

EXECUTIVE NOTE

THE FEED (HYGIENE AND ENFORCEMENT) (SCOTLAND) AMENDMENT REGULATIONS 2009 (SSI 2009/263)

The above instrument is made under powers conferred by section 2(2) of the European Communities Act 1972. The instrument is subject to negative resolution procedure.

Policy Objectives

1. This instrument amends the Feed (Hygiene and Enforcement) (Scotland) Regulations 2005 to enable the Agency to have powers to authorise officers from other Scottish enforcement bodies to carry out certain primary production feed hygiene enforcement functions on behalf of the Agency whilst those bodies carry out other enforcement functions. The delivery arrangements are specific to Scotland.
2. The main aim of the inspection arrangement is to reduce additional hygiene visits to farms by Local Authority staff in line with the specific aims of SEARS, which are to reduce the number of on-farm visits by different regulatory bodies by providing a single delivery service. Initially this proposal would enable SGRPID staff to undertake primary production feed hygiene inspections whilst carrying out cross compliance visits on farms

Consultation

3. A public consultation in Scotland ran for twelve weeks (from 5 March until 28 May 2009). Following a query from a stakeholder – a Principal Trading Standards Officer in Highland Regional Council - an amendment to the draft Regulations was issued to consultees on 28 April to make the scope of the proposed changes clearer.
4. Views were sought in Scotland on the draft regulations from a wide range of stakeholders including the Scottish Government, industry and enforcement bodies. Eight responses were received to the public consultation. Although there was general support for the proposal, concerns, particularly by Trading Standards Officials, included the competency and qualifications of SGRPID officers, communication between all officers interacting with primary production hygiene inspections and the need to ensure a standardisation of enforcement approach. All points raised by consultees have been taken into account by the Agency.

Financial Effects

5. The Regulatory Impact Assessment at Annex I describes the expected effects of the measures, including reducing additional hygiene visits to farms by Local Authority staff and that there will be no cost to industry.

FOOD STANDARDS AGENCY SCOTLAND

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REGULATORY IMPACT ASSESSMENT (RIA)

1. Title of Proposal

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

2. Purpose and Intended Effect of the Measure

2.1 Objective

2.1.1 The Food Standards Agency (FSA) in Scotland proposes to amend the Feed (Hygiene and Enforcement) (Scotland) Regulations 2005 to enable the Agency to have powers to authorise officers from other Scottish enforcement bodies to carry out certain primary production feed hygiene enforcement functions - inspections and serving Feed Business Improvement Notices – on behalf of the Agency whilst they carry out other enforcement duties. The feed enforcement hygiene inspections would cover the scope of the respective requirements of Annexes I and III of EC Regulation 183/2005, which are those that primary producers must comply with.

2.1.2 The proposal will reduce additional hygiene visits to farms by Local Authority staff in line with the specific aims of Scotland's Environmental and Rural Service (SEARS) which are to reduce the number of on-farm visits by different regulatory bodies by providing a single delivery service. The FSA participates in the SEARS programme.

2.1.3 The Regulations are drafted in a way that, in the future, would allow the Agency to have flexibility to authorise enforcement bodies to carry out primary production feed hygiene enforcement work whilst they undertake other enforcement functions.

2.1.4 The initial aim of this proposed measure is to enable Scottish Government Rural Payments and Inspections Directorate (SGRPID) staff to undertake feed hygiene inspections whilst carrying out Cross Compliance visits on farms. To be eligible for direct support payments under schemes provided for under the European Commission's Common Agricultural Policy, a farm must meet a set of requirements known as Cross Compliance. Cross compliance visits are carried out to ensure that the land is in good agricultural and environmental condition and legal requirements in relation to the environment, public, animal and plant health and animal welfare are met. These visits already include primary production food hygiene inspections. The aim is for the Feed (Hygiene and Enforcement) (Scotland) Amendment Regulations 2009 to come into force during September 2009 to enable SGRPID staff to carry out primary production feed hygiene inspections as part of cross compliance visits from 1 October 2009.

2.1.5 The SGRPID is a member of SEARS.

2.1.6 The proposed delivery mechanism is specific to Scotland. Separate arrangements apply in other countries of the U.K.

2.2 Background

2.2.1 Food Hygiene Enforcement

2.2.1.1 The current arrangement of food hygiene primary production enforcement in Scotland is through coordination of both LA staff and SGRPID agricultural staff by FSA. SGRPID, whilst undertaking cross-compliance inspections at a level of at least 1% per year, also carries out food hygiene primary production inspections which are required under Statutory Management Requirement (SMR) 11 of cross-compliance. LA officers carry out joint food and feed hygiene inspections at a level of 2% and 25% dependent on risk.

2.2.1.2 Feed Hygiene Enforcement

2.2.1.2.1 Feed hygiene primary production enforcement in Scotland is currently delegated solely to Local Authority staff.

2.2.2 Details of Proposal

2.2.2.1 FSA proposes that authority to carry out the previously described feed hygiene enforcement functions (see para 2.1) be made available to other Scottish enforcement bodies whilst carrying out other enforcement functions - initially SGRPID staff whilst carrying out cross-compliance inspections on farms. LAs will continue to have powers to enforce feed hygiene legislation at the level of primary production and continue to exercise this, as appropriate.

2.2.2.2 This enforcement arrangement will be subject to auditing by the Food Standards Agency.

2.2.3 Funding

2.2.3.1 FSA will fund the cost of the proposed primary production feed hygiene inspections. It is currently envisaged that these combined feed and food inspections will result in no extra cost above individual food inspections.

2.2.4 Training

2.2.4.1 FSA plans to deliver enforcement training to SGRPID officers to ensure appropriate levels of competency. The programme of training will be completed by the end of September 2009.

2.3 Rationale

2.3.1 The driver for this proposal lies with the Scottish Government (SEARS) objectives to reduce the number of on-farm visits by different regulatory bodies by providing a single delivery service.

2.3.2 FSA understands that, where feasible, combining feed and food primary production hygiene inspections in Scotland would be in line with other 'Better Regulation' principles.

3. Consultation

3.1 The proposal for these inspections only relates to Scotland and was subject to a twelve week consultation.

4. Options

4.1 The proposal is to:

4.1.1 Extend the existing scope of primary production food hygiene enforcement carried out by enforcement bodies on behalf of the Agency, to include feed hygiene at primary production. FSA proposes that authority for carrying out feed hygiene inspections and serving Feed Business Improvement Notices be made available to bodies, other than LAs, and initially SGRPID, to allow those bodies to carry out both food and feed inspections on behalf of the Agency during cross-compliance inspections. As the primary production enforcement regime evolves it may be possible to authorise bodies other than Local Authorities or SGRPID to similarly carry out primary production feed hygiene inspections whilst undertaking other enforcement functions.

- i. Option 1 - Do nothing
- ii. Option 2 - Implement the proposal

4.2 Option 1 – Do nothing.

Doing nothing would mean that:

- The current arrangement of primary production feed hygiene inspections carried out by Local Authorities would continue.
- SG SEARS objectives to reduce the number of on-farm inspections would not be met in this respect by FSA.
- The potential cost savings to the FSA from SGRPID staff additionally enforcing the feed hygiene requirement when carrying out cross compliance visits to farms would not materialise. Nor would the FSA gain any other savings that might result from, in the future, authorising officers from other enforcement bodies to carry out feed inspections at the level of primary production.

4.3 Option 2 – Implement the proposal

Implementing the proposal would mean that:

- Combining primary production feed hygiene inspections with other enforcement functions as proposed would result in a lesser burden on industry (primary producers) and enforcement authorities. This would also meet the SG SEARS objective to reduce the number of on-farm inspections.
- Adoption of the proposal could deliver cost savings to the FSA.

5. Costs and benefits

5.1 Sectors and groups affected

5.1.1 FSA, Industry (Primary Producers), Local Authorities, other enforcement bodies in Scotland - initially SGRPID.

5.1.2 We consider that the proposals will have no impact on racial equality, social or environmental issues.

5.2 Costs

5.2.1 Costings in this section are based on SGRPID estimated costs only as this is the only enforcement body clearly identified at this stage as capable of subsuming feed hygiene inspections into their enforcement functions.

5.2.2 The SGRPID annually draw up a programme of approximately 350 primary producers for cross compliance visits.

5.2.1 Option 1

5.2.1.1 Doing nothing would result in no additional costs for FSA, industry or LAs. Primary production feed hygiene inspections would continue as at present.

5.2.2 Option 2

5.2.2.1 Costs associated with option 2 are as follows:

5.2.3 Costs for government (FSA)

5.2.3.1 If it is assumed that a combined feed and food inspection by one body will cost 150% of the average of an individual food and feed inspection by separate enforcement bodies, then, subsuming primary production feed hygiene inspections into SGRPID's cross compliance inspections would result in approximate cost savings as demonstrated in the table at 5.3.2.

5.2.3.2 SGRPID inspectors may be on farm for several days to carry out cross compliance checks and the feed hygiene inspection will be easily subsumed into this process.

5.2.3.3 There will be a one-off cost to FSA of an estimated £12,000 for the provision of initial training to SGRPID staff. Thereafter there will be refresher training on an ongoing basis.

5.2.4 Costs for SGRPID

5.2.4.1 Costs to SGRPID associated with Option 2 are negligible as FSAS will provide funding (see para 2.2.3).

5.2.5 Costs for industry

5.2.5.1 There are no costs to industry associated with Option 2.

5.3 Benefits

5.3.1 Option 1

5.3.1.1 There are no benefits to FSAS, industry, LAs or SGRPID.

Option 2

5.3.2 Benefits for government (FSA)

- The main benefit for Government is that the SG SEARS objective to reduce the number of enforcement staff carrying out primary production inspections would be met. FSA recognises that there are other enforcement bodies on farm such as Animal Health Inspectors and that SG SEARS has the aim of reducing the total number of inspections.
- Consequential cost savings to FSA associated with Option 2 are specified below – FSA will fund the costs of revisits and sampling as necessary – these costs would be the same regardless of whether LAs or SGRPID carry out the work:

	LA Inspection	SGRPID Inspection*
Food Hygiene only	£92	£50
Feed Hygiene only	£50	£50
Combined food and feed (150% of average of food and feed)	£106	£50
Cost saving per combined food and feed by SGRPID*		£56

*Combined with cross compliance inspection

The approximate total cost saving in the first year is $350 \times £56 = £19,600$.

5.3.4 Benefits for industry

5.3.4.1 There would be a reduction of the burden of inspections on primary producers. This is based on the authorisation of SGRPID officers.

5.3.5 Benefits for LAs

5.3.5.1 A reduction in the number of separate inspections may allow staff resources to be deployed more effectively and efficiently within the LA.

6. Small Firms Impact Test

6.1 No specific impact on small firms has been identified. However, the Federation of Small Businesses was included in the consultation on these proposals.

7. Test Run of Business Forms

7.1 No new or additional forms will be introduced, however some minor amendments to existing SGRPID forms will be required.

8. Competition Assessment

8.1 The proposals are not expected to distort competition.

9. Enforcement, Sanctions and Monitoring

9.1 Primary production feed hygiene enforcement functions subsumed into other enforcement bodies' functions will be carried out by the Agency or the authorised officer (e.g. initially SGRPID staff). These functions are carrying out inspections and serving Feed Business Improvement Notices and cover the operations listed in Annexes I and III of the Feed Hygiene Regulation (EC Reg 183/2005). All others will continue to be carried out by Local Authorities. Sanctions currently in place will not change. The effectiveness of the Regulations will be measured by means of FSA's audit of primary production enforcement activities.

10. Sustainability

10.1 The proposal, by combining primary production feed hygiene inspections with other enforcement functions by enforcement agencies – initially SGRPID on cross compliance visits - will reduce the number of car journeys carried out by officers.

11. Implementation and delivery plan

11.1 The aim is for the Regulations to come into force during September 2009 and for SGRPID officers to be trained and authorised by 1 October 2009.

12. Post-implementation review

12.1 As already mentioned at para 9.1, the effectiveness of the Regulations will be measured by means of FSA's audit of primary production enforcement activities of SGRPID. FSA also hold regular six monthly review meetings with SGRPID.

13. Summary and Recommendation

13.1 The main aim of the Feed (Hygiene and Enforcement) (Scotland) Amendment Regulations 2009 is to reduce the number of on-farm visits by different regulatory bodies by providing a single delivery service. As a consequence of this the initial cost savings outlined at section 5.2.3 will also be achieved. On this basis Option 2 – implement the proposal - is recommended.

14. Declaration and publication

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs.

Signed:

Date:

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