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*Draft Regulations laid before the Scottish Parliament under section 2(2) of the European Communities Act 1972, for approval by resolution of the Scottish Parliament.*

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## DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2020 No.**

## **AGRICULTURE**

### **The Feed (Transfer of Functions) (Miscellaneous Amendments) (Scotland) Regulations 2020**

*Made - - - - 2020  
Coming into force in accordance with regulation 1(2)  
and (3)*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 68(1), 74A(1), (2) and (4) and 84 of the Agriculture Act 1970(1), section 2(2) of the European Communities Act 1972(2), section 16(1) of the Food Safety Act 1990(3), section 35(1) and (2) of the Food (Scotland) Act 2015(4), and all other powers enabling them to do so.

There has been consultation as required by section 84(1) of the Agriculture Act 1970 with such persons or organisations appearing to represent the interests concerned and 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(5).

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- (1) 1970 c.40. Section 66(1) contains definitions of the expressions “the Ministers”, “prescribed” and “regulations” and was relevantly amended by S.I. 2004/3254 and S.S.I. 2010/354. Section 74A was inserted by paragraph 6 of Schedule 4 to the European Communities Act 1972 (c.68). Section 74A was inserted by paragraph 6 of schedule 4 of the European Communities Act 1972 (c.68) and was amended by S.I. 2011/1043. Section 84 was amended by S.I. 2004/3254.
- (2) 1972 c.68 (“the 1972 Act”). The 1972 Act was repealed by section 1 of the European Union (Withdrawal) Act 2018 (c.16) (“the 2018 Act”) with effect from exit day (see section 20 of the 2018 Act), but saved, subject to modifications, until IP completion day by section 1A of that Act. Section 1A of the 2018 Act was inserted by the European Union (Withdrawal Agreement) Act 2020 (c.1) (“the 2020 Act”), and defines “IP completion day” by reference to section 39(1) to (5) of the 2020 Act. 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”), section 3(3) and schedule 1, Part 1. Paragraph 1A of schedule 2 was inserted by section 28 of the 2006 Act and amended by Part 1 of the Schedule to the 2008 Act and S.I. 2007/1388. The functions conferred upon the Minister of the Crown under section 2(2), insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.
- (3) 1990 c.16. Section 16(1)(da) inserted by Food (Scotland) Act 2015 (asp 1), subsection. 34(1).
- (4) 2015 asp 1.
- (5) OJ L 31, 1.2.2002, p.1, as last amended by Regulation (EU) 2019/1243 of the European Parliament and of the Council (OJ L 198, 25.7.2019, p.241).

In accordance with section 33(1) of the Interpretation and Legislative Reform (Scotland) Act 2010<sup>(6)</sup>, a draft of this instrument has been laid before, and approved by resolution of, the Scottish Parliament.

### **Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Feed (Transfer of Functions) (Miscellaneous Amendments) (Scotland) Regulations 2020.

(2) Subject to paragraph (3), the day appointed for the coming into force of these regulations is 1 April 2021.

(3) The day appointed for the coming into force of this regulation and regulation 7(2) and (5) is 31 December 2020.

(4) These Regulations extend to Scotland only.

### **Amendment of the Agriculture Act 1970**

2.—(1) The Agriculture Act 1970 is amended as follows.

(2) In section 66(1) (interpretation of Part IV)—

- (a) in the definition of “agricultural analyst” for “section 67” substitute “67A”,
- (b) omit the definition of “enforcement authority”, and
- (c) in the definition of “inspector” for “section 67” substitute “67A”.

(3) Section 67 (enforcement authorities and appointment of inspectors and analysts) is repealed in so far as it applies to Scotland.

(4) After section 67 insert—

#### **“Enforcement authorities and appointment of inspectors and analysts in Scotland**

**67A.**—(1) Food Standards Scotland must enforce this Part of this Act in so far as it relates to feeding stuff.

(2) For the purposes of performing its duty under the provisions of this Part of this Act, Food Standards Scotland must appoint—

- (a) an agricultural analyst, and if it thinks fit, one or more deputy analysts, and
- (b) such inspectors as may be necessary.

(3) Every council constituted under section 2 of the Local Government etc. (Scotland) Act 1994<sup>(7)</sup> must enforce this Part of this Act within their area in so far as it relates to fertiliser.

(4) For the purposes of performing its duty under the provisions of this Part of this Act, a council must appoint—

- (a) an agricultural analyst, and if it thinks fit, one or more deputy analysts, and
- (b) such inspectors as may be necessary.

(5) In so far as it applies to fertiliser, a person may be appointed as an inspector or as agricultural analyst or deputy agricultural analyst for the areas of two or more councils by those councils acting jointly.

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(6) 2010 asp 10.

(7) 1994 asp c.19.

(6) In so far as it applies to fertiliser if the Scottish Ministers are of opinion that this Part of this Act has been insufficiently enforced in the area of any council the Scottish Ministers may appoint one or more inspectors to exercise in that area the powers exercisable by inspectors appointed by the council, and any expenses certified by the Scottish Ministers as having been incurred by the Scottish Ministers under this subsection in respect of that area must be repaid to the Scottish Ministers, on demand, by the council in question.

(7) A person must not be appointed as agricultural analyst or deputy agricultural analyst unless that person has the prescribed qualifications.

(8) Nothing in this section shall be taken as authorising Food Standards Scotland or any council to institute proceedings for an offence.”

(5) After section 72 insert—

#### **“Delegation by Food Standards Scotland**

**72A.**—(1) Where Food Standards Scotland may delegate any function under this Part of this Act, it may delegate the function to any person.

(2) Before delegating, Food Standards Scotland must consult the person to whom any delegation is to be made.

(3) Where Food Standards Scotland delegates any function, it must specify the function and the area within which that function is to be performed.

(4) Where Food Standards Scotland has delegated any function, Food Standards Scotland may vary, suspend or cancel that delegation, in whole or in part.

(5) Food Standards Scotland must publish and maintain an up to date register containing the details and operative date of any delegation.”

(6) In section 76(5), at the end insert “or Food Standards Scotland (as the case may be)”.

(7) In section 79(5) (supplementary provisions relating to samples and analysis) for “67(3)(b)” substitute “67A(2)(a) or (4)(a)”.

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

**3.**—(1) The Genetically Modified Animal Feed (Scotland) Regulations 2004(8) are amended as follows.

(2) In regulation 2(a) (interpretation), for the definition “enforcement authority” substitute—  
““enforcement authority” means Food Standards Scotland;”

(3) In regulation 4 (enforcement)—

(a) for paragraph (1) substitute—

“(1) The enforcement authority must enforce and execute these Regulations and Chapter III of the Community Regulation.”,

(b) for paragraph (2) substitute—

“(2) The enforcement authority may appoint as inspectors such persons as it considers necessary for the purpose of enforcing these Regulations and Chapter III of the Community Regulation.”, and

(c) omit paragraph (3).

(4) After regulation 10 (time limit for prosecutions) insert—

### **“Delegation by the enforcement authority**

**11.—**(1) Where the enforcement authority may delegate any function under these Regulations, it may delegate the function to any person.

(2) Before delegating, the enforcement authority must consult the person to whom any delegation is to be made.

(3) Where the enforcement authority delegates any function, it must specify the function and the area within which that function is to be performed.

(4) Where the enforcement authority has delegated any of its functions, the enforcement authority may vary, suspend or cancel that delegation, in whole or in part.

(5) The enforcement authority must publish and maintain an up to date register containing the details and operative date of any delegation.

### **Transitional and savings provisions**

**12.—**(1) The validity, effect or consequences of anything done under these Regulations as they had effect immediately before Food Standards Scotland becomes the enforcement authority is not affected by Food Standards Scotland becoming the enforcement authority.

(2) Any inspection, investigation or legal proceedings commenced prior to Food Standards Scotland becoming the enforcement authority is not affected by Food Standards Scotland becoming the enforcement authority.

(3) Any inspection, investigation or legal proceeding commenced prior to Food Standards Scotland becoming the enforcement authority may be continued after that date as if the amendments to these Regulations coming into force on that day had not been made.

(4) Any liability to a penalty for an offence committed before Food Standards Scotland becoming the enforcement authority is not affected by Food Standards Scotland becoming the enforcement authority.

(5) Despite Food Standards Scotland becoming the enforcement authority, these Regulations as they had effect before that day continue to have effect for the purposes of investigating any offence referred in paragraph (4).”.

### **Amendment of the Genetically Modified Organisms (Traceability and Labelling) (Scotland) Regulations 2004**

**4.—**(1) The Genetically Modified Organisms (Traceability and Labelling) (Scotland) Regulations 2004<sup>(9)</sup> are amended as follows.

(2) In regulation 2(1) (interpretation), after the definition of “electronic communications” insert—

““feed” has the same meaning as in the Council Regulation;”.

(3) In regulation 3 (enforcement)—

(a) for paragraph (1) substitute—

“(1) Subject to paragraph (2)—

(a) each local authority must, in its area, enforce and execute these Regulations and the Council Regulation, in so far as it relates to food, and

(b) Food Standards Scotland must enforce and execute these Regulations and the Council Regulation, in so far as it relates to feed.”.

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(9) S.S.I. 2004/438.

- (b) for paragraph (2) substitute—
  - “(2) The Scottish Ministers may, in relation to any case of a particular description, direct that the duty of a local authority or Food Standards Scotland under paragraph (1) be discharged—
    - (a) in so far as it relates to food, by the Scottish Ministers instead of the local authority or by the Scottish Ministers and the local authority acting jointly,
    - (b) in so far as it relates to feed by the Scottish Ministers instead of Food Standards Scotland or by the Scottish Ministers and Food Standards Scotland acting jointly.”,
  - (c) omit paragraph (4)(a).
- (4) In regulation 5 (obtaining information from persons)—
  - (a) for paragraph (1) substitute—
    - “(1) Subject to regulation 3(1), for the purpose of the enforcement and execution of these Regulations and the Council Regulation, the local authority, Food Standards Scotland or the Scottish Ministers (as the case may be) may by notice in writing served on any person who falls within paragraph (1A), require that person to furnish such relevant information available to the person as is specified in the notice, in such form and within such period as is specified.
      - (1A) A person falls within this paragraph if the person appears to the local authority, Food Standards Scotland or the Scottish Ministers (as the case may be)—
        - (a) to be involved in the placing on the market of—
          - (i) products consisting of or containing genetically modified organisms, or
          - (ii) food or feed produced from genetically modified organisms; or
        - (b) to be about to become, or to have been, involved in either of those activities.”,
      - (b) in paragraph (3) after “local authority” insert “, Food Standards Scotland”.
  - (5) In regulation 6(4) (incorrectly labelled products) after “local authority” insert “, Food Standards Scotland”.
  - (6) After regulation 12 (service of notices) insert—

#### **“Delegation by Food Standards Scotland**

**13.—**(1) Where Food Standards Scotland may delegate any function under these Regulations, it may delegate the function to any person.

(2) Before delegating, Food Standards Scotland must consult the person to whom any delegation is to be made.

(3) Where Food Standards Scotland delegates any function, it must specify the function and the area within which that function is to be performed.

(4) Where Food Standards Scotland has delegated any of its functions, Food Standards Scotland may vary, suspend or cancel that delegation, in whole or in part.

(5) Food Standards Scotland must publish and maintain an up to date register containing the details and operative date of any delegation.

#### **Transitional and saving provisions applying to feed**

**14.—**(1) The validity, effect or consequences of anything done under these Regulations as they had effect immediately before Food Standards Scotland becomes responsible to execute

and enforce these Regulations in regulation 3(1)(b) is not affected by Food Standards Scotland becoming responsible to execute and enforce these Regulations.

(2) Any inspection, investigation or legal proceedings commenced prior to Food Standards Scotland becoming responsible to execute and enforce these Regulations in regulation 3(1)(b) is not affected by Food Standards Scotland becoming responsible to execute and enforce these Regulations.

(3) Any inspection, investigation or legal proceeding commenced prior to Food Standards Scotland becoming responsible to execute and enforce these Regulations in regulation 3(1)(b) may be continued after that date as if the amendments to these Regulations coming into force on that day had not been made.

(4) Any liability to a penalty for an offence committed before Food Standards Scotland becoming responsible to execute and enforce these Regulations in regulation 3(1)(b) is not affected by Food Standards Scotland becoming responsible to execute and enforce these Regulations.

(5) Despite Food Standards Scotland becoming responsible to execute and enforce these Regulations in so far as it applies to feed these Regulations as they had effect before that day continue to have effect for the purposes of investigating any offence referred in paragraph (4).”.

(7) In schedule 2 (powers of inspectors), in paragraph 1(a), after “a local authority” insert “, Food Standards Scotland”.

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

**5.—(1)** The Feed (Hygiene and Enforcement) (Scotland) Regulations 2005(10) are amended as follows.

- (2) In regulation 2(1) (interpretation)—
- (a) omit the definition of “the Agency”,
  - (b) omit the definition of “feed authority”, and
  - (c) for the definition of “agricultural analyst” substitute—
    - ““agricultural analyst” means an agricultural analyst appointed under section 67A(2) (a) of the Act, and includes a deputy analyst;”.
- (3) For regulation 4 (competent authorities) substitute—

#### **“Competent authority**

**4.** The competent authority for the purposes of Regulation 183/2005 is Food Standards Scotland.”.

- (4) Omit regulation 7 (form of declaration in relation to transitional measures).
- (5) In regulation 8 (form of application for approval)—
- (a) omit “for the area in which the establishment is located”,
  - (b) in paragraph (e) omit “for the area in which the establishment to which the declaration relates is situated”.
- (6) In regulation 9 (procedure for suspension of registration or approval) the paragraph following paragraph (1) is renumbered “(2)”.
- (7) In regulation 11 (procedure for the revocation of registration or approval) for paragraph (3), substitute—

- “(3) Where the competent authority has revoked a registration or approval pursuant to this regulation it must make the appropriate amendments to its own register of feed business establishments to ensure compliance with Article 19(3) (updating of national lists).”.
- (8) In regulation 12(1) (form of application for amendments to approval or registration) omit “for the area in which the relevant feed business establishment is located”.
- (9) In regulation 15 (offences, penalties and enforcement) for paragraph (3) substitute—
- “(3) The competent authority for the purposes of Articles 15, 18 and 20 of Regulation 178/2002 is Food Standards Scotland.”.
- (10) In regulation 16 (enforcement)—
- (a) for paragraph (1) substitute—
- “(1) The relevant provisions are to be executed and enforced by Food Standards Scotland.”,
- (b) omit paragraph (2), and
- (c) in paragraph (3) for “Agency or any feed authority” substitute “Food Standards Scotland”.
- (11) In regulation 19 (appeals to court of session)—
- (a) for the heading substitute “Appeals to the Sheriff Appeal Court”,
- (b) for “Court of Session” substitute “Sheriff Appeal Court”.
- (12) In regulation 29 (appointment of agricultural analysts), omit paragraph (3).
- (13) In regulation 30(1)(b) (procedure relating to samples for analysis) omit “for the area of the enforcement authority from which the authorised officer derives authority”.
- (14) For regulation 32 (Scottish Ministers’ default powers and area of authorised officer’s powers) substitute—

**“Delegation by the competent authority**

- 32.**—(1) Where Food Standards Scotland may delegate any function under these Regulations, it may delegate the function to any person.
- (2) Before delegating, Food Standards Scotland must consult the person to whom any delegation is to be made.
- (3) Where Food Standards Scotland delegates any function, it must specify the function and the area within which that function is to be performed.
- (4) Where Food Standards Scotland has delegated any of its functions Food Standards Scotland may vary, suspend or cancel that delegation, in whole or in part.
- (5) Food Standards Scotland must publish and maintain an up to date register containing the details and operative date of any delegation.”.
- (15) After regulation 37 (revocations) insert—

**“Transitional and savings provisions**

- 38.**—(1) The validity, effect or consequences of anything done under these Regulations as they had effect immediately before Food Standards Scotland becomes the enforcement authority is not affected by Food Standards Scotland becoming the enforcement authority.
- (2) Any inspection, investigation or legal proceedings commenced prior to Food Standards Scotland becoming the enforcement authority is not affected by Food Standards Scotland becoming the enforcement authority.

(3) Any inspection, investigation or legal proceeding commenced prior to Food Standards Scotland becoming the enforcement authority may be continued after that date as if the amendments to these Regulations coming into force on that day had not been made.

(4) Any liability to a penalty for an offence committed before Food Standards Scotland becoming the enforcement authority is not affected by Food Standards Scotland becoming the enforcement authority.

(5) Despite Food Standards Scotland becoming the enforcement authority, these Regulations as they had effect before that day continue to have effect for the purposes of investigating any offence referred in paragraph (4).”.

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

6.—(1) The Official Feed and Food Controls (Scotland) Regulations 2009<sup>(11)</sup> are amended as follows.

(2) In regulation 2(1) (interpretation)—

(a) in the definition beginning “Decision 2007/275”, after “Regulation 853/2004,” insert “Regulation 183/2005<sup>(12)</sup>,”,

(b) for the definition of “feed authority” substitute—

““feed authority” means Food Standards Scotland;”,

(c) in the definition of “primary production” after “Regulation 852/2004” insert “and Regulation 183/2005”.

(3) In regulation 3(competent authorities)—

(a) for paragraph (1) substitute—

“The Agency is the designated competent authority for the purposes of Regulation 2017/625<sup>(13)</sup> in so far as it applies to relevant feed law.”,

(b) omit paragraph (2).

(4) After regulation 3 (competent authorities) insert—

#### **“Delegation by feed authority**

**3A.**—(1) Subject to regulation 3(1), where the feed authority may delegate any function under these Regulations, it may delegate the function to any person.

(2) Before delegating, the feed authority must consult the person to whom any delegation is to be made.

(3) Where the feed authority delegates any function, it must specify the function and the area within which that function is to be performed.

(4) Where the feed authority has delegated any of its functions, the feed authority may vary, suspend or cancel that delegation, in whole or in part.

(5) The feed authority must publish and maintain an up to date register containing the details and operative date of any delegation.”.

(5) In regulation 6 (power to issue codes of recommended practice)—

(a) in paragraph (1) omit “feed authorities and”,

(b) in paragraph (2) omit “feed authority or”, and

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<sup>(11)</sup> S.S.I. 2009/446.

<sup>(12)</sup> OJ L 77, 16.3.2012, p.1.

<sup>(13)</sup> OJ L 95 7.4.2017, p.1.



- (c) in paragraph (3) omit “feed authority and”.
- (6) In regulation 23 (feed enforcement responsibilities and competent authority status)—
  - (a) for paragraph (1) substitute—
    - “(1) The feed authority must execute and enforce the Import Provisions in relation to feed.”,
  - (b) omit paragraph (3).
- (7) After regulation 52 (revocations) insert—

**“Transitional and savings provisions applying to feed**

**53.**—(1) The validity, effect or consequences of anything done under these Regulations as they had effect immediately before Food Standards Scotland becomes the feed authority is not affected by Food Standards Scotland becoming the feed authority.

(2) Any inspection, investigation or legal proceedings commenced prior to Food Standards Scotland becoming the feed authority is not affected by Food Standards Scotland becoming the feed authority.

(3) Any inspection, investigation or legal proceeding commenced prior to Food Standards Scotland becoming the feed authority may be continued after that date as if the amendments to these Regulations coming into force on that day had not been made.

(4) Any liability to a penalty for an offence committed before Food Standards Scotland becoming the feed authority is not affected by Food Standards Scotland becoming the feed authority.

(5) Despite the Agency becoming the feed authority, these Regulations as they had effect before that day continue to have effect for the purposes of investigating any offence referred in paragraph (4).”.

- (8) In Schedule 4, in columns 1 and 2 of the table omit to the entry for “The feed authority”.

**Amendment of the Animal Feed (Scotland) Regulations 2010**

**7.**—(1) The Animal Feed (Scotland) Regulations 2010(14) are amended as follows.

- (2) In regulation 2 (interpretation and scope)—
  - (a) in paragraph (1)—
    - (i) omit the definition of “Directive 2008/38”,
    - (ii) after the definition of “Regulation 767/2009” insert—
      - ““Regulation 2020/354” means Commission Regulation (EU) 2020/354 establishing a list of intended uses of feed intended for particular nutritional purposes and repealing [Directive 2008/38/EC\(15\)](#),”
    - (iii) for the definition of “feed authority” substitute—
      - ““feed authority” means Food Standards Scotland”,
  - (b) in paragraph (2), for “or Regulation 767/2009” substitute “, Regulation 767/2009 or Regulation 2020/354”, and
  - (c) in paragraph (3) for “Directive 2008/2008” substitute “Regulation 2020/354”.
- (3) In regulation 4(1) (enforcement of requirements of Regulation 767/2009) for “Subject to the transitional provisions contained in Article 32, any” substitute “A”.

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(14) [S.S.I. 2010/373](#).

(15) [OJ No. L 67, 5.3.2020, p.1](#).

(4) For regulation 5 (competent authorities for the purposes of Regulation 767/2009) substitute—

**“Competent authority for the purposes of Regulation 767/2009**

5. The feed authority is the competent authority for the purposes of Regulation 767/2009”.

(5) For Part 5 (feeds for particular nutritional purposes) substitute—

**“PART 5**

**Enforcement of Regulation 2020/354**

**Interpretation of this Part**

10. In this Part any reference to a numbered Article is a reference to the Article so numbered in Regulation 2020/354.

**Offence of failing to comply with a specified provision of Regulation 2020/354**

11. A person who contravenes or fails to comply with Article 1 (conditions on marketing) as read with Article 2 (derogation for feed which complies with the provisions of [Directive 2008/38/EC](#)) and Article 3 (derogation for feed labelled before 25 March 2022 in accordance with the rules applicable before 25 March 2020) commits an offence.”.

(6) In regulation 12 (penalties for offences under these Regulations), in paragraph (1), for “11(1)” substitute “11”.

(7) In regulation 13 (duties to enforce) for “each feed authority within its area” substitute “the feed authority”.

(8) After regulation 13 (duties to enforce) insert—

**“Delegation by the feed authority**

13A.—(1) Where the feed authority may delegate any function under these Regulations, it may delegate the function to any person..

(2) Before delegating, the feed authority must consult the person to whom any delegation is to be made.

(3) Where the feed authority delegates any function, it must specify the function and the area within which that function is to be performed.

(4) Where the feed authority has delegated any of its functions, the feed authority may vary, suspend or cancel that delegation, in whole or in part.

(5) The feed authority must publish and maintain an up to date register containing the details and operative date of any delegation.”.

(9) After regulation 17 (revocations) insert—

**“Transitional provisions**

18.—(1) The validity, effect or consequences of anything done under these Regulations as they had effect immediately before the Food Standards Scotland becomes the feed authority is not affected by the Food Standards Scotland becoming the feed authority.

(2) Any inspection, investigation or legal proceedings commenced prior to the Food Standards Scotland becoming the feed authority is not affected by the Food Standards Scotland becoming the feed authority.

(3) Any inspection, investigation or legal proceeding commenced prior to the Food Standards Scotland becoming the feed authority may be continued after that date as if the amendments to these Regulations coming into force on that day had not been made.

(4) Any liability to a penalty for an offence committed before the Food Standards Scotland becoming the feed authority is not affected by the Food Standards Scotland becoming the feed authority.

(5) Despite Food Standards Scotland becoming the feed authority, these Regulations as they had effect before that day continue to have effect for the purposes of investigating any offence referred in paragraph (4).”.

### **Amendment of the Feed (Sampling and Analysis and Specified Undesirable Substances) (Scotland) Regulations 2010**

**8.**—(1) The Feed (Sampling and Analysis and Specified Undesirable Substances) (Scotland) Regulations 2010(**16**) are amended as follows.

(2) In regulation 5 (qualifications of analysts)—

- (a) for “67(5)” substitute “67A(7)”, and
- (b) for “67(3)” substitute “67A(2)(a)”.

(3) In schedule 1 Part II (notes for completion of certificate) in point 1 after “the name of the local authority” insert “ in whose area the sample was taken”.

### **Amendment of the Animal Feed (Basic Safety Standards) (Scotland) Regulations 2018**

**9.**—(1) The Animal Feed (Basic Safety Standards) (Scotland) Regulations 2018(**17**) are amended as follows.

(2) In regulation 2(1) (interpretation) for the definition of “feed authority” substitute—  
““the feed authority” means Food Standards Scotland”.

St Andrew’s House,  
Edinburgh  
Date

*Name*  
A member of the Scottish Government

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## EXPLANATORY NOTE

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

These Regulations which applying to Scotland only provide for the transfer of functions for execution and enforcement of feed law in Scotland from Local Authorities in their areas to Food Standards Scotland, and make provision for Food Standards Scotland to delegate all or part of its functions.

Regulation 2 repeals section 67 of the Agriculture Act 1970 ([1970 c.40](#)) in so far as it applies to Scotland, and inserts a new section 67A (applying to Scotland only). Section 67A makes Food Standards Scotland responsible for enforcing Part IV of the Agriculture Act 1970 in so far as it applies to feed and Local Authorities in so far as it applies to fertiliser.

Regulation 3 amends the Genetically Modified Animal Feed (Scotland) Regulations 2004 ([S.S.I. 2004/433](#)) to provide for the transfer of responsibility to enforce these Regulations from Local Authorities in their areas to Food Standards Scotland, and make provision for Food Standards Scotland to delegate all or part of its functions.

Regulation 4 amends the Genetically Modified Organisms (Traceability and Labelling) (Scotland) Regulations 2004 ([S.S.I. 2004/438](#)) to transfer the responsibility for enforcing these Regulations in so far as they apply to feed from Local Authorities in their areas to Food Standards Scotland, and make provision for Food Standards Scotland to delegate all or part of its functions. The responsibility for enforcing these Regulations in so far as they apply to food remains with Local Authorities.

Regulation 5 amends the Feed (Hygiene and Enforcement) (Scotland) Regulations 2005 ([S.S.I. 2005/608](#)) to provide for the transfer of responsibility to enforce these Regulations from Local Authorities in their areas to Food Standards Scotland, and make provision for Food Standards Scotland to delegate all or part of its functions.

Regulation 6 amends the Official Feed and Food Controls (Scotland) Regulations 2009 ([S.S.I. 2009/446](#)) to transfer the responsibility for enforcing these Regulations in so far as they apply to feed from Local Authorities in their areas to Food Standards Scotland, and make provision for Food Standards Scotland to delegate all or part of its functions. The responsibility for enforcing these Regulations in so far as they apply to food remains with Local Authorities.

Regulation 7 amends the Animal Feed (Scotland) Regulations 2010 ([S.S.I. 2010/373](#)) ) to provide for the execution and enforcement of Commission Regulation (EU) 2020/354 establishing a list of intended uses of feed intended for particular nutritional purposes and repealing [Directive 2008/38/EC](#) (OJ No. L 67, 5.3.2020, p.1.). It also provides for the transfer of responsibility to enforce these Regulations from Local Authorities in their areas to Food Standards Scotland, and make provision for Food Standards Scotland to delegate all or part of its functions.

Regulation 8 amends the Feed (Sampling and Analysis and Specified Undesirable Substances) (Scotland) Regulations 2010 ([S.S.I. 2010/354](#)) by updating the schedule to reflect the changes made to at Regulations 2 to 7.

Regulation 9 amends The Animal Feed (Basic Safety Standards) (Scotland) Regulations 2018 ([S.S.I. 2018/15](#)) by making Food Standards Scotland responsible for enforcing these Regulations.