



Farm and Garden Chemicals Act 1967

CHAPTER 50

ARRANGEMENT OF SECTIONS

Section

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ELIZABETH II



1967 CHAPTER 50

An Act to make provision for the labelling of farm and garden chemicals, and matters related thereto.

[14th July 1967]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) The Ministers may make regulations for imposing requirements as to, and otherwise regulating, the labelling and marking of products consisting of or containing any substance to which this Act applies, or in the preparation of which any such substance has been used as an ingredient, being products intended for sale for use in agriculture or gardening for protecting, or controlling the growth of, plants or for destroying weeds, and, without prejudice to the generality of the foregoing provision—

Regulations as to labelling and marking of farm and garden chemicals.

- (a) for providing for the name to be used for any such substance in any label attached to or written on the container for, or supplied with, any product in which the substance is contained or in the preparation of which it has been used as an ingredient; and
- (b) for requiring any such label to bear a prescribed mark, symbol or colour to indicate the extent of any hazard which the product constitutes to human beings or other forms of life and to bear prescribed words of explanation or warning.

(2) Regulations under this section may include such ancillary and incidental provisions as appear to the Ministers to be necessary or desirable, may confer exemptions from the provisions of the regulations and may make different provision for different cases.

(3) Before making any regulations under this section (other than regulations which reproduce, without substantive modifications, any regulations in force immediately before the coming into operation of the new regulations) the Ministers shall consult with such organisations as appear to them to be representative of interests substantially affected by the new regulations.

(4) The power to make regulations under this section shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) No regulations under this section shall come into force before the expiration of the period of fifteen months beginning with the passing of this Act.

Substances to which this Act applies.

2. This Act applies to any substance (whether organic or inorganic) having any of the following properties:—

- (a) destroying or repelling any insect, mite, mollusc, nematode, fungus, bacterial organism, virus, or other pest capable of destroying or damaging plants;
- (b) directly or indirectly controlling the activity of, or preventing or mitigating the harmful effect on plants of, any such pest;
- (c) destroying weeds;
- (d) acting as a bird or animal repellent, plant growth regulator, defoliant, desiccant or agent for thinning fruit or preventing the premature fall of fruit.

Transactions in unlabelled products.

3.—(1) Subject to the provisions of this section, no person shall (whether personally or by another, and whether on his own behalf or as servant or agent for another)—

- (a) sell, or offer or expose for sale, for use in agriculture or gardening for protecting, or controlling the growth of, plants or for destroying weeds, any product required by regulations under this Act to be labelled or accompanied by a label; or
- (b) consign or deliver any such product with a view to or in connection with its sale for such use;

unless the requirements of the regulations under this Act which are applicable to the transaction in question are complied with, and, if he does so, he shall be guilty of an offence.

(2) Subject as aforesaid, any person who causes or permits another person to contravene the provisions of the foregoing subsection shall be guilty of an offence.

(3) Any person guilty of an offence under this section shall be liable on summary conviction, in the case of a first conviction of such an offence, to a fine not exceeding one hundred pounds

and, in the case of a second or subsequent conviction thereof, to a fine not exceeding two hundred pounds.

(4) A person shall not be guilty of an offence under this section consisting of consigning or delivering, or causing or permitting the consignment or delivery of, a product by reason only that he was a carrier of the product for another person, whether for reward or otherwise.

(5) It shall be a defence for a person charged with an offence under this section to prove that he used all due diligence to secure compliance with this section.

(6) Where a contravention of subsection (1) or (2) of this section by a person was due to an act or default of another person, then, whether proceedings are or are not taken against the first-mentioned person, that other person may be charged with, and convicted of, the contravention and shall, on conviction, be liable to the punishment prescribed by subsection (3) of this section.

(7) For the purposes of this section any product commonly used in agriculture or gardening for protecting, or controlling the growth of, plants or for destroying weeds shall, if sold or offered or exposed for sale, or consigned or delivered with a view to or in connection with its sale, be presumed, until the contrary is proved, to have been sold or, as the case may be, to have been or to be intended for sale for such use.

4.—(1) In proceedings for an offence under this Act the prosecutor shall not call evidence of the results of any analysis of the product in relation to which the offence is alleged to have been committed unless the following provisions of this subsection are complied with, that is to say—

Evidence of analysis of products.

- (a) the summons for the offence shall be served on the defendant not less than eighteen days before the date of the hearing and shall be accompanied by a notice in writing that the prosecutor proposes to rely on such evidence, together with a statement or a summary of the results of the analysis;
- (b) the prosecutor shall, not less than eighteen days before the date of the hearing, give the defendant a sample of the product in sufficient quantity to make a proper analysis of the sample, or shall include in the notice given under the foregoing paragraph a statement that the defendant may at any time not later than eleven days before that date request the prosecutor to give him such a sample;
- (c) the prosecutor shall, where so requested in response to a statement under the last foregoing paragraph, give the defendant such a sample not later than seven days before the date of the hearing;

(d) the prosecutor shall retain another such sample and produce it at the hearing.

(2) The requirement imposed by the foregoing subsection to give a sample of a product may be satisfied in the case of a product contained in unopened containers by giving a container purchased at the same time as that product and sold as containing, or appearing from the appearance of the container, or from any label attached to, written on or supplied with it, to contain, the identical product.

(3) A document purporting to be a certificate by an analyst possessing the requisite qualifications for appointment as a public analyst under section 89 of the Food and Drugs Act 1955 as to the result of an analysis of a sample shall in proceedings for an offence under this Act be admissible as evidence of the matters stated therein, provided, in the case of a certificate tendered by the prosecutor, that a copy of the certificate has been given to the defendant together with the notice under subsection (1) of this section; but either party may require the person by whom the analysis was made to be called as a witness.

1955 c. 5
(4 & 5 Eliz. 2).

(4) If in proceedings for an offence under this Act evidence is given of the results of an analysis of the product in relation to which the offence is alleged to have been committed, the court may, if it thinks fit, and upon the request of either party shall, cause the sample produced before the court under subsection (1) of this section to be sent to the Government Chemist, who shall make an analysis and transmit to the court a certificate of the result thereof, and the cost of the analysis shall be paid by the prosecutor or the defendant as the court may order.

(5) If, in a case where an appeal is brought, no action has been taken under the last foregoing subsection, that subsection shall apply also in relation to the court by which the appeal is heard.

(6) Any sample required to be given to the defendant under this section may be given to him either—

(a) by delivering it to him; or

(b) in the case of an individual, by leaving it, or sending it by registered post or the recorded delivery service addressed to him, at his usual or last known residence; or

(c) in the case of an incorporated company or body, by delivering it to their secretary or clerk at their registered or principal office, or by sending it by registered post or the recorded delivery service addressed to him at that office.

(7) In the application of this section to Scotland—

- (a) for the references to the defendant there shall be substituted references to the accused;
- (b) for the references in subsection (1) to the summons and the hearing there shall be respectively substituted references to the complaint and the trial; and
- (c) in subsection (3), for the reference to section 89 of the Food and Drugs Act 1955 there shall be substituted a 1955 c. 5 (4 & reference to section 27 of the Food and Drugs (Scotland) 5 Eliz. 2.). Act 1956, after “evidence”, there shall be inserted the 1956 c. 30. words “and in Scotland sufficient evidence”, and at the end there shall be inserted the words “and in that event in Scotland the evidence of the analyst shall be sufficient evidence of the aforesaid matters”.

5.—(1) In this Act, except so far as the context otherwise requires,— Inter-pretation.

“agriculture” has, as respects England and Wales, the same meaning as in the Agriculture Act 1947 and, as respects 1947 c. 48. Scotland, the same meaning as in the Agriculture 1948 c. 45. (Scotland) Act 1948;

“container” includes any form of packaging of goods for sale as a single item whether by way of wholly or partly enclosing the goods or by way of attaching the goods to, or winding the goods round, some other article, and in particular includes a wrapper or confining band;

“gardening” includes destroying weeds in drives, paths and court-yards;

“the Ministers” means the Minister of Agriculture, Fisheries and Food and the Secretary of State acting jointly;

“plants” includes trees, bushes and seeds.

(2) References in this Act to any enactment shall be construed as references to that enactment as amended or applied by or under any other enactment, including this Act.

6.—(1) This Act may be cited as the Farm and Garden Short title
and extent.
Chemicals Act 1967.

(2) This Act does not extend to Northern Ireland.

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