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SCOTTISH STATUTORY INSTRUMENTS

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**2002 No. 255**

**The TSE (Scotland) Regulations 2002**

**Part III**

**Animal feeding**

*Approvals of premises*

**Applications for approval and approvals of premises**

**19.**—(1) An application for approval of premises under regulations 16 or 17 above shall be made in writing to the Scottish Ministers by or on behalf of the person carrying on or proposing to carry on the business at the premises to which the application relates.

(2) The Scottish Ministers shall notify the applicant in writing of their decision on an application made to them in accordance with this regulation; and, if they refuse to approve the premises in respect of which an application is made, they shall notify the applicant in writing of their reasons for the refusal.

(3) An approval of premises under regulations 16 or 17 above shall specify—

- (a) the name and address of the person to whom the approval is granted and the address of the approved premises;
- (b) the use of the premises for the description of production for which the approval is granted; and
- (c) the conditions subject to which the approval is granted.

(4) If the Scottish Ministers refuse to approve the premises or grant an approval subject to any condition, they shall give to the applicant a statement of—

- (a) the reasons for the refusal or the condition; and
- (b) the right of the applicant under this Part of these Regulations to appeal against the refusal or the condition and the period within which and the person to whom an appeal may be made.

**Suspension and withdrawal of approvals**

**20.**—(1) The Scottish Ministers may suspend or withdraw an approval of any premises approved under regulations 16 or 17 above if it appears to them that—

- (a) the premises are being used otherwise than in accordance with the approval;
- (b) any condition specified in a Schedule to these Regulations which relates to the approval of the premises has not been complied with;
- (c) the premises are not ABPO approved;
- (d) inspection of the premises for the purposes of these Regulations is being hampered or denied;

- (e) a notice has been served on the occupier in relation to the use of the premises under this Part of these Regulations and—
    - (i) the Scottish Ministers are not satisfied that the action required by the notice to be taken by the occupier has been taken within the time required; and
    - (ii) as a result there is a risk that the premises are being used otherwise than in accordance with the approval, any condition specified in the approval has not been complied with or inspection of the premises for the purposes of these Regulations is being hampered or denied;
  - (f) the person using the premises for the use for which they are approved no longer wishes to carry on that use of the premises; or
  - (g) the premises are not being used for the use for which they are approved.
- (2) Before suspending or withdrawing an approval, the Scottish Ministers shall—
- (a) give notice of the intended suspension or withdrawal to the occupier of the premises (or, in the case of a suspension or withdrawal under paragraph (1)(g) above, to the person known to the Scottish Ministers as the last person to use the premises for the use for which they are approved and to any other person who appears to them to be in current occupation of the premises); and
  - (b) have regard to any representations made to them by that person in relation to the intended suspension or withdrawal.
- (3) A notice of suspension or withdrawal of an approval shall include the following information:—
- (a) a summary of the decision of the Scottish Ministers to suspend or withdraw the approval and a description of the use of the premises for which the approval is suspended or withdrawn;
  - (b) the reason for the suspension or withdrawal;
  - (c) the date on which the suspension or withdrawal takes effect, which—
    - (i) in respect of a suspension, may be the same date as the date on which the notice is given; and
    - (ii) in respect of a withdrawal, must be not less than 21 days after the date on which the notice is given;
  - (d) in respect of a suspension, the matters which must be remedied for the suspension to be lifted;
  - (e) a statement of the right of the person to whom the notice is given to appeal under regulation 21 below against the suspension or withdrawal and the period within which and the person to whom an appeal may be made; and
  - (f) in respect of a withdrawal, any conditions for the protection of public or animal health to which any continued use of the premises for an approved use after the withdrawal takes effect is subject pending an appeal.
- (4) Where a suspension of an approval of premises under this regulation has taken effect the premises shall be treated as if they were not approved for the use for which the approval is suspended.
- (5) The Scottish Ministers shall lift a suspension of an approval where—
- (a) they are satisfied that—
    - (i) the reason for the suspension no longer applies; and
    - (ii) the person who would use the premises for the use for which they are approved will use the premises in accordance with the approval and the conditions of the approval;or

(b) the determination of an appeal under regulation 21 below against the suspension is that the approval should not have been suspended.

(6) Where the Scottish Ministers lift a suspension they shall give notice thereof to the person to whom they gave notice of the suspension.

(7) Premises may continue to be used by the occupier for a use for which an approval is withdrawn during the period of 21 days after the notification to the occupier of the withdrawal.

(8) After the expiry of this period the premises may not be used for the use for which the approval is withdrawn unless before the period expired an appeal was made in accordance with regulation 21 below and the appeal has not been finally disposed of or abandoned.

(9) Where the Scottish Ministers have given notice of a decision to withdraw the approval of premises the occupier of the premises shall not use the premises for that use except in accordance with any conditions for the protection of public or animal health included in the notice of withdrawal.

### **Appeals**

**21.**—(1) Where in respect of any premises the Scottish Ministers have given notice of a decision under this Part of these Regulations—

- (a) to refuse to approve any premises;
- (b) to grant an approval of any premises subject to conditions;
- (c) to suspend the approval of any premises; or
- (d) to withdraw the approval of any premises,

the person to whom the notice is given may, within 21 days of being notified of the decision, appeal against the decision to the person specified in the notice.

(2) An appeal under this regulation shall be made by written statement given to the person specified in the notice accompanied by a brief explanation of the ground of the appeal and such other information and documents as the notice may specify.

(3) Where on an appeal under this regulation the person hearing the appeal determines that—

- (a) the grant of an approval should not have been refused;
- (b) unreasonable conditions have been attached to the grant of an approval; or
- (c) an approval should not have been suspended or withdrawn,

the Scottish Ministers shall give effect to that determination.