



BILLET D'ÉTAT

WEDNESDAY, 26th APRIL, 2006

COMMERCE AND EMPLOYMENT DEPARTMENT

AVIAN INFLUENZA - LEGISLATION ON PRECAUTIONARY POWERS, P. 845

IX
2006

B I L L E T D ' É T A T

TO THE MEMBERS OF THE STATES OF THE ISLAND OF GUERNSEY

I have the honour to inform you that a Meeting of the States of Deliberation will be held at **THE ROYAL COURT HOUSE, on WEDNESDAY, the 26th APRIL, 2006,** immediately before the meeting already convened for that day, to consider the item contained in this Billet d'État which has been submitted for debate by the Policy Council.

G. R. ROWLAND
Bailiff and Presiding Officer

The Royal Court House
Guernsey
21st April 2006

COMMERCE AND EMPLOYMENT DEPARTMENT**AVIAN INFLUENZA – LEGISLATION ON PRECAUTIONARY POWERS**

The Chief Minister
Policy Council
Sir Charles Frossard House
La Charroterie
St Peter Port

11 April 2006

Dear Sir,

1. Executive Summary

Highly pathogenic avian influenza has spread westwards from Asia and has recently been found in birds in a number of European countries, including France. There is a developing risk that it may spread to the Island and thus it is a potential threat to the health of local domestic and farm birds.

The Department has legal powers to deal with an actual outbreak of avian influenza in the Island, but it does not have powers to introduce compulsory precautionary measures to minimise the risk of this bird disease spreading to Guernsey.

Given the westward spread of the disease, the Department believes that it may be necessary, at some point, to put precautionary measures in place to protect the health of birds in the Island. This report contains proposals for legislation to provide powers to introduce precautions in relation to highly pathogenic avian influenza that would include:

- the housing of domestic and farm birds (under cover) and controls on the movement of such birds;
- import restrictions and cleansing requirements in respect of bird eggs (excluding hatching eggs of poultry which are already subject to regulation);
- the regulation of the disposal of bird waste and waste materials (such as bedding);
- import restrictions and controls on the use of fertilisers that contain or consist of untreated bird excrement;
- import restrictions on the importation of products that contain meat from birds and products that contain eggs;

- requirements relating to cleansing and disinfection, particularly of vehicles used to transport birds;
- controls on the disposal of bird carcasses;
- restrictions on shows and other events involving birds; and
- the introduction of monitoring of wild birds.

The proposed precautionary powers are very extensive, but are intended to be in place **in case** they are needed. It is the intention of the Department to introduce **only** those measures which, based on an assessment of risks to bird health and the advice of the States Veterinary Officer, are considered to be:

- necessary;
- appropriate;
- proportionate, and
- practicable,

in order to protect the health of domestic and farm birds on the Island.

The Department also proposes some amendments to existing animal health and protection of wild birds legislation to enhance its powers to deal with avian influenza.

2. Background

Highly pathogenic avian influenza has spread from Asia and has recently been identified in a number of European countries. It appears to have been spread to Europe by infected migratory wild birds and infected chicks imported from Asia and then to domestic and farm birds (mainly poultry).

As the disease moves closer to the Island, the threat that it will spread here increases (some say that that may be inevitable, as it is impossible to control the movements of wild birds) and it may become necessary to implement precautionary measures to minimise the health risks to local domestic and farm birds. Many countries have already put such measures in place to minimise the risk of the disease spreading and to minimise contact between wild and domestic and farm birds.

Whilst it is not the mandate of the Department to address public health risks, any measures that it puts in place to protect the health of birds will also help to reduce the (albeit small) risk of avian influenza passing from birds to humans and thus allay concerns.

The Department currently has powers to deal with an actual outbreak of avian influenza, but does not have powers to put in place and enforce comprehensive precautionary measures as outlined above; it therefore recommends the introduction of legislation to

provide it with such powers in accordance with the principles set out in section 3 of this report.

The powers currently available to the Department to deal with an outbreak of avian influenza enable it to isolate infected premises, order the slaughter of infected birds and put in place measures in a wider area to try and contain an outbreak. In the latter case, however, these powers need to be strengthened and this report also contains proposals to this effect.

In addition, the Department also proposes that existing legislation be amended to extend compulsory slaughter powers to include a power to slaughter birds suspected of being infected and birds that have been in contact with infected birds. These powers will match those that are in place in most other jurisdictions.

The Department would like to take this opportunity to acknowledge the co-operation of, and to thank, those members of the public who have voluntarily registered their birds. The response has been excellent and it has made the task of circulating advice to people who own poultry and other birds considerably easier.

3. Detailed Proposals

The Department is proposing wide-ranging powers to introduce precautionary measures, but these will be discretionary and are intended to be in place **in case** they are needed.

The proposals have been formulated on the basis of identifying all of the potential bird health risks and possible routes of infection by avian influenza. The range of proposed powers is intended to be as comprehensive as possible, in order that the Department can react quickly to as many situations as can be foreseen.

It does not automatically follow that all of the precautionary measures will be introduced or that they will all be introduced at the same time. Any measures that are put in place will be done so on the basis of an assessment of the risks of avian influenza spreading to domestic and farm birds in the Island and in carrying out that assessment, the Department will seek the professional and technical advice of the States Veterinary Officer.

Measures will only be put in place if they are considered necessary and they will be appropriate, proportionate and practicable based on the assessment of risk to the health of birds in the Island.

The Department is also aware that it may have to take into account the practicalities of implementing precautionary measures on, for example, private premises where there may only be a few poultry compared to premises on which there are larger flocks or birds are kept for commercial purposes. Different requirements might therefore be applied to different premises.

3.1 Precautionary measures relating to live birds

The Department proposes that it should have powers to:

- require the compulsory registration of specified kept birds, probably domestic and farm poultry and possibly pigeons, (this requirement already exists in relation to all kept birds in Sark);
- restrict the movement of specified domestic and farm birds between premises within the Island (there are already powers to control imports);
- require that specified domestic and farm birds (again likely to be poultry) be kept under cover to prevent contact with wild birds and that feed, water and bedding materials for such birds also be protected from contact with, or contamination by, wild birds;
- order the compulsory vaccination of specified birds;
- require that specified domestic and farm birds are kept under supervision by the owner, looking for increased mortality rates and other indications of possible infection with avian influenza (if necessary such supervision could also be undertaken by the States Veterinary Officer if any birds were considered to be a particular health risk); and
- examine, test, vaccinate or treat populations of specified birds (such as feral poultry or certain populations of wild birds) to minimise the risk that such populations may become a “reservoir” of the disease. These powers will complement existing powers in the Control of Birds Ordinance, 1985.

The vaccination of birds is being considered in other countries as a possible preventative measure, but it is not clear, at this stage, whether vaccines that are currently available will be particularly effective in controlling avian influenza. However, other vaccines or treatments may be developed and, based on the advice of the States Veterinary Officer, vaccination may become a more attractive option in the future.

It is possible that birds may be imported into the Island and that avian influenza is subsequently found in the country from which they came. These birds may represent a health risk and the Department proposes that, based on an assessment of that risk by the States Veterinary Officer, it should be able to direct that such birds be returned to the country of origin, isolated (quarantined), vaccinated or, if they are considered to be a serious health risk, compulsorily slaughtered.

There are existing controls under general import and export legislation on the import of live animals and under animal health legislation relating to the import of poultry and pigeons; however, the provisions relating to poultry and pigeons do not apply to other birds and the general controls do not specifically list the restrictions that may be imposed pursuant to licensing controls; therefore, it is considered that the existing

powers should be supplemented by further, transparent import restrictions directed at avian influenza risks from birds.

3.2 Precautionary measures relating to eggs

Although eggs are not currently considered to be a high avian influenza bird health risk, at present the Department only has powers to regulate the importation of hatching eggs of poultry and the eggs of endangered species of birds.

Should the advice on eggs change, the Department proposes that it has powers to regulate the importation of eggs not covered by existing legislation (probably from countries which have avian influenza) and local egg production (probably requiring cleansing before being sold).

To supplement the existing provisions for controlling the number of birds in the Control of Birds Ordinance to control specified feral and wild birds in specified circumstances, the Department also proposes that it should, if necessary, be able to order the collection and destruction of eggs from such birds or the taking of such eggs for the purposes of testing.

3.3 Precautionary measures relating to bird waste and waste material

Avian influenza is believed to spread to humans only when people have close and continual contact with infected birds and exposure to the excrement of those birds. It is therefore proposed that the Department should have powers to direct that waste, such as poultry excrement and waste bedding materials and litter, must be disposed of in a controlled manner.

3.4 Precautionary measures relating to fertilisers.

Some fertilisers contain guano and poultry excrement and poultry excrement on its own is used as a fertiliser. Given that excrement from birds is a means by which avian influenza is spread, the Department seeks powers to regulate the importation and use of any such fertilisers that have not been treated in a way that would eliminate the avian influenza virus. Any controls on imports would probably relate to imports from countries where the disease is present.

As with imported birds, it is possible that fertilisers could have been imported into the Island and avian influenza is subsequently reported in the country from which they were sent. The Department also seeks powers to direct that such fertilisers be returned to the place of origin, treated or if they are considered to be a significant health risk, destroyed and that like powers should also apply in respect of the products specified in section 3.5.

There are existing controls on the import of fertilisers under general import and export legislation; however, these provisions do not specifically list the restrictions that may be imposed pursuant to licensing controls; therefore, it is considered that the existing powers should be supplemented by further, transparent import restrictions directed at

avian influenza risks from birds. There are also import restrictions on fertiliser under animal health legislation but these do not apply to fertilisers containing bird products.

3.5 Precautionary measures relating to products etc

It is possible that a range of products such as food that includes poultry meat or eggs, animal feeds and bedding or litter intended for use for birds, produced or packaged in a country where there is avian influenza would be a potential health threat to birds in the Island.

The Department therefore proposes that it should have powers to regulate the importation and use of such products. There is existing general import and export legislation restricting the import of animal feeds, bedding and litter and specific animal health import controls relating to the import of poultry carcasses and poultry meat. However, neither of these restrict the use of such products and the poultry legislation does not apply to the carcasses and meat of other birds. Therefore, it is considered that the existing powers should be supplemented by further, transparent import restrictions directed at avian influenza risks from birds.

3.6 Precautionary measures relating to the cleansing of clothing and vehicles

As part of the precautions introduced to protect against foot and mouth disease a few years ago, disinfected mats were placed at ports to disinfect the footwear of people arriving in the Island and vehicles were disinfected on arrival by ferry.

Based on the advice of the States Veterinary Officer, it may be necessary to introduce such measures again either generally in respect of all arrivals or in relation to arrivals from countries in which avian influenza is present.

It may also be necessary to require that vehicles that are used to transport such things as birds or the carcasses of birds, be cleansed or disinfected.

The Department proposes that it has powers to require the cleansing and disinfection measures described above.

3.7 Precautionary measures relating to premises

The Department proposes that it should be able to require that measures be put in place on premises where there are birds that are at particular risk from avian influenza. Such measures could include restrictions on access to such premises and the disinfection of vehicles that move onto and off such premises.

The exact measures would be based on the advice of the States Veterinary Officer and such measures might only be applied to certain premises, such as those on which there are poultry or where poultry are kept for commercial purposes. Any measures that were introduced would take into account the fact that on some premises there might only be a few (say) poultry, whilst on others there might be much larger flocks.

3.8 Precautions relating to the euthanasia of birds and the disposal or destruction of carcasses of birds

Birds are killed for food, culled, euthanased for welfare reasons or die of natural causes. The Department proposes that it has powers to direct that any carcass waste or whole carcasses from such birds be disposed of in a controlled way (almost certainly by incineration).

The Department also proposes that, if necessary, it may direct that any specified birds be killed, culled or euthanased at a specified place, by a specified person or persons according to controlled conditions to minimise any risk of the spread of avian influenza to other birds.

3.9 Regulation of activities.

The Department has already received voluntary co-operation on the implementation of precautionary measures at a number of bird shows. However, it believes that it should have the power to regulate these events (if necessary) by licence, to impose stricter requirements on such events to prevent the spread of avian influenza or to impose a complete ban on these events.

3.10 Monitoring and surveillance for avian influenza

Monitoring wild birds for avian influenza is an important means of early detection of the disease. At present the Department is receiving valuable assistance from a number of organisations which are monitoring mortality rates in wild birds, but it may become necessary to enter land (including, if necessary, private land) and take samples from such birds for testing to screen for the disease.

The Department proposes that it should have the power to enter land and take such samples.

3.11 Application to other animals and other animal diseases

There is evidence that avian influenza can affect other species of animal. The Department proposes that should it prove necessary to control the risk of avian influenza being spread to the Island by other susceptible animals, that the precautionary measures can be extended to include such animals.

The proposed precautionary powers would also be useful to control the risks of other significant animal health diseases and the Department further proposes that these powers can, if necessary, be applied by Order to other serious animal diseases such as foot and mouth disease.

3.12 Compensation

Where any domestic or farm bird is compulsorily slaughtered as a precautionary measure, any owner who has complied with the requirements of the proposed legislation will be paid compensation in accordance with the provisions of the Animal Health Ordinance, 1996.

3.13 Introduction of precautionary measures by Order

Any precautionary measures would be introduced by Order and any requirements made public either in the Gazette Officielle or by direct contact with any relevant individuals or both.

The Department proposes that any Order may only remain in effect for a maximum of one year. Precautionary measures are intended to be temporary and this time limit will force a review of the ongoing necessity of any such measures. It may be necessary to extend some measures beyond a year (some of the measures in relation to the recent foot and mouth disease outbreak lasted for a little over a year), in which case a new Order would be made by the Department.

In accordance with normal practice, any Orders would be laid before the States after being made.

3.14 Enforcement

For precautionary measures to be fully effective, they must be universally applied and the Department proposes that it should have powers, if necessary, to arrange for enforcement measures to be put in place, where the requirements of an Order that it has made have not been complied with.

3.15 Costs

In most cases the cost of precautionary measures will be borne by the Department, for example the cost of compulsory vaccination, the testing of birds and the slaughter and disposal of birds. In some cases, however, some costs will have to be met by the owner of any birds that are subject to precautionary measures, for example such a person would have to meet any costs associated with isolating their birds from contact with wild birds.

3.16 Amendment of the Animal Health Ordinance, 1996

The Animal Health Ordinance, 1996 provides the Department with powers to deal with an outbreak of a number of animal diseases, including avian influenza. Where an outbreak occurs, the Department can declare premises an “infected place” and implement measures to control the outbreak, including the compulsory slaughter of animals.

The Department can also put in place an “infected area” around an infected place and implement measures in that wider “area” in an attempt to contain the outbreak to such an infected place. At present those measures broadly consist of certain movement restrictions on animals.

As well as introducing the precautionary powers described above, to have the best chance of containing an outbreak of avian influenza, the Department believes that the infected area powers need to be strengthened to enable it to:

- require that birds are isolated (or kept under cover);
- direct that measures (such as access restrictions) are put in place on premises where there are specified birds (such as poultry); and
- licence subject to conditions, or prohibit, the holding of shows and competitions or similar events that involve birds (such as aviary birds and poultry).

The Department proposes that the 1996 Ordinance be amended to provide for these additional powers.

The 1996 Ordinance also sets out the compensation that is payable in respect of animals that are compulsorily slaughtered and at present there is only a provision to pay compensation for poultry that are so slaughtered. As it might be necessary to order the slaughter of birds other than poultry to contain an outbreak of avian influenza, the Department proposes that that Ordinance also be amended to include a provision for the payment of compensation for other owned birds.

Finally, in other countries, there is provision for the compulsory slaughter of birds suspected of being infected with avian influenza and any birds that have been in contact with an infected or suspected bird. The Department recommends that the 1996 Ordinance be further amended to provide for such powers in the Island and the owner of any birds that were subject to such compulsory slaughter would be entitled to compensation in accordance with the provisions that are already in that Ordinance.

If the powers proposed in section 3.11 are used, it will be necessary to use existing powers to amend the 1996 Ordinance to change the species identified as susceptible to highly pathogenic avian influenza.

A consequence of the proposed amendments described above is that the new provisions will also apply to the other notifiable diseases set out in the Animal Health Ordinance, 1996 as well as to highly pathogenic avian influenza. The proposed amendments would come into effect when an amending Ordinance is approved by the States.

3.17 Amendment of the Protection of Wild Birds Ordinance, 1949

The Protection of Birds Ordinance, 1949 will have to be amended to allow for the taking of wild birds so that they can be vaccinated or treated as set out in section 3.1, for the destruction of specified wild birds eggs (but only if that was considered necessary)

as set out in section 3.2 and to allow for the regulation of certain activities allowed under that Ordinance (such as the hunting of game birds).

4. Resource Implications.

The Department believes that it will be able to implement precautionary measures in respect of highly pathogenic avian influenza with its existing staff resources (although those resources may be considerably stretched).

The Department intends to introduce only those precautionary measures which it believes are necessary (based on an assessment of the health risk to local domestic and farm birds and the advice of the States Veterinary Officer), proportionate in relation to that risk and which have a realistic prospect of reducing that risk.

If any precautionary measures that are actually implemented consist only of compulsory registration, a requirement for (say) poultry to be kept under cover and the monitoring of wild birds, the costs to the Department will be minimal. It also believes that it could fund the cost of, for example, a limited testing programme and the disposal of small numbers of dead birds from within its existing budget.

If, however, it believes that measures should be put in place to disinfect vehicles at the harbour, to carry out a comprehensive compulsory and States funded vaccination programme or to put in place Island-wide measures for the collection and disposal of bird carcasses, the costs may be considerable. Any costs in excess of the Department's existing budget for veterinary services would initially be funded from its unspent balances, but if these were insufficient, it would have to approach the Treasury and Resources Department for additional funds in accordance with agreed States procedures.

5. Consultations.

The Department has consulted the Law Officers of the Crown on the proposals for legislation and the drafting of this report. It has also consulted the authorities in Alderney and Sark on the proposed legislation and those authorities intend to consider amending and/or putting in place their own legislation

6. Conclusions.

The Department believes that the risk that highly pathogenic avian influenza will spread to the Island is growing and if that risk increases further, it may be necessary to implement precautionary measures in the Island.

It further believes that it should have powers to put in place such precautionary measures and that those powers should:

- enable it to tailor such measures to deal with any identified health threats to local domestic and farm birds from highly pathogenic avian influenza; and

- be flexible enough to enable it to react quickly to any changes in those threats.

7 Recommendations.

The Department recommends the States to approve the proposals for the:

- a) introduction of legislation on precautionary powers in relation to highly pathogenic avian influenza;
- b) amendment of the Animal Health Ordinance, 1996; and
- c) amendment of the Protection of Birds Ordinance, 1949

and for any other necessary consequential amendments to existing legislation including that relevant to animals, animal health, imports of birds or protection of wild birds in accordance with the principles set out in section 3 of this report.

Yours faithfully

Stuart Falla
Minister

(NB The Policy Council supports the proposals)

(NB The Treasury and Resources Department has no comment on the proposals)

The States are asked to decide:-

Whether, after consideration of the Report dated 11 April, 2006, of the Commerce and Employment Department, they are of the opinion:-

1. To approve the proposals for the:
 - a) introduction of legislation on precautionary powers in relation to highly pathogenic avian influenza;
 - b) amendment of the Animal Health Ordinance, 1996; and
 - c) amendment of the Protection of Birds Ordinance, 1949and for any other necessary consequential amendments to existing legislation including that relevant to animals, animal health, imports of birds or protection of wild birds in accordance with the principles set out in section 3 of that Report.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

IN THE STATES OF THE ISLAND OF GUERNSEY

ON THE 26th DAY OF APRIL 2006

The States resolved as follows concerning Billet d'État No IX
dated 21st April, 2006

COMMERCE AND EMPLOYMENT DEPARTMENT

AVIAN INFLUENZA – LEGISLATION ON PRECAUTIONARY POWERS

After consideration of the Report dated 11 April, 2006, of the Commerce and Employment Department:-

1. To approve the proposals for the:
 - a) introduction of legislation on precautionary powers in relation to highly pathogenic avian influenza;
 - b) amendment of the Animal Health Ordinance, 1996; and
 - c) amendment of the Protection of Birds Ordinance, 1949and for any other necessary consequential amendments to existing legislation including that relevant to animals, animal health, imports of birds or protection of wild birds in accordance with the principles set out in section 3 of that Report.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

K. H. TOUGH
HER MAJESTY'S GREFFIER