EXPLANATORY MEMORANDUM TO

THE AVIAN INFLUENZA (H5N1) (MISCELLANEOUS AMENDMENTS) ORDER 2007
2007 No. 3303

1. Introduction

1.1 This Explanatory Memorandum has been prepared by The Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This Order amends The Avian Influenza (H5N1 in Poultry) (England) Order 2006 ("The Poultry Order") and the Avian Influenza (H5N1 in Wild Birds) (England) Order 2006 ("The Wild Birds Order").

3. Matters of special interest to the Joint Committee on Statutory Instruments.

3.1 Swift publication of the regulation has given minimal time for consideration of the impact on UK industry although it is deregulatory. Orders made under the Animal Health Act 1981 do not have to observe the 21 day rule although, out of courtesy to Parliament, we would usually abide by it. On this occasion we need urgently to correct an error in the Poultry Order and the Wild Birds Order which is preventing legitimate industry operations..

4. Legislative Background

4.1 The Poultry Order implements Commission Decision 2006/415/EC on control of the H5N1 strain of avian influenza in poultry and the Wild Birds Order implements Commission Decision 2006/563/EC in relation to the same strain in wild birds.

5. Extent

5.1 This instrument applies to England.

6. European Convention on Human Rights.

6.1 As this instrument is not subject to any Parliamentary procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The Poultry Order and the Wild Birds Order impose movement restrictions on poultry by products from restricted zones (in the case of the Poultry Order) and wild bird control and monitoring areas (in the case of the Wild Birds Order). The Orders provide for raw poultry by-products for pet food to be moved out of the zones (subject to a licence) to pet food premises for them to subsequently sell it as raw frozen

product to pet owners. The by-product comes from carcasses fit for human consumption.

7.2. However, our legislation inadvertently omits a provision for pet food premises in the zones to move the final frozen product under licence. As a result, a company in the current Restricted Zone is unable to carry out its normal business and is complaining about the unnecessary restrictions being placed on its business. The proposed amendments correct this.

8. Impact

8.1 An impact assessment has not been prepared for this instrument as this does not represent a change to existing policy and no additional costs on the voluntary or private sectors are foreseen.

9. Contact

9.1 Julian West at the Department for Environment, Food and Rural Affairs, 1A Page Street, London SW1P 4PQ, Tel: 0207 904 6142, email julian.west@defra.gsi.gov.uk can answer any queries regarding the instrument.