

2013 No. 340

AGRICULTURE

**The Feed (Hygiene and Enforcement) and Animal Feed
(Scotland) Amendment Regulations 2013**

Made - - - - 27th November 2013

Laid before the Scottish Parliament 28th November 2013

Coming into force - - 12th January 2014

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972(a) and all other powers enabling them to do so.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Scottish Ministers that it is expedient for any reference to an Annex to the EU instrument referred to in regulation 2(2)(b) to be construed as a reference to that Annex as amended from time to time.

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 (Hygiene and Enforcement) and Animal Feed (Scotland) Amendment Regulations 2013 and come into force on 12th January 2014.

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

2.—(1) The Feed (Hygiene and Enforcement) (Scotland) Regulations 2005(c) are amended in accordance with paragraphs (2) to (4).

(a) 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46) (“the 1998 Act”), 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 section 27(1)(a) of the 2006 Act and by the European Union (Amendment) Act 2008 (c.7) (“the 2008 Act”), Schedule, Part 1. Paragraph 1A of Schedule 2 was inserted by section 28 of the 2006 Act and amended by Part 1 of Schedule 1 to the 2008 Act. The functions conferred on the Minister of the Crown under section 2(2), in so far as exercisable 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 food (including drink) including the primary production of food, relevant functions were transferred to the Scottish Ministers by the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2005.

(b) OJ L 31, 1.2.2002, p.1, last amended by Commission Regulation (EC) No 596/2009 (OJ L 188, 18.7.2009, p.14).

(c) S.S.I. 2005/608, relevantly amended by S.S.I. 2009/263.

- (2) In regulation 2 (interpretation)—
- (a) in paragraph (1) for the definition of “Regulation 183/2005” substitute—
- ““Regulation 183/2005” means Regulation (EC) No 183/2005 of the European Parliament and of the Council laying down requirements for feed hygiene(a);”; and
- (b) after paragraph (4) insert—
- “(5) Any reference in these Regulations to an Annex to Regulation 183/2005 is a reference to that Annex as amended from time to time.”.
- (3) For regulation 4 (competent authorities) substitute—

“Competent authorities

- 4.—**(1) The competent authorities for the purposes of Regulation 183/2005 are—
- (a) in respect of Articles 9(1) and (3), 18(3), 20(2), 21(1) and 22(2)(b), the Agency and the feed authority;
- (b) in respect of Articles 7, 9(2), 10, 13, 14, 15, 16, 17, 18(1), (2) and (4) and 19(2), the feed authority; and
- (c) in respect of Article 19(1), the Agency.
- (2) The competent authorities for the purposes of the section headed “DIOXIN MONITORING” in Annex II to Regulation 183/2005 are—
- (a) in respect of paragraph 2(e), the feed authority; and
- (b) in respect of paragraph 7, the feed authority and the Agency.”.
- (4) For Schedule 2 (fees payable for approval) substitute the Schedule 2 in Schedule 1 to these Regulations.

Amendment of the Animal Feed (Scotland) Regulations 2010

- 3.—**(1) The Animal Feed (Scotland) Regulations 2010(b) are amended in accordance with paragraphs (2) to (4).
- (2) In regulation 2 (interpretation and scope)—
- (a) in paragraph (1), omit the definition of “Regulation 242/2010”; and
- (b) for paragraph (3) substitute—
- “(3) Any reference to an Annex to Directive 82/475, Directive 2002/32, Directive 2008/38 or Regulation 767/2009 is a reference to that Annex as it may be amended from time to time.”.
- (3) For paragraph (1) of regulation 4 (enforcement of requirements of Regulation 767/2009), substitute—
- “(1) Subject to the transitional provisions contained in Article 32, any person who—
- (a) contravenes or fails to comply with the provisions of Regulation 767/2009 specified in Schedule 1; or
- (b) places on the market or uses any feed that fails to comply with Article 6(1) or 8, commits an offence.”.
- (4) For Schedule 1 (specified provisions of Regulation 767/2009) substitute the Schedule 1 in Schedule 2 to these Regulations.

(a) OJ L 77, 16.3.2012, p.1, as last amended by Commission Regulation (EU) No 225/2012 amending Annex II to Regulation (EC) No 183/2005 of the European Parliament and of the Council as regards the approval of establishments placing on the market, for feed use, products derived from vegetable oils and blended fats and as regards the specific requirements for production, storage, transport and dioxin testing of oils, fats and products derived thereof.

(b) S.S.I. 2010/373.

Consequential Amendment

4. In the Feed (Hygiene and Enforcement) (Scotland) Amendment Regulations 2009^(a), omit regulation 2(3) (amendment of the Feed (Hygiene and Enforcement) (Scotland) Regulations 2005).

St Andrew's House,
Edinburgh
27th November 2013

RICHARD LOCHHEAD
A member of the Scottish Government

^(a) S.S.I. 2009/263.

SCHEDULE 1

Regulation 2(4)

“SCHEDULE 2

Regulation 14

FEES PAYABLE FOR APPROVALS

<i>Activity requiring approval of establishment</i>	<i>Fee (£)</i>
Manufacture only, or manufacture and placing on the market, of substances referred to in Article 10(1)(a) or (b) of Regulation 183/2005 other than those feed additives specified in regulation 2(3) of these Regulations, or of premixtures of such additives	451.00
Placing on the market of substances referred to in Article 10(1)(a) or (b) of Regulation 183/2005 other than those feed additives specified in regulation 2(3) of these Regulations, or of premixtures of such additives	226.00
Any of the activities referred to at Point 10 of the Section headed “Facilities and Equipment” in Annex II to Regulation 183/2005	451.00”

SCHEDULE 2

Regulation 3(4)

“SCHEDULE 1

Regulation 4(1)

SPECIFIED PROVISIONS OF REGULATION 767/2009

<i>Specified provision</i>	<i>Subject matter</i>
Article 4(1) & (2), as read with Article 4(3) and Annex I	General safety and other requirements to be met when feed is placed on the market or used
Article 5(1)	Extension of requirements in relation to feed for food-producing animals in other legislation to apply to feed for non food-producing animals
Article 5(2), as read with Article 12(1), (2) & (3)	Obligation on person responsible for labelling to make information available to competent authority
Article 9	Controls on the marketing of feeds for particular nutritional purposes
Article 11, as read with Article 12(1), (2) & (3), Annexes II & IV and the Catalogue of feed materials	Rules and principles governing the labelling and presentation of feed
Article 12(4) & (5)	Designation of the person responsible for labelling and the obligations and responsibilities of that person
Article 13(1), as read with Article 12(1), (2) & (3)	General conditions on making a claim about the characteristics or functions of a feed on the labelling or presentation of it
Article 13(2) & (3), as read with Article 12(1), (2) & (3)	Special conditions applying to claims concerning optimisation of the nutrition and support or protection of the physiological conditions
Article 14(1) & (2), as read with Article 12(1), (2) & (3)	Requirements for the presentation of the mandatory labelling particulars
Article 15, as read with Article 12(1), (2) & (3), Annex VI and VII and Article 21	General mandatory labelling requirements for feed materials and compound feeds
Article 16, as read with Articles 12(1), (2) & (3) and 21, Annex II and V and the Catalogue of feed materials	Specific labelling requirements for feed materials
Article 17(1) & (2), as read with Articles 12(1), (2) & (3) and 21 and Annex II, VI & VII	Specific labelling requirements for compound feeds
Article 18, as read with Article 12(1), (2) & (3)	Additional labelling requirements for feed for particular nutritional purposes (dietetic feeds)
Article 19, as read with Article 12(1), (2) & (3)	Additional labelling requirements for pet food
Article 20(1), as read with Article 12(1), (2) & (3) and Annex VIII	Additional requirements for labelling of non-compliant feed, such as that containing contaminated materials
Article 23	Requirements relating to the packaging and sealing of feed materials and compound feeds for placing on the market
Article 24(5)	Requirement that if the name of a feed material listed in the

<i>Specified provision</i>	<i>Subject matter</i>
	Catalogue of feed materials is used, all relevant provisions of the Catalogue must be complied with.
Article 24(6)	Obligation on a person who first places on the market a feed material not listed in the Catalogue of feed materials to notify its use
Article 25(4)	Requirement that if use of the Community Codes of good labelling practice is indicated on labelling, all relevant provisions of the codes must be complied with”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Feed (Hygiene and Enforcement) (Scotland) Regulations 2005 (“the 2005 Regulations”) (regulation 2) and the Animal Feed (Scotland) Regulations 2010 (“the 2010 Regulations”) (regulation 3) in order to provide for the enforcement of Commission Regulation (EU) No 225/2012 amending Annex II to Regulation (EC) No 183/2005 of the European Parliament and of the Council as regards the approval of establishments placing on the market, for feed use, products derived from vegetable oils and blended fats and as regards the specific requirements for production, storage, transport and dioxin testing of oils, fats and products derived thereof (“Regulation 225/2012”).

Paragraph 1A of Schedule 2 to the European Communities Act 1972 is cited in the enabling powers for these Regulations because regulation 2 inserts a new provision into the 2005 Regulations that any reference to an Annex to Regulation (EC) No 183/2005 of the European Parliament and of the Council of 12 January 2005 laying down requirements for food hygiene (“Regulation 183/2005”) means that Annex as amended from time to time.

Regulation 2 amends the 2005 Regulations so that the definition of Regulation 183/2005 includes the amendment made to it by Regulation 225/2012. It also amends the designation of the competent authorities in the 2005 Regulations to cover the references in the new section on dioxin monitoring in Annex II to Regulation 183/2005. Regulation 2 replaces the existing Schedule 2 to the 2005 Regulations (fees payable for approval) to extend the requirement to pay a fee for approval to the categories of establishment now listed in Annex II of Regulation 183/2005.

Regulation 3 amends the 2010 Regulations to remove the definition of and references to Commission Regulation (EU) No 242/2010 of 19 March 2010 creating the catalogue of feed materials as that Regulation has been repealed.

It also amends regulation 4(c) and Schedule 1 to the 2010 Regulations. They provide that it is an offence for any person: (1) to contravene or fail to comply with specified provisions of Regulation (EC) No 767/2009 of the European Parliament and of the Council of 13 July 2009 on the placing on the market and use of feed, amending European Parliament and Council Regulation (EC) No 1831/2003 and repealing Council Directive 79/373/EEC, Commission Directive 80/511/EEC, Council Directives 82/471/EEC, 93/74/EEC, 93/113/EC and 96/25/EC and Commission Decision 2004/217/EC (“Regulation 767/2009”); or (2) to place on the market or use any feed that fails to comply with Article 6(1) or 8 of Regulation 767/2009.

These Regulations also make a consequential amendment to the Feed (Hygiene and Enforcement) (Scotland) Amendment Regulations 2009 (regulation 4).

A Business and Regulatory Impact Assessment has been prepared and placed in the Scottish Parliament Information Centre. Copies may be obtained from the Food Standards Agency (Scotland), 6th Floor, St Magnus House, 25 Guild Street, Aberdeen, AB11 6NJ and online at www.legislation.gov.uk.

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