
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2020 No.

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

Amendment of the Genetically Modified Organisms (Traceability and Labelling) (Scotland) Regulations 2004

4.—(1) The Genetically Modified Organisms (Traceability and Labelling) (Scotland) Regulations 2004⁽¹⁾ are amended as follows.

(2) In regulation 2(1) (interpretation), after the definition of “electronic communications” insert—

““feed” has the same meaning as in the Council Regulation;”.

(3) In regulation 3 (enforcement)—

(a) for paragraph (1) substitute—

“(1) Subject to paragraph (2)—

- (a) each local authority must, in its area, enforce and execute these Regulations and the Council Regulation, in so far as it relates to food, and
- (b) Food Standards Scotland must enforce and execute these Regulations and the Council Regulation, in so far as it relates to feed.”.

(b) for paragraph (2) substitute—

“(2) The Scottish Ministers may, in relation to any case of a particular description, direct that the duty of a local authority or Food Standards Scotland under paragraph (1) be discharged—

- (a) in so far as it relates to food, by the Scottish Ministers instead of the local authority or by the Scottish Ministers and the local authority acting jointly,
- (b) in so far as it relates to feed by the Scottish Ministers instead of Food Standards Scotland or by the Scottish Ministers and Food Standards Scotland acting jointly.”.

(c) omit paragraph (4)(a).

(4) In regulation 5 (obtaining information from persons)—

(a) for paragraph (1) substitute—

“(1) Subject to regulation 3(1), for the purpose of the enforcement and execution of these Regulations and the Council Regulation, the local authority, Food Standards Scotland or the Scottish Ministers (as the case may be) may by notice in writing served on any person who falls within paragraph (1A), require that person to furnish such relevant information available to the person as is specified in the notice, in such form and within such period as is specified.

(1A) A person falls within this paragraph if the person appears to the local authority, Food Standards Scotland or the Scottish Ministers (as the case may be)—

- (a) to be involved in the placing on the market of—
 - (i) products consisting of or containing genetically modified organisms, or
 - (ii) food or feed produced from genetically modified organisms; or
- (b) to be about to become, or to have been, involved in either of those activities.”,
- (b) in paragraph (3) after “local authority” insert “, Food Standards Scotland”.
- (5) In regulation 6(4) (incorrectly labelled products) after “local authority” insert “, Food Standards Scotland”.
- (6) After regulation 12 (service of notices) insert—

“Delegation by Food Standards Scotland

13.—(1) Where Food Standards Scotland may delegate any function under these Regulations, it may delegate the function to any person.

(2) Before delegating, Food Standards Scotland must consult the person to whom any delegation is to be made.

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

(4) Where Food Standards Scotland has delegated any of its functions, Food Standards Scotland may vary, suspend or cancel that delegation, in whole or in part.

(5) Food Standards Scotland must publish and maintain an up to date register containing the details and operative date of any delegation.

Transitional and saving provisions applying to feed

14.—(1) The validity, effect or consequences of anything done under these Regulations as they had effect immediately before Food Standards Scotland becomes responsible to execute and enforce these Regulations in regulation 3(1)(b) is not affected by Food Standards Scotland becoming responsible to execute and enforce these Regulations.

(2) Any inspection, investigation or legal proceedings commenced prior to Food Standards Scotland becoming responsible to execute and enforce these Regulations in regulation 3(1)(b) is not affected by Food Standards Scotland becoming responsible to execute and enforce these Regulations.

(3) Any inspection, investigation or legal proceeding commenced prior to Food Standards Scotland becoming responsible to execute and enforce these Regulations in regulation 3(1)(b) 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 Food Standards Scotland becoming responsible to execute and enforce these Regulations in regulation 3(1)(b) is not affected by Food Standards Scotland becoming responsible to execute and enforce these Regulations.

(5) Despite Food Standards Scotland becoming responsible to execute and enforce these Regulations in so far as it applies to feed these Regulations as they had effect before that day continue to have effect for the purposes of investigating any offence referred in paragraph (4).”.

- (7) In schedule 2 (powers of inspectors), in paragraph 1(a), after “a local authority” insert “, Food Standards Scotland”.