
SCOTTISH STATUTORY INSTRUMENTS

2005 No. 608

**The Feed (Hygiene and Enforcement)
(Scotland) Regulations 2005**

PART 2

Enforcement of Regulation 183/2005

Scope and interpretation of Part 2

3.—(1) This Part does not apply to the activities mentioned in Article 2(2) of Regulation 183/2005.

(2) Any reference in this Part to a numbered Article is a reference to the Article so numbered in Regulation 183/2005.

Competent authorities

- 4.** 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 enforcement authority;
 - (b) in respect of Articles 7, 9(2), 10, 13, 14, 15, 16, 17, 18(1), (2) and (4) and 19(2), the enforcement authority;
 - (c) in respect of Article 19(1), the Agency.

Offences and penalties

5.—(1) Any person who contravenes or fails to comply with any of the provisions of Regulation 183/2005 set out in paragraph (2) is guilty of an offence and liable—

- (a) in the case of paragraph (2)(d), (e), (g), (h), (i) and (j)—
 - (i) on summary conviction to a term of imprisonment not exceeding 3 months or to a fine not exceeding the statutory maximum, or both, or
 - (ii) on conviction on indictment to a term of imprisonment not exceeding 2 years or to a fine, or both;
 - (b) in the case of paragraph (2)(a), (b), (c), and (f), on summary conviction to a term of imprisonment not exceeding 3 months or to a fine not exceeding level 5 on the standard scale, or both.
- (2) The provisions referred to in paragraph (1) are—
- (a) Article 5(1), (2), (3), (5) and (6) (specific obligations);
 - (b) Article 6(1), as read with (2) and (3) (HACCP system);
 - (c) Article 7(1) (documents concerning the HACCP system);
 - (d) Article 9(2) (official controls, notification and registration);

- (e) Article 11 (prohibition on operating without approval or registration);
- (f) Article 17(2) (exemption from on-site visits);
- (g) Article 18(3) (declaration of compliance);
- (h) Article 23(1) (conditions relating to imports);
- (i) Article 24 (interim measures regarding third country establishments);
- (j) Article 25 (feed produced for export to third countries).

Form of notification with a view to registration

6. Any person who is required under Article 9 (officials controls, notification and registration) to notify the competent authority of the information mentioned in paragraph (2)(a) or (b) of that Article must ensure that any such notification–

- (a) is in writing and signed by that person or on that person's behalf;
- (b) contains that person's name and, if different, business name;
- (c) contains that person's address and, if different, the address of any establishment to which the notification relates;
- (d) identifies the feed business activities in such form as may be required by the enforcement authority; and
- (e) is properly addressed and sent to the enforcement authority in whose area the establishment is situated.

Form of declaration in relation to transitional measures

7. Any person to whom Article 18(3) (transitional measures) applies must ensure–

- (a) that a declaration submitted in accordance with that provision–
 - (i) is in writing and signed by that person or on that person's behalf;
 - (ii) contains that person's registration or approval number, name and, if different, business name;
 - (iii) contains that person's address, and if different, the address of any establishment to which the declaration relates;
 - (iv) contains a statement to the effect that the feed business is one to which Article 18(2) applies; and
 - (v) is properly addressed and sent to the enforcement authority for the area in which the establishment to which the declaration relates is situated; and
- (b) that a copy of the declaration is properly addressed and sent to the Agency.

Form of application for approval

8. Where approval of a feed business establishment is required pursuant to Article 10, an application to the competent authority for the area in which the establishment is located must be made which–

- (a) is in writing and signed by or on behalf of the applicant;
- (b) contains the name or business name and the address of the applicant and, if different, the address of the establishment;
- (c) identifies which of the feed business activities specified in Article 10(1) or, as may be specified pursuant to Article 10(3), the applicant is exercising or intends to exercise and for which approval is sought;

- (d) in the case of any person to whom Article 17(2) (exemption from on-site visits) applies, includes a statement to the effect that the establishment is one to which Article 17(1) applies and a declaration of compliance as required by paragraph (2) of that Article; and
- (e) is properly addressed and sent to the competent authority for the area in which the establishment to which the declaration relates is situated.

Procedure for suspension of registration or approval

9.—(1) Where a competent authority proposes to take action pursuant to Article 14 (temporary suspension of registration or approval) it must serve on the feed business operator a notice in accordance with paragraph (2).

- (1) The notice served by the enforcement authority under paragraph (1) must—
 - (a) specify the date from which the notice takes effect, (“the operative date”);
 - (b) state that it intends to suspend, on the operative date, approval or as the case may be registration pursuant to Article 14 and these Regulations;
 - (c) specify the feed business activity or activities to which the notice relates;
 - (d) identify the remedial action required;
 - (e) state that unless remedial action has been carried out to the satisfaction of the enforcement authority within 1 year from the operative date, the registration or approval will be revoked without further notice on the first anniversary of the operative date; and
 - (f) provide information on the time limits for appealing under regulation 13.

Procedure for lifting of suspension

10.—(1) Where the competent authority which has served notice on a feed business operator under regulation 9 is satisfied that—

- (a) the remedial action required under paragraph (2)(d) of that regulation has been carried out; and
- (b) the period for action specified in paragraph 2(e) of that regulation has not expired,

it shall immediately lift the suspension and notify the feed business operator to that effect.

(2) On an application by a feed business operator, the competent authority shall determine whether or not it is satisfied as specified in paragraph (1) within 28 days of such an application being received and shall notify the feed business operator of that determination.

Procedure for the revocation of registration or approval

11.—(1) Where a competent authority proposes to take action in the circumstances set out in Article 15 (revocation of registration or approval) it must serve on the feed business operator a notice in accordance with paragraph (2).

- (2) The notice served by the enforcement authority under paragraph (1) must—
 - (a) specify the date from which the notice takes effect;
 - (b) state that registration or approval as the case may be has been revoked;
 - (c) specify the feed business activity or activities to which the revocation relates;
 - (d) identify which of the conditions of revocation set out in Article 15 is applicable;
 - (e) provide information on the time limits for appealing under regulation 13.

(3) Where a competent authority has revoked a registration or approval pursuant to this regulation it shall—

- (a) make the appropriate amendments to its own register of feed business establishments; and
- (b) promptly transmit to the Agency the necessary information to ensure compliance with Article 19(3) (updating of national lists).

Form of application for amendments to approval or registration

12.—(1) Where a feed business operator wishes to apply for any amendment to an approval or registration pursuant to Article 16 (amendments to registration or approval of an establishment), an application to the competent authority for the area in which the relevant feed business establishment is located must be made which—

- (a) is signed by or on behalf of the applicant;
- (b) contains the name or business name and address of the applicant and, if different, the address of the establishment;
- (c) identifies the activities to which the application for amendments to approval or registration relates;
- (d) is properly addressed to that authority.

Right of appeal in connection with registration or approval

13.—(1) Any person who is aggrieved by the decision of a competent authority taken in respect of—

- (a) the approval of an establishment under Article 13;
- (b) suspension of the registration or approval of an establishment under Article 14;
- (c) suspension in accordance with regulation 10(2);
- (d) revocation of the registration or approval of an establishment under Article 15; or
- (e) amendment of the approval of an establishment under Article 16,

may appeal to the sheriff.

(2) An appeal to the sheriff under paragraph (1) shall be by way of summary application.

(3) The period within which an appeal under paragraph (1) may be brought shall be 1 month from the date on which notice of the decision was served on the person desiring to appeal.

(4) Where on an appeal under paragraph (1) the sheriff determines that the decision of the competent authority is incorrect, the authority shall give effect to that determination.

(5) Where a registration or approval is suspended or revoked, the feed business operator who, immediately before such suspension or revocation, had been using the establishment concerned may continue to use it, subject to any conditions imposed by the competent authority for the protection of public health, unless—

- (a) the time limit for appealing against the decision to suspend or revoke the registration or approval has expired without an appeal having been lodged; or
- (b) where an appeal against that decision has been lodged, the appeal has been finally disposed of or is withdrawn.

(6) Nothing in paragraph (5) shall permit an establishment to be used as a feed business if a feed business prohibition order, a feed business emergency prohibition notice or a feed business emergency prohibition order (under regulations 21 or 22 as the case may be) has been imposed in relation to the establishment.

Fees for approvals or amendments to approvals

14.—(1) Subject to paragraph (3), a feed business operator who applies to a competent authority under regulation 8 for approval or under regulation 12 for amendment to an approval must—

- (a) pay the relevant fee to the competent authority when the application referred to in paragraph (1) is submitted; and
- (b) reimburse the competent authority on demand the cost of any laboratory analysis incurred by it in connection with the application.

(2) In relation to any application submitted to it under regulation 8 or 12, the competent authority need not—

- (a) take any steps to approve an establishment in respect of one or more of its feed business activities until the relevant fee has been paid to it; or
- (b) approve an establishment in respect of one or more of its feed business activities until, in accordance with paragraph (1)(b), it has been reimbursed the cost of any laboratory analysis incurred by it in connection with the application.

(3) Where a feed business operator makes an application under regulation 8 or 12 seeking approval or as the case may be the amendment of approval of an establishment as one on which more than one feed business activity requiring approval may be exercised, the feed business operator is liable to pay a single relevant fee, which fee shall be the highest one otherwise payable.

(4) In this regulation “relevant fee” means the fee specified in Schedule 2.