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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2020 No.**

**The Feed (Transfer of Functions) (Miscellaneous Amendments) (Scotland) Regulations 2020**

**Amendment of the Animal Feed (Scotland) Regulations 2010**

- 7.—(1) The Animal Feed (Scotland) Regulations 2010<sup>(1)</sup> are amended as follows.
- (2) In regulation 2 (interpretation and scope)—
- (a) in paragraph (1)—
- (i) omit the definition of “Directive 2008/38”,
- (ii) after the definition of “Regulation 767/2009” insert—
- ““Regulation 2020/354” means Commission Regulation (EU) 2020/354 establishing a list of intended uses of feed intended for particular nutritional purposes and repealing [Directive 2008/38/EC](#)(2);”,
- (iii) for the definition of “feed authority” substitute —
- ““feed authority” means Food Standards Scotland”,
- (b) in paragraph (2), for “or Regulation 767/2009” substitute “, Regulation 767/2009 or Regulation 2020/354”, and
- (c) in paragraph (3) for “Directive 2008/2008” substitute “Regulation 2020/354”.
- (3) In regulation 4(1) (enforcement of requirements of Regulation 767/2009) for “Subject to the transitional provisions contained in Article 32, any” substitute “A”.
- (4) For regulation 5 (competent authorities for the purposes of Regulation 767/2009) substitute—
- “Competent authority for the purposes of Regulation 767/2009**
- 5.** The feed authority is the competent authority for the purposes of Regulation 767/2009”.
- (5) For Part 5 (feeds for particular nutritional purposes) substitute—

**“PART 5**

**Enforcement of Regulation 2020/354**

**Interpretation of this Part**

**10.** In this Part any reference to a numbered Article is a reference to the Article so numbered in Regulation 2020/354.

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(1) [S.S.I. 2010/373](#).

(2) OJ No. L 67, 5.3.2020, p.1.

### **Offence of failing to comply with a specified provision of Regulation 2020/354**

**11.** A person who contravenes or fails to comply with Article 1 (conditions on marketing) as read with Article 2 (derogation for feed which complies with the provisions of [Directive 2008/38/EC](#)) and Article 3 (derogation for feed labelled before 25 March 2022 in accordance with the rules applicable before 25 March 2020) commits an offence.”

(6) In regulation 12 (penalties for offences under these Regulations), in paragraph (1), for “11(1)” substitute “11”.

(7) In regulation 13 (duties to enforce) for “each feed authority within its area” substitute “the feed authority”.

(8) After regulation 13 (duties to enforce) insert—

#### **“Delegation by the feed authority**

**13A.**—(1) Where the feed authority may delegate any function under these Regulations, it may delegate the function to any person..

(2) Before delegating, the feed authority must consult the person to whom any delegation is to be made.

(3) Where the feed authority delegates any function, it must specify the function and the area within which that function is to be performed.

(4) Where the feed authority has delegated any of its functions, the feed authority may vary, suspend or cancel that delegation, in whole or in part.

(5) The feed authority must publish and maintain an up to date register containing the details and operative date of any delegation.”.

(9) After regulation 17 (revocations) insert—

#### **“Transitional provisions**

**18.**—(1) The validity, effect or consequences of anything done under these Regulations as they had effect immediately before the Food Standards Scotland becomes the feed authority is not affected by the Food Standards Scotland becoming the feed authority.

(2) Any inspection, investigation or legal proceedings commenced prior to the Food Standards Scotland becoming the feed authority is not affected by the Food Standards Scotland becoming the feed authority.

(3) Any inspection, investigation or legal proceeding commenced prior to the Food Standards Scotland becoming the feed authority may be continued after that date as if the amendments to these Regulations coming into force on that day had not been made.

(4) Any liability to a penalty for an offence committed before the Food Standards Scotland becoming the feed authority is not affected by the Food Standards Scotland becoming the feed authority.

(5) Despite Food Standards Scotland becoming the feed authority, these Regulations as they had effect before that day continue to have effect for the purposes of investigating any offence referred in paragraph (4).”.