SCOTTISH STATUTORY INSTRUMENTS

2004 No. 536

ANIMALS

ANIMAL HEALTH

The Salmonella in Laying Flocks (Sampling Powers) (Scotland) Regulations 2004

Made - - - -	*7th December 2004*
Laid before the Scottish Parliament - - - -	*8th December 2004*
Coming into force - -	*14th January 2005*

The Scottish Ministers, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(**1**), and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Salmonella in Laying Flocks (Sampling Powers) (Scotland) Regulations 2004 and shall come into force on 14th January 2005.

(2) These Regulations extend to Scotland only.

Interpretation

2. In these Regulations–

"the Commission Decision" means Commission Decision 2004/665/EC dated 22nd September 2004(**2**) concerning a baseline study on the prevalence of salmonella in laying flocks of *Gallus gallus*;

"faecal and environmental material" means faeces from laying hens, or dust or other material which may have come into contact with such faeces or with laying hens, or a mixture of such faeces and such dust or other material;

"inspector" means an inspector appointed by the Scottish Ministers or by a local authority for the purpose of these Regulations;

(**1**) 1972 c. 68. Section 2(2) was amended by the Scotland Act 1998 (c. 46), Schedule 8, paragraph 15(3). The function conferred upon the Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, was transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

(**2**) O.J. No. L 303, 30.9.04, p.30.

"laying hen" means any bird of the species *Gallus gallus* that produces eggs for human consumption;

"local authority" means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(**3**);

"person" in regulations 4(1)(f) and 7(1) does not include a body corporate or a partnership;

"premises" includes land with or without buildings but does not include any place used only as a dwelling;

"the Technical Specifications" means those technical specifications referred to at Article 5 of the Commission Decision as having been presented to the European Commission's Standing Committee on the Food Chain and Animal Health on 15th July 2004 and which are entitled "Baseline Study on the Prevalence of *Salmonella* in Laying Flocks of *Gallus gallus* in the EU – Technical Specifications".

Selection of Premises

3. The Scottish Ministers shall be responsible for selection of premises for sampling for the purposes of the Commission Decision.

Powers of inspectors

4.—(1) An inspector for the purposes of the Commission Decision and in accordance with the Technical Specifications shall, on giving notice in writing to the occupier or person in charge of premises selected in terms of regulation 3 for sampling and on producing, if requested, some duly authenticated document showing that inspector's authority, have the right to–

(a) enter at all reasonable hours those premises;

(b) make inquiries of any person (whether on those premises or not);

(c) examine, retain or copy any records including computerised records which may appear to that inspector to be relevant;

(d) take and retain such samples, including samples of faecal and environmental material, as well as any other samples that that inspector considers necessary;

(e) be accompanied by such vehicles and equipment as that inspector considers necessary;

(f) be assisted by such other persons as that inspector considers necessary; and

(g) require the occupier or person in charge of those premises or any employee or agent of that occupier or person to provide such assistance, co-operation, information and documentation including records, computerised or otherwise, as may reasonably be required by that inspector.

(2) Nothing in paragraphs (1)(b) or (g) shall be construed as requiring any person to answer any question or give any information if to do so might incriminate that person.

Notices

5.—(1) A notice in writing to be given to any person under regulation 4(1) may be given–

(a) by delivering it to that person; or

(b) by leaving it, or sending it in a pre paid envelope addressed to that person, at the usual or last known place of business or residence of that person, or in the case of a body corporate or partnership at any place of business or the registered office of that body corporate or partnership.

(**3**) 1994 c. 39.