
SCOTTISH STATUTORY INSTRUMENTS

2007 No. 91

**The Official Controls (Animals, Feed
and Food) (Scotland) Regulations 2007**

Part 5

Enforcement and penalties

Interpretation and application of Part 5

14.—(1) In this Part—

- (a) “enforcement officer” means an officer authorised to enforce these Regulations by the competent authority responsible for enforcement pursuant to regulation 15;
- (b) “premises” excludes any premises or part of premises used exclusively as a dwelling;
- (c) “relevant auditor” means an auditor exercising powers under regulation 7;
- (d) “relevant inspector” means an inspector accompanied by any person pursuant to regulation 10 and 12.

(2) This Part does not apply where regulation 9 applies.

Enforcement

15. Enforcement of these Regulations shall be the responsibility of the competent authority which in any given circumstances authorises the exercise of powers under these Regulations.

Powers of enforcement officers

16.—(1) An enforcement officer may—

- (a) at any reasonable hour enter premises;
- (b) make any enquiries, observe any activity or process, and take photographs; and
- (c) inspect any article or records of any class which appear to the officer to be relevant for the purposes of the officer’s investigation, and may make or require copies of such records or remove such records as the officer reasonably requires.

(2) An enforcement officer shall—

- (a) produce evidence of the officer’s authorisation when requested to do so;
- (b) as soon as the officer reasonably can, provide to the person appearing to the officer to be responsible for records which the officer removes under paragraph (1)(c) a written receipt identifying those records; and
- (c) as soon as the officer reasonably can after deciding that they are no longer required, return such records, apart from those used as evidence in court proceedings.

Offences and penalties

17.—(1) A person is guilty of an offence if without reasonable excuse that person obstructs, causes or permits to be obstructed—

- (a) a relevant auditor;
- (b) a relevant inspector;
- (c) any person who accompanies a relevant auditor or relevant inspector under regulations 7(3), 10 or 12; or
- (d) an enforcement officer.

(2) For the purposes of paragraph (1), to obstruct includes—

- (a) failure—
 - (i) to produce records;
 - (ii) to provide copies of such records; or
 - (iii) to provide reasonable facilities for copying records, as required under these Regulations; and
- (b) failure by any person to provide information in that person's possession when requested to do so by a relevant auditor, a relevant inspector or an enforcement officer.

(3) A person is guilty of an offence if without reasonable excuse that person supplies to a relevant auditor, a relevant inspector or an enforcement officer information which, in any material particular, is false or misleading.

(4) A person guilty of an offence under this regulation is liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding three months, or to both.

Offences by bodies corporate

18.—(1) If an offence under regulation 17 committed by a body corporate is shown to have been committed with the consent or connivance of an officer, or to be attributable to any neglect on the part of an officer, the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if the member were a director of the body.

(3) "Officer", in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.

(4) "Body corporate" includes a partnership in Scotland and, in relation to such a partnership, a reference to an officer of a body corporate is a reference to a partner.