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SCOTTISH STATUTORY INSTRUMENTS

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**2018 No.**

**AGRICULTURE**

**The Feed Enforcement (Scotland) Regulations 2018**

*Made* - - - -

*Laid before the Scottish Parliament*

*Coming into force* - - - - 2018

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of, the European Communities Act 1972(a) and all other powers enabling them to do so.

There has been consultation as required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety(b).

**Citation and commencement**

1. These Regulations may be cited as the Feed Enforcement (Scotland) Regulations 2018 and come into force on 1st May 2018.

**Interpretation**

2. In these Regulations—

“feed authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(c)

“feed authority document” means any document issued or made on behalf of a feed authority including—

- (a) schemes;
- (b) codes of practice;
- (c) operation manuals, and other documents containing guidance, relating to the protection of public health and animal health from risks which may arise in connection with the

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(a) Section 2(2) was amended by the Scotland Act 1998, schedule 8, paragraph 15(3) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”). Section 2(2) was also amended by the 2006 Act, section 27(1)(a) and the European Union (Amendment) Act 2008 (c.7) (“the 2008 Act”), Part 1 of the schedule. Paragraph 1A of schedule 2 was inserted by section 28 of the 2006 Act and relevantly amended by Part 1 of the schedule of the 2008 Act. The functions conferred upon the Minister of the Crown under section 2(2), in so far as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act. In so far as not transferred, and in so far as relating to animal feeding stuffs, which are not veterinary medicinal products or specified feed additives as defined in S.I. 2005/2745, relevant functions were transferred to the Scottish Ministers by S.I. 2006/304.

(b) OJ L 31, 1.2.2002, p.1, as last amended by Regulation (EU) 652/2014 of the European Parliament and of the Council (OJ L 189, 27.6.2014, p.1).

consumption of feed (including risks caused by the way in which it is produced or supplied) or otherwise relating to the protection of the interests of consumers in relation to feed;

- (d) appointments (other than any appointment to an advisory committee);
- (e) approvals, authorisations, licences, provisional licences and registrations;
- (f) designations;
- (g) notices;
- (h) certificates; and
- (i) warrants.

#### **Amendment of the Genetically Modified Animal Feed (Scotland) Regulations 2004**

**3.**—(1) The Genetically Modified Animal Feed (Scotland) Regulations 2004(a) are amended as follows.

(2) In regulation 2(a) (interpretation), omit the definition of “enforcement authority”.

(3) In regulation 4 (enforcement)—

(a) for paragraph (1) substitute—

“Food Standards Scotland must enforce and execute these Regulations and Chapter III of the Community Regulation.”; and

(b) in paragraph (2) for “An enforcement authority” substitute “Food Standards Scotland”.

#### **Amendment of the Feed (Hygiene and Enforcement) (Scotland) Regulations 2005**

**4.**—(1) The Feed (Hygiene and Enforcement) (Scotland) Regulations 2005(b) are amended as follows.

(2) In regulation 2 (interpretation), omit the definitions of “authorised officer” and “feed authority”.

(3) In regulation 4 (competent authorities)—

(a) for paragraph (1) substitute—

“(1) The Agency is the competent authority for the purposes of Regulation 183/2005.”; and

(b) omit paragraph (2).

(4) In regulation 8 (form of application for approval)—

(a) for “competent authority for the area in which the establishment is located” substitute “the Agency”; and

(b) in paragraph 8(e) for “competent authority for the area in which the establishment to which the declaration relates is situated” substitute “the Agency”.

(5) In regulation 11 (procedure for the revocation of registration or approval)—

(a) for “a competent authority” substitute “the Agency”;

(b) omit paragraph 3(b).

(6) In regulation 12 (form of application for amendments to approval or registration)—

(a) in paragraph (1) for “the competent authority for the area in which the relevant feed business is located” substitute “the Agency”; and

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(a) S.S.I. 2004/433 last amended by S.S.I. 2015/100 or to which there are amendments not relevant to this Order. As amended by

(b) S.S.I. 2005/608 to which there are amendments not relevant to this Order. As amended by S.S.I. 2005/616, 2006/578, 2008/201, 2009/263 and 446, 2010/354 and 373, 2013/340 and 2015/100.

- (b) in sub-paragraph (d) for “that authority” substitute “the Agency”.
- (7) In regulation 13 (right of appeal in connection with registration or approval)—
  - (a) in paragraph (1), for “the competent authority” substitute “the Agency”.
- (8) In regulation 15 (offences, penalties and enforcement), for subparagraph (3) substitute “The competent authority for the purposes of Articles 15, 18 and 20 of Regulation 178/2002 is the Agency.”.
- (9) In regulation 16 (enforcement)—
  - (a) in paragraph (1) omit “In the area of each feed authority”;
  - (b) in subparagraph (a) omit “or the feed authority in question”;
  - (c) in subparagraph (b), for “the feed authority in question” substitute “Food Standards Scotland”; and
  - (d) in subparagraph (3) omit “any feed authority”.
- (10) In regulation 19 (appeals to Court of Session)—
  - (a) the heading to the regulation becomes “Appeals to the Sheriff Appeal Court”; and
  - (b) for “ Court of Session” substitute “Sheriff Appeal Court”.

#### **Amendment of the Official Controls (Animals, Feed and Food) (Scotland) Regulations 2007**

**5.**—(1) The Official Controls (Animals, Feed and Food) (Scotland) Regulations 2007(a) are amended as follows.

- (2) In regulation 5 (designation of local authorities, etc, as competent authorities)—
  - (a) the heading to the regulation becomes “Designation of Food Standards Scotland, local authorities etc, as competent authorities”;
  - (b) for paragraph (1) substitute “The local authority is designated as a competent authority in relation to functions of enforcement and execution of relevant food law (other than prosecution) which it exercises under relevant legislation and Food Standards Scotland is designated as the competent authority in relation to functions of enforcement and execution of relevant feed law (other than prosecution) which it exercises under relevant legislation.”.
- (3) The heading to regulation 7 becomes “Powers of auditors and exception for Food Standards Scotland Auditors”.

#### **Amendment of the Official Feed and Food Controls (Scotland) 2009**

- 6.**—(1) The Official Feed and Food Controls (Scotland) 2009(b) are amended as follows.
- (2) In regulation 2 (interpretation), omit the definition of “feed authority”.
- (3) In regulation 3 (competent authorities), omit subparagraph (2).
- (4) In regulation 6(1) (power to issue codes of recommended practice), omit “feed authorities and”.
- (5) In regulation 13 (appeal to Court of Session against dismissal of appeal under regulation 12(1))—
  - (a) the heading to the regulation becomes “Appeals to the Sheriff Appeal Court against dismissal of appeal under regulation 12(1) ”; and
  - (b) for “ Court of Session” substitute “Sheriff Appeal Court”.
- (6) In regulation 22 (interpretation of this Part of these Regulations), in the definition of “enforcement authority” for “feed authority” substitute “the Agency”.

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(a) S.S.I. 2007/91 to which there are amendments not relevant to this Order. S.S.I. 2007/91.  
 (b) S.S.I. 2009/446 to which there are amendments not relevant to this Order.

- (7) In regulation 23 (Feed enforcement responsibilities and competent status)—
- (a) in paragraph (1) for “Each feed authority” substitute “The Agency”;
  - (b) for paragraph (2) substitute—
    - “The Agency is designated the competent authority for the purposes of Regulation 669/2009 in relation to relevant feed law.”; and
  - (c) omit paragraphs (3) and (4).
- (8) In regulation 34 (appeal to Court of Session against dismissal of appeal under regulation 33)—
- (a) the heading to the regulation becomes “Appeals to the Sheriff Appeal Court against dismissal of appeal under regulation 33”; and
  - (b) for “ Court of Session” substitute “Sheriff Appeal Court”; and
- (9) In Schedule 4—
- (a) in Column 1, omit “the feed authority”; and
  - (b) in the second row of Column 2 substitute “Articles 3(6), 4(2) to (6), 5(1) to (3), 6, 7, 8(1) and (3), 9, 10, 11(1) to (3) and (5) to (7), 12, 15(1) to (4), 16(1) and (2), 18, 19(1), (2) and (3), 20, 21, 22, 24, 27, 28, 31, 34, 35(3) and (4) 36, 37(1), 38, 39, 40(2) and (4), 52(1) and 54”; and
  - (c) omit the third row.

#### **Amendments to the Animal Feed (Scotland) Regulations 2010**

- 7.—(1) The Animal Feed (Scotland) Regulations 2010<sup>(a)</sup> are amended as follows.
- (2) In regulation 2(1) (interpretation and scope,) omit the definition of “feed authority”.
  - (3) For regulation 5 (competent authorities for the purposes of Regulation 767/2009) substitute “Food Standards Scotland is the competent authority for the purposes of Regulation 767/2009; and”.
  - (4) In regulation 13 (duties to enforce), for “each feed authority within its area” substitute “Food Standards Scotland”.

#### **Transitional provisions**

8. On the coming into force of these regulations any proceedings raised by, or against, a feed authority and which have not been finally determined are to be treated as having been raised by, or on behalf of Food Standards Scotland.

9. On the coming into force of these regulations any application made to a feed authority and which has not been finally determined is to be treated as having been made to Food Standards Scotland.

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(a) S.S.I. 2010/373 to which there are amendments not relevant to this Order.

**10.** A feed authority document issued or made, prior to the coming into force of these regulations, so far as may be necessary or expedient for the function of execution or enforcement of feed law by Food Standards Scotland is deemed to be issued or made by Food Standards Scotland.

St Andrew's House,  
Edinburgh

2018

Authorised to sign by the Scottish Ministers

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations make provision for Food Standards Scotland to be designated as the competent authority and the enforcement authority for the execution and enforcement of feed law in Scotland under specified EU Regulations.

Regulations 3 to 7 make amendments to relevant legislation to allow Food Standards Scotland to enforce all aspects of feed law.

Regulations 4(10) and 6(5) make provision for appeals against decisions of the sheriff to be appealed to the Sheriff Appeal Court in accordance with the Courts Reform (Scotland) Act 2014.

Regulations 8 to 10 provide transitional provisions.

A full Business and Regulatory Impact Assessment of the effect these Regulations will have on the costs of business, the voluntary sector and the public sector has been prepared and placed in the Scottish Parliament Information Centre. Copies may be obtained from Food Standards Scotland, Pilgrim House, Old Ford Road, Aberdeen, AB11 5RL.