

COMMISSION DELEGATED REGULATION (EU) 2023/1798**of 10 July 2023****amending Delegated Regulation (EU) 2020/689 supplementing Regulation (EU) 2016/429 of the European Parliament and of the Council as regards rules for surveillance, eradication programmes, and disease-free status for certain listed and emerging diseases****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law') ⁽¹⁾, and in particular Article 29, points (a) and (d), Article 37(5), Article 39 and Article 41(3) thereof,

Whereas:

- (1) Regulation (EU) 2016/429 lays down rules for the prevention and control of animal diseases which are transmissible to animals or humans, including rules for surveillance, for Union surveillance programmes, for approval by the Commission of disease free-status and for the maintenance of disease-free status.
- (2) Commission Delegated Regulation (EU) 2020/689 ⁽²⁾ supplements the rules on surveillance, eradication programmes and disease-free status for certain listed diseases and emerging diseases of terrestrial, aquatic and other animals laid down in Regulation (EU) 2016/429.
- (3) In accordance with Delegated Regulation (EU) 2020/689, the competent authorities are required to specify the targeted animal populations relevant for different types of surveillance. In addition, Delegated Regulation (EU) 2020/689 specifies the categories of animals that should be subject to surveillance. In the context of the current highly pathogenic avian influenza (HPAI) epizootics, the scientific report of the European Food Safety Authority on Avian influenza overview December 2022 – March 2023, published on 20 March 2023 ⁽³⁾, recommended to extend and enhance surveillance in both wild mammals, particularly in carnivores, and farmed animals, particularly in American mink, in higher risk areas where HPAI is present in wild birds and poultry. Mammal species are not included in the categories subject to surveillance provided for in Delegated Regulation (EU) 2020/689. Therefore, the existing provisions related to targeted species and avian influenza surveillance should be amended to address this recommendation as regards the risk posed by the current HPAI H5N1 and further enable and support competent authorities to conduct structured surveillance for HPAI in certain mammal species as appropriate.
- (4) Delegated Regulation (EU) 2020/689 provides for different pathways to obtain disease-free status. For several diseases, it is not possible to obtain that status without having previously implemented an approved eradication programme, as Member States cannot follow the pathway based on historical and surveillance data, due to certain limitations which apply concerning the diseases which may be subject to that pathway, as well as the limited timeframe within which such applications to obtain the status should be made. The experience gained since the date of application of Delegated Regulation (EU) 2020/689 has shown that this approach is not adequate as it does not necessarily provide additional reassurances for the granting of the disease-free status. Therefore, Delegated Regulation (EU) 2020/689 should be amended to provide the possibility for a Member State to obtain the disease-free status for all relevant diseases based on historical and surveillance data and without a time limitation.

⁽¹⁾ OJ L 84, 31.3.2016, p. 1.

⁽²⁾ Commission Delegated Regulation (EU) 2020/689 of 17 December 2019 supplementing Regulation (EU) 2016/429 of the European Parliament and of the Council as regards rules for surveillance, eradication programmes, and disease-free status for certain listed and emerging diseases (OJ L 174, 3.6.2020, p. 211).

⁽³⁾ EFSA Journal 2023;21(3): 7917

- (5) Delegated Regulation (EU) 2020/689 provides for several requirements to maintain the status free from infection with Newcastle disease virus without vaccination. The experience gained since the date of application of Delegated Regulation (EU) 2020/689 has shown that the relevant provisions require further clarification as regards the applicable criteria.
- (6) Therefore, for the sake of legal certainty and clarity, Delegated Regulation (EU) 2020/689 should be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Delegated Regulation (EU) 2020/689

Delegated Regulation (EU) 2020/689 is amended as follows:

- (1) in Article 4, the following paragraph 3 is added:
‘3. The competent authority shall include in the targeted animal population kept or wild animals of species that are not listed for the purpose of the relevant listed disease when the competent authority considers that they constitute a risk for animal and human health.’;
- (2) in Article 70 paragraphs 4, 5 and 6 are deleted.
- (3) in Article 76, paragraphs 3 and 4 are deleted.
- (4) Annexes II and V to Delegated Regulation (EU) 2020/689 are amended in accordance with the Annex to this Regulation.

Article 2

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 10 July 2023.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

Annexes II and V to Delegated Regulation (EU) 2020/689 are amended as follows:

(1) in Annex II, Part I is amended as follows:

(a) the heading is replaced by the following:

'PART I

AVIAN INFLUENZA SURVEILLANCE IN ANIMALS';

(b) in Section 1, point 1 is replaced by the following:

'1. TERRITORIAL SCOPE

Surveillance must be implemented in all Member States';

(c) the heading of Section 2 is replaced by the following:

'Section 2

Objectives for Surveillance';

(d) the following Section 10 is added after Section 9:

'Section 10

Surveillance in species that are not listed for HPAI

HPAI surveillance must include surveillance activities in kept and wild animals of species not listed when the epidemiological situation indicates that those species may constitute a risk for animal and human health.';

(2) in Annex V, in Part IV, in Section 2, paragraph 2 is replaced by the following:

'2. By way of derogation from paragraph 1, the status free from infection with NDV without vaccination granted to a Member State or to a zone may be maintained in the event of the confirmation of outbreaks of infection with NDV if:

- (a) the competent authority has only notified a limited number of primary outbreaks during a calendar year;
 - (b) the competent authority has concluded that only a limited number of secondary outbreaks epidemiologically linked to each primary outbreak occurred; and
 - (c) the disease control measures were applied for a duration not longer than three months for each primary outbreak and related secondary outbreaks.'
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