
SCOTTISH STATUTORY INSTRUMENTS

2007 No. 471

**The Materials and Articles in Contact
with Food (Scotland) Regulations 2007**

PART 5

General

Secondary analysis by the Government Chemist

- 17.—(1) Where a sample has been retained under regulation 16 and—
- (a) a decision has been made to send a report to the procurator fiscal or proceedings have been commenced against a person for an offence under these Regulations; and
 - (b) the result of the analysis carried out in accordance with regulation 16(3)(d) is to be adduced as evidence,
- paragraphs (2) to (6) apply.
- (2) The authorised officer—
- (a) may of the officer's own volition prior to a report being sent to the procurator fiscal; and
 - (b) shall—
 - (i) if requested by the prosecutor;
 - (ii) if the court so orders on the application of the prosecutor or the accused; or
 - (iii) if requested by the accused (subject to paragraph (5)),send the retained part of the sample to the Government Chemist for analysis.
- (3) The Government Chemist shall analyse the part sent under paragraph (2) and where the analysis is carried out—
- (a) under paragraph (2)(a) or (b)(i) or (iii), provide the authorised officer; or
 - (b) under paragraph (2)(b)(ii), provide the prosecutor and the accused,
- with a certificate of analysis.
- (4) The authorised officer shall immediately on receipt of the Government Chemist's certificate of analysis under paragraph 3(a) supply the prosecutor and the accused with a copy.
- (5) Where a request is made under paragraph (2)(b)(iii) the authorised officer may give notice in writing to the accused requesting payment of a fee specified in the notice in respect of the functions under paragraph (3), and in the absence of agreement by the accused to pay the fee the authorised officer may refuse to comply with the request.
- (6) Any certificate of the results of analysis transmitted by the Government Chemist shall be signed by or on behalf of the Government Chemist, but the analysis may be carried out by any person under the direction of the person who signs the certificate.

(7) Any certificate transmitted by or on behalf of the Government Chemist in accordance with paragraph (6) shall be taken as sufficient evidence of the facts stated therein unless any party to the proceedings requests that the person by whom the certificate is signed be called as a witness.

(8) In this regulation “accused” includes a person in respect of whom the authorised officer intends to submit a report to the procurator fiscal.