
STATUTORY INSTRUMENTS

2015 No. 454

**The Animal Feed (Hygiene, Sampling etc. and
Enforcement) (England) Regulations 2015**

PART 5

Enforcement powers and related provisions

Defences

35.—(1) Where the commission by a person of an offence under specified feed law is due to the act or default of some other person, that other person commits the offence and may be accused and convicted of the offence whether or not proceedings are taken against the first-mentioned person.

(2) In any proceedings for an offence under specified feed law it shall, subject to paragraph (3), be a defence to prove that —

- (a) the commission of the offence was due to a mistake, or to reliance on information supplied to the accused, or to the act or default of another person, or to an accident or some other cause beyond the control of the accused; and
- (b) the accused took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by the accused or any person under their control.

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

- (a) at least seven clear days before the hearing; and
- (b) where the accused has previously appeared before a court in connection with the alleged offence, within one month of the first such appearance,

the accused has served on the prosecutor a notice giving any information the accused may have to identify or assist in identifying that other person.

(4) In any proceedings in which it is alleged that a material has contravened or failed to comply with the requirements of specified feed law it is a defence for the person accused to prove that the material in respect of which the offence was alleged to have been committed —

- (a) was feed to which Article 25 of Regulation 183/2005 applies; and
- (b) could lawfully be exported in accordance with the requirements of Article 12 (food and feed exported from the EU) of Regulation (EC) No 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety.