

Island of



Guernsey

Ordinance of the States

VII
2006

Made.....	17th October, 2005
Coming into Operation	17th October, 2005
Laid before the States	25th January, 2006

The Birds and Animal Health (Miscellaneous Provisions) (Amendment) Ordinance, 2005

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THE STATES LEGISLATION SELECT COMMITTEE, in exercise of the powers conferred on the States by sections 1 and 4 of the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994^a and all other powers enabling the States in that behalf and on the Committee by Article 66(3) of the Reform (Guernsey) Law, 1948^b, hereby orders:-

Amendment of the Protection of Wild Birds Ordinance, 1949.

1. For section 4A (actions pursuant to directions under Ordinance of 1985) of the Protection of Wild Birds Ordinance 1949^c substitute -

"Actions pursuant to 1985 and 1996 Ordinances.

4A. Nothing in the preceding provisions of this Ordinance shall be construed as rendering unlawful anything done in good faith -

(a) pursuant to the Animal Health Ordinance,
1996^d, or

^a Order in Council No. III of 1994.

^b Ordres en Conseil Vol. XIII, p. 288; there are amendments not material to this Ordinance.

^c Recueil d'Ordonnances Tome IX, p. 306; amended by Tome XIII, p. 251, Tome XIV, p. 102, Tome XIX p. 338, Tome XXII p. 136 and Tome XXIII, p. 258.

^d Ordinance No. XI of 1996; amended by Ordinance No. XXXII of 2003 and Guernsey S.I. 2002 No. 56.

- (b) in the execution or purported execution of a direction given under section 2 of the Control of Birds Ordinance, 1985^e."

Amendment of the Control of Birds Ordinance, 1985.

2. (1) The Control of Birds Ordinance, 1985 is amended as follows.

(2) In section 1 (application of Ordinance) -

(a) at the end of paragraphs (a) and (b) omit "or",

(b) after paragraph (c) add -

"or,

(d) to prevent the spread of any disease to which birds are susceptible," , and

(c) for the words from "to control the numbers of birds" to the end substitute "to achieve the control set out in Section 1A".

(3) After section 1 add -

"Controlling numbers of birds.

1A. The control referred to in section 1 is to control the numbers congregating in -

^e Recueil d'Ordonnances Tome XXIII, p. 258.

- (a) any place of any birds which reasonably appear to be wild birds or of any species or class of such birds, or
- (b) any public place of any birds or of any species or class of birds."

(4) For each reference in section 2 to "public place" substitute "place".

(5) At the beginning of section 3 (publication of notice of direction) insert "Subject to section 3A,".

(6) After section 3 (publication of notice of direction) insert -

"Special provisions in the event of a serious threat to public or bird health or to public hygiene or safety."

3A. (1) Where a direction is issued under section 2 in the circumstances set out in section 1(d) and the Department considers that there is a serious threat to public or bird health or a direction is issued in any other circumstances where the Department considers there is such a threat or a serious threat to public hygiene or safety then -

- (a) the Department must as soon as reasonably possible after the issue of that direction put a notice in La Gazette Officielle which must -
 - (i) specify the direction and the disease or other circumstances in question and the

reasons why it considers there to be a relevant serious threat, and

(ii) set out the special provisions applicable under this section,

(b) the Department may, instead of complying with the provisions of section 3, place a notice in La Gazette Officielle, which may form part of the same notice as that referred to in paragraph (a), as soon as possible after the first date on which the direction was executed setting out -

(i) the matters in section 3(a), and

(ii) requiring the owner of any bird which has been or is to be destroyed to apply to the Department in writing for compensation, with written proof of such ownership, within 21 days of the date of that notice, and

(c) where the Department decides to publish a notice in accordance with paragraph (b) -

(i) the owner of a bird who complies with the requirements of this section is entitled to compensation from the Department of £25 per bird or its market value immediately before

destruction, whichever is less, from which shall be deducted the amount, if any, received or credited to the account of the owner in respect of the value of its carcase, and

- (ii) the provisions of sections 8(3) to (6) of the Animal Health Ordinance, 1996 shall apply for the purposes of assessing compensation under this section as they apply to compensation to be assessed under that Ordinance except that they shall apply as if the valuation were required to be carried out as soon as reasonably possible after the destruction of the bird.

(2) The Department may from time to time by order increase the maximum amount of compensation set out in subsection (1)(c)(i).".

(7) In section 4 (effect of direction) -

- (a) at the beginning insert "Subject to section 4A,", and
- (b) for the words "conditions of sections 2(3) and 3 have been complied with" substitute "relevant requirements of sections 2(3) to 3A are complied with".

(8) After section 4 (effect of direction) insert -

"Right of entry.

4A. (1) An officer or servant of the Department authorised in writing by it may, subject to the provisions of this section, enter any land at any reasonable time for the purpose of considering whether and in what manner to exercise the Department's direction making powers under section 2 or in connection with the execution of any such direction.

(2) A person authorised under subsection (1) -

- (a) must, if so required, produce his written authorisation before entering any land,
- (b) 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,
- (c) may, if necessary, be accompanied by a police officer, who may use reasonable force to restrain any person obstructing or threatening to obstruct the officer or servant of the Department, and
- (d) may take with him such other persons as may be necessary for carrying out the purposes for which he has entered."

(9) In section 5 (obstruction) for the words from "on summary conviction" to the end substitute "on conviction, to a fine not exceeding level 4 on

the uniform scale".

(10) In section 6(1) (interpretation) -

(a) before the definition of "public place" insert -

" **place**" shall be construed in sections 2 and 3, in relation to a bird which reasonably appears to be a wild bird, to refer to "any place" and, in relation to any other bird, to refer to "any public place", and

(b) after the definition of "public place" add -

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

Amendment of the Animal Health Ordinance, 1996.

3. (1) The Animal Health Ordinance, 1996^f is amended as follows.

(2) In section 1(4)(a) (notifiable animal diseases), after the words "any disease from," add "the list of compulsory slaughter diseases in the left hand column of Part 1 of Schedule 1 or".

(3) In section 5 (positive reaction to compulsory slaughter disease tests), at the beginning insert "Subject to section 6A,".

(4) In section 6 (inconclusive reaction to compulsory slaughter disease tests) at the beginning add "Subject to section 6A,".

(5) After section 6 (inconclusive reaction to compulsory slaughter disease tests) insert -

"Special provisions in the event of a serious threat to public or animal health.

6A. Where the Department reasonably considers that there is a serious threat to animal or public health arising from a compulsory slaughter disease then -

- (a) it must as soon as reasonably possible after it has made that decision put a notice in La Gazette Officielle to that effect which must -
 - (i) specify the compulsory slaughter disease in question and the reasons why it considers there to be a serious threat, and
 - (ii) set out the special provisions applicable under this section,
- (b) notwithstanding sections 5(a) and 8, an animal may be slaughtered before it has been valued in accordance with section 8 and Schedule 2 but that valuation must be carried out, on the basis of all reasonably available

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

information, as soon as reasonably possible after its slaughter,

(c) the Department may decide to treat an animal which is an inconclusive reactor in respect of a test conducted under section 3, for the compulsory slaughter disease in question, as though it had reacted positively to that test, and

(d) where the Department decides to treat an animal as set out in paragraph (c), then -

(i) the Department may decide to carry out one or more of the actions specified in section 5 as though the animal had reacted positively to the test,

(ii) it may, for the avoidance of doubt -

(A) declare any premises on which that animal is, or has in the last 60 days been present, to be infected premises in accordance with section 9, and

(B) declare any area in which that animal is, or has in the last 60 days, been present to be an infected area in accordance with section 14, and

(iii) the relevant provisions of sections 17 and 18

