

2010 No. 373

AGRICULTURE

The Animal Feed (Scotland) Regulations 2010

Made - - - - 27th October 2010

Laid before the Scottish Parliament 29th October 2010

Coming into force - - 23rd November 2010

CONTENTS

PART 1

Introductory and general

- | | | |
|----|-----------------------------------|---|
| 1. | Citation, extent and commencement | 3 |
| 2. | Interpretation and scope | 3 |

PART 2

Marketing and use of feed

- | | | |
|----|---------------------------------------------------------------|---|
| 3. | Interpretation of this Part and Schedule 1 | 4 |
| 4. | Enforcement of requirements of Regulation 767/2009 | 4 |
| 5. | Competent authorities for the purposes of Regulation 767/2009 | 4 |

PART 3

Feed additives

- | | | |
|----|-----------------------------------------------------|---|
| 6. | Interpretation of this Part | 4 |
| 7. | Enforcement of requirements of Regulation 1831/2003 | 5 |

PART 4

Undesirable substances in feed

- | | | |
|----|-----------------------------------------------------------|---|
| 8. | Interpretation of this Part | 5 |
| 9. | Control of animal feeds containing undesirable substances | 5 |

PART 5

Feeds for particular nutritional purposes

- | | | |
|-----|--------------------------------------------------------------|---|
| 10. | Interpretation of this Part | 6 |
| 11. | Control of feed intended for particular nutritional purposes | 6 |

PART 6
Administration and enforcement

12.	Penalties for offences under these Regulations	7
13.	Duties to enforce	7

PART 7
Amendments and modifications to the Agriculture Act 1970

14.	Amendments and modifications to the Agriculture Act 1970	7
-----	----------------------------------------------------------	---

PART 8
Amendments to Regulations

15.	Amendment of the Feed (Hygiene and Enforcement) (Scotland) Regulations 2005	8
16.	Amendment of the Official Feed and Food Controls (Scotland) Regulations 2009	9
17.	Revocations	9

SCHEDULE 1 — SPECIFIED PROVISIONS OF REGULATION 767/2009	10
SCHEDULE 2 — REVOCATIONS	12

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 66(1), 68(1), 74A(1), (2) and (4) and 84 of the Agriculture Act 1970(a) and section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972(b) and all other powers enabling them to do so.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Scottish Ministers that it is expedient for references to the Annexes to the EU instruments mentioned in regulation 2(3) to be construed as references to those Annexes as they may be amended from time to time.

There has been consultation as required by section 84(1) of the Agriculture Act 1970 with such persons or organisations appearing to represent the interests concerned and as required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying

(a) 1970 c.40. Section 66(1) contains definitions of the expressions “the Ministers”, “prescribed” and “regulations” and was relevantly amended by S.I. 2004/3254 and S.S.I. 2010/354. Section 74A was inserted by paragraph 6 of Schedule 4 to the European Communities Act 1972 (c.68). Section 84 was amended by S.I. 2004/3254. Functions of the Secretary of State, in so far as exercisable within devolved competence, were transferred to the Scottish Ministers by section 53 of the Scotland Act 1998 (c.46). In so far as not so transferred and in so far as relating to animal feeding stuffs, which are not veterinary medicinal products or specified feed additives as defined in the Veterinary Medicines Regulations 2005 (S.I. 2005/2745), relevant functions were transferred to the Scottish Ministers by the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2006 (S.I. 2006/304).

(b) 1972 c.68. Section 2(2) was amended by paragraph 15(3) of Schedule 8 to the Scotland Act 1998 (c.46), section 27(1) of the Legislative and Regulatory Reform Act 2006 (c.51) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7). Paragraph 1A of Schedule 2 was inserted by section 28 of the 2006 Act and amended by Part 1 of the Schedule to the 2008 Act. The functions conferred on a Minister of the Crown under section 2(2) of the 1972 Act, in so far as exercisable within devolved competence, were transferred to the Scottish Ministers by section 53 of the 1998 Act. In so far as not so transferred and in so far as relating to animal feeding stuffs, which are not veterinary medicinal products or specified feed additives as defined in the Veterinary Medicines Regulations 2005 (S.I. 2005/2745), relevant functions were transferred to the Scottish Ministers by the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2006 (S.I. 2006/304).

down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety(a).

PART 1

Introductory and general

Citation, extent and commencement

1. These Regulations may be cited as the Animal Feed (Scotland) Regulations 2010, extend to Scotland only and come into force on 23rd November 2010.

Interpretation and scope

2.—(1) In these Regulations—

“the Act” means the Agriculture Act 1970;

“Directive 82/475” means Commission Directive 82/475/EEC laying down the categories of feed materials which may be used for the purposes of labelling compound feedingstuffs for pet animals(b);

“Directive 2002/32” means Directive 2002/32/EC of the European Parliament and of the Council on undesirable substances in animal feed(c);

“Regulation 1831/2003” means Regulation (EC) No. 1831/2003 of the European Parliament and of the Council on additives for use in animal nutrition(d);

“Directive 2008/38” means Commission Directive 2008/38/EC establishing a list of intended uses of animal feedingstuffs for particular nutritional purposes(e);

“Regulation 767/2009” means Regulation (EC) No. 767/2009 of the European Parliament and of the Council on the placing on the market and use of feed, amending European Parliament and Council Regulation (EC) No. 1831/2003 and repealing Council Directive 79/373/EEC, Commission Directive 80/511/EEC, Council Directives 82/471/EEC, 83/228/EEC, 93/74/EEC, 93/113/EC and 96/25/EC and Commission Decision 2004/217/EC(f);

“Regulation 242/2010” means Commission Regulation (EU) No. 242/2010 creating the Catalogue of feed materials(g); and

“feed authority” means an authority identified in section 67(2) (enforcement authorities) of the Act as having the duty to enforce Part IV of the Act within its area.

(2) Any expression used in these Regulations and in Regulation 1831/2003 or Regulation 767/2009 has the meaning in these Regulations that it bears in the Regulation concerned.

(3) Any reference to an Annex to Directive 82/475, Directive 2002/32, Directive 2008/38, Regulation 767/2009 or Regulation 242/2010 is a reference to that Annex as it may be amended from time to time.

(a) O.J. No. L 31, 1.2.2002, p.1, as last amended by Regulation (EC) No. 596/2009 of the European Parliament and of the Council adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468 with regard to the regulatory procedure with scrutiny: Adaptation to the regulatory procedure with scrutiny – Part Four (O.J. No. L 188, 18.7.2009, p.14).

(b) O.J. No. L 213, 21.7.1982, p.27. This Directive was last amended by Commission Directive 98/67/EC (O.J. No. L 261, 24.9.1998, p.10).

(c) O.J. No. L 140, 30.5.2002, p.10. This Directive was last amended by Commission Directive 2010/6/EU (O.J. No. L 37, 10.2.2010, p.29).

(d) O.J. No. L 268, 18.10.2003, p.29. This Regulation was last amended by Regulation (EC) No. 767/2009.

(e) O.J. No. L 62, 6.3.2008, p.9. This Directive was last amended by Commission Directive 2008/82 (O.J. No. L 202, 31.7.2008, p.48).

(f) O.J. No. L 229, 1.9.2009, p.1. This Regulation was last amended by Commission Regulation (EC) No. 568/2010 (O.J. No. L 163, 30.6.2010, p.30).

(g) OJ No. L 77, 24.3.2010, p.17.

(4) These Regulations do not apply to any feed additive in category (d) or (e) of Article 6(1) of Regulation 1831/2003, with the exception of those in the functional groups listed in paragraph 4(a), (b) and (c) of Annex 1 to that Regulation(a).

PART 2

Marketing and use of feed

Interpretation of this Part and Schedule 1

3. In this Part and in Schedule 1 any reference to a numbered Article or Annex is a reference to the Article or Annex so numbered in Regulation 767/2009.

Enforcement of requirements of Regulation 767/2009

4.—(1) Subject to the transitional provisions contained in Article 32, any person who contravenes or fails to comply with any provision of Regulation 767/2009 specified in Schedule 1 is guilty of an offence.

(2) Where, pursuant to Article 17(2)(c) (specific mandatory labelling requirements for compound feed), the name of a specific feed material may be replaced by the name of the category to which the feed material belongs, only the categories listed in the Annex to Directive 82/475 may be indicated.

Competent authorities for the purposes of Regulation 767/2009

5.—(1) Each feed authority in its area is the competent authority for the purposes of—

- (a) Article 5(3) (responsibilities and obligations of feed businesses), 13(1)(a) (claims) and 17(3) (provision of information in the event of urgency) and Annex VII, Chapter 1, paragraph 8 (verification of labelling information accuracy); and
- (b) Article 13(1)(b) (claims) as the competent authority that may request scientific substantiation of a claim and to whose attention purchasers have the right to bring doubts regarding the truthfulness of a claim.

(2) The Food Standards Agency is the competent authority for the purposes of—

- (a) Article 26(1)(b) (EU catalogue and codes); and
- (b) Article 13(1)(b) (claims) as the competent authority that may submit to the Commission doubts concerning the scientific substantiation of a claim.

(3) The Food Standards Agency and each feed authority in its area is the competent authority for the purposes of Article 5(2) (verification of labelling information accuracy).

PART 3

Feed additives

Interpretation of this Part

6. In this Part any reference to a numbered Article is a reference to the Article so numbered in Regulation 1831/2003.

(a) Categories (d) and (e) of Article 6(1) comprise respectively zootechnical additives, and coccidiostats and histomonostats. Functional groups listed in paragraphs 4(a), (b) and (c) of Annex I comprise digestibility enhancers, gut flora stabilisers and substances incorporated with the intention of favourably affecting the environment.

Enforcement of requirements of Regulation 1831/2003

7.—(1) Any person who contravenes or fails to comply with any provision specified in paragraph (2) is guilty of an offence.

(2) The provisions are—

- (a) Article 3, paragraphs (1) to (4), (placing on the market, processing and use of feed additives), as read with Article 10 (status of existing products);
- (b) Article 12 (post-authorisation monitoring); and
- (c) Article 16, paragraphs (1) to (5) (labelling and packaging of additives and premixtures).

PART 4

Undesirable substances in feed

Interpretation of this Part

8. In this Part—

- (a) any reference to a numbered Annex is a reference to the Annex so numbered in Directive 2002/32; and
- (b) “undesirable substance” means any substance or product, not being a pathogenic agent, which is present in or on a feed and—
 - (i) constitutes a potential danger to human or animal health or to the environment; or
 - (ii) could adversely affect livestock production.

Control of animal feeds containing undesirable substances

9.—(1) Any person who—

- (a) places on the market any feed that is specified in column 2 of Annex I; or
- (b) uses any such feed,

is guilty of an offence if it contains any undesirable substance listed in column 1 of that Annex in excess of the relevant maximum content specified in column 3.

(2) Any person who places on the market or uses any complementary feed is guilty of an offence if—

- (a) having regard to the quantity of it recommended for use in a daily ration, it contains any undesirable substance listed in column 1 of Annex I in excess of the maximum content specified for it in column 3 in relation to complete feeds; and
- (b) there is no provision relating to any complementary feed in the corresponding entry in column 2 of that Annex.

(3) Any person who for the purpose of dilution mixes any feed with a feed that is specified in column 2 of Annex I and which contains any undesirable substance listed in column 1 of that Annex in excess of the maximum content specified for it in column 3 is guilty of an offence.

(4) Any person who places on the market or uses any feed which is not sound and genuine and of merchantable quality is guilty of an offence.

(5) For the purposes of paragraph (4) a feed listed in column 2 of Annex I is not sound, genuine and of merchantable quality if it contains any undesirable substance specified in column 1 of that Annex in excess of the maximum content specified in relation to it in column 3.

(6) Any person who has, for the purpose of a trade or business, possession or control of any of the feeds specified in paragraph (7) shall, if required by an inspector, procure and produce to the inspector an analysis in order to demonstrate that the content of inorganic arsenic in the feed specified in that paragraph is less than 2 parts per million.

(7) The feeds are—

- (a) palm kernel expeller;
- (b) feeds obtained from the processing of fish and other marine animals;
- (c) seaweed meal and feed materials derived from seaweed; and
- (d) complete feeds for fish or for fur-producing animals.

(8) Any person who, without reasonable excuse, fails to comply with a requirement made under paragraph (6) is guilty of an offence.

PART 5

Feeds for particular nutritional purposes

Interpretation of this Part

10. In this Part, “the Annex” means Part B of Annex I to Directive 2008/38, as read with paragraphs 1 and 7 of Part A of that Annex.

Control of feed intended for particular nutritional purposes

11.—(1) Any person who places on the market a feed intended for a particular nutritional purpose is guilty of an offence if the relevant requirements of paragraphs (2) to (9) are not met.

(2) In relation to any particular nutritional purpose specified in column 1 of the Annex—

- (a) the feed must be intended for the animals specified opposite that particular nutritional purpose in column 3 of the Annex; and
- (b) it must be recommended that the feed be used for a period of time falling within the range specified opposite that particular nutritional purpose in column 5 of the Annex.

(3) Where a group of additives is specified in column 2 or 4 of the Annex, the additive used must be authorised as corresponding to the specified essential characteristic.

(4) Where the source of ingredients or analytical constituents is required in column 4 of the Annex, the manufacturer must make a precise declaration (for example the specific name of the ingredient, the animal species or the part of the animal) allowing the evaluation of conformity of the feed with the corresponding essential nutritional characteristics.

(5) Where the declaration of a substance that is also authorised as an additive is required in column 4 of the Annex and is accompanied by the expression “total”, the declared content must refer to the quantity naturally present where none is added or, as appropriate, the total quantity of the substance naturally present and the amount added as an additive.

(6) The declarations specified in column 4 of the Annex with the reference “if added” must be provided where the ingredient or the additive has been incorporated or increased specifically to enable the achievement of the particular nutritional purpose.

(7) The declarations to be given in accordance with column 4 of the Annex concerning analytical constituents and additives must be quantitative.

(8) Where a feed is intended to meet more than one particular nutritional purpose, it must comply with the corresponding entries in the Annex.

(9) In the case of a complementary feed intended for a particular nutritional purpose, guidance on the balance of the daily ration must be provided in the instructions for use on the label.

PART 6

Administration and enforcement

Penalties for offences under these Regulations

12.—(1) Any person found guilty of an offence under regulation 4(1), 7(1), 9(1) to (4) or 11(1) is liable—

- (a) on summary conviction, to a term of imprisonment not exceeding three months or to a fine not exceeding the statutory maximum, or both; or
- (b) on conviction on indictment, to a term of imprisonment not exceeding three months or to a fine, or both.

(2) Any person found guilty of an offence under regulation 9(8) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Duties to enforce

13. It is the duty of each feed authority within its area to execute and enforce the provisions of these Regulations.

PART 7

Amendments and modifications to the Agriculture Act 1970

Amendments and modifications to the Agriculture Act 1970

14.—(1) The Act is amended or modified, as the case may be, in accordance with paragraphs (2) to (9).

(2) In section 66 (interpretation of Part IV)—

- (a) in subsection (1)(a), insert at the appropriate place the following definitions:—

““Regulation (EC) No. 1831/2003” means Regulation (EC) No. 1831/2003 of the European Parliament and of the Council on additives for use in animal nutrition;”;

““Regulation (EC) No. 767/2009” means Regulation (EC) No. 767/2009 of the European Parliament and of the Council on the placing on the market and use of feed, amending European Parliament and Council Regulation (EC) No. 1831/2003 and repealing Council Directive 79/373/EEC, Commission Directive 80/511/EEC, Council Directives 82/471/EEC, 83/228/EEC, 93/74/EEC, 93/113/EC and 96/25/EC and Commission Decision 2004/217/EC;”;

- (b) for subsection (2) substitute—

“(2) For the purposes of this Part of this Act material shall be treated as sold for use as a fertiliser or feeding stuff whether it is sold to be so used by itself or as an ingredient in something which is to be so used.”.

(3) In section 68 (duty of seller to give statutory statement)—

- (a) after subsection (5) insert the following subsection:—

“(5A) Nothing in subsections (1) to (5) applies to anyone to whom the requirements of Article 16 of Regulation (EC) No. 1831/2003 (labelling and packaging of feed additives and premixtures) or of Chapter 4 of Regulation (EC) No. 767/2009 (labelling, presentation and packaging) apply.”; and

(a) Section 66(1) was relevantly amended by S.I. 2004/3254 and S.S.I. 2010/354.

- (b) after subsection (6) insert the following subsection:—
 - “(7) Failure to comply with the labelling requirements of Article 16 of Regulation (EC) No. 1831/2003 or of Chapter 4 of Regulation (EC) No. 767/2009 shall not invalidate a contract of sale, but such labelling shall, regardless of any contract or notice to the contrary, have effect as a warranty by the person who gives it that the particulars contained in it are correct.”.
- (4) In section 69(1) (marking of material prepared for sale) omit “or feeding stuff”.
- (5) In section 70 (use of names or expressions with prescribed meanings)—
 - (a) subsection (1)(a) in so far as it applies in relation to feeding stuffs shall apply as if “under Regulation (EC) No. 767/2009” were substituted for “by regulations made for the purposes of this section”; and
 - (b) after subsection (5) insert the following subsection:—
 - “(6) Nothing in subsections (2) to (4) of this section shall apply to anyone to whom the labelling requirements of Regulation (EC) No. 767/2009 apply.”.
- (6) In section 71 (particulars to be given of certain attributes if claimed to be present)—
 - (a) subsection (4) in so far as it applies in relation to feeding stuffs shall apply as if—
 - (i) “the requirements of Article 13 (claims) of Regulation (EC) No. 767/2009” were substituted for “subsection (1) of this section”; and
 - (ii) “that Article” were substituted for “that subsection”; and
 - (b) after subsection (5) insert the following subsection:—
 - “(6) Nothing in subsections (1) to (3) of this section shall apply to anyone to whom Article 13 (claims) of Regulation (EC) No. 767/2009 applies.”.
- (7) Omit sections 73 (deleterious ingredients in feeding stuff) and 73A.
- (8) In section 74 (limits of variation) after subsection (2) insert the following subsection:—
 - “(3) Nothing in subsection (2) shall apply to anyone to whom Article 11.5 and Annex IV (permitted tolerances) of Regulation (EC) No. 767/2009 applies.”.
- (9) Section 74A(3) does not apply to regulations concerning feed.

PART 8

Amendments to Regulations

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

15.—(1) The Feed (Hygiene and Enforcement) (Scotland) Regulations 2005(a) are amended in accordance with paragraphs (2) to (6).

- (2) In regulation 2(1) (interpretation)—
 - (a) after the definition of “agricultural analyst” insert the definition—
 - ““the Animal Feed Regulations” means the Animal Feed (Scotland) Regulations 2010;”;
 - (b) after the definition of “Regulation 183/2005” insert the definition—
 - ““Regulation 767/2009” means Regulation (EC) No. 767/2009 of the European Parliament and of the Council on the placing on the market and use of feed, amending European Parliament and Council Regulation (EC) No. 1831/2003 and repealing Council Directive 79/373/EEC, Commission Directive 80/511/EEC, Council Directives

(a) S.S.I. 2005/608, as amended by S.S.I. 2005/616, 2006/578, 2008/201, 2009/263 and 446, and 2010/354.

82/471/EEC, 83/228/EEC, 93/74/EEC, 93/113/EC and 96/25/EC and Commission Decision 2004/217/EC;”.

(3) In regulation 15(2)(b) (offences, penalties and enforcement) omit “food-producing”.

(4) For regulation 24(13) (powers of entry for authorised officers) substitute—

“(13) In this regulation—

- (a) “compound feeding stuff” bears the same meaning as “compound feed” as defined in Article 3(2)(h) of Regulation 767/2009;
- (b) “feeding stuff which is intended for a particular nutritional purpose” bears the same meaning as “feed intended for particular nutritional purposes” as defined in Article 3(2)(o) of that Regulation; and
- (c) “prescribed manner” means prescribed by any provision referred to in regulation 29.”.

(5) In each of regulations 34(1) and (2) (defences of fault of another person, mistake etc and export), 35(1) and (3) (defences by corporate bodies or Scottish partnerships) and 36(1) (time limit for prosecutions) after “these Regulations” insert “or the Animal Feed Regulations”.

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

- (a) omit “The Feeding Stuffs (Scotland) Regulations 2000”;
- (b) for “The Feeding Stuffs (Scotland) Regulations 2005 (as modified by the Feeding Stuffs (Application to Zootechnical Additives etc.) (Scotland) Regulations 2005)” substitute “The Animal Feed (Scotland) Regulations 2010”; and
- (c) insert at the end—
“Regulation 767/2009”.

Amendment of the Official Feed and Food Controls (Scotland) Regulations 2009

16.—(1) The Official Feed and Food Controls (Scotland) Regulations 2009(a) are amended in accordance with paragraph (2).

(2) In paragraph (f) of Schedule 2 (definition of relevant feed law), for “the Feeding Stuffs (Scotland) Regulations 2005” substitute “the Animal Feed (Scotland) Regulations 2010”.

Revocations

17. The enactments listed in Schedule 2 are revoked.

RICHARD LOCHHEAD
A member of the Scottish Executive

St Andrew’s House,
Edinburgh
27th October 2010

(a) S.S.I. 2009/446, as amended by S.S.I. 2010/5, 177 and 354.

SCHEDULE 1

Regulation 4

SPECIFIED PROVISIONS OF REGULATION 767/2009

<i>Specified provision</i>	<i>Subject matter</i>
Article 4, as read with Annex I and with the Annex to Regulation 242/2010	General safety and other requirements to be met when feed is placed on the market or used
Article 5(1)	Extension of requirements in relation to feed for food-producing animals in other legislation to apply to feed for non food-producing animals
Article 5(2)	Obligation on person responsible for labelling to make information available to competent authority
Article 6(1), as read with Annex III	Prohibition or restriction on the marketing or use of certain materials for animal nutritional purposes
Article 8	Controls on the levels of additives in feeds
Article 9	Controls on the marketing of feeds for particular nutritional purposes
Article 11, as read with Annexes II & IV and with the Annex to Regulation 242/2010	Rules and principles governing the labelling and presentation of feed
Article 12	Designation of the person responsible for labelling and the obligations and responsibilities of that person
Article 13(1)	General conditions on making a claim about the characteristics or functions of a feed on the labelling or presentation of it
Article 13(2)&(3)	Special conditions applying to claims concerning optimisation of the nutrition and support or protection of the physiological conditions
Article 14(1)&(2)	Requirements for the presentation of the mandatory labelling particulars
Article 15, as read with Annex VI and VII and Article 21	General mandatory labelling requirements for feed materials and compound feeds
Article 16, as read with Annex II and V and Article 21 and with the Annex to Regulation 242/2010	Specific labelling requirements for feed materials
Article 17(1)&(2) as read with Annex II, VI & VII and Article 21	Specific labelling requirements for compound feeds
Article 18	Additional labelling requirements for feed for particular nutritional purposes (dietetic feeds)
Article 19	Additional labelling requirements for pet food
Article 20(1) as read with Annex VIII	Additional requirements for labelling of non-compliant feed, such as that containing contaminated materials
Article 23	Requirements relating to the packaging and sealing of feed materials and compound feeds for placing on the market
Article 24(5)	Requirement that if the name of a feed material listed in the Community Catalogue of feed materials is used, all relevant provisions of the Catalogue must be complied with

<i>Specified provision</i>	<i>Subject matter</i>
Article 24(6)	Obligation on a person who first places on the market a feed material not listed in the Community Catalogue to notify its use
Article 25(4)	Requirement that if use of the Community Codes of good labelling practice is indicated on labelling, all relevant provisions of the codes must be complied with

SCHEDULE 2 REVOCATIONS

Regulation 17

1. The Feeding Stuffs (Scotland) Regulations 2005**(a)**.
2. The Feeding Stuffs (Scotland) Amendment and the Feeding Stuffs (Sampling and Analysis) Amendment (Scotland) Regulations 2006**(b)**.
3. The Feeding Stuffs (Scotland) Amendment Regulations 2006**(c)**.
4. Regulation 2 of and the Schedules to the Feeding Stuffs (Scotland) and the Feed (Hygiene and Enforcement) (Scotland) Amendment Regulations 2006**(d)**.
5. The Feed (Specified Undesirable Substances) (Scotland) Regulations 2007**(e)**.
6. The Feeding Stuffs (Scotland) Amendment Regulations 2008**(f)**.
7. The Feeding Stuffs (Scotland) Amendment Regulations 2009**(g)**.
8. The Feed (Specified Undesirable Substances) (Scotland) Regulations 2009**(h)**.
9. Regulations 11, 14, 15 and 25 of, and Schedule 2 to, the Feed (Sampling and Analysis and Specified Undesirable Substances) (Scotland) Regulations 2010**(i)**.

-
- (a)** S.S.I. 2005/605.
(b) S.S.I. 2006/16.
(c) S.S.I. 2006/516.
(d) S.S.I. 2006/578.
(e) S.S.I. 2007/492.
(f) S.S.I. 2008/215.
(g) S.S.I. 2009/21.
(h) S.S.I. 2009/373.
(i) S.S.I. 2010/354.

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations—

- (a) revoke the Feeding Stuffs (Scotland) Regulations 2005 as amended and re-enact certain of their provisions;
- (b) provide for the execution and enforcement of the comprehensive new EU Regulation on the marketing and use of feed detailed in paragraph 2, and for the continuing enforcement of the EU Regulation on feed additives mentioned in paragraph 3;
- (c) maintain the implementation of EU Directives concerning dietetic feeds and contaminants in feed;
- (d) prescribe offences and penalties for breaches of these Regulations;
- (e) make amendments and modifications to Part IV of the Agriculture Act 1970; and
- (f) amend certain other Regulations.

2. In Part 2, these Regulations provide for the execution of Regulation (EC) No. 767/2009 of the European Parliament and of the Council on the placing on the market and use of feed, amending European Parliament and Council Regulation (EC) No. 1831/2003 and repealing Council Directive 79/373/EEC, Commission Directive 80/511/EEC, Council Directives 82/471/EEC, 83/228/EEC, 93/74/EEC, 93/113/EC and 96/25/EC and Commission Decision 2004/217/EC (O.J. No. L 229, 1.9.2009, p.1) (regulations 3 to 5 and Schedule 1). References in regulation 4(2) to the Annex to Directive 82/475 and in Schedule 1 to the Annex to Regulation 242/2010 or the Annexes to Regulation 767/2009 are references to those Annexes as they may be amended from time to time (regulation 2(3)).

3. In Part 3, the Regulations provide for the continuing enforcement of Regulation (EC) No. 1831/2003 of the European Parliament and of the Council on additives for use in animal nutrition (O.J. No. L 268, 18.10.2003, p.29) (regulations 6 and 7).

4. In Part 4, the Regulations implement Directive 2002/32/EC of the European Parliament and of the Council on undesirable substances in animal feed (O.J. No. L 140, 30.5.2002, p.10) (regulations 8 and 9). Directive 2002/32 has already been amended a number of times, and any reference to an Annex to this Directive is a reference to that Annex as it may be amended from time to time (regulation 2(3)).

5. In Part 5, the Regulations implement Commission Directive 2008/38/EC establishing a list of intended uses of animal feedingstuffs for particular nutritional purposes (O.J. No. L 62, 6.3.2008, p.9) (regulations 10 and 11). Any reference to an Annex to this Directive is a reference to that Annex as it may be amended from time to time (regulation 2(3)).

6. Part 6 of these Regulations makes provision for a breach of specified requirements to constitute an offence, sets out the maximum penalty applicable on conviction for such an offence and provides feed authorities with the duty to enforce these Regulations and the EU Regulations mentioned above (regulations 12 and 13).

7. In Part 7, the Regulations make amendments or modifications to the Agriculture Act 1970 where the relevant sections of the Act would otherwise duplicate, gloss or be incompatible with provisions of Regulation 767/2009 (regulation 14).

8. In Part 8, the Regulations make consequential amendments to the Food (Hygiene and Enforcement) (Scotland) Regulations 2005 and the Official Feed and Food Controls (Scotland) Regulations 2009 (regulations 15 and 16).

9. A Business and Regulatory Impact Assessment has been prepared and placed in the Scottish Parliament Information Centre. Copies may be obtained from the Food Standards Agency (Scotland), 6th Floor, St Magnus House, 25 Guild Street, Aberdeen AB11 6NJ and online at www.legislation.gov.uk.

2010 No. 373

AGRICULTURE

The Animal Feed (Scotland) Regulations 2010