

2010 No. 354

AGRICULTURE

The Feed (Sampling and Analysis and Specified Undesirable Substances) (Scotland) Regulations 2010

Made - - - - *6th October 2010*

Laid before the Scottish Parliament *8th October 2010*

Coming into force - - *15th November 2010*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 66(1), 67(5), 74A, 79(9) and 84 of the Agriculture Act 1970(a) and section 2(2) of the European Communities Act 1972(b) and all other powers enabling them to do so.

There has been consultation as required by section 84(1) of the Agriculture Act 1970 with such persons or organisations appearing to represent the interests concerned and 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(c).

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- (a) 1970 c.40. Section 66(1) contains definitions of the expressions “the Ministers”, “prescribed” and “regulations”. Sections 66(1) and 84 were amended by S.I. 2004/3254. Section 74A was inserted by paragraph 6 of Schedule 4 to the European Communities Act 1972 (c.68). Functions of the Secretary of State, in so far as exercisable within devolved competence, were transferred to the Scottish Ministers by section 53 of the Scotland Act 1998 (c.46). In so far as not so transferred and in so far as relating to animal feeding stuffs, which are not veterinary medicinal products or specified feed additives as defined in the Veterinary Medicines Regulations 2005 (S.I. 2005/2745), relevant functions were transferred to the Scottish Ministers by the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2006 (S.I. 2006/304).
- (b) 1972 c.68. Section 2(2) was amended by paragraph 15(3) of Schedule 8 to the Scotland Act 1998, section 27(1) of the Legislative and Regulatory Reform Act 2006 (c.51) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7). The functions conferred on a Minister of the Crown under section 2(2), in so far as exercisable 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 relating to animal feeding stuffs, which are not veterinary medicinal products or specified feed additives as defined in the Veterinary Medicines Regulations 2005 (S.I. 2005/2745), relevant functions were transferred to the Scottish Ministers by the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2006 (S.I. 2006/304).
- (c) O.J. No. L 31, 1.2.2002, p.1, as last amended by Regulation (EC) No. 596/2009 of the European Parliament and of the Council adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468 with regard to the regulatory procedure with scrutiny: Adaptation to the regulatory procedure with scrutiny – Part Four (O.J. No. L 188, 18.7.2009, p.14).

PART 1

General and introductory

Citation, extent and commencement

1. These Regulations may be cited as the Feed (Sampling and Analysis and Specified Undesirable Substances) (Scotland) Regulations 2010, extend to Scotland only and come into force on 15th November 2010.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Agriculture Act 1970;

“Regulation 152/2009” means Commission Regulation (EC) No. 854/2009 laying down the methods of sampling and analysis for the official control of feed(a);

“the Feed Hygiene Regulations” means the Feed (Hygiene and Enforcement) (Scotland) Regulations 2005(b);

“the GM Feed Regulations” means the Genetically Modified Animal Feed (Scotland) Regulations 2004(c);

“analyst” means an agricultural analyst or deputy agricultural analyst.

(2) Any expression used in these Regulations and Regulation 152/2009 has the meaning that it bears in Regulation 152/2009.

(3) Any reference to a numbered section is a reference to the section so numbered in the Act as modified by these Regulations.

Prescribed metric substitution

3. For the purposes of its application to feeding stuffs, the Act is to be read as if—

(a) in section 68(2)(b) (duty of seller to give statutory statement), “to sales in quantities of not more than 25 kilograms” was substituted for “to sales of small quantities (that is to say, sales in quantities of not more than fifty six pounds or the prescribed metric substitution)”; and

(b) in section 76(5) (inspector’s power to enter premises and take samples), “six kilograms” was substituted for “fourteen pounds or the prescribed metric substitution”.

PART 2

Miscellaneous requirements relating to sampling and analysis

Methods of sending a final sample

4. Any final sample required to be sent to any person pursuant to—

(a) paragraph 8 of Annex I to Regulation 152/2009;

(b) section 77(1) or (2) (division of samples and analysis by agricultural analyst);

(c) section 78(1)(a), (2) or (4) (further analysis by Government Chemist);

(a) O.J. No. L 54, 26.2.2009, p.1.

(b) S.S.I. 2005/608, as amended by S.S.I. 2005/616, 2006/578, 2008/201, 2009/263 and 446.

(c) S.S.I. 2004/433, as amended by S.S.I. 2005/246 and 2007/493.

- (d) regulations 30(1), (2) or (5) (procedure relating to samples for analysis) or 31A(2) (secondary analysis by the Government Chemist) of the Feed Hygiene Regulations; or
- (e) regulation 6(1)(a)(i) or (ii) (application of various provisions of the Act) of the GM Feed Regulations,

may be sent by any appropriate method or delivered by hand.

Qualifications of analysts

5. The prescribed qualifications for an analyst for the purposes of section 67(5) (agricultural analyst and deputy agricultural analyst qualifications) in so far as it relates to feeding stuffs and the required qualifications for a person analysing feed for the purposes of the GM Feed Regulations are that—

- (a) the person must—
 - (i) be a Chartered Chemist or possess a Mastership in Chemical Analysis awarded by the Royal Society of Chemistry; and
 - (ii) be a Fellow or Member of the Royal Society of Chemistry; and
- (b) the person's practical experience of the examination of feed must be attested by an analyst appointed under section 67(3) (appointment of agricultural analysts and deputy agricultural analysts).

Analysis other than in the course of official controls

- 6.—(1) Where a sample of feed is to be analysed pursuant to—
- (a) section 75(1) (sample analysed at the request of the purchaser); or
 - (b) section 78(1) (further analysis by Government Chemist) in so far as that section does not relate to official controls,

the method of analysis shall be the appropriate one, if any, set out in Regulation 152/2009.

(2) In cases where there is no appropriate method of analysis in Regulation 152/2009, the analysis shall be carried out in the manner referred to in Article 11(1)(a) or, as appropriate, (b) of Regulation (EC) No. 882/2004 of the European Parliament and of the Council on official controls performed to ensure verification of compliance with feed and food law, animal health and animal welfare rules(a) as read with Commission Regulation (EC) No. 669/2009 implementing Regulation (EC) No. 882/2004 of the European Parliament and of the Council as regards the increased level of official controls on imports of certain feed and food of non-animal origin and amending Decision 2006/504/EC(b).

Form of certificate of analysis

7. The certificate of analysis of any feed to be sent pursuant to—
- (a) section 77(4) (analysis by agricultural analyst);
 - (b) regulation 30(4) (procedure relating to samples for analysis) or 31A(3) (secondary analysis by the Government Chemist) of the Feed Hygiene Regulations; or
 - (c) regulation 6(1)(a)(i) (application of various provisions of the Act) of the GM Feed Regulations,

must be in the form set out in Schedule 1 and must be completed in accordance with the notes to that Schedule.

(a) O.J. No. L 165, 30.4.2004, p.1. The revised text of Regulation (EC) No. 882/2004 is now set out in a Corrigendum (O.J. No. L 191, 28.5.2004, p.1) which should be read with a further Corrigendum (O.J. No. L 204, 4.8.2007, p.29). This Regulation was last amended by Regulation (EC) No. 596/2009 of the European Parliament and of the Council (O.J. No. L 188, 18.7.2009, p.14).

(b) O.J. No. L 194, 25.7.2009, p.11.

PART 3

Amendment and modification of other legislation with regard to sampling and analysis

Amendment or modification of the Act

8. The Act is amended or as the case may be modified in accordance with regulations 9 to 20.

Section 66 of the Act

9. In section 66(1) (interpretation of Part IV), insert at the appropriate place the following definitions:—

““final sample” has the meaning that it bears in Annex I to Regulation 152/2009;”;

““Regulation 152/2009” means Commission Regulation (EC) No. 152/2009 laying down the methods of sampling and analysis for the official control of feed;”.

Section 68 of the Act

10. Section 68 (duty of seller to give statutory statement) in so far as it applies in relation to feeding stuffs applies as if—

- (a) in subsection (4)(b) “final sample” were substituted for “sampled portion”; and
- (b) in subsection (5)—
 - (i) “final sample” were substituted for “sample taken from the portion in question”; and
 - (ii) “in accordance with Regulation 152/2009” were substituted for “in the prescribed manner”.

Section 69 of the Act

11. Section 69 (marking of material prepared for sale) in so far as it applies in relation to feeding stuffs applies as if—

- (a) in subsection (4)(c) “final sample” were substituted for “sampled portion”; and
- (b) in subsection (5) “final sample” were substituted for “sample taken from the portion”.

Section 70 of the Act

12. Section 70 (use of names or expressions with prescribed meanings) in so far as it applies in relation to feeding stuffs applies as if—

- (a) in subsection (2) “final sample” were substituted for “sampled portion”; and
- (b) in subsection (4)—
 - (i) “final sample” were substituted for “sampled portion”; and
 - (ii) “that sample” were substituted for “the sample taken from that portion”.

Section 71 of the Act

13. Section 71 (particulars to be given of certain attributes if claimed to be present) in so far as it applies in relation to feeding stuffs applies as if—

- (a) in subsection (2)(b) “final sample” were substituted for “sampled portion”; and
- (b) in subsection (3)—
 - (i) “final sample” were substituted for “sampled portion”; and
 - (ii) “that sample” were substituted for “the sample taken from that portion”.

Section 73 of the Act

- 14.** In section 73 (deleterious ingredients in feeding stuff)—
- (a) in subsection (1)—
 - (i) for “sampled portion” substitute “final sample”; and
 - (ii) omit “the sample taken from”; and
 - (b) in subsections (2)(a) and (b), (2A) and (3)(b) in each case for “sampled portion” substitute “final sample”.

Section 73A of the Act

- 15.** In section 73A—
- (a) in subsection (1)—
 - (i) for “sampled portion” substitute “final sample”; and
 - (ii) omit “the sample taken from”; and
 - (b) in subsections (2)(a) and (b) and (3) in each case for “sampled portion” substitute “final sample”.

Section 75 of the Act

16. Section 75 (purchaser’s right to have sample taken and analysed), in so far as it applies in relation to feeding stuffs, applies as if in subsection (1) “in accordance with Regulation 152/2009” were substituted for “in the prescribed manner”.

Section 76 of the Act

17. Section 76 (inspector’s power to enter premises and take samples) in so far as it applies in relation to feeding stuffs applies as if—

- (a) in subsection (1) “in accordance with Regulation 152/2009” were substituted for “in the prescribed manner”; and
- (b) for subsection (4) the following were substituted:—

“(4) Without prejudice to any other power or duty as to the taking of samples, an inspector may for the purposes of this Part of this Act take a sample of any material which has been sold for use as a feeding stuff or which he has reasonable cause to believe to be intended for sale as such.”.

Section 77 of the Act

18. Section 77 (division of samples and analysis by agricultural analyst) in so far as it applies in relation to feeding stuffs applies as if—

- (a) for subsection (1) the following were substituted:—

“(1) Where an inspector has taken a sample and prepared and packaged final samples in accordance with Regulation 152/2009 the inspector, in addition to sending a final sample to the agricultural analyst for the inspector’s area in accordance with the requirements of paragraph 8 of Annex I to that Regulation—

 - (a) shall send one final sample—
 - (i) where the sample was taken pursuant to the request of a purchaser under section 75 of this Act, to the seller or his agent;
 - (ii) in any other case, to the person on whose premises the sample was taken, or, if the person on whose premises the sample was taken purchased the material in question for use and not for resale, to the seller or his agent; and

- (b) subject to section 78 of this Act, shall retain at least one final sample for nine months.”;
- (b) for subsection (2) the following were substituted:—
 - “(2) If the person who manufactured any material of which an inspector has taken a sample as mentioned in subsection (1) is not a person to whom a final sample is required to be sent under that subsection, the inspector shall send a final sample to the manufacturer unless he does not know and is unable after making reasonable inquiries to ascertain before the expiration of fourteen days from the date when the sample was taken—
 - (a) the manufacturer’s name; or
 - (b) any address of the manufacturer in the United Kingdom.”;
- (c) in subsection (3)—
 - (i) “final sample” were substituted for “part of a sample”; and
 - (ii) “in accordance with Regulation 152/2009” were substituted for “in the prescribed manner”; and
- (d) in subsection (4)—
 - (i) “final sample” were substituted in each case for “part of a sample” or “part of the sample” as the case may be;
 - (ii) “subsection (1)” were substituted for “subsection (1)(a)”;
 - (iii) “in such manner, if any, as may be prescribed” were omitted; and
 - (iv) in paragraph (b) “subsection (1)(a)(ii)” were substituted for “subsection (1)(b)(ii)”.

Section 78 of the Act

19. Section 78 (further analysis by Government Chemist) in so far as it applies in relation to feeding stuffs applies as if—

- (a) in subsection (1)—
 - (i) for paragraph (a) the following were substituted:—
 - “(a) to send the final sample retained by the inspector under section 77(1)(b) of this Act (as that provision is modified by regulation 18(a) of the Feed (Sampling and Analysis and Specified Undesirable Substances) (Scotland) Regulations 2010) (“the retained sample”) to the Government Chemist for analysis;”;
 - (ii) in paragraph (b) “retained sample” were substituted for “remaining part” and “that sample” were substituted for “that part”;
- (b) in subsection (2)—
 - (i) “in accordance with Regulation 152/2009” were substituted for “in the prescribed manner”;
 - (ii) in paragraph (a)(i) “retained sample” were substituted for “remaining part of the sample”;
 - (iii) in paragraph (a)(ii) “retained sample, whether that sample” were substituted for “remaining part, whether that part”; and
 - (iv) in paragraph (b) “the retained sample” were substituted for “that remaining part”;
- (c) in subsection (4)—
 - (i) “in accordance with Regulation 152/2009” were substituted for “in the prescribed manner”; and
 - (ii) “retained sample” were substituted for “remaining part of the sample”;
- (d) in subsection (5)—
 - (i) “part of a” were omitted;
 - (ii) in paragraph (a) “part of the” were omitted; and

- (iii) in paragraph (b) “the retained sample” were substituted for “the part”; and
- (e) in subsection (6)—
 - (i) “in such manner, if any, as may be prescribed any part of” were omitted; and
 - (ii) “the sample” were substituted for “the part”.

Section 79 of the Act

20. Section 79 (supplementary provisions relating to samples and analysis) in so far as it applies in relation to feeding stuffs applies as if in subsection (3)—

- (a) “is specified by Regulation 152/2009 or” were inserted after “quality of any material”; and
- (b) “the method so specified or prescribed” were substituted for “the method prescribed”.

Amendment of the Feed Hygiene Regulations

21.—(1) The Feed Hygiene Regulations are amended in accordance with paragraphs (2) to (6).

(2) In regulation 2(1) (interpretation)—

- (a) omit the definition of “point 4 compliant laboratory”;
- (b) for the definition of “prescribed manner” substitute—

““prescribed manner” means the manner prescribed by Regulation (EC) No. 152/2009 of the European Parliament and of the Council laying down the methods of sampling and analysis for the official control of feed or otherwise in accordance with Article 11(1) of Regulation 882/2004;”; and

- (c) omit the definition of “sampled portion”.

(3) For regulation 29 (application of various provisions of the Feeding Stuffs (Sampling and Analysis) Regulations 1999(a)) substitute—

“Appointment of agricultural analysts

29.—(1) Subject to paragraph (3), an enforcement authority must appoint one or more agricultural analysts in connection with the performance of its duty under regulation 16 (enforcement).

(2) An agricultural analyst appointed under paragraph (1) must have the qualifications prescribed in relation to the Act by regulation 5 of the Feed (Sampling and Analysis and Specified Undesirable Substances) (Scotland) Regulations 2010.

(3) An agricultural analyst already appointed by an enforcement authority pursuant to section 67(3)(b) of the Act is deemed to be appointed for the purposes of paragraph (1).”.

(4) In regulation 30 (procedure relating to samples for analysis)—

- (a) for paragraph (1)(b) substitute—

“(b) send one part for analysis to the agricultural analyst for the area of the enforcement authority from which the authorised officer derives authority;”;

- (b) for paragraph (3) substitute—

“(3) The part of the sample sent to the agricultural analyst must be accompanied by a statement signed by the authorised officer confirming that the sample was taken in the manner prescribed by law.”; and

- (c) in paragraph (4) omit “or as the case may be the point 4 compliant laboratory”.

(a) S.I. 1999/1663, as amended by S.S.I. 2001/104, 2002/285, 2003/277, 2004/414, 2005/605 and 2006/16.

- (5) In regulation 31 (additional provisions relating to sampling and analysis)—
- (a) in paragraph (2) omit “or the analyst at the point 4 compliant laboratory as the case may be”; and
 - (b) in paragraph (3) omit “or an analyst at a point 4 compliant laboratory”.
- (6) In regulation 31A (secondary analysis by the Government Chemist) for paragraph (3)(a) substitute—
- “(a) completed in the form set out in Schedule 1 to the Feed (Sampling and Analysis and Specified Undesirable Substances) (Scotland) Regulations 2010 and in accordance with the notes to that Schedule;”.

Amendment of the GM Feed Regulations

- 22.**—(1) The GM Feed Regulations are amended in accordance with paragraphs (2) to (4).
- (2) In regulation 2(a) (interpretation), omit the definition of “the Sampling and Analysis Regulations”.
 - (3) In regulation 6 (application of various provisions of the Act), omit paragraph (2).
 - (4) Omit regulation 7 (application of various provisions of the Feeding Stuffs (Sampling and Analysis) Regulations 1999).

Amendment of the Official Feed and Food Controls Regulations (Scotland) Regulations 2009

- 23.**—(1) The Official Feed and Food Controls (Scotland) Regulations 2009(a) are amended in accordance with paragraph (2).
- (2) In Schedule 2 (definition of relevant feed law), in paragraph (b) for “the Feeding Stuffs (Sampling and Analysis) Regulations 1999” substitute “the Feed (Sampling and Analysis and Specified Undesirable Substances) (Scotland) Regulations 2010”.

Revocations

- 24.** The following are revoked:—
- (a) the Feeding Stuffs (Sampling and Analysis) Regulations 1999;
 - (b) regulations 2 to 4 of the Feeding Stuffs (Sampling and Analysis) Amendment (Scotland) Regulations 2001(b);
 - (c) regulation 12 of the Feeding Stuffs Amendment (Scotland) Regulations 2002(c);
 - (d) regulations 2 to 7 of the Feeding Stuffs (Miscellaneous Amendments) (Scotland) Regulations 2003(d);
 - (e) the Feeding Stuffs (Sampling and Analysis) Amendment (Scotland) Regulations 2004(e);
 - (f) regulation 24 of the Feeding Stuffs (Scotland) Regulations 2005(f); and
 - (g) regulation 3 of the Feeding Stuffs (Scotland) Amendment and the Feeding Stuffs (Sampling and Analysis) Amendment (Scotland) Regulations 2006(g).

(a) S.S.I. 2009/446, as amended by S.S.I. 2010/5 and 177.
(b) S.S.I. 2001/104.
(c) S.S.I. 2002/285.
(d) S.S.I. 2003/277.
(e) S.S.I. 2004/414.
(f) S.S.I. 2005/605.
(g) S.S.I. 2006/16.

PART 4

Undesirable substances

Amendment of the Feeding Stuffs (Scotland) Regulations 2005

25.—(1) The Feeding Stuffs (Scotland) Regulations 2005 are amended in accordance with paragraphs (2) and (3).

(2) In regulation 14(8) (control of products intended for animal feed containing undesirable substances), for “is within the limit specified in the relevant entry in column 3 of Schedule 5” substitute “is less than 2 parts per million”.

(3) In Schedule 5 (prescribed limits for undesirable substances)—

- (a) in Chapter A, for the entries relating to arsenic substitute the entries set out in Schedule 2 to these Regulations;
- (b) in Chapter B, for the entries relating to castor oil plant (*Ricinus communis* L.) substitute—

“

<i>Column 1</i> <i>Undesirable substances</i>	<i>Column 2</i> <i>Products intended for animal feed</i>	<i>Column 3</i> <i>Maximum content in mg/kg (ppm) of feeding stuffs referred to a moisture content of 12%</i>
Seeds and husks from <i>Ricinus communis</i> L., <i>Croton tiglium</i> L. and <i>Abrus precatorius</i> L. as well as their process derivatives (in so far as determinable by analytical microscopy), separately or in combination.	All feeding stuffs	10

”

(c) in Chapter C—

(i) for the entries relating to theobromine substitute—

“

<i>Column 1</i> <i>Undesirable substances</i>	<i>Column 2</i> <i>Products intended for animal feed</i>	<i>Column 3</i> <i>Maximum content in mg/kg (ppm) of feeding stuffs referred to a moisture content of 12%</i>
Theobromine	Complete feeding stuffs	300
	except:	
	– complete feeding stuffs for pigs	200
	– complete feeding stuffs for dogs, rabbits, horses and fur-producing animals	50

”

(ii) omit “Croton – *Croton tiglium* L.”; and

(iii) for “*Dantura stramonium* L.” substitute “*Datura* sp.”.

St Andrew’s House,
Edinburgh
6th October 2010

RICHARD LOCHHEAD
A member of the Scottish Executive

PART II

Notes for completion of certificate

1. Insert the name of the local authority.
2. Insert date.
3. Insert name of person submitting the sample for analysis and mode of transport.
4. Insert the name or description applied to the material.
5. Insert the distinguishing mark on the sample and the date of sampling shown.
6. Indicate the particulars marked, labelled or otherwise documented.
7. Insert the relevant results, the conclusions drawn from those results and any other relevant observations. Expand this section as necessary.
8. In the case of analysis of substances for which no method is prescribed by relevant EU legislation, after the results indicate the method used.

SCHEDULE 2

Regulation 25(3)(a)

ENTRIES TO BE SUBSTITUTED IN CHAPTER A OF SCHEDULE 5
TO THE FEEDING STUFFS (SCOTLAND) REGULATIONS 2005

<i>Column 1</i> <i>Undesirable substances</i>	<i>Column 2</i> <i>Products intended for animal feed</i>	<i>Column 3</i> <i>Maximum content in mg/kg (ppm) of feeding stuffs referred to a moisture content of 12%</i>
Arsenic	Feed materials except: <ul style="list-style-type: none"> – meal made from grass, from dried lucerne or from dried clover, and dried sugar beet pulp and dried molasses sugar beet pulp – palm kernel expeller – phosphates and calcareous marine algae – calcium carbonate – magnesium oxide – feeding stuffs obtained from the processing of fish or other marine animals – seaweed meal and feed materials derived from seaweed Iron particles used as tracer Additives belonging to the functional group of compounds of trace elements except: <ul style="list-style-type: none"> – copper sulphate pentahydrate and copper carbonate – zinc oxide, manganese oxide and copper oxide Complete feeding stuffs except: <ul style="list-style-type: none"> – complete feeding stuffs for fish and for fur-producing animals Complementary feeding stuffs except: <ul style="list-style-type: none"> – mineral feeding stuffs 	2 4 4 10 15 20 25 40 50 30 50 100 2 10 4 12 Notes in respect of all entries in column 3: The maximum contents refer to total arsenic. The maximum contents refer to an analytical determination of arsenic, whereby extraction is performed in nitric acid (5% w/w) for 30 minutes at boiling point. Equivalent extraction procedures can be applied where it can be demonstrated that the procedure used has an equal extraction efficiency.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations give effect to Commission Regulation (EC) No. 152/2009 laying down the methods of sampling and analysis for the official control of feed (“the Commission Regulation”).

The Commission Regulation repeals and re-enacts with certain amendments a large number of European directives concerning methods of sampling and analysis of feeding stuffs. These Regulations revoke the Feeding Stuff (Sampling and Analysis) Regulations 1999 (regulation 24), which implemented those directives, and re-enact those administrative provisions which need to be kept in force. The Regulations put in place administrative and other measures for the execution of the Commission Regulation, in particular by—

- (a) providing for metric equivalents of imperial quantities mentioned in the Agriculture Act 1970 (regulation 3);
- (b) prescribing the methods of sending samples for analysis (regulation 4);
- (c) prescribing the required qualifications for agricultural analysts (regulation 5);
- (d) providing for the methods to be used where an analysis is carried out other than in the context of official controls (regulation 6); and
- (e) prescribing the form to be used for a certificate of analysis (regulation 7 and Schedule 1).

These Regulations, in Part 3, make changes to primary and secondary legislation in order to avoid any instances of overlap or inconsistency between the Commission Regulation and domestic legislation (regulations 8 to 23).

These Regulations also, in Part 4, amend the Feeding Stuff (Scotland) Regulations 2005 in order to implement Commission Directive 2009/141/EC amending Annex 1 to Directive 2002/32/EC of the European Parliament and of the Council as regards maximum levels for arsenic, theobromine, *Datura* sp., *Ricinus communis* L., *Crton tiglium* L. and *Abrus precatorius* L., (“the Commission Directive”). The provisions amended concern undesirable substances in animal feeds, notably in relation to maximum permitted levels for the substances mentioned in the title of the Commission Directive (regulation 25 and Schedule 2).

A Business and Regulatory Impact Assessment 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, and online at www.legislation.gov.uk.

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