
SCOTTISH STATUTORY INSTRUMENTS

2005 No. 616

**The Official Feed and Food Controls
(Scotland) Regulations 2005**

PART 5

ENFORCEMENT AND SUPPLEMENTARY PROVISIONS

Defence of due diligence

43.—(1) In any proceedings for an offence under these Regulations, it shall, subject to paragraph (2), be a defence to prove that the accused took all reasonable precautions and exercised all due diligence to avoid the commission of the offence by the accused or by a person under the accused's control.

(2) If in any case the defence provided by paragraph (1) involves the allegation that the commission of the offence was due to an act or default of another person, or to reliance on information supplied by another person, the accused shall not, without leave of the court, be entitled to rely on that defence unless at the earlier of—

- (a) [^{F1}a date 7 days] before the trial diet (not being a notional trial diet); or
- (b) a date 28 days after the first appearance of the accused, before a court in connection with the alleged offence,

the accused has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that other person as was in the accused's possession.

Textual Amendments

F1 Words in [reg. 43\(2\)\(a\)](#) substituted (11.1.2006) by [The Food Hygiene \(Scotland\) Regulations 2006](#) (S.S.I. 2006/3), [reg. 1\(1\)](#), [sch. 7 para. 49](#) (with [reg. 35](#))

Modifications etc. (not altering text)

C1 [Regs. 42-47](#) applied (with modifications) (15.3.2007) by [The Official Controls \(Animals, Feed and Food\) \(Scotland\) Regulations 2007](#) (S.S.I. 2007/91), [regs. 1\(1\)](#), [9\(1\)\(3\)](#)

Changes to legislation:

There are currently no known outstanding effects for the The Official Feed and Food Controls (Scotland) Regulations 2005, Section 43.