

2009 No. 263

AGRICULTURE

**The Feed (Hygiene and Enforcement) (Scotland) Amendment
Regulations 2009**

<i>Made</i>	- - - -	<i>24th June 2009</i>
<i>Laid before the Scottish Parliament</i>		<i>25th June 2009</i>
<i>Coming into force</i>	- -	<i>20th September 2009</i>

The Scottish Ministers make the following regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a), and all other powers enabling them to do so.

There has been consultation as required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety(b).

Citation and commencement

1. These Regulations may be cited as the Feed (Hygiene and Enforcement) (Scotland) Amendment Regulations 2009 and come into force on 20th September 2009.

Amendment of the Feed (Hygiene and Enforcement) (Scotland) Regulations 2005

2.—(1) The Feed (Hygiene and Enforcement) (Scotland) Regulations 2005(c) are amended in accordance with paragraphs (2) to (5).

(2) In regulation 2(1), in the definition of “authorised officer”, for “16(2)” substitute “16(3)”.

(3) In regulation 4(a) and (b) for “enforcement” substitute “feed”.

(a) 1972 c.68. Section (2)(2) was amended by the Scotland Act 1998 (c.46) (“the 1998 Act”), schedule 8, paragraph 15(3). The functions conferred on the Minister of the Crown under section 2(2) of the 1972 Act, so far as within devolved competence, were transferred to the Scottish Ministers by section 53 of the 1998 Act. In so far as not so transferred, and in so far as they are exercisable in relation to food (including drink) including the primary production of food, those functions were transferred to the Scottish Ministers by the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2005 (S.I. 2005/849).

(b) O.J. No. L 31, 1.2.02, p.1 as amended by Regulation (EC) No. 1642/2003 of the European Parliament and of the Council (O.J. No. L 245, 29.9.03, p.4), Commission Regulation (EC) No. 575/2006 (O.J. No. L 100, 7.4.06, p.3) and by Commission Regulation (EC) No. 202/2008 (O.J. No. L 60, 5.3.08, p.17).

(c) S.S.I. 2005/608, as amended by S.S.I. 2006/578 and S.S.I. 2008/201.

(4) For regulation 16 substitute—

“Enforcement

(1) In the area of each feed authority, the relevant provisions in so far as they apply to—

- (a) the operations mentioned in paragraph (2) are to be executed and enforced by the Agency or the feed authority in question;
- (b) any other operations mentioned in Regulation 183/2005 are to be executed and enforced by the feed authority in question.

(2) The operations referred to in paragraph (1)(a) are—

- (a) primary production of feed and those associated operations listed in Article 5(1) of Regulation 183/2005 which require to be carried out in compliance with the provisions listed in Annex I to that Regulation; and
- (b) feeding of food producing animals (other than animals mentioned in Article 2(2)(b) and (c) of Regulation 183/2005(a)) which requires to be carried out in compliance with the provisions of Article 5(5) of and Annex III to that Regulation.

(3) The Agency or any feed authority may in writing appoint as authorised officers, either generally or specifically, such persons as it considers necessary to act in matters arising under the relevant provisions.

(4) A person appointed under paragraph (3) need not be an officer of the appointing body.

(5) In this regulation, “the relevant provisions” are—

- (a) these Regulations;
- (b) the provisions of Regulation 178/2002 set out in regulation 15(2); and
- (c) Regulation 183/2005.”.

(5) In regulation 32(1)—

- (a) for “in the area of” substitute “by”; and
- (b) the words “in that area” and “in respect of that area” are omitted.

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A member of the Scottish Executive

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24th June 2009

(a) Article 2(2)(b) and (c) provide that Regulation 183/2005 does not apply to the feeding of food producing animals kept for private domestic consumption, animals kept for the activities mentioned in Article 1(2)(c) of Regulation (EC) No. 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs (O.J. No. L 139, 30.4.04, p.1) (Corrigendum: O.J. No. L 226, 25.6.04, p.3) (the direct supply, by the producer, of small quantities of primary products to the final consumer or to local retail establishments directly supplying the final consumer) or to animals not kept for food production.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations extend to Scotland only. They amend the Feed (Hygiene and Enforcement) (Scotland) Regulations 2005 (“the 2005 Regulations”).

As well as making minor drafting changes, these Regulations amend the 2005 Regulations by providing the Food Standards Agency with—

- (a) enforcement powers under regulation 16 of the 2005 Regulations but only insofar as those enforcement powers relate to primary production and without restricting the enforcement powers of each feed authority; and
- (b) the power to appoint authorised officers to carry out its enforcement powers.

A full regulatory impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector has been prepared and placed in the Scottish Parliament Information Centre. Copies may be obtained from the Food Standards Agency (Scotland), 6th Floor, St Magnus House, 25 Guild Street, Aberdeen AB11 6NJ.

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