

POLICY NOTE

THE ANIMAL BY-PRODUCT (ENFORCEMENT) (SCOTLAND) REGULATIONS 2013

SSI 2013/307

The above instrument was made in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972. The instrument is subject to negative procedure.

Policy Objectives

The purpose of the instrument is to revoke and replace the Animal By-Products (Enforcement) (Scotland) Regulations 2011 (ABPES), which implement EU animal by-product rules as principally contained in Regulation (EC) No 1069/2009 (OJ L 300, 14.11.2009, p.1) and Commission Regulation (EU) No 142/2011 (OJ L 54, 26.2.2011, p.1).

In doing so, the instrument will revoke the Animal By-Products (Identification) Regulations 1995 (ABPI) and transfer the provision to require staining of animal by-products (ABPs) in food business establishments to the Animal By-Products (Enforcement) (Scotland) Regulations 2013 (now as set out in regulation 11 of the instrument).

The objective is to simplify, clarify and remove duplication from existing legislation on staining ABPs, whilst ensuring that the controls in place to address the possible fraudulent diversion of ABPs to the human or animal food chains are sufficient to safeguard public and animal health and do not pose a disproportionate financial or administrative burden on industry.

We have also taken the opportunity to refine certain provisions which were previously in ABPES including:

- the definition of “animal-by product requirements” as set out in regulation 2(1) of, and Schedule 1 to, the instrument;
- the requirements in relation to the application of organic fertilisers or soil improvers (see regulation 6 of the instrument);
- the provisions concerning notifications in respect of applications for approval of plants (regulation 15); and
- an updating of the small quantities derogation (regulation 32 of the instrument).

Although regulation 31 of the instrument saves the effect of many of the consequential amendments to other legislation in Schedule 2 to ABPES, we have also taken the opportunity to further refine some of those amendments:

- to update definitions of the relevant EU instruments; and
- to correct drafting errors identified (for example, in relation to the Older Cattle (Disposal) (Scotland) Regulations 2006 (paragraph 4 of Schedule 2 to the instrument); the Avian Influenza (H5N1 in Wild Birds)(Scotland) Order 2007 (paragraph 14 of Schedule 2 to the instrument) and the Avian Influenza (H5N1 in Poultry)(Scotland) Order 2007 (paragraph 18 of Schedule 2 to the instrument).

Consultation

During a consultation in July 2010 about wider proposals to implement the ABPES in Scotland, stakeholders were asked for initial views on revising or revoking the ABPI. There were 10 responses and the general view given by respondents was that physical staining of ABPs was an important measure to deter fraud. Most respondents did not comment on other provisions covering storage, segregation and labelling.

A more detailed and comprehensive public consultation took place from 5 October 2012 to 30 November 2012. One response was received which supported the proposal to amend the ABPES and in doing so revoke the ABPI and take over the provision to require staining ABPs in food business establishments.

Impact Assessments

There are no negative impacts on equality as the instrument only removes duplication from existing legislation therefore no new powers have been created.

Financial Effects

A Business and Regulatory Impact Assessment (BRIA) has been completed and is attached. The impact of this policy on business is:

1. To streamline current national legislation on staining, labelling, segregating and storing ABPs in certain food business establishments and ABP premises by removing existing duplication and out of date terminology in order to facilitate compliance by business and work of enforcement bodies;
2. To continue to protect public and animal health whilst minimising the burden of regulation, deregulating where safe to do so and aiming to achieve resource savings for businesses and enforcement bodies.

Scottish Government
Directorate for Agriculture, Food & Rural Communities
30 October 2013