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SCOTTISH STATUTORY INSTRUMENTS

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**2004 No. 433**

**The Genetically Modified Animal  
Feed (Scotland) Regulations 2004**

**Inspection detention and seizure of suspect animal feed**

**8.—(1)** An inspector may at all reasonable times inspect any material intended for use as feed which—

- (a) has been placed on the market; or
- (b) is in the possession of, or has been deposited with or consigned to, any person for the purpose of placing on the market or preparation for placing on the market,

and paragraphs (2) to (9) shall apply where, taking account of all of the information available to the inspector, or upon analysis of samples taken, it appears that the material may fail to comply with a specified Community provision.

(2) The inspector may either—

- (a) give notice to the person in charge of the material that, until the notice is withdrawn, the material or any specified portion of it—
  - (i) is not to be used as feed; and
  - (ii) either is not to be removed or is not to be removed except to some place specified in the notice; or
- (b) seize the material and remove it in order to have it dealt with by the sheriff;

and any person who knowingly contravenes the requirements of a notice under paragraph (a) shall be guilty of an offence.

(3) Where the inspector exercises the powers conferred by paragraph (2)(a), the inspector shall, as soon as is reasonably practicable and in any event within 21 days, determine whether or not the inspector is satisfied that the material complies with the specified Community provisions and—

- (a) if the inspector is so satisfied, shall forthwith withdraw the notice; or
- (b) if the inspector is not so satisfied, shall apply to have the material dealt with by the sheriff.

(4) Where an inspector exercises the powers conferred by paragraphs (2)(b) or (3)(b), the inspector shall inform the person in charge of the material of the intention to have it dealt with by the sheriff and any person who might be liable to prosecution under these Regulations in respect of the material shall, if that person attends before the sheriff by whom the material falls to be dealt with, be entitled to be heard and to call witnesses.

(5) Subject to paragraph (6), if it appears to the sheriff, on the basis of such evidence as the sheriff considers appropriate in the circumstances, that any material fails to comply with a specified Community provision, the sheriff shall condemn the material and order it to be destroyed or so disposed of as to prevent it from being used for human consumption or for feed.

(6) Where the material is the subject of an authorisation issued under the Council Regulation and has been produced in accordance with any conditions relating to that authorisation but is not labelled as required by Article 25 the sheriff may—

- (a) order that the material be labelled in compliance with Article 25 within a period or periods specified by the sheriff; and
  - (b) where the material is not so labelled within the period or periods so specified, condemn the material and order it to be destroyed or so disposed of as to prevent it from being used for human consumption or for feed.
- (7) Any expenses incurred in connection with the detention, labelling, destruction or disposal of the material pursuant to paragraphs (2), (5) or (6) shall be borne by the operator.
- (8) If a notice under paragraph (2)(a) is withdrawn, or the sheriff by whom any material falls to be dealt with under paragraphs (5) or (6) refuses to condemn it or order it to be labelled in accordance with these paragraphs, the enforcement authority shall compensate the owner of the material for any depreciation in its value resulting from the action taken by the inspector.
- (9) Any disputed question as to the right to or the amount of any compensation payable under paragraph (8) shall be determined by a single arbiter appointed, failing agreement by the parties, by the sheriff.