
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision, for the execution and enforcement of Regulation (EC) No. 1946/2003 of the European Parliament and of the Council of 15th July 2003 on the transboundary movements of genetically modified organisms (O.J. No. L 287, 5.11.2003, p.1) (“the Council Regulation”).

The Council Regulation implements at Community level the procedures laid down in the Cartagena Protocol on Biosafety to the Convention on Biological Diversity (“the Protocol”), which was signed by the Community and its Member States in 2000. In accordance with the Protocol, Community exporters are required to ensure that all requirements of the Advance Informed Agreement Procedure, as set out in the Protocol, are fulfilled.

Regulation 3 designates the Scottish Ministers as “competent authority” for the purpose of the Council Regulation. Article 3(19) of the Council Regulation provides that the competent authority is responsible for performing the administrative functions required by the Protocol.

Regulations 4 makes provision for the appointment of inspectors. Regulation 5 and Schedule 2 set out the powers of the inspectors, including powers of entry, the power to carry out tests and inspections, to take samples, and to require the provision of information. Regulation 6 makes provision for the Scottish Ministers and local authorities to obtain information.

Regulation 7 makes it an offence to contravene Community provisions specified in Schedule 1; to obstruct inspectors and fail to comply with any requirements they impose in the exercise of powers under these Regulations; and to give false information. Regulation 8 makes provision for offences by third parties. Regulation 9 provides for offences committed by corporate bodies.

Regulations 10 and 11 respectively specify time limits for bringing prosecutions, and prescribe penalties.

Regulation 12 makes provision about notices under these Regulations.

A Regulatory Impact Assessment (“RIA”) has been prepared in relation to these Regulations and a copy has been placed in the Scottish Parliament Information Centre. Copies of the RIA can be obtained from the Scottish Executive Environment and Rural Affairs Department, GM Team, Victoria Quay, Edinburgh EH6 6QQ.