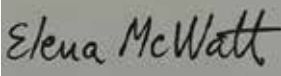


Feed Delivery Enforcement Policy

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Food Standards Scotland
Feed Delivery Branch
Enforcement Policy

1. Introduction

Food Standards Scotland (FSS) is the Competent Authority responsible for the enforcement of all animal feed legislation in Scotland.

FSS discharges its statutory functions to deliver feed hygiene official controls in partnership with different Scottish Local Authorities (LA) via delegated service level agreements (DSLAs), covering several LA areas and through a dedicated team of FSS Feed Officers for the remaining areas.

The statutory function of Feed Delivery by FSS and by those working on its behalf under delegated authority is to ensure that animal feed is safe and is not a threat to animal or human health and the environment.

The purpose of this policy is to ensure that FSS, delegated LAs, regulated feed businesses and other stakeholders are aware of the general intent and principles underpinning FSS approach to the enforcement of feed law as detailed in Annex 1.

This policy recognises the [Scottish regulators' strategic code of practice](#) and the five principles of better regulation – that regulation should be proportionate, consistent, accountable, transparent, targeted only where needed. It also reflects [FSS Regulatory Strategy](#) and the Compliance Spectrum at Figure 1 as a framework to support effective targeting of feed law enforcement.



Figure 1 Compliance Spectrum

This policy will be reviewed on an annual basis as a minimum.

2. Definitions

‘Competent Authority’ means the appropriate authority or the authority designated under or for the purposes of Article 4 ([Official Controls Regulation Assimilated Law 2017/625](#)).

‘Feed’ means any substance or product, including additives, whether processed, partially processed or unprocessed, intended to be used for oral feeding to animals ([Assimilated Law Regulation 178/2002](#)).

‘Feed Business’ means any undertaking, whether for profit or not and whether public or private, carrying out any operation of production, manufacture, processing, storage, transport or distribution of feed including any producer producing, processing or storing feed for feeding to animals on his own holding ([Assimilated Law Regulation 178/2002](#)).

‘Feed Business Operator’ (FeBO) means the natural or legal persons responsible for ensuring that the requirements of food law are met within the feed business under their control ([Assimilated Law Regulation 178/2002](#)).

‘Regulated person’ for the purposes of this policy means anyone who must comply with feed law enforced by FSS or delegated LAs working on its behalf and will mainly be businesses and their employees.

3. Our Aims

The aim of this policy is to ensure that enforcement action under feed law is proportionate, consistent and fair to protect public health and the interests of consumers and legitimate businesses.

4. Enforcement options

If feed law has been contravened there is a range of enforcement options:

- Informal action e.g. advice and guidance.
- Use of statutory powers to issue notices. These include:

- o Detention of feed and seizure of feed
 - o Feed business improvement notice
 - o Feed business emergency prohibition notice
 - o Feed business emergency prohibition order
 - o Feed business prohibition order
 - o Suspension of registration or approval
 - o Revocation of registration or approval
- In relation to imported feed additional enforcement options include the destruction, re-dispatch, and requirement for special treatment of non-compliant feed.
 - In relation to genetically modified feed additional enforcement options include the requirement to withdraw product from the market, the requirement to furnish relevant information and the requirement to label the product.
 - Report to the Procurator Fiscal recommending prosecution.

5. Enforcing feed law

5.1 Hierarchy of enforcement

A hierarchy of enforcement is used whereby:

- account is taken of the range of enforcement options available.
- there is a graduated and educative approach, starting with the provision of advice and guidance to help businesses to understand and comply with their obligations. Where informal action does not achieve the desired effect or there is significant or imminent risk to the public and or animal health, formal action may be initiated.
- the approach taken results in timely resolution of non-compliance.

5.2 Factors determining enforcement action

Before enforcement action is taken, officers will seek to discuss the circumstances of the case with the Feed Business Operator or responsible person and, where possible, resolve minor non-compliance through advice and guidance. Formal notices to require a business to undertake or refrain from an action may be required to protect animal health, human health or the environment.

The Regulations contained in Annex 1 detail the circumstances in which statutory powers to issue may be used and further guidance is provided in the [Feed Manual](#).

In assessing proportionate enforcement action, the following factors will be taken into consideration:

- The impact or potential impact of the non-compliance.
- The regulated person's response to dealing with the non-compliance.
- The past record of compliance with relevant legislation.
- Any evidence of fraudulent, reckless or negligent behaviour.
- The steps taken by the regulated person or the reasonable steps they failed to take to prevent the non-compliance.
- The likelihood of the non-compliance happening again.

Where statutory enforcement notices are issued these will explain the appeal process and will be brought to the attention of the recipient.

Where time limits for action by the regulated person are set, officers will set a reasonable time limit in accordance with the regulations, ideally in agreement with the regulated person, taking into account the nature of the non-compliance and any other circumstances to bring about a timely resolution.

6. FSS Complaints Procedure

Notwithstanding the above, Feed Business Operators and their representatives, and regulated persons always have the right to complain about the service to:

[How we work | Food Standards Scotland](#)

[Complaints handling procedure - A guide for customers | Food Standards Scotland](#)

Annex 1

Feed law for the purposes of this policy is –

- Specified Feed Law as defined in Regulation 2(2) of [The Feed \(Hygiene & Enforcement \(Scotland\) Regulations 2005](#) with reference to Schedule 1 of that regulation
- [The Genetically Modified Animal Feed \(Scotland\) Regulations 2004](#)
- [The Genetically Modified Organisms \(Traceability and Labelling\) \(Scotland\) Regulations 2004](#)