Recueil d'Ordonnances Tome IX, p. 306; amended by Tome XIV, p. 102, Tome XIX p. 338, Tome XXII p. 136, Tome XXIII, p. 258 and Ordinance No. VII of 2006.

- (c) the inspection and testing of anything that may harbour or be a host to avian influenza, and

and any measures to be comprised in any such programme may be carried out in such manner, by such person, at such place and, where relevant, at such frequency as the Department may by Order prescribe.

(2) Section 1 shall apply to the exercise of the powers in subsection (1) as it applies to the making by Order by the Department of directions under this Ordinance.

Powers of seizure.

15. (1) Subject to subsection (2), the Department may by Order provide -

- (a) for the seizure of anything, animate or inanimate, in relation to which an offence has been committed under this Ordinance,
- (b) for the seizure of anything, animate or inanimate, in respect of which the Department considers it is necessary to take immediate action to prevent avian influenza from spreading to or within Guernsey,
- (c) where provision is made for seizure pursuant to paragraph (a) or (b) -
 - (i) for the holding, examination, treatment, disposal or burial of anything so seized,

- (ii) for the return to its place of origin of any imported thing so seized,
- (iii) for the slaughter of any bird so seized or the destruction of any inanimate thing so seized, or
- (d) where provision is made for seizure pursuant to paragraph (b), for the payment of compensation, including its method of calculation, for anything so seized.

(2) Section 1 shall apply to the exercise of the powers in subsection (1) as it applies to the making by Order by the Department of directions.

Application to other animals or other compulsory slaughter diseases.

16. The Department may by Order apply the provisions of this Ordinance, with appropriate modifications to -

- (a) any animal which it reasonably considers is susceptible to avian influenza, or
- (b) any other compulsory slaughter disease which it reasonably considers to represent a significant threat to the health of any animals or to public health.

PART III

SUPPLEMENTARY PROVISIONS

Supplementary provisions in relation to inspection and testing.

17. (1) Where any inspection or test of anything, animate or inanimate, is carried out under this Ordinance and the results of such inspection or test are inconclusive then the Department may -

- (a) arrange for the carrying out of a further inspection or test after such period and in such manner as it may so decide, and
- (b) require that the thing to be tested or inspected is kept in such manner as it may specify pending the outcome of the inspection or test,

and the Department shall give any owner or person in charge of the thing to be tested prior notice of any action to be taken under paragraphs (a) or (b).

(2) Where any inspection or test is carried out under this Ordinance any owner or person in charge of the thing being so tested must not do, or cause or permit to be done, anything which is likely to affect the result of such test or inspection.

Supplementary provisions in relation to inspection, testing, treatment or slaughter.

18. Where any inspection, testing, treatment or slaughter is carried out under this Ordinance of -

- (a) any bird, then any owner or person in charge of that bird must provide the Department in writing with any information that the Department may reasonably request regarding the number and location of any other birds that he owns or has in his charge,

- (b) anything, animate or inanimate, then the owner or person in charge of that thing -
 - (i) may be present but the absence of such person shall not invalidate any such procedure, and
 - (ii) shall comply with any reasonable requirements of an authorised person with a view to facilitating the action being taken.

Supplementary provisions in relation to the slaughter of birds.

19. Where the Department provides by Order under this Ordinance for the slaughter of any bird under sections 3(d) or 15(1)(c) then the provisions of section 8 (compensation) of the Animal Health Ordinance, 1996^g shall apply in relation to the owner of such a bird who has complied with all provisions applicable to him under this Ordinance as they apply in relation to the owner of an animal under that 1996 Ordinance except that they shall apply as if the valuation referred to in the 1996 Ordinance were required to be carried out -

- (a) as soon as reasonably possible after the slaughter of the bird, and
- (b) on the basis of all reasonably available information.

Supplementary provisions in relation to licences.

^g Ordinance No. XI of 1996 as amended by No. XXXII of 2003 and No. VII of 2006 and Guernsey S.I. No. 56 of 2002.

20. Where the Department provides under this Ordinance for any activity to be carried out under authority of a licence issued by the Department then the provisions of Schedule 2 shall apply in relation to such a licence.

Supplementary provisions in relation to the keeping of records.

21. (1) Where the Department makes an Order under the provisions of this Ordinance, that Order may also provide for the keeping of records relevant to the subject matter of the Order in question in such form, for such period and by such person as the Department may provide.

(2) Where records are required to be kept under this Ordinance, then the person who is keeping the records shall allow an authorised person access to such records and to take copies of any such records at all reasonable times upon request or forthwith upon request in the circumstances set out in subsection (3).

(3) Subject to section 25(2), an authorised person may gain access to records at any time if there are reasonable grounds to believe that -

- (a) there has been a breach of any provisions of any legislation relevant to avian influenza, or
- (b) there is an immediate risk of avian influenza spreading to or within Guernsey.

Supplementary provisions in relation to signs and notices.

22. (1) Where the Department takes or requires measures to be taken under this Ordinance on or in relation to particular premises it may put up, maintain and remove notices or signs notifying the public of such measures.

(2) Any person who intentionally or recklessly and without reasonable excuse takes down, damages, destroys or obscures such a notice or sign is guilty of an offence.

(3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 4 on the uniform scale.

PART IV GENERAL PROVISIONS

Provision of information.

23. (1) Where the Department believes that any person holds information which the Department reasonably considers it requires for the purpose of -

- (a) carrying out any of its functions or those of an authorised person under this Ordinance, or
- (b) preventing or minimising the spread, or the risk of the spread, of avian influenza within or to Guernsey,

then it may serve on that person a notice requiring him to furnish such information as may be specified in the notice to an authorised person and to do so in such form, in such manner and within such reasonable time as the Department may specify.

(2) Subject to subsections (4) and (5), it shall be the duty of a person who receives a notice under subsection (1) to disclose the information to the authorised person within the time specified.

(3) The duty under subsection (2) overrides any duty of confidentiality to which a person may be subject under an enactment or any other rule of law.

(4) Nothing in this section shall compel the production by an advocate or other legal adviser of a document containing a privileged communication made by him in that capacity.

(5) A statement made by a person in response to a requirement imposed by or under this section may not be used in evidence against him except in proceedings for an offence in relation to a failure to comply with subsection (2) or in proceedings for some offence where in giving evidence he makes a statement inconsistent with it.

Powers of Department in case of default.

24. (1) If any person fails to comply with a requirement imposed under this Ordinance the Department may take such steps as it reasonably considers are necessary to ensure that the requirement is met.

(2) In taking steps under this section the Department may direct any person in writing to take or refrain from specified action in respect of any place, bird or other animal, vehicle, bird product, eggs, fertiliser or other thing or any activities.

(3) Any steps taken under this section are without prejudice to proceedings for an offence arising out of the default.

(4) The person in default must reimburse any reasonable expenses incurred by the Department in taking such steps which it would not otherwise have

incurred except for that default and any such reimbursement is recoverable as a civil debt due to the States.

Powers of entry.

25. (1) Subject to subsection (2), an authorised person may enter any land at any reasonable time for the purpose of -

- (a) deciding whether and in what manner any function of the Department or an authorised person under this Ordinance ought to be exercised,
- (b) carrying out any function of the Department or an authorised person under this Ordinance,
- (c) ascertaining whether any conditions attached to a licence issued under this Ordinance have been or are being complied with,
- (d) investigating any alleged offence under this Ordinance,
- (e) ensuring that any obligations arising under a notice served or requirement imposed under this Ordinance have been or are being complied with, or
- (f) where he considers that it is necessary to do so, preventing a serious risk to the health of birds or other animals or to public health arising from avian influenza.

(2) An authorised person -

- (a) is not entitled to demand admission as of right to any land which is occupied unless, other than in the case of an emergency, 24 hours written notice has been given to the occupier,
- (b) may, if necessary, be accompanied by a police officer, who may use reasonable force to restrain any person obstructing or threatening to obstruct the authorised person, and
- (c) may take with him such other persons and any equipment as may be necessary for carrying out the purposes for which he has entered.

Liability.

26. No liability shall be incurred or civil action lie against the States of Guernsey or any person in respect of anything done or omitted to be done in the discharge or purported discharge of any function under this Ordinance unless the thing is done or omitted to be done maliciously or in bad faith.

Costs.

27. (1) Orders under this Ordinance may make provision for liability as to any costs arising from any action carried out under such an Order.

(2) Subject to the provisions of any Order made under subsection (1) and to subsection (3) and section 24(4), the Department shall meet the costs of any of the following carried out under this Ordinance -

- (a) any inspection, test, treatment, cleansing or disinfection,
- (b) the supervision by or on behalf of the Department of any bird held in isolation,
- (c) the compulsory slaughter of any bird or the disposal or destruction of any carcass,
- (d) the collection, disposal or destruction of the eggs of any wild bird, and
- (e) any monitoring or surveillance programme.

(3) Where any person contravenes section 17(2) or 18(b)(ii) then the Department, may, without prejudice to any proceedings for an offence arising out of that contravention, take all necessary steps to facilitate the reliable testing of the thing concerned and recover from that person any expenses reasonably incurred in so doing it.

Authorised persons.

28. (1) A person may be authorised in writing by the Department to perform any of the functions of an authorised person under this Ordinance and such authorisation shall specify which of such functions the particular person is authorised to carry out.

(2) A person purporting to carry out the functions of an authorised person under this Ordinance shall, upon request, produce evidence of his authority.

Offences and penalties.

29. Any person who -

- (a) contravenes, attempts to contravene, or fails to comply with, any requirement made under this Ordinance,
- (b) prevents any other person from complying with any requirement made under this Ordinance,
- (c) obstructs or attempts to obstruct an authorised person exercising any functions under this Ordinance,
- (d) wilfully or recklessly does anything which is likely to make measures required to be taken under this Ordinance ineffective, or
- (e) in connection with an application for a licence made under this Ordinance or in purported compliance with any requirement imposed under this Ordinance, does any of the following -
 - (i) makes a statement which he knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular,
 - (ii) dishonestly or otherwise, recklessly makes a statement which is false, deceptive or misleading in a material particular,

- (iii) produces or furnishes or causes or permits to be produced or furnished any information which he knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular, or
- (iv) dishonestly or otherwise, recklessly produces or furnishes or recklessly causes or permits to be produced or furnished any information which is false, deceptive or misleading in a material particular,

is guilty of an offence and is liable on conviction to a fine not exceeding level 4 on the uniform scale.

Notices.

30. (1) Any notice to be given, sent to or served on a person under this Ordinance may be given or served -

- (a) on an individual, by being delivered to him, or by being left at, or sent by post or transmitted to, his usual or last known place of abode,
- (b) on a body corporate with a registered office in Guernsey, by being left at, or sent by post or transmitted to, that office,
- (c) on a body corporate without a registered office in Guernsey, by being left at, or sent by post or transmitted to, its principal or last known principal

place of business in Guernsey or, if there is no such place, its registered or principal office elsewhere,

- (d) on an unincorporated body, by being given to or served on any partner, member, manager or officer thereof in accordance with paragraph (a), or by being left at, or sent by post or transmitted to, the body's principal or last known principal place of business in Guernsey or, if there is no such place, its principal or last known principal place of business elsewhere,

and in this section the expression "**by post**" means by ordinary letter post, registered post or recorded delivery service and the expression "**transmitted**" means transmitted by facsimile transmission, electronic mail or other similar means which produce or enable the production of a document containing the text of the communication.

(2) If a person notifies the Department of an address for service within Guernsey for the purposes of any requirement under this Ordinance, any document to be given to or served on him may be given or served by being left at, or sent by post or transmitted to, that address.

(3) If service of a document cannot, after reasonable enquiry, be effected in accordance with this section, the document may be served by being published in La Gazette Officielle on two occasions respectively falling in successive weeks, and a document served under this subsection is sufficient if addressed to the person for whom it is intended.

(4) Subsections (1) to (3) are without prejudice to any other lawful method of service.

(5) Notwithstanding the provisions of subsections (1) to (4) and of any other rule of law in relation to the service of documents, no document to be given to or served on the Department under this Ordinance shall be deemed to have been given or served until it is received.

(6) A document sent by post shall, unless the contrary is shown, be deemed for the purposes of this Ordinance to have been received -

(a) in the case of a document sent to an address in the United Kingdom, the Channel Islands or the Isle of Man, on the third day after the day of posting, or

(b) in the case of a document sent elsewhere, on the seventh day after the day of posting,

excluding in each case any non-business day; and in this subsection a "**non-business day**" means a Saturday, a Sunday, Christmas Day and Good Friday, and any day appointed as a public holiday by Ordinance of the States under section 1(1) of the Bills of Exchange (Guernsey) Law, 1958^h.

(7) Service of any document sent by post shall be proved by showing the date of posting, the address thereon and the fact of prepayment.

General provisions as to Orders.

31. (1) Orders under this Ordinance -

^h Ordres en Conseil Vol. XVII, p. 384 and amended by Vol. XXIV, p. 84; No. XI of 1993; No. XIV of 1994.

- (a) may be amended or repealed by subsequent Orders hereunder,
- (b) may contain such consequential, incidental, supplemental and transitional provision as may appear to the Department to be necessary or expedient,
- (c) shall be laid before a meeting of the States as soon as possible and shall, if at that or the next meeting the States resolve to annul them, cease to have effect, but without prejudice to anything done under them or to the making of a new Order, and
- (d) other than those made wholly under sections 2(a) (in relation to varying the matters set out in sections 2(a)(i) to (iv)), 10(b), 16 and 31, shall provide for their expiry no later than the end of the period of 12 months beginning with the day on which they were made.

(2) The Department, as soon as reasonably possible after an Order is made, other than those wholly made under the sections referred to in subsection (1)(d), must publicise it by -

- (a) placing a notice in La Gazette Officielle of the making of that Order including a concise summary of its provisions, or

- (b) where it reasonably considers it can identify all persons who may be subject to any requirements of the Order, sending such a notice to all such persons.
- (3) Any power conferred by this Ordinance to make Orders may be exercised -
 - (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases, or
 - (b) so as to make, as respects the cases in relation to which it is exercised -
 - (i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise),
 - (ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes, or
 - (iii) any such provision either unconditionally or subject to any conditions specified in the Order.

Interpretation.

32. (1) In this Ordinance, unless the context otherwise requires -

"animal" means any living creature except man,

"anything animate or inanimate" includes any living creature except Man,

"authorised person" shall be construed in accordance with section 28,

"avian influenza" means an infection of poultry or other domestic birds caused by any influenza A virus of the subtypes H5 or H7 or with an intravenous pathogenicity index in six week old chickens greater than 1.2,

"biosecurity measures" means measures taken to prevent the spread of causative agents of avian influenza,

"bird product" means a carcass or anything originating or made (whether in whole or in part) from a bird or a carcass except for eggs and fertiliser,

"carcass" means the carcass of a bird and includes part of a carcass, and the meat, bones, skin, feathers or any other part of a bird, separately or otherwise,

"causative agent" includes any virus, bacterium and any other organism or infectious substance which may cause or transmit avian influenza,

"compulsory slaughter disease" shall have the meaning in section

32(1) of the Animal Health Ordinance, 1996,

"Department" means the States Commerce and Employment Department,

"domestic bird" means any bird kept by or under the control of a person including any free range bird but excluding -

- (a) for the avoidance of doubt, any bird which is owned but has been released into the wild, and
- (b) any bird falling within paragraph (a) or (b) of the definition of imported bird,

"egg" means any bird egg or any part of such an egg,

"enactment" includes a Law, an Ordinance and any subordinate legislation and any provision or portion of a Law, an Ordinance or any subordinate legislation,

"fertiliser" includes bird excrement which is intended for use as a fertiliser,

"game bird" includes collared dove, partridge, pheasant, snipe and woodcock,

"infected" includes acting as a host to or harbouring,

"information" includes documents and written records including those held in electronic form,

"imported bird" means any bird -

(a) which has been imported into Guernsey but which is present at or in transit to or from any of the following places -

(i) a place which is approved or appointed for any of the purposes of section 7,

(ii) a shed or depot which is approved under section 10A, or

(iii) any place to which it has been moved pursuant to a direction under section 11,

of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972 ("1972 Law")ⁱ,

(b) to which any of the circumstances in section 22(i) to (iii) of the 1972 Law applied on its importation, or

(c) which has been in Guernsey no more than 30 days from the date of its importation,

"inspection" includes detailed examination and the taking of any

ⁱ Ordres en Conseil Vol. XXIII, p. 573; Vol. XXIV, P. 87; Vol. XXXI, p. 278; No. XIII of 1991; No. X of 2004 and Ordinance No. XXXII of 2005.

samples,

"notice" means notice in writing,

"owner" means the person having, or appearing to the Department to have, the right to dispose of the bird, premises or thing in question, as the case may be,

"person" includes any body or authority,

"police officer" means a member of the salaried police force of the Island of Guernsey and, within the limits of his jurisdiction, a member of the special constabulary of the Island of Guernsey,

"premises" includes buildings and other land and if a person occupies two or more non-adjacent areas each of them comprise separate premises for the purposes of this Ordinance,

"prohibited or restricted" means -

- (a) prohibited,
- (b) prohibited subject to compliance with any conditions specified by the Department, or
- (c) prohibited other than under authority of and subject to any conditions attached to a licence issued by the Department,

"States" means the States of Guernsey,

"**subordinate legislation**" includes any regulation or order, notice, rule of court, resolution, scheme, warrant, byelaw or other instrument made under any enactment and having legislative effect,

"**treatment**" includes vaccination,

"**under this Ordinance**" includes under any Order or direction made under this Ordinance or pursuant to any licence issued under such an Order,

"**vehicle**" means any form of transport, and

"**wild bird**" means any bird in a wild or feral state and includes any bird which reasonably appears to have been abandoned.

(2) Any reference in this Ordinance to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Amendment of the Animal Health Ordinance, 1996.

33. Schedule 3 shall have effect.

Consequential Amendments and Repeals.

34. Schedule 4 shall have effect.

Extent.

35. This Ordinance has effect in the islands of Guernsey, Herm and Jethou.

Citation.

36. This Ordinance may be cited as the Avian Influenza (Precautionary Measures) and Miscellaneous Provisions (Amendment) Ordinance, 2006.

Commencement.

37. This Ordinance shall come into force on the 27th September, 2006.

SCHEDULE 1

Section 10

PRECAUTIONARY MEASURES IN RELATION TO PREMISES- BIOSECURITY MEASURES

The biosecurity measures which may be specified by the Department include measures requiring that -

- (a) any bird is isolated in accordance with such conditions as it may specify,
- (b) the movement of anything, animate or inanimate, is restricted or prohibited within, onto or from the premises,
- (c) the movement of any person, other than the owner or occupier of the premises, is restricted or prohibited within, onto or from the premises,
- (d) any bird is housed or kept subject to such conditions as the Department may specify, or
- (e) any clothing, equipment, materials, goods, vehicles or other things moving onto or from the premises are disinfected or cleansed and that disinfectant is provided at specified places on the premises.

SCHEDULE 2

Section 20

LICENCES

1. Any person who requests the Department to issue or renew a licence shall submit an application to the Department in such form as the Department may specify.

2. On receipt of an application, the Department may request in writing such further information in writing as it considers necessary to determine the application.

3. Before it considers any application the Department may require that any premises, equipment, vehicle or other facilities which are relevant to the application are inspected by an authorised person.

4. The Department may in response to an application -

- (a) issue a licence subject to such conditions as it considers appropriate,
- (b) issue a notice specifying any requirements that have to be met before a licence may be issued, or
- (c) reject the application by notice in which case such notice shall include a statement of the reasons why.

5. Where a licence has been issued and the Department has reasonable grounds to believe that there has been a breach of any conditions attached to that licence it may -

- (a) issue a notice to the licensee stating the nature of the breach of the conditions, setting out any action that is required to rectify the breach and any time period during which any requirements must be carried out, and
- (b) if the requirements in a notice issued under the provisions of item (a) are not carried out within the time period specified in that notice, issue a further notice stating that if the requirements of the original notice are not met within 14 days of the second notice, the licence will be revoked.

6. The Department may revoke a licence issued without issuing a notice under paragraph 5 where it believes that there has been a significant breach of a licence condition and that it is necessary to take immediate action to prevent or minimise the spread or the risk of the spread of avian influenza within or to Guernsey.

SCHEDULE 3

Section 33

AMENDMENT OF THE ANIMAL HEALTH ORDINANCE, 1996

1. The Animal Health Ordinance, 1996 shall be amended as follows.
2. In section 6A (special provisions in the event of a serious threat to public or animal health) -
 - (a) in paragraph (b) for the words "sections 5(a)" substitute "sections 5",
 - (b) for paragraph (c) substitute -
 - "(c) the Department may decide to treat -
 - (i) an animal which is an inconclusive reactor in respect of a test conducted under section 3, for the compulsory slaughter disease in question,
 - (ii) any susceptible animal which has been herded with or otherwise been in contact with any animal which has reacted to such a test, or
 - (iii) any susceptible animal which it reasonably suspects of being infected with or exposed to the compulsory

slaughter disease in question,

as though it had reacted positively to a test conducted under section 3, and".

3. In section 15 (infected area restrictions) -

(a) in subsection (2), for the words "this section" substitute "subsection (1)", and

(b) at the end add -

" (3) Whilst an Order declaring an infected area is in force the Department may direct that -

(a) any susceptible animal in the area is isolated, confined, housed or kept in such manner, subject to such conditions, by such date and for such period as the Department may specify,

(b) no person, except for the owner or occupier of the premises, shall enter any premises in the area where any susceptible animal is kept, except with the permission of the States Veterinary Officer,

(c) such biosecurity measures as the Department may specify are implemented on any premises in the area, or

(d) the holding of any show, display, fair, exhibition, competition or any other event in the area involving a gathering of any susceptible animals is -

(i) prohibited, or

(ii) prohibited subject to compliance with any conditions specified by the Department, or

(iii) prohibited other than under authority of and subject to any conditions attached to a licence issued by the Department.

(4) The Department shall, as soon as reasonably possible after it has made a direction under subsection (3) publicise it by -

(a) placing a notice in La Gazette

Officielle of the making of that direction which must include a summary of the directions made, or

- (b) where it reasonably considers it can identify all persons who may be subject to any directions, sending such a notice to all such persons.

(5) In subsection (3) "**biosecurity measures**" means measures taken to prevent the spread of causative agents of a notifiable animal disease and "**causative agent**" includes any virus, bacterium and any other organism or infectious substance which may cause or transmit the disease in question."

4. In paragraph 1(h) of Schedule 2 (compensation for slaughtered animals-valuation of animals) for the word "poultry" substitute "bird".

SCHEDULE 4

Section 34

CONSEQUENTIAL AMENDMENTS AND REPEALS

1. (1) The Protection of Wild Birds Ordinance, 1949 shall be amended as follows.

(2) In section 4A (actions pursuant to 1985 and 1996 Ordinances)-

(a) for the heading substitute -

"Actions pursuant to other Ordinances.", and

(b) for paragraph (a) substitute -

"(a) pursuant to the Animal Health Ordinance, 1996 or the Avian Influenza (Precautionary Measures) and Miscellaneous Provisions (Amendment) Ordinance, 2006 or any Order or direction made under them or any licence issued under such an Order, or "

2. Sections 2 (exceptions), 4 (prohibitions on hatching), 5(1)(b) (powers of the Department) and the definition of "fowl pest" in section 7 of the Poultry and Hatching Eggs (Importation and Exportation) Ordinance, 1962, shall be repealed.