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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 Feed (Hygiene and Enforcement) (Scotland) Regulations 2005**

5.—(1) The Feed (Hygiene and Enforcement) (Scotland) Regulations 2005(1) are amended as follows.

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

- (a) omit the definition of “the Agency”,
- (b) omit the definition of “feed authority”, and
- (c) for the definition of “agricultural analyst” substitute—

““agricultural analyst” means an agricultural analyst appointed under section 67A(2) (a) of the Act, and includes a deputy analyst;”.

(3) For regulation 4 (competent authorities) substitute—

**“Competent authority**

**4.** The competent authority for the purposes of Regulation 183/2005 is Food Standards Scotland.”.

(4) Omit regulation 7 (form of declaration in relation to transitional measures).

(5) In regulation 8 (form of application for approval)—

- (a) omit “for the area in which the establishment is located”,
- (b) in paragraph (e) omit “for the area in which the establishment to which the declaration relates is situated”.

(6) In regulation 9 (procedure for suspension of registration or approval) the paragraph following paragraph (1) is renumbered “(2)”.

(7) In regulation 11 (procedure for the revocation of registration or approval) for paragraph (3), substitute—

“(3) Where the competent authority has revoked a registration or approval pursuant to this regulation it must make the appropriate amendments to its own register of feed business establishments to ensure compliance with Article 19(3) (updating of national lists).”.

(8) In regulation 12(1) (form of application for amendments to approval or registration) omit “for the area in which the relevant feed business establishment is located”.

(9) In regulation 15 (offences, penalties and enforcement) for paragraph (3) substitute—

“(3) The competent authority for the purposes of Articles 15, 18 and 20 of Regulation 178/2002 is Food Standards Scotland.”.

(10) In regulation 16 (enforcement)—

- (a) for paragraph (1) substitute—
    - “(1) The relevant provisions are to be executed and enforced by Food Standards Scotland.”,
  - (b) omit paragraph (2), and
  - (c) in paragraph (3) for “Agency or any feed authority” substitute “Food Standards Scotland”.
- (11) In regulation 19 (appeals to court of session)—
- (a) for the heading substitute “Appeals to the Sheriff Appeal Court”,
  - (b) for “Court of Session” substitute “Sheriff Appeal Court”.
- (12) In regulation 29 (appointment of agricultural analysts), omit paragraph (3).
- (13) In regulation 30(1)(b) (procedure relating to samples for analysis) omit “for the area of the enforcement authority from which the authorised officer derives authority”.
- (14) For regulation 32 (Scottish Ministers’ default powers and area of authorised officer’s powers) substitute—

**“Delegation by the competent authority**

- 32.**—(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.”.
- (15) After regulation 37 (revocations) insert—

**“Transitional and savings provisions**

- 38.**—(1) The validity, effect or consequences of anything done under these Regulations as they had effect immediately before Food Standards Scotland becomes the enforcement authority is not affected by Food Standards Scotland becoming the enforcement authority.
- (2) Any inspection, investigation or legal proceedings commenced prior to Food Standards Scotland becoming the enforcement authority is not affected by Food Standards Scotland becoming the enforcement authority.
  - (3) Any inspection, investigation or legal proceeding commenced prior to Food Standards Scotland becoming the enforcement 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 Food Standards Scotland becoming the enforcement authority is not affected by Food Standards Scotland becoming the enforcement authority.
  - (5) Despite Food Standards Scotland becoming the enforcement 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).”.

