



**ADRODDIAD GAN Y
PWYLLGOR DEDDFAU**

**LEGISLATION COMMITTEE
REPORT**

**The Avian Influenza and Influenza of Avian Origin in Mammals (Wales)
(No.2) Order 2006**

This Order revokes and replaces the Avian Influenza and Influenza of Avian Origin in Mammals (Wales) Order 2006 (S.I. 2006/1762 (W. 184)) ("the original Order"). It continues to transpose Council Directive 2005/94/EC on Community measures for the control of avian influenza and repealing Directive 92/40/EC (OJ No L10, 14.1.2006, p16), ("the Directive"), other than Chapter IX. Chapter IX of the Directive deals with vaccination and will be transposed by the Avian Influenza (Vaccination) (Wales) (No. 2) Regulations 2006.

This Order was made using a partial Executive procedure, having been approved in Plenary on 7 November 2006, but without prior consideration by the Legislation Committee.

Standing Order 11.7

The following points have been identified for reporting under SO 11.7.

In paragraph (a) of the definition of "contact premises" in article 2, the cross reference should be to Part 4 and not to Part 3. [Standing Order 11.7(v)]

Article 76(2) contains a cross-reference to 46(5), as the context is the incurring of costs, this should refer to 46(6). [Standing Order 11.7(v)]

Article 81(2) contains a cross-reference to paragraph (2)(d). This should read (1)(d). [Standing Order 11.7(v)]

As in the original Order there are a number of examples of gender specific language that should be replaced when this Order is re-made. Some are in text that has been changed or added since the original Order, but some examples replace references that were correct on the last occasion. Although contrary to the Assembly's policy on this subject, the Interpretation Act will at least avoid any legal difficulty arising from most of these cases. However, there are a number of examples, in articles 15 (1), 33(1)(d) and 34(1), of "he" or "his" being used when "it" or "its" should have been used with reference to the National Assembly. [Standing Order 11.7(vii)]

These are all minor drafting or typographical errors that would have been appropriate for correction by a Memorandum of Corrections, but will now require correcting legislation.

The Order has been made in English only. Because of the urgency of the legislation and the time it would have taken to prepare a bilingual text, the Minister for Environment, Planning and Countryside decided that it was not possible for them to be made bilingually. [Standing Order 11.7(viii)]

Observations

Article 37 has a paragraph (1) that is unnecessary as there are no subsequent paragraphs.

Article 61(1)(b) contains a cross-reference to 61(1); it appears that this should be to 61(1)(a).

David Melding AM

Chair, Legislation Committee

28 November 2006