

SCHEDULE 5

Regulation 7

REGULATIONS RELATING TO IMPORTS AND EXPORTS: CONSEQUENTIAL PROVISIONS

PART I

Consequential modifications to the Imported Food (Scotland) Regulations 1985

1. In regulation 12(1), there is inserted before the definition of “bulk lard” the following—
““the Agency” means the Food Standards Agency;”.
2. In regulation 13(1) and (3) for the words “the Secretary of State” and “appears to him” wherever they appear there is substituted the words “the Agency” and “appears to it”, respectively.

PART II

Consequential modifications to the Products of Animal Origin (Import and Export) Regulations 1996

1. In regulation 1(2), there is inserted in the appropriate alphabetical position the following—
““the Agency” means the Food Standards Agency;”
- 2.—(1) In regulation 3(1)(a) the words “by the Minister of Agriculture, Fisheries and Food” to the end of that sub-paragraph are deleted and there is substituted the words “the Scottish Ministers and the Agency in relation to Scotland”.
(2) For paragraph (2) of regulation 3 there is substituted the following—
“(2) Subject to paragraph (4) below where the Scottish Ministers are satisfied that a local authority in Scotland is failing or has failed to execute or enforce these Regulations, either generally or in any individual case or in any class of case, they may, after giving notice to that authority, direct that the duty to enforce or execute these Regulations in respect of the failure specified in the notice shall be discharged by the Scottish Ministers or by the Agency on their behalf.”.
- (3) In paragraph (3) of regulation 3, for the words “The Minister” there is substituted the words “The Scottish Ministers, or the Agency on their behalf.”.
- (4) After paragraph (4) of regulation 3 there is inserted the following—
“(4A) Subject to paragraph (4B) below, the Agency may direct, in relation to cases of a particular description, or a particular case, that these Regulations shall be executed and enforced by the Agency instead of the local authority, or jointly by the Agency and the local authority.
(4B) The Agency shall not issue a direction under paragraph (4A) above to a local authority, in relation to any case or description of case, where a direction has been issued to the authority in respect of the case or description of case by the Scottish Ministers, under paragraph (2) above.”; and
- (5) Paragraph (5) of regulation 3 is deleted.
- 3.—(1) After regulation 4(1) there is inserted the following—

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“(1A) The Agency, after consulting the Scottish Ministers, may also exercise the power to give directions under paragraph (1) above either jointly with the Scottish Ministers or alone.”

(2) For regulation 4(3) there is substituted—

“(3) Any such directions shall be enforceable in Scotland by an order of the Court of Session under section 45 of the Court of Session Act 1988(1).”

4.—(1) In paragraphs (1), (2), (3) and (6) of regulation 6, for the words “the Minister”, wherever they occur, there is substituted the words “the Agency or the Scottish Ministers”.

(2) In paragraph (1) of regulation 6 the word “his” is deleted.

(3) In paragraph(5) of regulation 6 the definition of “the Minister” is deleted.

5. In regulation 13—

(a) in paragraphs (2) and (3), for the words “the Minister” there is substituted the words “the Scottish Ministers, the Agency”; and

(b) for paragraph (7) there is substituted—

“(7) In this regulation “official veterinary surgeon” means a person designated as such by the Agency for the purpose of supervising the establishment in question.”

6. In regulation 15, for the words “the Minister” there is substituted the words “the Scottish Ministers, the Agency”.

7. In regulation 16, in paragraphs (1), (2), (3), and (6) for the words “the Minister” in each place where they occur in those paragraphs, there is substituted the words “the Scottish Ministers, the Agency”.

8. For regulation 21(5) there is substituted—

“(5) Before authorising the release of any product, the official veterinary surgeon shall—

(a) where he has any doubt relating to the protection of public health whether a product should be released, consult the Agency; and

(b) where he has any doubt relating to the protection of animal health whether a product should be released, consult the Scottish Ministers,

and shall take no further action in connection with the release of the product without first informing the Agency or the Scottish Ministers.”.

9. In regulation 25—

(a) in paragraph (2), for the words “Subject to paragraphs (2) and (3) below” there is substituted the words “Subject to paragraphs (2A) and (3) below”; and

(b) after paragraph (2) there is inserted the following—

“(2A) When the Scottish Ministers are consulted under paragraph (2) above by an official veterinary surgeon in relation to non-compliance of any products of animal origin with public health conditions—

(a) the Scottish Ministers shall consult the Agency; and

(b) the official veterinary surgeon shall not authorise the importer of the products to transport them for storage in a free zone or free warehouse in accordance with the provisos in paragraph (2) above without first informing the Agency.”.

(1) 1988 c. 36

10.—(1) In regulations 28, 29 and 33(1), for the words “the Minister” there is substituted the words “the Scottish Ministers, the Agency”.

(2) For paragraph(2) of regulation 33 there is substituted the following—

“(2) If requested in writing to do so by the Scottish Ministers, or the Agency, a local authority shall provide the Scottish Ministers or, as the case may be, the Agency with—

(a) such information relating to the calculation of charges as the Scottish Ministers or, as the case may be, the Agency, may require; and

(b) copies of any written representations made by the persons referred to in paragraph (1) above.”.

11.—(1) In regulation 34(1), for the words “appeal to the Minister against the amount of the charge” there is substituted the following—

“(a) in the case of a charge for a health inspection and control exercise carried out otherwise than in relation to any function of the Agency, appeal to the Scottish Ministers, against the amount of the charge; and

(b) in case of a charge for a health inspection and control exercise carried out in relation to any function of the Agency, appeal to the Agency against the amount of the charge.”.

(2) In regulation 34(2) for the words “the Minister” there is substituted the words “the Scottish Ministers or, as the case may be, the Agency”.

(3) In paragraph (4) of regulation 34—

(a) for the words “the Minister”, in the first place where they occur in that paragraph, there is substituted the words “the Scottish Ministers or, as the case may be, the Agency”; and

(b) for the words “the Minister”, in the second place, where they occur in that paragraph, there is substituted the words “the Scottish Ministers.”

(4) In paragraph (5) of regulation 34, for the words “the Minister” there is substituted the words “the Scottish Ministers or, as the case may be, the Agency”.

12. In regulation 35(1) and (2), for the words “the Minister or the Secretary of State” there is substituted the words “the Scottish Ministers or the Agency”.

13. In regulations 37(4), 39(1) and (2), after the words “the Minister, the Secretary of State” there is substituted the words “the Scottish Ministers, the Agency”.