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SCOTTISH STATUTORY INSTRUMENTS

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**2008 No. 342**

**The Pesticides (Maximum Residue Levels) (Scotland) Regulations 2008**

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Pesticides (Maximum Residue Levels) (Scotland) Regulations 2008 and come into force on 18th November 2008.

(2) These Regulations extend to Scotland only.

**Interpretation**

2.—(1) In these Regulations—

“inspector” means any person appointed by the Scottish Ministers to be an inspector for the purposes of these Regulations; and

“Regulation 396/2005” means Regulation (EC) No. 396/2005 of the European Parliament and of the Council on maximum residue levels of pesticides in or on food and feed of plant and animal origin and amending Council Directive 91/414/EEC.

(2) Any reference in these Regulations to Regulation 396/2005 is a reference to that Regulation as amended from time to time.

(3) Expressions used in both these Regulations and Regulation 396/2005 have the same meaning in these Regulations as they have in Regulation 396/2005.

(4) A reference in these Regulations to anything done in writing or produced in written form includes a reference to an electronic communication, as defined in section 15 of the Electronic Communications Act 2000(1).

**Notices**

3. Any notice under these Regulations—

(a) must be in writing;

(b) may be subject to conditions; and

(c) may be amended, suspended or revoked by a notice issued by an inspector.

**Designated national authority**

4. The Scottish Ministers are the designated national authority for the purposes of Article 38 of Regulation 396/2005.

**Functions of the member State**

5. The functions of the member State in Regulation 396/2005 are to be exercised by the Scottish Ministers.

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(1) 2000 c. 7. Section 15 was amended by paragraph 158 of Schedule 17 to the Communications Act 2003 (c. 21).

### **Compliance with maximum residue levels**

6. It is an offence for any person, without reasonable excuse, to—
- (a) place, or cause or permit any other person to place, on the market as food or feed; or
  - (b) feed, or cause or permit any other person to feed, to any animal,

any product covered by Annex I to Regulation 396/2005 in breach of Article 18(1) of that Regulation as read with Article 20 of that Regulation.

### **Prohibition on processing and mixing products**

7. It is an offence for any person, without reasonable excuse, to process or mix, or cause or permit any other person to process or mix, any products specified in Article 19 of Regulation 396/2005 in breach of that Article.

### **Powers of inspectors**

8. Schedule 1 (powers of inspectors) has effect.

### **Obstruction**

9. It is an offence—
- (a) intentionally to obstruct any person acting in the execution of these Regulations;
  - (b) knowingly to give any information that is false or misleading to any person acting in the execution of these Regulations;
  - (c) intentionally to fail to disclose any material particular to any person acting in the execution of these Regulations; or
  - (d) to fail, without reasonable excuse—
    - (i) to give any assistance or information that any person acting in the execution of these Regulations may require; or
    - (ii) to produce any record that any person acting in the execution of these Regulations may require to be produced,for the performance of that person’s functions under these Regulations.

### **Offences by bodies corporate and Scottish partnerships**

10.—(1) If an offence under these Regulations committed by a body corporate or a Scottish partnership is shown—

- (a) to have been committed with the consent or connivance of an officer; or
- (b) to be attributable to any neglect on the officer’s part,

the officer as well as the body corporate or Scottish partnership, as the case may be, is guilty of the offence and is 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 the member’s functions of management as if the member were a director of the body.

- (3) “Officer”—
- (a) 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; and

(b) in relation to a Scottish partnership, means a partner.

### **Penalties**

**11.** A person guilty of an offence under these Regulations is liable—

- (a) on summary conviction to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine.

### **Revocations**

**12.** Schedule 2 (revoked instruments) has effect.

St Andrew's House,  
Edinburgh  
15th October 2008

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