
SCOTTISH STATUTORY INSTRUMENTS

2008 No. 201

**The Feed (Hygiene and Enforcement)
(Scotland) Amendment Regulations 2008**

Amendment of the Feed (Hygiene and Enforcement) (Scotland) Regulations 2005

2.—(1) The Feed (Hygiene and Enforcement) (Scotland) Regulations 2005⁽¹⁾ are amended in accordance with paragraphs (2) to (4).

(2) In regulation 2(1) in the definition of “excluded additive” after “1831/2003” insert—

“except an additive that is either—

- (i) a digestibility enhancer;
- (ii) a gut flora stabiliser; or
- (iii) a substance incorporated with the intention of favourably affecting the environment”.

(3) After regulation 31 insert—

“Secondary analysis by the Government Chemist

31A.—(1) Paragraphs (2) to (10) apply where a part of a sample sent by an authorised officer for analysis under regulation 30(1)(b) has been analysed and—

- (a) proceedings are intended to be or have been commenced against a person for an offence under specified feed law; and
- (b) the prosecution intends to adduce evidence of the result of the analysis of that part of the sample.

(2) The authorised officer—

- (a) may of the officer’s own volition;
- (b) must if requested by the prosecutor; or
- (c) must (subject to paragraphs (5) and (6)) if requested by the accused,

send the retained part of the sample to the Government Chemist for analysis.

(3) The Government Chemist shall analyse the part of the sample received under paragraph (2) in the manner prescribed by any provision referred to in regulation 29 and send a certificate of analysis to the authorised officer which is—

- (a) completed in the form set out in Part I of Schedule 3 to the Feeding Stuffs (Sampling and Analysis) Regulations 1999 and in accordance with the notes set out in Part II of Schedule 3 to those Regulations⁽²⁾; and
- (b) signed by the Government Chemist or by a person authorised by the Government Chemist to sign such a certificate.

(4) The authorised officer shall immediately on receipt of the Government Chemist’s certificate of analysis supply the prosecutor and the accused with a copy.

(1) S.S.I. 2005/608 as amended by S.S.I. 2005/616 and 2006/578.

(2) S.I.1999/1663; as relevantly amended by S.S.I. 2002/285, 2005/605 and 2006/16.

(5) Where a request is made under paragraph (2)(c), the authorised officer may give notice in writing to the accused requesting payment of a fee specified in the notice in respect of the functions mentioned in paragraph (3).

(6) The authorised officer may, in the absence of agreement by the accused to pay the fee referred to in paragraph (5), refuse to comply with the request made under paragraph (2)(c) if the specified fee does not exceed either—

- (a) the cost of performing those functions; or
- (b) the appropriate fee for the performance of any similar function under section 78 of the Act.

(7) In this regulation—

- (a) “accused” includes a person against whom proceedings are intended to be commenced; and
- (b) “the appropriate fee” means such fee as may be fixed in accordance with the provisions of section 78(10) of the Act.

(8) Any analysis required to be made under paragraph (3) may be performed by any person acting under the direction of the Government Chemist.

(9) A certificate of analysis by the Government Chemist shall in any legal proceedings be received as evidence of the facts stated in the certificate if the party against whom it is to be given in evidence—

- (a) has been served with a copy of it at least 21 days before the hearing; and
- (b) has not served on the other party a notice requiring the attendance of the Government Chemist at least 7 days before the hearing.

(10) Any document purporting to be a certificate of analysis for the purposes of paragraph (9) shall be deemed to be such a certificate unless the contrary is proved.”.

(4) In Schedule 1 (specified feed law)—

- (a) at the end of “The Feeding Stuffs (Scotland) Regulations 2005” insert “(as modified by the Feeding Stuffs (Application to Zootechnical Additives etc.) (Scotland) Regulations 2005(3))”; and
- (b) below “The Feed (Hygiene and Enforcement) (Scotland) Regulations 2005” insert “The Official Feed and Food Controls (Scotland) Regulations 2007(4)”.

(3) S.I. 2005/3362; as amended by S.S.I. 2007/522.

(4) S.S.I. 2007/522.