

Up to date as of 31<sup>st</sup> March 2015.

# Agriculture Act 1970

## 1970 CHAPTER 40

*An Act to make provision with respect to agriculture and related matters and with respect to flood warning systems; and to amend the Diseases of Animals Act 1950*

[29th May 1970]

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:–

### Part I

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#### NOTES

##### Amendment

Repealed by the Agriculture Act 1986, ss 9, 24(5), Sch 4.

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#### NOTES

##### Amendment

Repealed by the Agriculture Act 1986, ss 9, 24(5), Sch 4.

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#### NOTES

##### Amendment

Repealed by the Agriculture Act 1986, ss 9, 24(5), Sch 4.

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#### NOTES

##### Amendment

Repealed by the Agriculture Act 1986, ss 9, 24(5), Sch 4.

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#### **NOTES**

##### **Amendment**

Repealed by the Agriculture Act 1986, ss 9, 24(5), Sch 4.

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#### **NOTES**

##### **Amendment**

Repealed by the Agriculture Act 1986, ss 9, 24(5), Sch 4.

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#### **NOTES**

##### **Amendment**

Repealed by the Agriculture Act 1986, ss 9, 24(5), Sch 4.

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#### **NOTES**

##### **Amendment**

Repealed by the Agriculture Act 1986, ss 9, 24(5), Sch 4.

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#### **NOTES**

##### **Amendment**

Repealed by the Agriculture Act 1986, ss 9, 24(5), Sch 4.

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#### **NOTES**

##### **Amendment**

Repealed by the Agriculture Act 1986, ss 9, 24(5), Sch 4.

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#### **NOTES**

**Amendment**

Repealed by the Agriculture Act 1986, ss 9, 24(5), Sch 4.

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**NOTES**

**Amendment**

Repealed by the Agriculture Act 1986, ss 9, 24(5), Sch 4.

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**NOTES**

**Amendment**

Repealed by the Agriculture Act 1986, ss 9, 24(5), Sch 4.

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**NOTES**

**Amendment**

Repealed by the Agriculture Act 1986, ss 9, 24(5), Sch 4.

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**NOTES**

**Amendment**

Repealed by the Agriculture Act 1986, ss 9, 24(5), Sch 4.

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**NOTES**

**Amendment**

Repealed by the Agriculture Act 1986, ss 9, 24(5), Sch 4.

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**NOTES**

**Amendment**

Repealed by the Agriculture Act 1986, ss 9, 24(5), Sch 4.

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## NOTES

### Amendment

Repealed by the Agriculture Act 1986, ss 9, 24(5), Sch 4.

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## NOTES

### Amendment

Repealed by the Agriculture Act 1986, ss 9, 24(5), Sch 4.

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## NOTES

### Amendment

Repealed by the Agriculture Act 1986, ss 9, 24(5), Sch 4.

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## NOTES

### Amendment

Repealed by the Agriculture Act 1986, ss 9, 24(5), Sch 4.

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## NOTES

### Amendment

Repealed by the Agriculture Act 1986, ss 9, 24(5), Sch 4.

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## NOTES

### Amendment

Repealed by the Agriculture Act 1986, ss 9, 24(5), Sch 4.

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## NOTES

### Amendment

Repealed by the Agriculture Act 1986, ss 9, 24(5), Sch 4.

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## NOTES

### Amendment

Repealed by the Agriculture Act 1986, ss 9, 10, 24(5), Sch 4.

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## NOTES

### Amendment

Repealed by the Agriculture Act 1986, ss 9, 10, 24(5), Sch 4.

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## NOTES

### Amendment

Repealed by the Agriculture Act 1986, ss 9, 24(5), Sch 4.

## Part II Capital and Other Grants

### 28 Interpretation of Part II

[(1)] In this Part of this Act, except where the context otherwise requires, the following expressions have the following meaning respectively, that is to say—

“agricultural business” means a business consisting in, or such part of any business as consists in, the pursuit of agriculture [and includes any other business, of a kind for the time being specified by an order made by the appropriate authority, which is carried on by a person also carrying on a business consisting in or partly in the pursuit of agriculture and is carried on on the same or adjacent land];

“agriculture” and cognate expressions shall be construed, except in relation to Scotland, in accordance with section 109 of the Agriculture Act 1947 and, in relation to Scotland, in accordance with section 86 of the Agriculture (Scotland) Act 1948;

“the appropriate authority”, in relation to any order, scheme or regulations under this Part of this Act, means the appropriate Minister, or the appropriate Ministers acting jointly, for the part or

parts of the United Kingdom for which the order, scheme or regulations is or are made;

“the appropriate Minister”, except in sections 31 to 33 of this Act, means—

- (a) in relation to England, the Minister;
- (b) in relation to Wales, the Minister and the Secretary of State acting jointly;
- (c) in relation to Scotland, the Secretary of State;
- (d) in relation to Northern Ireland, the Minister;

“the Minister”, except in section 35 of this Act, means the Minister of Agriculture, Fisheries and Food;

“Wales” includes Monmouthshire and references to England shall be construed accordingly.

[(2) An order under subsection (1) above shall be made by statutory instrument and any statutory instrument containing such an order shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

## NOTES

### Initial Commencement

#### *Royal Assent*

Royal Assent: 29 May 1970: (no specific commencement provision).

### Amendment

Sub-s (1): numbered as such, and words in square brackets inserted, by the Agriculture Act 1986, s 22(1).

Sub-s (2): inserted by the Agriculture Act 1986, s 22(2).

### Transfer of Functions

Functions under this section, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

### Subordinate Legislation

#### *UK*

Agriculture and Horticulture Grant Scheme 1980, SI 1980/1072.

Agriculture and Horticulture Grant (Variation) Scheme 1981, SI 1981/1533.

Agriculture and Horticulture Grant (Variation) Scheme 1983, SI 1983/273.

Agriculture and Horticulture Grant (Variation) (No 3) Scheme 1983, SI 1983/1764.

Agriculture and Horticulture Grant (Variation) Scheme 1984, SI 1984/619.

Agriculture and Horticulture Grant (Variation) (No 2) Scheme 1984, SI 1984/1923.

Agriculture Improvement Scheme 1985, SI 1985/1029.

Agriculture and Horticulture Grant (Variation) Scheme 1986, SI 1986/57.

Farm Business Specification Order 1987, SI 1987/1948 (made under sub-s (1)).

Farm Diversification Grant Scheme 1987, SI 1987/1949.

Agriculture Improvement (Variation) Scheme 1988, SI 1988/1056.

Farm Diversification Grant (Variation) Scheme 1988, SI 1988/1398.

Agriculture Improvement (Variation) (No 2) Scheme 1988, SI 1988/1983.

Agriculture Improvement (Variation) (No 3) Scheme 1988, SI 1988/2066.

Farm and Conservation Grant Scheme 1989, SI 1989/128.

Farm and Conservation Grant (Variation) Scheme 1990, SI 1990/1126.

Farm Diversification Grant (Variation) Scheme 1991, SI 1991/2.

Farm and Conservation Grant (Variation) Scheme 1991, SI 1991/1338.

Farm Diversification Grant (Variation) (No 2) Scheme 1991, SI 1991/1339.

Farm and Conservation Grant (Variation) Scheme 1994, SI 1994/1302.

Farm and Conservation Grant (Variation) (No 2) Scheme 1994, SI 1994/3002.  
Farm and Conservation Grant (Variation) Scheme 1996, SI 1996/203.  
Pig Industry Restructuring (Capital Grant) Scheme 2001, SI 2001/251.  
Pig Industry Restructuring Grant (Wales) Scheme 2001, SI 2001/643.  
Pig Industry Restructuring Grant (Wales) (Variation) Scheme 2003, SI 2003/2726.

**Scotland**

Farm Business Development (Scotland) Scheme 2001, SI 2001/259.

**29 Farm capital grants**

(1) The appropriate authority may with the approval of the Treasury by scheme provide for the making, subject to such exceptions or restrictions as may be provided for by the scheme, of grants of amounts determined in such manner as may be provided for by or under the scheme towards expenditure incurred or to be incurred for the purposes of, or in connection with, the carrying on or establishment of an agricultural business, being expenditure which—

- (a) has been or is to be incurred in respect of any such matters as may be specified in the scheme, or in respect of works or facilities certified under section 26(6) of the Agriculture Act 1967 as amended by subsection (2)(e) of section 32 of this Act; and
- (b) appears to the appropriate Minister to be of a capital nature or incurred in connection with expenditure of a capital nature; and
- (c) is approved by the appropriate Minister for the purposes of a grant under the scheme.

(2) Any scheme under this section shall be made by statutory instrument and—

- (a) may be made for any one, or jointly for any two or for all three, of the following, namely—
  - (i) England and Wales;
  - (ii) Scotland;
  - (iii) Northern Ireland;
- (b) may make different provision for different circumstances;
- (c) may vary or revoke any previous scheme under this section if or so far as that previous scheme is made for the same part or parts of the United Kingdom as the revoking or varying scheme;
- (d) shall be laid before Parliament after being made and cease to have effect (without prejudice to anything previously done thereunder or to the making of a new scheme) after the expiration of a period of forty days (calculated in accordance with section 7(1) of the Statutory Instruments Act 1946) beginning with the day on which it is made unless within that period it has been approved by resolution of each House of Parliament:

and the duration of such a scheme (that is to say, the period within which expenditure must qualify in accordance with the provisions of the scheme for consideration for a grant thereunder) shall be a period not exceeding seven years, but that period may from time to time be extended by further schemes under this section for periods not exceeding seven years at a time.

(3) Any grant under such a scheme may be made, and any approval under such a scheme may be given, subject to such conditions as the appropriate Minister thinks fit; and any payment by way of such a grant shall be made at such time, or by such instalments at such intervals or times, as the appropriate Minister may determine—

- (a) where the expenditure in question is incurred for the purposes of activities on land situated in England, Wales or Northern Ireland, by the Minister;
- (b) where that expenditure is incurred for the purposes of activities on land situated in Scotland, by the Secretary of State.

(4) If at any time after the appropriate Minister has approved any expenditure for the purposes of a grant under such a scheme it appears to that Minister—

- (a) that any condition subject to which the approval was given or the grant has been made has not been complied with; or
- (b) that any work in respect of expenditure on which the approval was given has been badly done, or has been or is being unreasonably delayed, or is unlikely to be completed; or
- (c) that the person by whom the application for that approval [or for the making of any payment was made] gave information on any matter relevant to the giving of the approval [or the making of the payment] which was false or misleading in a material respect,

the appropriate Minister may revoke the approval in respect of the whole or part of the expenditure and, where in pursuance of subsection (3)(a) or (b) of this section any payment has been made by the Minister or the Secretary of State by way of grant, the Minister or, as the case may be, the Secretary of State may on demand recover an amount [equal to the payment which has been so made] or such part thereof as the appropriate Minister may specify; but before revoking an approval in whole or in part under this subsection the appropriate Minister—

- [(i) shall give to the person to whom any payment by way of grant would be payable, or from whom any such amount would be recoverable, a written notification of the reasons for the action proposed to be taken by the appropriate Minister;
- (ii) shall afford that person an opportunity of appearing before and being heard by a person appointed for the purpose by the appropriate Minister; and
- (iii) shall consider the report by a person so appointed and supply a copy of the report to the person mentioned in paragraph (i) above].

(5) If any person, for the purpose of obtaining for himself or any other person any grant under such a scheme, knowingly or recklessly makes a false statement, he shall be liable on summary conviction to a fine not exceeding [level 5 on the standard scale].

(6), (7) . . .

## NOTES

### Initial Commencement

#### *Royal Assent*

Royal Assent: 29 May 1970: (no specific commencement provision).

### Amendment

Sub-s (4): second words in square brackets inserted and other words in square brackets substituted by the Agriculture (Miscellaneous Provisions) Act 1976, s 15.

Sub-s (5): maximum fine increased and converted to a level on the standard scale by the Criminal Justice Act 1982, ss 37, 38, 46.

Sub-ss (6), (7): repealed by the Statute Law (Repeals) Act 1986.

### Transfer of Functions

Functions under this section, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI



1999/672, art 2, Sch 1.

### **Subordinate Legislation**

#### **UK**

Fruiting Plum Tree (Planting Grants) Scheme 1979, SI 1979/876.  
Plum Material and Clearance Grants Scheme 1979, SI 1979/877.  
Agriculture and Horticulture Grant Scheme 1980, SI 1980/1072.  
Agriculture and Horticulture Grant (Variation) Scheme 1981, SI 1981/1533.  
Agriculture and Horticulture Grant (Variation) Scheme 1983, SI 1983/273.  
Agriculture and Horticulture Grant (Variation) (No 3) Scheme 1983, SI 1983/1764.  
Agriculture and Horticulture Grant (Variation) Scheme 1984, SI 1984/619.  
Agriculture and Horticulture Grant (Variation) (No 2) Scheme 1984, SI 1984/1923.  
Agriculture Improvement Scheme 1985, SI 1985/1029.  
Agriculture and Horticulture Grant (Variation) Scheme 1986, SI 1986/57.  
Farm Diversification Grant Scheme 1987, SI 1987/1949.  
Agriculture Improvement (Variation) Scheme 1988, SI 1988/1056.  
Farm Diversification Grant (Variation) Scheme 1988, SI 1988/1398.  
Agriculture Improvement (Variation) (No 2) Scheme 1988, SI 1988/1983.  
Agriculture Improvement (Variation) (No 3) Scheme 1988, SI 1988/2066.  
Farm and Conservation Grant Scheme 1989, SI 1989/128.  
Farm and Conservation Grant (Variation) Scheme 1990, SI 1990/1126.  
Farm Diversification Grant (Variation) Scheme 1991, SI 1991/2.  
Farm and Conservation Grant (Variation) Scheme 1991, SI 1991/1338.  
Farm Diversification Grant (Variation) (No 2) Scheme 1991, SI 1991/1339.  
Farm and Conservation Grant (Variation) Scheme 1994, SI 1994/1302.  
Farm and Conservation Grant (Variation) (No 2) Scheme 1994, SI 1994/3002.  
Farm and Conservation Grant (Variation) Scheme 1995, SI 1995/890.  
Farm and Conservation Grant (Variation) Scheme 1996, SI 1996/230.  
Farm Waste Grant (Nitrate Vulnerable Zones) (England) Scheme 2000, SI 2000/2890.  
Pig Industry Restructuring (Capital Grant) Scheme 2001, SI 2001/251.  
Pig Industry Restructuring Grant (Wales) Scheme 2001, SI 2001/643.  
Pig Industry Restructuring Grant (Wales) (Variation) Scheme 2003, SI 2003/2726.  
Farm Waste Grant (Nitrate Vulnerable Zones) (Wales) Scheme 2004, SI 2004/1606.

#### **Scotland**

Farm Business Development (Scotland) Scheme 2001, SI 2001/259.  
Pig Industry Restructuring (Capital Grant) (Scotland) Scheme 2002, SSI 2002/43.  
Nitrate Vulnerable Zones (Grants) (Scotland) Scheme 2003, SSI 2003/52.  
Nitrate Vulnerable Zones (Grants) (Scotland) Amendment Scheme 2003, SSI 2003/518.  
Farm Business Development (Scotland) Amendment Scheme 2004, SSI 2004/236 (made under sub-ss (1), (2)).  
Farm Business Development (Scotland) Variation Scheme 2005, SSI 2005/219 (made under sub-ss (1), (2)).

### **30 Supplementary provisions as to farm capital grants**

(1) The provisions of the Settled Land Act 1925 relating to improvements authorised by that Act . . . shall, if it is so provided by regulations made with the approval of the Treasury by the appropriate authority, have effect as if such as may be specified in the regulations of the matters in respect of which expenditure may be approved for grant under a scheme made under section 29 of this Act were included in Schedule 3 to that Act (which sets out the improvements so authorised, distinguishing in Parts I, II and III of that Schedule between improvements the costs of which are not liable to be replaced, may be required to be replaced, and must be required to be replaced) and were contained in the Part of that Schedule specified in the regulations.

(2) In the application of subsection (1) of this section to Northern Ireland—

- (a) for any reference to the Settled Land Act 1925 or to Schedule 3 to that Act there shall be substituted a reference to the Settled Land Act 1882 or, as the case may be, to section 25 of the said Act of 1882;
- (b) . . . the words from “distinguishing in” onwards shall be omitted.

(3) The appropriate authority may with the approval of the Treasury by regulations make provision for subsections (1) to (12) of section 12 of the Hill Farming Act 1946 (which in England and Wales enable the appropriate Minister to carry out improvements to certain land that is subject to rights of common of pasture and to recover a proportion of the expenditure of his so doing from persons claiming to enjoy rights over that land) to apply, with such modifications appearing to the appropriate authority to be necessary or expedient as may be specified in the regulations, to such as may be so specified of the matters in respect of which expenditure may be approved for grant under section 29 of this Act as they apply to improvements within the meaning of that Act.

(4) Regulations under subsection (1) of this section may be made for England and Wales and for Northern Ireland respectively either separately or jointly; and any regulations under that subsection or subsection (3) of this section shall be made by statutory instrument and be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) . . .

## NOTES

### Initial Commencement

#### *Royal Assent*

Royal Assent: 29 May 1970: (no specific commencement provision).

### Amendment

Sub-ss (1), (2): words omitted repealed by the Trusts of Land and Appointment of Trustees Act 1996, s 25(2), Sch 4; for savings in relation to entailed interests created before the commencement of that Act, and savings consequential upon the abolition of the doctrine of conversion, see s 25(4), (5) thereof.

Sub-s (5): amends the Capital Allowances Act 1968, s 83(4).

### Transfer of Functions

Functions under this section, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

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## NOTES

### Amendment

Repealed by the Statute Law (Repeals) Act 1986, s 1(1), Sch 1, Pt II.

## 32 Amendments as to grants in connection with alterations of farm structure

(1) Part II of the Agriculture Act 1967 (which relates to grants in connection with alterations in farm structure) shall have effect with the amendments specified in the subsequent provisions of this section.

(2)–(5) . . .

(6) Section 37 (which relates to recovery of grant) shall apply in relation to the approval of an amalgamation or boundary adjustment in pursuance of a scheme under section 26 as amended by this

Act and to that amalgamation or boundary adjustment as it applies in relation to the approval of proposals under that section as originally enacted or, as the case may be, to those proposals.

(7) Section 38 (which relates to the recovery of possession of farmhouses made redundant by amalgamation) or, as the case may require, Case 13 in Schedule 3 to the Rent Act 1968 (which replaces the provisions of the said section 38 for England and Wales) shall apply in relation to an amalgamation approved in pursuance of a scheme under section 26 as amended by this Act as it applies in relation to proposals for amalgamation approved for the purposes of a scheme under that section as originally enacted and, as so applied, shall have effect as if for references therein to the time when the proposals were submitted or the date on which the proposals were approved there were substituted a reference to the time when the application for approval of the amalgamation was made or, as the case may be, the date on which the amalgamation was approved.

(8) Subject to the provisions of any order under subsection (7) of section 29 of this Act, the provisions of this section shall have effect as respects any period beginning on or after the date appointed under subsection (6) of the said section 29; but the appropriate Minister for the purposes of section 26 may by order made by statutory instrument provide for any provision of this section to come into force from such earlier date as may be specified in the order; and the provisions of section 26, as amended by this section and the said subsection (6), are set out in Schedule 2 thereto.

## NOTES

### Initial Commencement

#### *Royal Assent*

Royal Assent: 29 May 1970: (no specific commencement provision).

### Amendment

Sub-ss (2)–(5): amend the Agriculture Act 1967, ss 26, 27, 28, 35; repealed in part by the Agriculture (Miscellaneous Provisions) Act 1972, s 26(3), (4), Sch 6.

### Transfer of Functions

Functions under this section, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

## 33 Miscellaneous amendments relating to amalgamations

(1) . . .

(2) In section 29(3) and in section 48(2) of the Agriculture Act 1967 (which require certain persons to be parties to certain deeds) for the words “are parties to” there shall in each case be substituted the words “have executed”; but—

- (a) in the case of any land in England, Wales or Northern Ireland which is comprised in a settlement or is [subject to a trust of land], or
- (b) in the case of any land in Scotland [which is held by a liferenter],

the person having the powers of a tenant for life, [the trustees of land], [or the liferenter], as the case may be, may execute the deed referred to in the said section 29(3) or 48(2), or give the consent referred to in section 26(7)(a) or 28(6)(a) of that Act, or make the application for ministerial consent referred to in paragraph 6(1) of Schedule 3 to that Act, on behalf of all other persons who are or may become entitled to benefit under the settlement or trust in question or, as the case may be, to a right in [the land] as well as on his own behalf, and in that case the deed, consent or application shall not be required to be executed, given or made by any of those other persons.

(3) The Trusts (Scotland) Act 1921 shall have effect as if among the powers conferred on trustees by

section 4 thereof (which relates to the general powers of trustees) there were included a power to execute such a deed, give such a consent or make such an application as is referred to in subsection (2) of this section relating to the trust estate or any part thereof.

(4) . . .

(5) . . .

## NOTES

### Initial Commencement

#### *Royal Assent*

Royal Assent: 29 May 1970: (no specific commencement provision).

### Amendment

Sub-s (1): amends the Agriculture Act 1967, Sch 3.

Sub-s (2): in para (a) words “subject to a trust of land” in square brackets substituted by the Trusts of Land and Appointment of Trustees Act 1996, s 25(1), Sch 3, para 11; for savings in relation to entailed interests created before the commencement of that Act, and savings consequential upon the abolition of the doctrine of conversion, see s 25(4), (5) thereof.

Sub-s (2): words “which is held by a liferenter”, “or the liferenter” and “the land” in square brackets substituted by the Abolition of Feudal Tenure etc (Scotland) Act 2000, s 76(1), Sch 12, para 31(1), (2).

Date in force: this amendment came into force on 28 November 2004 (being the day appointed under the Abolition of Feudal Tenure etc (Scotland) Act 2000, s 71): see SSI 2003/456, art 2 and the Abolition of Feudal Tenure etc (Scotland) Act 2000, ss 71, 77(2).

Sub-s (4): repealed by the Agriculture (Miscellaneous Provisions) Act 1972, s 26(3), (4), Sch 6.

Sub-s (5): repealed by the Abolition of Feudal Tenure etc (Scotland) Act 2000, s 76(1), (2), Sch 12, Pt 1, para 31(1), (3), Sch 13, Pt I.

Date in force: this repeal came into force on 28 November 2004 (being the day appointed under the Abolition of Feudal Tenure etc (Scotland) Act 2000, s 71): see SSI 2003/456, art 2 and the Abolition of Feudal Tenure etc (Scotland) Act 2000, ss 71, 77(2).

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## NOTES

### Amendment

Repealed by the Statute Law (Repeals) Act 2004.

Date in force: 22 July 2004: (no specific commencement provision).

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## NOTES

### Amendment

Repealed by the Statute Law (Repeals) Act 1986, s 1(1), Sch 1, Pt II.

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## NOTES

### Amendment

Repealed by the Statute Law (Repeals) Act 1986, s 1(1), Sch 1, Pt II.

## Part III Smallholdings in England and Wales

### *Preliminary*

#### **37 Interpretation of Part III**

(1) In this Part of this Act, except in so far as the context otherwise requires, the following expressions have the following meanings respectively, that is to say—

“existing smallholding” means a unit of land which, being held by a smallholdings authority or (as the case may be) by the Minister for the purposes of smallholdings, is for the time being let as a smallholding (whether under this Act or under the previous enactments relating to smallholdings) or, if it is not for the time being in use, was so let when it was last in use;

“the Minister” (subject to section 62 of this Act) means the Minister of Agriculture, Fisheries and Food;

“the Ministers” means the Minister and the Secretary of State for Wales and, in the case of anything falling to be done by the Ministers, means those Ministers acting jointly;

“smallholdings estate”, in relation to anything falling to be done by a smallholdings authority, means the aggregate of the land which is for the time being held by the authority for the purposes of smallholdings;

“the previous enactments relating to smallholdings” means any of the following, that is to say, the Small Holdings and Allotments Acts 1908 to 1931 and Part IV of the Agriculture Act 1947;

“working capital”, in relation to a smallholding, includes any sum paid or payable by an incoming tenant (whether to the landlord or to the outgoing tenant) in respect of compensation paid or payable to an outgoing tenant.

(2) In this Part of this Act—

(a) any reference to land held by a smallholdings authority for the purposes of smallholdings shall be construed as including a reference to any land in which an interest is so held by the authority, other than a right to take possession arising under the provisions of the Small Holdings and Allotments Acts 1908 to 1931;

(b) any reference to smallholdings provided by a smallholdings authority is a reference to any land which is for the time being held by the authority for the purposes of smallholdings and let as a smallholding, whether under this Part of this Act or under the previous enactments relating to smallholdings;

(c) any reference to the purposes of smallholdings, in relation to any time before the commencement of this Part of this Act, shall be construed as a reference to the purposes which were the purposes of smallholdings in accordance with Part IV of the Agriculture Act 1947.

(3) Any reference in this Part of this Act to the creation of a new smallholding shall be construed as a reference to any letting of land by a smallholdings authority or by the Minister where—

(a) the land is for the time being held by the authority or the Minister for the purposes of smallholdings and the letting is a letting of the land as a smallholding;

- (b) immediately before it is so let, the land or part of it is being used (or, if it is not then in use, is land which was last used) otherwise than as land held and let as mentioned in the preceding paragraph; and
- (c) the land so let is not a holding resulting from such an enlargement or amalgamation as is mentioned in section 40(2)(a) of this Act or resulting from a similar enlargement or amalgamation effected by the Minister.

(4) Subsections (1), (3) and (5) of section 109 of the Agriculture Act 1947 (interpretation) shall have effect for the purposes of this Part of this Act as they have effect for the purposes of that Act.

(5) It is hereby declared that the provisions of sections 46 and 47 of this Act with respect to the powers of smallholdings authorities relate only to their capacity as corporations; and nothing in those provisions shall be construed as authorising, on the part of any smallholdings authority, any act or omission which apart from those provisions would be actionable at the suit of any person on any grounds other than a limitation imposed by law on the capacity of the authority as a corporation.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 65(1).

### Appointment

Appointment: 1 August 1970: see SI 1970/1048, art 2.

### Extent

This section does not extend to Scotland: see s 65(2).

### Transfer of Functions

Functions under this section, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

## *Reorganisation of smallholdings*

## 38 Smallholdings authorities

The following councils shall be smallholdings authorities, that is to say—

- (a) . . .
- (b) the council of every county in England . . . ;  
[(bb) the council of every county or county borough in Wales;]
- (c), (d) . . .

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 65(1).

### Appointment

Appointment: 1 August 1970: see SI 1970/1048, art 2.

### Extent

This section does not extend to Scotland: see s 65(2).

### Amendment

Para (a) repealed by the Local Government Act 1985, s 102, Sch 17; in para (b) words omitted repealed, and para (bb) inserted, by the Local Government (Wales) Act 1994, s 66(6), (8), Sch 16, para 38(1), Sch 18; paras (c), (d) repealed by the Local Government Act 1972, s 272(1), Sch 30.

### **39 General aim of statutory smallholdings**

(1) In the performance of their functions under this Part of this Act smallholdings authorities, having regard to the general interests of agriculture and of good estate management, shall make it their general aim to provide opportunities for persons to be farmers on their own account by letting holdings to them being persons who satisfy the requirements of subsection (2) and of any regulations made under subsection (6) of section 44 of this Act and holdings which, unless let in accordance with proposals approved by virtue of section 41(4) of this Act, fall within the upper limit for a smallholding.

(2) For the purposes of the foregoing subsection and section 41(3) and (4) of this Act, a holding shall be treated as falling within the upper limit for a smallholding if in the opinion of the Minister it is capable, when farmed under reasonably skilled management, of providing full-time employment for not more than two men (including the person to whom it is let) with or without additional part-time employment for another man, and in any other case shall be treated as exceeding that upper limit, the number of men for whom it is capable of providing full-time employment being estimated in such manner as the Ministers may by regulations prescribe.

### **NOTES**

#### **Initial Commencement**

##### ***To be appointed***

To be appointed: see s 65(1).

#### **Appointment**

Appointment: 1 August 1970: see SI 1970/1048, art 2.

#### **Extent**

This section does not extend to Scotland: see s 65(2).

#### **Transfer of Functions**

Functions under this section, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

#### **Subordinate Legislation**

Smallholdings (Full-Time Employment) Regulations 1970, SI 1970/1050 (made under sub-s (2)).  
Smallholdings (Full-Time Employment) (Amendment) Regulations 1992, SI 1992/2816 (made under sub-s (2)).

### **40 Reorganisation of smallholdings estates**

(1) Every smallholdings authority who immediately before the commencement of this Part of this Act hold any land for the purposes of smallholdings shall review the authority's smallholdings estate and (subject to any direction given under subsection (4) of this section) shall, before the end of the period of eighteen months beginning with the commencement of this Part of this Act or such extended period as in any particular case the Minister may allow, submit to the Minister proposals with respect to the future management of that estate.

(2) For the purposes of this section each smallholdings authority shall in particular consider to what extent (if any), with a view to giving effect to the general aim specified in section 39(1) of this Act and having regard to the general interests of agriculture and of good estate management, the authority's smallholdings estate should be reorganised—

- (a) by enlarging one or more existing smallholdings or amalgamating the whole or part of one or more existing smallholdings with other land (whether that other land is or forms part of an

existing smallholding, or is otherwise comprised in the authority's smallholdings estate, or not) with or without the carrying out of improvements in connection with any such enlargement or amalgamation, or

- (b) by improving one or more existing smallholdings without any enlargement or amalgamation, or
- (c) by creating one or more new smallholdings, with or without the carrying out of improvements in connection therewith.

(3) Any proposals of a smallholdings authority under this section shall be formulated so as to comply with any general directions given by the Ministers, or with any special directions given to the authority by the Minister, as to the form of the proposals or as to the particulars to be contained in them.

(4) If, on the application of a smallholdings authority, the Minister is satisfied that the authority's smallholdings estate is not suitable to be reorganised as mentioned in subsection (2) of this section, he may give a direction exempting the authority from the duty to submit proposals under this section.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 65(1).

### Appointment

Appointment: 1 August 1970: see SI 1970/1048, art 2.

### Extent

This section does not extend to Scotland: see s 65(2).

### Transfer of Functions

Functions under this section, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

## 41 Approval by Minister of proposals for reorganisation

(1) Where any proposals have been submitted to the Minister by a smallholdings authority under section 40 of this Act, the Minister, subject to the following provisions of this section, may approve the proposals, or may reject them and direct the authority to submit to him new proposals under that section within such time as may be specified in the direction.

(2) Where the Minister approves any such proposals, he may approve them either as submitted or with such modifications as he considers appropriate, and may approve them (with or without such modifications) either unconditionally or subject to conditions; and in the following provisions of this Part of this Act any reference to the approval of any such proposals by the Minister is a reference to his approving them in any way authorised by the preceding provisions of this subsection.

(3) Subject to subsection (4) of this section, the Minister shall not approve any proposals of a smallholdings authority under section 40 of this Act in so far as it appears to him that an existing smallholding as enlarged or improved in accordance with the proposals, or a holding resulting from a proposed amalgamation, or a new smallholding proposed to be created, would exceed the upper limit for a smallholding.

(4) The Minister may approve any such proposals of a smallholdings authority notwithstanding that it appears to him that, in the case of one or more holdings, the upper limit for a smallholding would be exceeded, if it is represented to him by the authority, and he is satisfied—



- (a) that the holdings are to be let as smallholdings in accordance with section 44 of this Act, and
- (b) that, by reason of the nature or extent of fixed equipment on the holding or holdings, or of the special qualities of the soil, or of other exceptional circumstances, it is necessary or expedient for them to exceed that limit.

(5) Subject to subsections (3) and (4) of this section, in determining whether to approve any proposals of a smallholdings authority submitted under section 40 of this Act the Minister shall have regard to the considerations specified in subsection (2) of that section.

(6) Where any proposals of a smallholdings authority under section 40 of this Act have been approved by the Minister, then, until those proposals are amended or superseded by subsequent proposals so approved, it shall be the duty of the smallholdings authority—

- (a) to perform their functions under the following provisions of this Part of this Act in such a way as to give effect to those proposals as so approved, and
- (b) if the approval of the Minister is given subject to conditions, to comply with those conditions.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 65(1).

### Appointment

Appointment: 1 August 1970: see SI 1970/1048, art 2.

### Extent

This section does not extend to Scotland: see s 65(2).

### Transfer of Functions

Functions under this section, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

## 42 Subsequent reviews and proposals for further reorganisation

(1) Where proposals have been submitted to the Minister by a smallholdings authority under section 40 of this Act, and the Minister has approved those proposals, the Minister, at any time after the end of the period of five years beginning with the date of approval, may direct the smallholdings authority to carry out a further review of their smallholdings estate and to submit to him further proposals with respect to the future management of that estate.

(2) A smallholdings authority to whom the Minister has given a direction under subsection (1) of this section shall comply with that direction within such period as may be specified in the direction or such extended period as the Minister may allow; and any proposals submitted in compliance with such a direction shall indicate how far the authority's previous proposals, as approved by the Minister, are intended to remain unaltered and how far they are to be amended or superseded by the new proposals.

(3) Subsections (2) and (3) of section 40 and subsections (1) to (5) of section 41 of this Act shall have effect (subject to the necessary modifications) in relation to proposals submitted to the Minister under this section as they have effect in relation to proposals submitted to him under the said section 40.

(4) The power of the Minister under subsection (1) of this section to direct a further review shall include power to direct subsequent reviews where proposals have been approved by him by virtue of this section, but with intervals of not less than five years between the date of approval and any direction requiring a further review; and accordingly—

- (a) in subsection (1) of this section the reference to proposals submitted to the Minister under section 40 of this Act shall be construed as including a reference to proposals submitted to him in accordance with subsections (1) and (2) of this section, and
- (b) in subsection (2) of this section the reference to a direction given by the Minister under subsection (1) of this section shall be construed accordingly.

(5) Where by virtue of this section the Minister has approved proposals amending or superseding proposals previously approved by him, then, until further proposals amending or superseding the proposals for the time being in force are approved by the Minister, it shall be the duty of the smallholdings authority—

- (a) to perform their functions under the subsequent provisions of this Part of this Act in such a way as to give effect to the proposals as approved by the Minister and for the time being in force, and
- (b) if the approval of the Minister to the proposals for the time being in force has been given subject to conditions, to comply with those conditions.

(6) Where under subsection (4) of section 40 of this Act the Minister has given a direction exempting a smallholdings authority from the duty to submit proposals under that section, the Minister may revoke that direction at any time after the end of the period of five years beginning with the date on which it was given; and where such a direction is revoked the provisions of sections 40 and 41 of this Act shall have effect in relation to that authority as if, in subsection (1) of the said section 40, the reference to the commencement of this Part of this Act were a reference to the date of the revocation, and any reference in this Part of this Act to proposals submitted under the said section 40 or approved under the said section 41 shall be construed accordingly.

(7) In relation to proposals of which different parts are approved by the Minister on different dates, any reference in this section to the date of approval shall be construed as a reference to the latest of those dates.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 65(1).

### Appointment

Appointment: 1 August 1970: see SI 1970/1048, art 2.

### Extent

This section does not extend to Scotland: see s 65(2).

### Transfer of Functions

Functions under this section, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

## 43 Submission and approval of proposals otherwise than in connection with reviews

(1) Where a smallholdings authority, other than an exempt smallholdings authority, propose to carry out any such transaction as is mentioned in paragraph (a), paragraph (b) or paragraph (c) of section 40(2) of this Act, and the transaction—

- (a) would be inconsistent with any previous proposals of the authority as approved by the Minister and for the time being in force under the preceding provisions of this Part of this Act, and has not been provided for by any proposals previously approved under this section, and

- (b) is intended to be carried out at a time when no review of the authority's smallholdings estate is required to be carried out by a direction given by the Minister under those provisions,

the authority shall submit to the Minister proposals under this section for carrying out that transaction.

(2) Any proposals submitted by a smallholdings authority under subsection (1) of this section shall be by way of amending the previous proposals of the authority approved by the Minister under the preceding provisions of this Part of this Act, in the form in which (whether as originally approved or as subsequently amended) those proposals are for the time being in force.

(3) Where an exempt smallholdings authority propose to carry out any such transaction as is mentioned in paragraph (a) or paragraph (c) of section 40(2) of this Act, and the transaction has not been provided for by any proposals of the authority previously approved by the Minister under this section, the authority shall submit to the Minister proposals under this section for carrying out that transaction.

(4) An exempt smallholdings authority proposing to carry out any such transaction as is mentioned in paragraph (b) of section 40(2) of this Act may, if (having regard to the provisions of section 51 of this Act) it appears to the authority to be expedient to do so, submit to the Minister proposals under this section for carrying out that transaction.

(5) Subsection (3) of section 40 and subsections (1) to (5) of section 41 of this Act shall have effect (subject to the necessary modifications) in relation to proposals submitted to the Minister under this section as they have effect in relation to proposals submitted to him under the said section 40.

(6) Subject to subsection (7) of this section, where the Minister has approved any proposals under this section, subsection (5) of section 42 of this Act shall have effect as if those proposals had been approved under that section.

(7) In the case of proposals submitted by an exempt smallholdings authority and approved by the Minister under this section, subsection (6) of section 41 of this Act shall have effect as if those proposals had been approved under that section.

(8) In this section "exempt smallholdings authority" means a smallholdings authority in respect of which a direction given under section 40(4) of this Act is for the time being in force.

## **NOTES**

### **Initial Commencement**

#### ***To be appointed***

To be appointed: see s 65(1).

### **Appointment**

Appointment: 1 August 1970: see SI 1970/1048, art 2.

### **Extent**

This section does not extend to Scotland: see s 65(2).

### **Transfer of Functions**

Functions under this section, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

## *Management of smallholdings*

### **44 Letting of smallholdings**

(1) Any land held by a smallholdings authority for the purposes of smallholdings may be let by them as a smallholding in accordance with the following provisions of this section.

(2) Subject to subsection (3) of this section, no land shall be so let except to a person who is to farm the holding and either—

- (a) is regarded by the authority as being qualified by reason of his agricultural experience to farm the holding on his own account, or
- (b) is a person in respect of whom the authority are satisfied that within a reasonably short time he will become eligible to be so regarded.

(3) Notwithstanding anything in subsection (2) of this section, a smallholdings authority may let land under this section as a smallholding, or as part of a group of two or more smallholdings, to two or more persons proposing to farm the land together on a co-operative system if, having regard to the aggregate agricultural experience of those persons, the authority are satisfied that they are, or will within a reasonably short time become, qualified to farm the land together on such a system on their own account.

(4) Subject to subsection (5) of this section, a smallholdings authority shall not under this section—

- (a) let any holding resulting from such an enlargement or amalgamation as is mentioned in section 40(2)(a) of this Act, or
- (b) create any new smallholding,

unless the enlargement or amalgamation, or the creation of a new smallholding, as the case may be, is in accordance with proposals which have been approved by the Minister and are for the time being in force under the preceding provisions of this Part of this Act.

(5) Subsection (4) of this section shall not apply to the letting of any holding, or the creation of a new smallholding, if—

- (a) the letting or creation is effected by the smallholdings authority with the consent in writing of the Minister, and
- (b) that consent is given before any proposals have been submitted by the authority under section 40 of this Act or before any proposals so submitted by the authority have been approved by the Minister.

(6) Regulations made by the Ministers may make provision as to the selection of tenants to whom land may be let under this section, and in particular—

- (a) may specify requirements (whether as to agricultural experience or otherwise) to be fulfilled by persons to whom land is to be let under this section, and
- (b) may require smallholdings authorities, before letting land under this section, to take such preparatory steps as may be prescribed by the regulations.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 65(1).

### Appointment

Appointment: 1 August 1970: see SI 1970/1048, art 2.

### Extent

This section does not extend to Scotland: see s 65(2).

### Transfer of Functions

Functions under this section, so far as exercisable in relation to Wales, transferred to the National

Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

### **Subordinate Legislation**

Smallholdings (Selection of Tenants) Regulations 1970, SI 1970/1049 (made under sub-s (6)).

Smallholdings (Selection of Tenants) (Amendment) Regulations 1976, SI 1976/2001 (made under sub-s (6)).

### **45 Rent to be charged for smallholdings**

(1) A smallholdings authority in determining the rent at which any land is to be let by them under section 44 of this Act, shall have regard to the rent which, in their opinion, might reasonably be expected to be determined to be the rent properly payable if—

- (a) the land were already let as an agricultural holding;
- (b) the terms of that letting (other than terms relating to rent) were those on which the smallholdings authority propose to let the land in question; and
- (c) the question what rent should be payable in respect of that agricultural holding had been referred to arbitration under the enactments relating to agricultural holdings which are for the time being in force.

(2) For the purposes of the foregoing subsection it shall be assumed that, on any such arbitration as is mentioned in paragraph (c) of that subsection, there would be no improvements, or matters treated as equivalent to improvements, and no dilapidation, deterioration or damage, of which, in accordance with the enactments referred to in that paragraph, special account (whether by way of reducing or increasing the rent determined) would fall to be taken in determining what rent should be payable.

(3) Subsection (1) of this section (but without the assumptions specified in subsection (2) thereof) shall have effect in relation to any revision by agreement of the rent at which any land has been let by a smallholdings authority as a smallholding (whether under section 44 of this Act or under the previous enactments relating to smallholdings) as it has effect in relation to determining the rent at which any land is to be let under the said section 44.

### **NOTES**

#### **Initial Commencement**

##### ***To be appointed***

To be appointed: see s 65(1).

#### **Appointment**

Appointment: 1 August 1970: see SI 1970/1048, art 2.

#### **Extent**

This section does not extend to Scotland: see s 65(2).

### **46 Equipment of smallholdings**

(1) A smallholdings authority shall have power to provide, improve, maintain and repair fixed equipment on land held by the authority for the purposes of smallholdings, and to carry out any other improvements on or for the benefit of any such land.

(2) The power conferred by the foregoing subsection shall include power to enter into an agreement with a tenant of any such land for—

- (a) the provision, improvement, maintenance or repair by the tenant of fixed equipment on the land, or

(b) the carrying out by the tenant of other improvements on or for the benefit of the land, on such terms as may be specified in the agreement.

## **NOTES**

### **Initial Commencement**

#### ***To be appointed***

To be appointed: see s 65(1).

### **Appointment**

Appointment: 1 August 1970: see SI 1970/1048, art 2.

### **Extent**

This section does not extend to Scotland: see s 65(2).

## **47 General powers of management**

(1) Subject to the provisions of this Part of this Act, a smallholdings authority shall have all such powers as are required by the authority for the management of land held by them for the purposes of smallholdings.

(2) A smallholdings authority shall have power, for the benefit of the occupiers of smallholdings provided by the authority, to further the formation of bodies of persons, whether corporate or unincorporate, having for their object or one of their objects the promotion of efficiency in the conduct of smallholdings through co-operative methods, and in particular through co-operative purchase and hiring of requisites for the smallholdings or the co-operative sale, marketing or preparation for marketing of the produce of the smallholdings, and to assist the carrying on and extension of the activities of such bodies.

(3) To such extent as appears to a smallholdings authority to be expedient for the purpose of assisting the conduct of smallholdings provided by the authority, or of promoting co-operative schemes for the conduct of such smallholdings, the authority shall have power—

- (a) to acquire by purchase or hiring machinery and other equipment, live or dead stock, seeds, fertilisers and any other requisites and to sell or let them on such terms as may be decided by the authority, and
- (b) to provide services on such terms as may be so decided.

(4) A smallholdings authority shall have power to carry out arrangements made by the authority for the disposal by the authority of the produce of smallholdings provided by them.

## **NOTES**

### **Initial Commencement**

#### ***To be appointed***

To be appointed: see s 65(1).

### **Appointment**

Appointment: 1 August 1970: see SI 1970/1048, art 2.

### **Extent**

This section does not extend to Scotland: see s 65(2).

## **48 Acquisition of land for purpose of smallholdings**

(1) Where in the exercise of their powers under section 157 of the Local Government Act 1933 (power of local authorities to acquire land by agreement) a smallholdings authority propose to acquire for the purposes of smallholdings any land outside their area, they shall consult the council of the county [or county borough] . . . in whose area the land is situated.

(2) Notwithstanding anything in that Act or in any other enactment, a smallholdings authority shall not be authorised to acquire any land compulsorily for the purposes of smallholdings.

## **NOTES**

### **Initial Commencement**

#### ***To be appointed***

To be appointed: see s 65(1).

### **Appointment**

Appointment: 1 August 1970: see SI 1970/1048, art 2.

### **Extent**

This section does not extend to Scotland: see s 65(2).

### **Amendment**

Sub-s (1): words in square brackets inserted by the Local Government (Wales) Act 1994, s 66(6), Sch 16, para 38(2); words omitted repealed by the Local Government Act 1972, s 272(1), Sch 30.

## **49 Surplus land held for purposes of smallholdings**

(1) Where any land held by a smallholdings authority for the purposes of smallholdings is not for the time being required for use for those purposes, the authority may let it for such period and for such purpose as they think fit, at the best rent which appears to them to be obtainable for it for that purpose and on such other terms as they may determine.

(2) In subsection (1) of this section the reference to letting land shall be construed as including references—

- (a) to the grant, with the approval of the Minister, of a licence to a person to occupy the land for use as agricultural land, and
- (b) to the grant of a licence to a person to occupy the land, where the land is to be used only for grazing or mowing during a specified period of the year.

(3) Section 164 of the Local Government Act 1933 (power to let land) shall not have effect so as to enable a smallholdings authority by virtue of that section to let, otherwise than in accordance with section 44 of this Act or subsection (1) of this section, any land which is for the time being held by the authority for the purposes of smallholdings.

(4) The preceding provisions of this section shall have effect without prejudice to any power exercisable by a smallholdings authority under section 163 (power to appropriate land) or section 165 (power to sell or exchange land) of the Local Government Act 1933.

## **NOTES**

### **Initial Commencement**

#### ***To be appointed***

To be appointed: see s 65(1).

### **Appointment**

Appointment: 1 August 1970: see SI 1970/1048, art 2.

### **Extent**

This section does not extend to Scotland: see s 65(2).

### **Transfer of Functions**

Functions under this section, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

## **50 Grants in respect of certain amalgamations, etc**

Any scheme under section 26 of the Agriculture Act 1967 as amended by Part II of this Act which makes provision for grants to smallholdings authorities . . . in connection with the carrying out of transactions to give effect to proposals approved and for the time being in force under sections 40 to 43 of this Act and which provides that this section is to have effect in relation to the scheme shall provide for such grants to be payable only in such cases as the Minister may, with the approval of the Treasury, determine; and no such grant shall be made under that scheme to a smallholdings authority . . . in connection with any particular transaction unless an application for the making of the grant has been made by the authority in accordance with the scheme [before the end of 1975]; but—

- (a) the application may be made at any time after the authority have submitted to the Minister proposals under the said section 40 which include proposals relating to that transaction or have submitted to the Minister proposals relating to that transaction under the said section 43; and
- (b) where the transaction is comprised in proposals submitted under the said section 40, the grant may be made at any time after the Minister has approved so much of those proposals as relates to that transaction whether any other part of the proposals submitted by the authority has then been approved or not.

## **NOTES**

### **Initial Commencement**

#### ***To be appointed***

To be appointed: see s 65(1).

### **Appointment**

Appointment: 1 August 1970: see SI 1970/1048, art 2.

### **Extent**

This section does not extend to Scotland: see s 65(2).

### **Amendment**

Words omitted repealed and words in square brackets substituted by the Agriculture (Miscellaneous Provisions) Act 1972, ss 9(7), 26(3), (4), Sch 6.

### **Transfer of Functions**

Functions under this section, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

## **51 Increase of certain capital grants**

(1) Where a grant is made to a smallholdings authority under a scheme made under any provision of this Act in respect of expenditure which—

- (a) was or is to be incurred in the carrying out or provision of works or facilities of such description as the Minister may specify for the purposes of this section in that scheme which are, in the opinion of the Minister, required for giving effect to proposals approved by him under section 41 or 43 of this Act; and
- (b) qualified in accordance with the provisions of the scheme for consideration for the grant before the expiration of the period of five years beginning with the date when the first scheme under the provision of this Act in question providing for grants to smallholdings authorities came into operation,



the Minister may increase the amount of that grant by an amount equal to one-tenth of the expenditure in respect of which the grant was made; but no such increase shall be granted if the land on which the works or facilities were or are to be carried out or provided constitutes or forms part of a holding which, in the opinion of the Minister, would without those works or facilities be a commercial unit within the meaning of Part II of the Agriculture Act 1967.

(2) An application to the Minister for an increase of grant by virtue of subsection (1) of this section in respect of any works or facilities may be made by a smallholdings authority at any time after the authority—

- (a) have submitted to the Minister proposals under section 40 of this Act which include the proposals in connection with which the authority claim that the works or facilities are required (hereafter in this subsection referred to as “the relevant proposals”); or
- (b) have submitted the relevant proposals to the Minister under section 43 of this Act;

and, where the relevant proposals are comprised in proposals submitted under the said section 40, the increase may be granted at any time after the Minister has approved so much of the proposals submitted under that section as consists of the relevant proposals, whether any other part of the proposals so submitted by the authority has been so approved or not.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 65(1).

### Appointment

Appointment: 1 August 1970: see SI 1970/1048, art 2.

### Extent

This section does not extend to Scotland: see s 65(2).

### Transfer of Functions

Functions under this section, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

## 52 Contributions under previous enactments

- (1) . . .
- (2) Regulations made by the Ministers with the approval of the Treasury—
  - (a) may require any smallholdings authority to furnish the Minister with such particulars as may be determined in accordance with the regulations of any sale or exchange of land [which, in relation to the Greater London Council, immediately before the commencement of this Part of this Act was held by the Council for the purposes of smallholdings and, in relation to any other smallholdings authority, is held by them for those purposes, being land which immediately before the commencement of this Part of this Act was held by the council of a county or county borough (as then constituted and in existence) for those purposes and under the Local Government Act 1972 was transferred to such smallholdings authority], of any appropriation of such land for other purposes, and of any letting of such land otherwise than under section 44 of this Act;
  - (b) . . .
  - (c) may provide for withholding or reducing any such contributions where any requirement imposed on a smallholdings authority by or under this Part of this Act . . . is not complied with;

- (d) may make provision as to the making of applications for the payment of any such contributions which have been agreed to be made, and as to the time at which payments of any such contributions may be made, and for enabling the Minister to require a smallholdings authority to whom any such contributions have been paid to furnish the Minister with any particulars required by the Minister before payment of contributions is continued; and
  - (e) may make provision for empowering persons authorised by the Minister to inspect books and other documents of a smallholdings authority relating to transactions in connection with which any such contributions are payable to the authority.
- (3) . . .
- (4) . . .
- (5) In this section “contributions” includes any payments; . . .

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 65(1).

### Appointment

Appointment: 1 August 1970: see SI 1970/1048, art 2.

### Extent

This section does not extend to Scotland: see s 65(2).

### Amendment

Sub-s (2): words in square brackets substituted by SI 1974/396, art 6.

Sub-s (1): repealed by the Statute Law (Repeals) Act 2004.

Date in force: 22 July 2004: (no specific commencement provision).

Sub-s (2): para (b) repealed by the Statute Law (Repeals) Act 2004.

Date in force: 22 July 2004: (no specific commencement provision).

Sub-s (2): in para (c) words omitted repealed by the Statute Law (Repeals) Act 2004.

Date in force: 22 July 2004: (no specific commencement provision).

Sub-ss (3), (4): repealed by the Statute Law (Repeals) Act 2004.

Date in force: 22 July 2004: (no specific commencement provision).

Sub-s (5): words omitted repealed by the Statute Law (Repeals) Act 2004.

Date in force: 22 July 2004: (no specific commencement provision).

### Transfer of Functions

Functions under this section, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

### Subordinate Legislation

Smallholdings (Contributions Towards Losses) Regulations 1970, SI 1970/1051 (made under sub-ss (2)(a)–(e), (3)(a), (b)).

## 53 Loans and guarantees by smallholdings authorities

(1) A smallholdings authority may make loans for the purpose of providing working capital for a tenant of a smallholding provided by the authority, or for a person intending to become such a tenant, or may guarantee the repayment of, and the payment of interest on, any loan made for that purpose by another person.

(2) A loan made or guaranteed by a smallholdings authority under this section in respect of a smallholding (or, if two or more loans are so made or guaranteed, the aggregate amount of those loans)

shall not exceed three-quarters of the aggregate working capital which in the opinion of the authority is required for the proper working of the smallholding.

(3) Subject to subsection (4) of this section, every loan made by a smallholdings authority under this section shall bear interest at a rate of one-half of one per cent. above the rate which, on the date of the agreement to make the loan, is the rate for the time being determined by the Treasury in accordance with section 5 of the National Loans Act 1968 in respect of local loans made on the security of local rates on that date and for the same period as that loan.

(4) Where, on the date of the agreement for a loan under this section, there are two or more rates of interest for the time being determined by the Treasury as mentioned in subsection (3) of this section, the reference in that section to the rate so determined shall be construed as a reference to such one of those rates as may be specified in a direction given by the Treasury for the purposes of this section.

(5) The Treasury shall cause any direction given under subsection (4) of this section to be published in the London Gazette as soon as may be after giving it.

(6) A smallholdings authority shall not guarantee a loan under this section which bears a rate of interest in excess of the rate which would be chargeable if the loan were made by the authority under this section.

(7) No loan shall be made or guaranteed under this section except in pursuance of an agreement in writing specifying the maximum period of the loan or guarantee and the rate of interest on the loan.

(8) In this section "local loans" and "made on the security of local rates" have the same meanings as in section 6(2) of the National Loans Act 1968.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 65(1).

### Appointment

Appointment: 1 August 1970: see SI 1970/1048, art 2.

### Extent

This section does not extend to Scotland: see s 65(2).

### *Additional powers of Minister in relation to smallholdings*

## 54 Land held by Minister for purposes of smallholdings

(1) This section applies to any land which is for the time being held by the Minister for the purposes of smallholdings.

(2) Subject to the following provisions of this section, in relation to land to which this section applies the Minister shall have the like duties and powers as smallholdings authorities have under the provisions of sections 44 to 47 and 49(1) and (2) of this Act in relation to land held by them for the purposes of smallholdings, as if in those provisions any reference to smallholdings provided by a smallholdings authority were a reference to smallholdings on land to which this section applies.

(3) Where for the purpose of assisting the conduct of smallholdings on land to which this section applies the Minister has (whether before or after the commencement of this Part of this Act) acquired by purchase or hiring machinery or other equipment, live or dead stock, seeds, fertilisers or other requisites, or provides any services, the powers of the Minister under section 47(3) of this Act, as applied by subsection (2) of this section, shall include power to sell or let them to, or (as the case may be) to provide

the services for, any persons, whether they are tenants of smallholdings or not.

(4) Where any arrangements are made by the Minister under section 47(4) of this Act, as applied by subsection (2) of this section, and it appears to the Minister that any facilities provided in accordance with the arrangements are not required to be reserved exclusively for disposing of the produce of smallholdings on land to which this section applies, the arrangements may include provision for the use of those facilities for disposing of the produce of other agricultural holdings.

(5) Subject to subsection (6) of this section, the Minister may, in accordance with arrangements made by him with the approval of the Treasury, make loans for the purpose of providing working capital for a tenant of a smallholding on land to which this section applies, or for a person intending to become such a tenant.

(6) A loan made by the Minister under subsection (5) of this section in respect of a smallholding (or, if two or more loans are so made, the aggregate amount of those loans) shall not exceed three-quarters of the aggregate working capital which in the opinion of the Minister is required for the proper working of the smallholding.

(7) The Minister may designate any land for the time being vested in him as being land held by him for the purposes of smallholdings, and may at any time revoke any such designation; and—

- (a) any land comprised in such a designation which is for the time being in force shall for the purposes of this section be taken to be land held by the Minister for the purposes of smallholdings, whether apart from the designation it would be taken to be so held or not, and
- (b) any land in respect of which such a designation has been revoked under this subsection shall be conclusively presumed to be land not held by the Minister for those purposes.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 65(1).

### Appointment

Appointment: 1 August 1970: see SI 1970/1048, art 2.

### Extent

This section does not extend to Scotland: see s 65(2).

### Transfer of Functions

Functions under this section, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

## 55 Acquisition of land by Minister for purposes of smallholdings

The power of the Minister to acquire land under section 82 of the Agriculture Act 1947 shall include power to acquire by agreement any land which in his opinion is required by him for the purposes of smallholdings.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 65(1).

### Appointment

Appointment: 1 August 1970: see SI 1970/1048, art 2.

**Extent**

This section does not extend to Scotland: see s 65(2).

**Transfer of Functions**

Functions under this section, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

**56 Default powers of Minister**

(1) If the Minister is satisfied that the functions of a smallholdings authority under this Part of this Act are not being satisfactorily performed by the authority, the Minister, subject to the following provisions of this section, may—

- (a) direct the authority to perform those functions in such manner as may be specified in the direction, or
- (b) by order transfer such of the functions of the authority under this Part of this Act (including the expenditure of money whether on revenue or capital account) as may be specified in the order.

(2) Any functions transferred by an order in accordance with subsection (1)(b) of this section shall be so transferred to the Minister.

(3) Before the Minister—

- (a) makes an order under subsection (1)(b) of this section, or
- (b) comes to a decision on an application made by the smallholdings authority for the revocation of such an order relating to the authority, where the application is made not earlier than twelve months after the making of the order and (if one or more previous applications for the revocation of the order have been made) not earlier than twelve months after the last such application was made,

he shall give to the smallholdings authority an opportunity of making representations to him, and shall take into consideration any representations made by the authority, and, if the authority so require, shall afford to them an opportunity of being heard by a person appointed by the Minister for the purpose.

(4) The performance by the Minister of any functions transferred to him by an order in accordance with subsection (1)(b) of this section shall have effect as if he were an agent of the smallholdings authority duly authorised to perform them; but—

- (a) any expenses incurred by the Minister in the performance of those functions shall be defrayed in the first instance by the Minister, and
- (b) the Minister shall certify, in respect of such successive periods as he may determine, the amount of the expenses so incurred in each such period and the amount of any receipts of the Minister in each such period from the performance of those functions, and the difference between those amounts, as certified by the Minister, shall be recoverable by him from the smallholdings authority or payable by him to the authority, as the case may require.

(5) Where any functions of a smallholdings authority have been transferred by an order in accordance with subsection (1)(b) of this section, and any property has been acquired or any liabilities have been incurred in the performance of those functions while so transferred, any order varying or revoking that order may contain such provisions with respect to the transfer, vesting or discharge of any such property or liabilities as appear to the Minister to be expedient in the circumstances.

(6) The power conferred on the Minister by subsection (1)(a) of this section shall have effect without prejudice to the exercise of any other power of the Minister to give directions under this Part of this Act.

(7) Section 104 of the Agriculture Act 1947 (provisions as to representations), any regulations for the time being in force under that section, and section 107 of that Act (service of notices) in its application to notices under that section, shall (with the necessary modifications) have effect in relation to subsection (3) of this section as they have effect in relation to enactments contained in that Act.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 65(1).

### Appointment

Appointment: 1 August 1970: see SI 1970/1048, art 2.

### Extent

This section does not extend to Scotland: see s 65(2).

### Transfer of Functions

Functions under this section, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

### *General and supplementary provisions*

57 . . .

. . .

## NOTES

### Amendment

Repealed by the Local Government Act 1972, s 272(1), Sch 30.

## 58 Accounts and records of smallholdings authorities

(1) A smallholdings authority shall keep a separate account of their receipts and expenses (including capital receipts and expenses) with respect to smallholdings.

(2) Every smallholdings authority shall compile and keep, and, if so required at any time by a person authorised by the Minister in that behalf, shall produce to him—

- (a) a record of all land which is or has at any time been held by the authority for the purposes of smallholdings, of the persons in occupation of such of that land as is for the time being let by the authority as smallholdings and of the rents at which it is let to them, and of the purchasers of so much of that land as has been sold by the authority, and
- (b) a map or plan showing the size, boundaries, and situation of each smallholding provided by the authority.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 65(1).

### Appointment

Appointment: 1 August 1970: see SI 1970/1048, art 2.

**Extent**

This section does not extend to Scotland: see s 65(2).

**Transfer of Functions**

Functions under this section, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

**59 Annual reports**

(1) Every smallholdings authority shall, before such date in each year as the Minister may direct, send to the Minister a report, relating to such matters as the Minister may direct, of the proceedings of the authority during the preceding financial year.

(2) The Ministers shall lay before Parliament a report in respect of each financial year, summarising for that year the proceedings of smallholdings authorities and the proceedings of the Minister, and of the Ministers acting jointly, in relation to smallholdings.

**NOTES****Initial Commencement*****To be appointed***

To be appointed: see s 65(1).

**Appointment**

Appointment: 1 August 1970: see SI 1970/1048, art 2.

**Extent**

This section does not extend to Scotland: see s 65(2).

**Transfer of Functions**

Functions under this section, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

**60 Cottage holdings**

(1) No land shall after the commencement of this Part of this Act—

- (a) be sold by a county council[, a county borough council], . . . or the Greater London Council as a cottage holding, or
- (b) be let by such a council as a cottage holding by a letting effected after the commencement of this Part of this Act, whether the land was previously so let or not, or
- (c) be acquired (whether by way of purchase or lease) by such a council for the purpose of being sold or let as a cottage holding.

(2) The provisions of section 52(2) of this Act shall have effect in relation to land [which, in relation to the Greater London Council, immediately before the commencement of this Part of this Act was held by that Council for the purpose of cottage holdings and, in relation to a county council, is land held by them for those purposes, being land which immediately before the commencement of this Part of this Act was held by the council of a county or county borough (as then constituted and in existence) for those purposes and under the Local Government Act 1972 was transferred to that county council] as they have effect in relation to land then held by a smallholdings authority for the purposes of smallholdings, as if in those provisions—

- (a) any reference to a smallholdings authority were a reference to such a council, and

- (b) the reference to section 2 of the Small Holdings and Allotments Act 1926 included a reference to that section as applied to cottage holdings by section 12 of that Act or by section 12 of the Agricultural Land (Utilisation) Act 1931.

(3) Any regulations made by the Ministers in the exercise of the powers conferred by section 52(2) of this Act as applied by subsection (2) of this section may revoke any regulations for the time being in force under section 2 of the Small Holdings and Allotments Act 1926 in their application to cottage holdings.

(4) Where any regulations exercise the power of revocation conferred by subsection (3) of this section, the regulations may contain such transitional provisions with respect to matters in progress under the regulations so revoked as the Ministers may consider appropriate having regard to the provisions of sections 52(2) and 62 of this Act.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 65(1).

### Appointment

Appointment: 1 August 1970: see SI 1970/1048, art 2.

### Extent

This section does not extend to Scotland: see s 65(2).

### Amendment

Sub-s (1): words in square brackets inserted by the Local Government (Wales) Act 1994, s 66(6), Sch 6, para 38(3); words omitted repealed by the Local Government Act 1972, s 272(1), Sch 30.

Sub-s (2): words in square brackets substituted by SI 1974/396, art 6.

### Transfer of Functions

Functions under this section, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

### Subordinate Legislation

Smallholdings (Contributions Towards Losses) Regulations 1970, SI 1970/1051 (made under sub-ss (2), (3)).

## 61 Special classes of land

(1) Land forming part of the possessions of the . . . of the Duchy of Cornwall may be leased to a smallholdings authority or to the Minister for the purposes of smallholdings for a term not exceeding 35 years, with or without a right of renewal for a further term not exceeding 35 years.

(2) The powers of leasing conferred by subsection (1) of this section shall be exercisable—

(a) . . .

(b) in the case of land forming part of the possessions of the Duchy of Cornwall, by the Duke of Cornwall or such other persons as for the time being have power to dispose of land belonging to the Duchy.

(3) In the case of glebe land—

(a) the like powers of leasing may be exercised by the [Diocesan Board of Finance in which the land is vested], but shall not be so exercised except with the consent of the Church Commissioners [in a case where their consent would be required if the transaction were carried out under the Endowments and Glebe Measure 1976];



- (b) the consent of any person, other than the Church Commissioners, shall not be required to enable the land to be sold to a smallholdings authority or to the Minister for the purposes of smallholdings.

(4) . . .

(5) . . .

(6) Where, in any case not falling within any of the preceding subsections, a person, by virtue of the Settled Land Act 1925, the Universities and College Estates Act 1925 or any other enactment, has power, whether subject to any consent or conditions or not, to lease any land for agricultural purposes for a term not exceeding that specified in the enactment, he shall (without prejudice to that power) have power by virtue of this subsection, subject to the like consent and conditions (if any), to lease the land to a smallholdings authority or to the Minister for the purposes of smallholdings for a term not exceeding 35 years, with or without a right of renewal for a further term not exceeding 35 years.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 65(1).

### Appointment

Appointment: 1 August 1970: see SI 1970/1048, art 2.

### Extent

This section does not extend to Scotland: see s 65(2).

### Amendment

Sub-ss (1), (2): words omitted repealed by the Duchy of Lancaster Act 1988, s 1(4), Schedule.

Sub-s (3): in para (a) words “Diocesan Board of Finance in which the land is vested” in square brackets substituted by the Church of England (Miscellaneous Provisions) Measure 2006, s 14, Sch 5, para 17(a).

Date in force: 1 October 2006: see s 16(2) thereof and the Instrument made by the Archbishops of Canterbury and York dated 11 September 2006.

Sub-s (3): in para (a) words from “in a case” to “Endowments and Glebe Measure 1976” in square brackets inserted by the Church of England (Miscellaneous Provisions) Measure 2006, s 14, Sch 5, para 17(a).

Date in force: 1 October 2006: see s 16(2) thereof and the Instrument made by the Archbishops of Canterbury and York dated 11 September 2006.

Sub-ss (4), (5): repealed by the Church of England (Miscellaneous Provisions) Measure 2006, s 14, Sch 5, para 17(b).

Date in force: 1 October 2006: see s 16(2) thereof and the Instrument made by the Archbishops of Canterbury and York dated 11 September 2006.

### Transfer of Functions

Functions under this section, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

## 62 Provisions as to Wales (including Monmouthshire)

(1) Where by or under any provision to which this section applies (including any enactment as applied by such a provision) anything is authorised or required to be done—

- (a) by the Minister in relation to the council of a county [or county borough] . . . in Wales, or
- (b) by such a council in relation to the Minister,

whether (in either case) the council fall within that provision in their capacity as a smallholdings authority or otherwise, any reference in that provision to the Minister shall, for the purposes of the application of that provision in relation to that council, be construed as a reference to the Ministers.

- (2) This section applies to the following provisions, that is to say—
- (a) all the provisions of this Part of this Act except section 37, 52(1), 54, 55, 56(2) and (4), 59(2) and 61 and Schedule 3;
  - (b) section 2(7) and the proviso to section 6(1) of the Small Holdings and Allotments Act 1926, as those provisions have effect (in relation to certain matters in existence before 1st October 1949) by virtue of paragraph (a) of the proviso to section 67(2) of the Agriculture Act 1947; and
  - (c) the provisions of the Small Holdings and Allotments Acts 1908 to 1926, as applied to cottage holdings by section 12 of the Agricultural Land (Utilisation) Act 1931, with the exception of section 2(2) of the Small Holdings and Allotments Act 1926 as so applied.
- (3) In this section any reference to Wales includes Monmouthshire.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 65(1).

### Appointment

Appointment: 1 August 1970: see SI 1970/1048, art 2.

### Extent

This section does not extend to Scotland: see s 65(2).

### Amendment

Sub-s (1): words in square brackets inserted by the Local Government (Wales) Act 1994, s 66(6), Sch 16, para 38(4); words omitted repealed by the Local Government Act 1972, s 272(1), Sch 30.

### Transfer of Functions

Functions under this section, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

### Subordinate Legislation

Smallholdings (Contributions Towards Losses) Regulations 1970, SI 1970/1051 (made under sub-ss (1)–(3)).

## 63 Provisions as to regulations

- (1) The Ministers shall have power to make regulations for any purpose for which regulations are authorised or required to be made under this Part of this Act; and any such regulations may make different provision for different circumstances.
- (2) Any power to make regulations under this Part of this Act shall be exercisable by statutory instrument; and any statutory instrument containing any such regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 65(1).

**Appointment**

Appointment: 1 August 1970: see SI 1970/1048, art 2.

**Extent**

This section does not extend to Scotland: see s 65(2).

**Transfer of Functions**

Functions under this section, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

**64 Transitional provisions and amendments**

- (1) The transitional provisions contained in Schedule 3 to this Act shall have effect.
- (2) Subject to those provisions, the enactments specified in Schedule 4 to this Act shall have effect subject to the amendments set out in that Schedule, being minor amendments and amendments consequential upon the preceding provisions of this Part of this Act.

**NOTES****Initial Commencement*****To be appointed***

To be appointed: see s 65(1).

**Appointment**

Appointment: 1 August 1970: see SI 1970/1048, art 2.

**Extent**

This section does not extend to Scotland: see s 65(2).

**65 Commencement and extent of Part III**

- (1) This Part of this Act shall come into operation on such day as the Ministers may by order made by statutory instrument appoint, . . .
- (2) This Part of this Act extends to England and Wales only.

**NOTES****Initial Commencement*****To be appointed***

To be appointed: see sub-s (1) above.

**Appointment**

Appointment: 1 August 1970: see SI 1970/1048, art 2.

**Extent**

This section does not extend to Scotland: see sub-s (2) above.

**Amendment**

Sub-s (1): words omitted repealed by the Statute Law (Repeals) Act 1993.

**Subordinate Legislation**

Agriculture Act 1970 (Commencement No 2) Order 1970, SI 1970/1048 (made under sub-s (1)).

**Part IV**  
**Fertilisers and Feeding Stuffs**

*Preliminary*

## 66 Interpretation of Part IV

(1) In this Part of this Act—

“agricultural analyst” means an agricultural analyst appointed under section 67 of this Act and, unless the context otherwise requires, includes a deputy agricultural analyst so appointed for the same area;

“analysis” includes any process for determining any fact as to the nature, substance or quality of any material;

“animal” includes any bird, insect or fish;

“enforcement authority” has the meaning assigned by section 67(3) of this Act;

[“feeding stuff” means—

(a) a product of vegetable or animal origin in its natural state (whether fresh or preserved);

(b) a product derived from the industrial processing of such a product; or

(c) an organic or inorganic substance, used singly or in a mixture,

whether or not containing additives, for oral feeding to pet animals or farmed creatures;]

“fertiliser” means a fertiliser used for the cultivation of crops or plants of any description, including trees;

[“final sample” has the meaning that it bears in Annex I to Regulation 152/2009;]

“fish” includes shellfish;

“inspector” means an inspector appointed under section 67 of this Act;

“the Minister” means, in relation to England and Wales, the Minister of Agriculture, Fisheries and Food and, in relation to Scotland, the Secretary of State;

“the Ministers” means the Minister of Agriculture, Fisheries and Food and [the Secretary of State for Scotland and the Secretary of State for Wales] acting jointly;

[“pet animal” means an animal belonging to a species normally nourished and kept, but not consumed, by man, other than an animal bred for fur;]

[“premixture” means a mixture of additives, or a mixture of additives with substances used as carriers, intended for the manufacture of feeding stuffs;]

“prescribed” means prescribed by regulations;

“prescribed metric substitution”, in relation to a quantity specified in any provision of this Part of this Act in terms of tons, pounds, or gallons, means any quantity expressed in terms of metric units of measurement which regulations may direct to be substituted in that provision, either generally or in prescribed circumstances, for the quantity so specified, being a quantity so expressed appearing to the Ministers appropriate to be so substituted having regard to the convenience of persons likely to be affected and with a view to the effective execution of this Part of this Act;

[“Regulation (EC) No 178/2002” means 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;]

["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;]

["Regulation 152/2009" means Commission Regulation (EC) No 152/2009 laying down the methods of sampling and analysis for the official control of feed;]

"regulations" means regulations made as provided in section 84 of this Act;

"sampled portion", in relation to any material, means a prescribed amount of that material from which a sample has been taken by an inspector in the prescribed manner, being an amount—

(a) consisting either—

(i) entirely of material packed in one or more containers; or

(ii) entirely of material not so packed; and

(b) not exceeding, in the case of an amount consisting of material so packed, the requisite quantity, that is to say, five tons or 1,000 gallons or the prescribed metric substitution, except where—

(i) it consists of material packed in a single container; or

(ii) it consists of material packed in two or more containers each of which holds less than the requisite quantity, in which case the prescribed amount may be the contents of the lowest number of those containers which together hold the requisite quantity;

"statutory statement" has the meaning assigned by section 68(1) of this Act.

[(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) Any material consigned to a purchaser shall not for the purposes of this Part of this Act be deemed to be delivered to him until it arrives at the place to which it is consigned whether the consignment is by direction of the seller or the purchaser.

(4) Where any material is delivered to a purchaser in two or more consignments this Part of this Act shall apply separately to each consignment.

(5) For the purposes of this Part of this Act, the appropriation of any material by one person for use—

(a) in the performance for hire or reward of services to another person in pursuance of a contract in that behalf, or

- (b) under arrangements with another person not constituting a sale of the material to that other person, being arrangements which are intended to benefit both the person appropriating the material and that other person but under which the probability or extent of any benefit to that other person may be affected by the quality of the material,

shall be treated as a sale of that material to that other person by the person so appropriating it, and references to sale or purchase and cognate expressions shall be construed accordingly.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 87(1).

### Appointment

Appointment: 1 January 1974: see SI 1973/1520, art 2.

### Amendment

Sub-s (1): definition “feeding stuff” substituted in relation to England by SI 2005/3281, reg 3(1)(a), in relation to Scotland by SSI 2005/605, reg 3(1)(a) and in relation to Wales by SI 2006/116, reg 3(1)(a).

Date in force (in relation to Scotland): 1 January 2006: see SSI 2005/605, reg 1(1).

Date in force (in relation to England): 1 January 2006: see SI 2005/3281, reg 1.

Date in force (in relation to Wales): 25 January 2006: see SI 2006/116, reg 1.

Sub-s (1): definition “final sample” inserted in relation to England by SI 2010/2280, regs 8, 9, in relation to Wales by SI 2010/2287, regs 8, 9, in relation to Northern Ireland by the Feed (Sampling and Analysis and Specified Undesirable Substances) Regulations (Northern Ireland) 2010, SR 2010/323, regs 7, 8 and in relation to Scotland by SSI 2010/354, regs 8, 9.

Date in force (in relation to England): 11 October 2010: see SI 2010/2280, reg 1.

Date in force (in relation to Wales): 11 October 2010: see SI 2010/2287, reg 1.

Date in force (in relation to Northern Ireland): 11 October 2010: see the Feed (Sampling and Analysis and Specified Undesirable Substances) Regulations (Northern Ireland) 2010, SR 2010/323, reg 1.

Date in force (in relation to Scotland): 15 November 2010: see SSI 2010/354, reg 1.

Sub-s (1): in definition “the Ministers” words in square brackets substituted by SI 1978/272, art 11, Sch 5.

Sub-s (1): definition “pet animal” inserted by SI 1982/980, reg 4.

Sub-s (1): definition “pet animal” substituted in relation to England by SI 2005/3281, reg 3(1)(b), in relation to Scotland by SSI 2005/605, reg 3(1)(b) and in relation to Wales by SI 2006/116, reg 3(1)(b).

Date in force (in relation to Scotland): 1 January 2006: see SSI 2005/605, reg 1(1).

Date in force (in relation to England): 1 January 2006: see SI 2005/3281, reg 1.

Date in force (in relation to Wales): 25 January 2006: see SI 2006/116, reg 1.

Sub-s (1): definition “premixture” inserted in relation to England by SI 2000/2481, reg 20(1)(c), in relation to Scotland by SSI 2000/453, reg 20(1)(a)(iii) and in relation to Wales by SI 2001/343, reg 18(1)(c).

Date in force (in relation to England): 29 October 2000: see SI 2000/2481, reg 1(1).

Date in force (in relation to Scotland): 31 January 2001: see SSI 2000/453, reg 1(1).

Date in force (in relation to Wales): 1 March 2001: see SI 2001/343, reg 1.

Sub-s (1): definition “Regulation (EC) No 178/2002” inserted in relation to Great Britain by SI 2004/3254, reg 10 and in relation to Northern Ireland by the Feeding Stuffs (Safety Requirements for Feed for Food-Producing Animals) Regulations (Northern Ireland) 2004, SR 2004/506, regs 9, 10.

Date in force (in relation to Northern Ireland): 1 January 2005: see the Feeding Stuffs (Safety Requirements for Feed for Food-Producing Animals) Regulations (Northern Ireland) 2004, SR 2004/506, reg 1(1).

Date in force (in relation to Great Britain): 1 January 2005: see SI 2004/3254, reg 1.

Sub-s (1): definition "Regulation (EC) No 1831/2003" inserted in relation to England by SI 2010/2503, reg 14(1), (2)(a), in relation to Wales by SI 2010/2652, reg 14(1), (2)(a), in relation to Northern Ireland by the Animal Feed Regulations (Northern Ireland) 2010, SR 2010/355, reg 14(1), (2)(a) and in relation to Scotland by SSI 2010/373, reg 14(1), (2)(a).

Date in force (in relation to England): 23 November 2010: see SI 2010/2503, reg 1.

Date in force (in relation to Wales): 23 November 2010: see SI 2010/2652, reg 1.

Date in force (in relation to Northern Ireland): 23 November 2010: see the Animal Feed Regulations (Northern Ireland) 2010, SR 2010/355, reg 1.

Date in force (in relation to Scotland): 23 November 2010: see SSI 2010/373, reg 1.

Sub-s (1): definition "Regulation (EC) No 767/2009" inserted in relation to England by SI 2010/2503, reg 14(1), (2)(a), in relation to Wales by SI 2010/2652, reg 14(1), (2)(a), in relation to Northern Ireland by the Animal Feed Regulations (Northern Ireland) 2010, SR 2010/355, reg 14(1), (2)(a) and in relation to Scotland by SSI 2010/373, reg 14(1), (2)(a).

Date in force (in relation to England): 23 November 2010: see SI 2010/2503, reg 1.

Date in force (in relation to Wales): 23 November 2010: see SI 2010/2652, reg 1.

Date in force (in relation to Northern Ireland): 23 November 2010: see the Animal Feed Regulations (Northern Ireland) 2010, SR 2010/355, reg 1.

Date in force (in relation to Scotland): 23 November 2010: see SSI 2010/373, reg 1.

Sub-s (1): definition "Regulation 152/2009" inserted in relation to England by SI 2010/2280, regs 8, 9, in relation to Wales by SI 2010/2287, regs 8, 9, in relation to Northern Ireland by the Feed (Sampling and Analysis and Specified Undesirable Substances) Regulations (Northern Ireland) 2010, SR 2010/323, regs 7, 8 and in relation to Scotland by SSI 2010/354, regs 8, 9.

Date in force (in relation to England): 11 October 2010: see SI 2010/2280, reg 1.

Date in force (in relation to Wales): 11 October 2010: see SI 2010/2287, reg 1.

Date in force (in relation to Northern Ireland): 11 October 2010: see the Feed (Sampling and Analysis and Specified Undesirable Substances) Regulations (Northern Ireland) 2010, SR 2010/323, reg 1.

Date in force (in relation to Scotland): 15 November 2010: see SSI 2010/354, reg 1.

Sub-s (2): substituted in relation to England by SI 2010/2503, reg 14(1), (2)(b), in relation to Wales by SI 2010/2652, reg 14(1), (2)(b), in relation to Northern Ireland by the Animal Feed Regulations (Northern Ireland) 2010, SR 2010/355, reg 14(1), (2)(b) and in relation to Scotland by SSI 2010/373, reg 14(1), (2)(b).

Date in force (in relation to England): 23 November 2010: see SI 2010/2503, reg 1.

Date in force (in relation to Wales): 23 November 2010: see SI 2010/2652, reg 1.

Date in force (in relation to Northern Ireland): 23 November 2010: see the Animal Feed Regulations (Northern Ireland) 2010, SR 2010/355, reg 1.

Date in force (in relation to Scotland): 23 November 2010: see SSI 2010/373, reg 1.

## **Modification**

Sub-s (1): definition "sampled portion" modified, in relation to fertilisers, by the Fertilisers (Sampling and Analysis) Regulations 1996, SI 1996/1342, reg 8(a).

Sub-s (1): definition "sampled portion" modified by the Feeding Stuffs (Enforcement) Regulations 1999, SI 1999/2325, regs 7, 8.

Sub-s (1): definition "feeding stuff" modified, in relation to Northern Ireland, by the Feeding Stuffs Regulations (Northern Ireland) 2005, SR 2005/545, reg 3(1)(a).

Sub-s (1): definition "pet animal" modified, in relation to Northern Ireland, by the Feeding Stuffs Regulations (Northern Ireland) 2005, SR 2005/545, reg 3(1)(b).

Sub-s (2): sub-paras (b), (c) modified, in relation to Northern Ireland, by the Feeding Stuffs Regulations (Northern Ireland) 2005, SR 2005/545, reg 3(2).

## **See Further**

See further, in relation to the disapplication of this section for the purposes of the EC Fertilisers (England and Wales) Regulations 2006, SI 2006/2486: the EC Fertilisers (England and Wales) Regulations 2006, SI 2006/2486, reg 21.

See further, in relation to the disapplication of this section for the purposes of the EC Fertilisers (Scotland) Regulations 2006, SSI 2006/543: the EC Fertilisers (Scotland) Regulations 2006, SSI

2006/543, reg 21.

### **Transfer of Functions**

Functions under this section, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

Certain functions under this section, so far as they are exercisable in or as regards Scotland, are transferred to the Scottish Ministers: see the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 2006, SI 2006/304, arts 2, 5, Schedule.

### **Subordinate Legislation**

Feed (Sampling and Analysis and Specified Undesirable Substances) (Wales) Regulations 2010, SI 2010/2287 (made under sub-s (1)).

Animal Feed (Composition, Marketing and Use) (England) Regulations 2015, SI 2015/255 (made under sub-s (1)).

Animal Feed (Hygiene, Sampling etc and Enforcement) (England) Regulations 2015, SI 2015/454 (made under sub-s (1)).

## **67 Enforcement authorities and appointment of inspectors and analysts**

(1) In England . . . it shall be the duty of the council of a county[, metropolitan district], . . . or London borough and of the Common Council of the City of London to enforce this Part of this Act within their respective areas; and the health authority of the Port of London shall have the like duty as respects the district of the Port of London, which shall accordingly be treated for the purposes of this subsection as not forming part of the area of any of those councils.

[(1A) In Wales it shall be the duty of each county council and each county borough council to enforce this Part of this Act within its area.]

[(2) In Scotland it shall be the duty of every council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 to enforce this Part of this Act within their area.]

(3) For the purpose of performing their duty under the foregoing provisions of this section each of the bodies there mentioned (in this Part of this Act referred to as an enforcement authority) shall appoint—

- (a) such inspectors as may be necessary; and
- (b) an agricultural analyst and, if they think fit, one or more deputy agricultural analysts.

(4) An inspector shall not exercise his powers under this Part of this Act in respect of any premises outside the area for which he is appointed except with the consent of the enforcement authority for the area in which those premises are situated.

(5) A person shall not be appointed as agricultural analyst or deputy agricultural analyst unless he has the prescribed qualifications.

(6) A person may be appointed as an inspector or as agricultural analyst or deputy agricultural analyst for the areas of two or more enforcement authorities by those authorities acting jointly.

(7) . . .

(8) If the Minister is of opinion that this Part of this Act has been insufficiently enforced in the area of any enforcement authority he may himself appoint one or more inspectors to exercise in that area the powers exercisable by inspectors appointed by the authority; and any expenses certified by him as having been incurred by him under this subsection in respect of that area shall be repaid to him, on demand, by the authority in question.



(9) Nothing in this section shall be taken as authorising an enforcement authority in Scotland to institute proceedings for an offence.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 87(1).

### Appointment

Appointment: 1 January 1974: see SI 1973/1520, art 2.

### Amendment

Sub-s (1): first words omitted repealed by the Local Government (Wales) Act 1994, s 66(6), (8), Sch 16, para 38(5), Sch 18; words in square brackets inserted by the Local Government Act 1985, s 16, Sch 8, para 15; final words omitted repealed by the Local Government Act 1972, s 272(1), Sch 30.

Sub-s (1A): inserted by the Local Government (Wales) Act 1994, s 66(6), Sch 16, para 38(5).

Sub-s (2): substituted by the Local Government etc (Scotland) Act 1994, s 180(1), Sch 13, para 85(2).

Sub-s (7): repealed by the Local Government, Planning and Land Act 1980, ss 1(1), 194, Sch 1, para 8, Sch 34, Part I.

### Modification

Sub-s (8) modified by the Feeding Stuffs (Enforcement) Regulations 1999, SI 1999/2325, regs 7, 9 (as substituted by the Feeding Stuffs and the Feeding Stuffs (Enforcement) (Amendment) (England) Regulations 2001, SI 2001/3389, reg 23(b), the Feeding Stuffs and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2001, SI 2001/3461, reg 17(b) and the Feeding Stuffs (Miscellaneous Amendments) (Scotland) Regulations 2003, SSI 2003/277, regs 8, 11; further amended by the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (England) Regulations 2004, SI 2004/1301, regs 7, 10, the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2004, SI 2004/1749, regs 7, 10, the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis), the Feeding Stuffs (Enforcement) (Amendment) (England) (No 2) Regulations 2004, SI 2004/2688, reg 5(1), (3) and by the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) (No 2) Regulations 2004, SI 2004/3091, reg 5(1), (3)).

### See Further

See further, the application of sub-ss (4), (8) above, with modifications, for the purposes of the Feeding Stuffs (Safety Requirements for Feed for Food-Producing Animals) Regulations 2004, SI 2004/3254 and Regulation (EC) No 178/2002, arts 15, 16, 18, 20: the Feeding Stuffs (Safety Requirements for Feed for Food-Producing Animals) Regulations 2004, SI 2004/3254, reg 4(1), (2)(a).

See further, in relation to the disapplication of this section for the purposes of the EC Fertilisers (England and Wales) Regulations 2006, SI 2006/2486: the EC Fertilisers (England and Wales) Regulations 2006, SI 2006/2486, reg 21.

See further, in relation to the disapplication of this section for the purposes of the EC Fertilisers (Scotland) Regulations 2006, SSI 2006/543: the EC Fertilisers (Scotland) Regulations 2006, SSI 2006/543, reg 21.

### Transfer of Functions

Functions of the Minister of the Crown, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

Certain functions under this section, so far as they are exercisable in or as regards Scotland, are transferred to the Scottish Ministers: see the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 2006, SI 2006/304, arts 2, 5, Schedule.

### Subordinate Legislation

Feed (Sampling and Analysis and Specified Undesirable Substances) (England) Regulations 2010, SI 2010/2280 (made under sub-s (5)).

Feed (Sampling and Analysis and Specified Undesirable Substances) (Wales) Regulations 2010, SI 2010/2287 (made under sub-s (5)).

Animal Feed (Hygiene, Sampling etc and Enforcement) (England) Regulations 2015, SI 2015/454 (made under sub-s (5)).

*Obligations relating to material sold and prepared for sale*

**68 Duty of seller to give statutory statement**

(1) Subject to the provisions of this section, a person who sells material of a prescribed description for use as a fertiliser or feeding stuff shall give to the purchaser a statement in writing (in this Part of this Act referred to as a statutory statement) in such form, if any, as may be prescribed containing—

- (a) such particulars as may be prescribed of the nature, substance or quality of the material; and
- (b) such information or instructions as to the storage, handling or use of the material as may be prescribed.

[(1A) A person selling material for use as feeding stuff may, in conjunction with the matters required by virtue of subsection (1) of this section, include in the statutory statement given under the said subsection (1) only such additional particulars, information or instructions as may be prescribed, and any such seller giving a statutory statement including additional particulars, information or instructions other than those prescribed shall be liable on summary conviction to a fine not exceeding [level 2 on the standard scale].]

(2) Subsection (1) of this section shall not apply—

- (a) to sales of two or more materials which are mixed at the request of the purchaser before delivery to him; or
- (b) to sales of small quantities (that is to say, sales in quantities of not more than fifty-six pounds or the prescribed metric substitution) if the material sold is taken in the presence of the purchaser from a parcel bearing a conspicuous label on which are marked in the prescribed manner the matters which would, apart from this subsection, be required to be contained in a statutory statement on the sale of the material.

(3) Any statutory statement required to be given on the sale of any material shall be given not later than the time when the material is delivered to the purchaser and, if given before that time, shall be deemed to have been given at that time; but regulations may permit the statutory statement to be given later in such cases and subject to compliance with such conditions, if any, as may be specified in the regulations.

(4) Any person who—

- (a) fails to give a statutory statement within the time or in the form required by or under this section, or gives a statutory statement which does not contain all or any of the information or instructions required to be contained in it by virtue of subsection (1)(b) of this section; or
- (b) gives a statutory statement which, as respects a sampled portion of the material—
  - (i) does not contain all or any of the particulars required to be contained in the statement by virtue of subsection (1)(a) of this section; or

[(ii) contains any such particulars or, in the case of feeding stuffs, any of the additional particulars permitted to be contained in the statutory statement by virtue of

subsection (1A) of this section, which are false to the prejudice of purchaser]; or

- (c) sells or exposes for sale material from a parcel purporting to be labelled as mentioned in subsection (2)(b) of this section in a case where the label does not contain all or any of the said particulars or contains any such particulars which are false as aforesaid,

shall be liable on summary conviction to a fine not exceeding [level 5 on the standard scale or imprisonment for a term not exceeding three months or both].

(5) In proceedings for an offence under paragraph (b) of subsection (4) of this section the fact that any particulars ought to have been included or are false shall be proved by evidence of the result of an analysis of the sample taken from the portion in question; and in proceedings for an offence under paragraph (c) of that subsection the fact that any particulars ought to have been included or are false shall be proved by evidence of the result of an analysis of a sample taken by an inspector in the prescribed manner from the material sold or, where the alleged offence is exposing for sale, from the parcel bearing the label.

[(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.]

(6) Failure to comply with this section shall not invalidate a contract of sale; and a statutory statement shall, notwithstanding 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; but in Scotland a contract of sale may not be treated as repudiated by reason only of a breach of that warranty.

[(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.]

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 87(1).

### Appointment

Appointment: 1 January 1974: see SI 1973/1520, art 2.

### Amendment

Sub-s (1A): inserted by SI 1982/980, reg 5; maximum fine converted to a level on the standard scale by the Criminal Justice Act 1982, ss 37, 46.

Sub-s (4): in para (b) sub-para (ii) substituted by SI 1982/980, reg 5.

Sub-s (4): enhanced penalty on a subsequent conviction abolished, maximum fine increased and converted to a level on the standard scale by the Criminal Justice Act 1982, ss 35, 37, 38, 46.

Sub-s (5A): inserted in relation to England by SI 2010/2503, reg 14(1), (3)(a), in relation to Wales by SI 2010/2652, reg 14(1), (3)(a), in relation to Northern Ireland by the Animal Feed Regulations (Northern Ireland) 2010, SR 2010/355, reg 14(1), (3)(a) and in relation to Scotland by SSI 2010/373, reg 14(1), (3)(a).

Date in force (in relation to England): 23 November 2010: see SI 2010/2503, reg 1.

Date in force (in relation to Wales): 23 November 2010: see SI 2010/2652, reg 1.

Date in force (in relation to Northern Ireland): 23 November 2010: see the Animal Feed Regulations (Northern Ireland) 2010, SR 2010/355, reg 1.

Date in force (in relation to Scotland): 23 November 2010: see SSI 2010/373, reg 1.

Sub-s (7): inserted in relation to England by SI 2010/2503, reg 14(1), (3)(b), in relation to Wales by SI 2010/2652, reg 14(1), (3)(b), in relation to Northern Ireland by the Animal Feed Regulations

(Northern Ireland) 2010, SR 2010/355, reg 14(1), (3)(b) and in relation to Scotland by SSI 2010/373, reg 14(1), (3)(b).

Date in force (in relation to England): 23 November 2010: see SI 2010/2503, reg 1.

Date in force (in relation to Wales): 23 November 2010: see SI 2010/2652, reg 1.

Date in force (in relation to Northern Ireland): 23 November 2010: see the Animal Feed Regulations (Northern Ireland) 2010, SR 2010/355, reg 1.

Date in force (in relation to Scotland): 23 November 2010: see SSI 2010/373, reg 1.

### **Modification**

Sub-s (2)(b) modified, in relation to fertilisers, by the Fertilisers Regulations 1991, SI 1991/2197, reg 12.

Sub-ss (2)(b), (4)(b), (5) modified, in relation to feeding stuffs, by the Feed (Sampling and Analysis and Specified Undesirable Substances) (England) Regulations 2010, SI 2010/2280, regs 3(a), 8, 10.

Sub-ss (2)(b), (4)(b), (5) modified, in relation to feeding stuffs, by the Feed (Sampling and Analysis and Specified Undesirable Substances) (Wales) Regulations 2010, SI 2010/2287, regs 3(a), 8, 10.

Sub-ss (2)(b), (4)(b), (5) modified, in relation to feeding stuffs, by the Feed (Sampling and Analysis and Specified Undesirable Substances) (Scotland) Regulations 2010, SSI 2010/354, regs 3(a), 8, 10.

Sub-ss (4)(b), (5) modified, in relation to feeding stuffs, by the Feed (Sampling and Analysis and Specified Undesirable Substances) Regulations (Northern Ireland) 2010, SR 2010/323, regs 7, 9.

### **See Further**

See further, in relation to the disapplication of this section for the purposes of the EC Fertilisers (England and Wales) Regulations 2006, SI 2006/2486: the EC Fertilisers (England and Wales) Regulations 2006, SI 2006/2486, reg 21.

See further, in relation to the disapplication of this section for the purposes of the EC Fertilisers (Scotland) Regulations 2006, SSI 2006/543: the EC Fertilisers (Scotland) Regulations 2006, SSI 2006/543, reg 21.

See further, in relation to the application of sub-s (2)(b) above, with modifications, in relation to feeding stuffs: see the Feed (Sampling and Analysis and Specified Undesirable Substances) Regulations (Northern Ireland) 2010, SR 2010/323, regs 2, 3(a).

### **Transfer of Functions**

Certain functions under this section, so far as they are exercisable in or as regards Scotland, are transferred to the Scottish Ministers: see the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 2006, SI 2006/304, arts 2, 5, Schedule.

### **Subordinate Legislation**

#### **UK**

Fertilisers Regulations 1991, SI 1991/2197 (made under sub-ss (1), (2), (3)).

Fertilisers (Amendment) Regulations 1995, SI 1995/16 (made under sub-ss (1)–(3)).

Fertilisers (Amendment) Regulations 1997, SI 1997/1543 (made under sub-ss (1)–(3)).

Fertilisers (Amendment) Regulations 1998, SI 1998/2024 (made under sub-ss (1), (2), (3)).

Feeding Stuffs Regulations 2000, SI 2000/2481 (made under sub-ss (1), (1A)).

Feeding Stuffs (Wales) Regulations 2001, SI 2001/343 (made under sub-ss (1), (1A)).

Feeding Stuffs (Amendment) Regulations 2002, SI 2002/892 (made under sub-ss (1), (1A)).

Feeding Stuffs (Amendment) (Wales) Regulations 2002, SI 2002/1797 (made under sub-ss (1), (1A)).

Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (England) Regulations 2003, SI 2003/1503 (made under sub-ss (1), (1A)).

Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2003, SI 2003/1850 (made under sub-ss (1), (1A)).

Feeding Stuffs (Application to Zootechnical Additives etc) (Scotland) Regulations 2005, SI 2005/3362 (made under sub-ss (1), (1A)).

Feed (Specified Undesirable Substances) (England) Regulations 2006, SI 2006/3120 (made under sub-s (1)).

Feed (Specified Undesirable Substances) (Wales) Regulations 2006, SI 2006/3256 (made under

sub-s (1)).

Animal Feed (England) Regulations 2010, SI 2010/2503 (made under sub-s (1)).

Animal Feed (Wales) Regulations 2010, SI 2010/2652 (made under sub-s (1)).

Animal Feed (Composition, Marketing and Use) (England) Regulations 2015, SI 2015/255 (made under sub-s (1)).

**Scotland**

Feeding Stuffs Amendment (Scotland) Regulations 2002, SSI 2002/285 (made under sub-ss (1), (1A)).

Animal Feed (Scotland) Regulations 2010, SSI 2010/373 (made under sub-s (1)).

**69 Marking of material prepared for sale**

(1) Subject to the provisions of this section, a person who has material of a prescribed description on his premises for the purpose of selling it in the course of trade for use as a fertiliser . . . shall—

- (a) as soon as practicable after it is made ready for sale, or
- (b) if it is ready for sale when it comes on to the premises and is not then already marked as required by this section, as soon as practicable after it comes on to the premises,

and in either case before it is removed from the premises, mark it in such manner, if any, as may be prescribed with the matters required to be contained in a statutory statement relating to that material, and shall secure that the material continues to be so marked until it leaves the premises.

(2) For the purposes of the foregoing subsection material which is normally packed before being delivered to a purchaser shall not be treated as ready for sale until it is so packed if the packing takes place on the premises where the material is manufactured but, if the packing takes place elsewhere, shall be treated as ready for sale when it is ready for packing.

(3) In the case of material which has been imported, subsections (1) and (2) of this section shall have effect subject to such modifications as may be prescribed.

(4) Where, at a time when subsection (1) of this section applies to any person, that person has on his premises for the purpose of selling it as mentioned in that subsection any material to which that subsection applies which is ready for sale and which—

- (a) is not marked in the manner required by or under this section; or
- (b) is not marked with all the information or instructions referred to in section 68(1)(b) of this Act with which it is required by this section to be marked; or
- (c) is marked with a mark which, as respects a sampled portion of the material—
  - (i) does not contain all the particulars referred to in section 68(1)(a) of this Act with which the material is required by this section to be marked; or
  - (ii) contains any such particulars which are false to the prejudice of a purchaser,

that person shall be liable on summary conviction to a fine not exceeding [level 5 on the standard scale or imprisonment for a term not exceeding three months or both]; but, except where the time in question is the time of the removal of the material from the premises, it shall be a defence for a person charged with an offence under this subsection to show that it was not practicable for the material to be marked in accordance with the requirements of this section by the time in question.

(5) In proceedings for an offence under subsection (4)(c) of this section the fact that any particulars

ought to have been included or are false shall be proved by evidence of the result of an analysis of the sample taken from the portion in question.

(6) Regulations may provide for enabling the matters required by this section to be marked on any material to be denoted by a mark whose meaning can be ascertained by reference to a register kept in such manner and form as may be specified in the regulations; and any material marked in accordance with the regulations shall be treated for the purposes of this Part of this Act as marked with the matters which the mark denotes.

(7) A person keeping a register pursuant to regulations under subsection (6) of this section shall preserve the register for such period as may be prescribed and a person who has such a register in his possession or under his control shall on demand by an inspector produce it for his inspection and allow him to take copies of it; and any person who fails to comply with this subsection shall be liable on summary conviction to a fine not exceeding [level 3 on the standard scale].

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 87(1).

### Appointment

Appointment: 1 January 1974: see SI 1973/1520, art 2.

### Amendment

Sub-s (1): words omitted repealed in relation to England by SI 2010/2503, reg 14(1), (4), in relation to Wales by SI 2010/2652, reg 14(1), (4), in relation to Northern Ireland by the Animal Feed Regulations (Northern Ireland) 2010, SR 2010/355, reg 14(1), (4) and in relation to Scotland by SSI 2010/373, reg 14(1), (4).

Date in force (in relation to England): 23 November 2010: see SI 2010/2503, reg 1.

Date in force (in relation to Wales): 23 November 2010: see SI 2010/2652, reg 1.

Date in force (in relation to Northern Ireland): 23 November 2010: see the Animal Feed Regulations (Northern Ireland) 2010, SR 2010/355, reg 1.

Date in force (in relation to Scotland): 23 November 2010: see SSI 2010/373, reg 1.

Sub-s (4): enhanced penalty on a subsequent conviction abolished, maximum fine increased and converted to a level on the standard scale by the Criminal Justice Act 1982, ss 35, 37, 38, 46.

Sub-s (7): maximum fine increased and converted to a level on the standard scale by the Criminal Justice Act 1982, ss 37, 38, 46.

### Modification

Sub-s (1): modified, in relation to imported fertilisers, by the Fertilisers Regulations 1991, SI 1991/2197, reg 9.

Sub-s (1): modified, in relation to Northern Ireland, by the Feeding Stuffs Regulations (Northern Ireland) 2005, SR 2005/545, reg 4.

Sub-ss (4)(c), (5) modified, in relation to feeding stuffs, by the Feed (Sampling and Analysis and Specified Undesirable Substances) Regulations (Northern Ireland) 2010, SR 2010/323, regs 7, 10.

### See Further

See further, in relation to the disapplication of this section for the purposes of the EC Fertilisers (England and Wales) Regulations 2006, SI 2006/2486: the EC Fertilisers (England and Wales) Regulations 2006, SI 2006/2486, reg 21.

See further, in relation to the disapplication of this section for the purposes of the EC Fertilisers (Scotland) Regulations 2006, SSI 2006/543: the EC Fertilisers (Scotland) Regulations 2006, SSI 2006/543, reg 21.

### Transfer of Functions

Certain functions under this section, so far as they are exercisable in or as regards Scotland, are transferred to the Scottish Ministers: see the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 2006, SI 2006/304, arts 2, 5, Schedule.

## Subordinate Legislation

### **UK**

Fertilisers Regulations 1991, SI 1991/2197 (made under sub-ss (1), (3), (6), (7)).  
Fertilisers (Amendment) Regulations 1995, SI 1995/16 (made under sub-ss (1), (3), (6), (7)).  
Fertilisers (Amendment) Regulations 1997, SI 1997/1543 (made under sub-ss (1), (3), (6), (7)).  
Fertilisers (Amendment) Regulations 1998, SI 1998/2024 (made under sub-ss (1), (3), (6), (7)).  
Feeding Stuffs Regulations 2000, SI 2000/2481 (made under sub-ss (1), (3), (6), (7)).  
Feeding Stuffs (Wales) Regulations 2001, SI 2001/343 (made under sub-ss (1), (3), (6), (7)).  
Feeding Stuffs (Amendment) Regulations 2002, SI 2002/892 (made under sub-s (1)).  
Feeding Stuffs (Amendment) (Wales) Regulations 2002, SI 2002/1797 (made under sub-s (1)).  
Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (England) Regulations 2003, SI 2003/1503 (made under sub-s (1)).  
Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2003, SI 2003/1850 (made under sub-s (1)).  
Feeding Stuffs (Application to Zootechnical Additives etc) (Scotland) Regulations 2005, SI 2005/3362 (made under sub-ss (1), (3)).  
Feed (Specified Undesirable Substances) (England) Regulations 2006, SI 2006/3120 (made under sub-s (1)).  
Feed (Specified Undesirable Substances) (Wales) Regulations 2006, SI 2006/3256 (made under sub-s (1)).

### **Scotland**

Feeding Stuffs Amendment (Scotland) Regulations 2002, SSI 2002/285 (made under sub-s (1)).

## **70 Use of names or expressions with prescribed meanings**

(1) Subject to the provisions of this section, where a person sells for use as a fertiliser or feeding stuff any material—

- (a) which he describes, in a statutory statement or any document given by him to the purchaser in connection with the sale, by a name or expression to which a meaning has been assigned by regulations made for the purposes of this section; or
- (b) which is marked with such a name or expression as aforesaid,

there shall, notwithstanding any contract or notice to the contrary, be implied a warranty by the seller that the material accords with that meaning; but in Scotland a contract of sale may not be treated as repudiated by reason only of a breach of that warranty.

(2) Subject to the provisions of this section, where a person—

- (a) sells for use as a fertiliser or feeding stuff any material—
  - (i) which he describes, in such a statement or document as is mentioned in subsection (1) of this section, by such a name or expression as is there mentioned; or
  - (ii) which is marked with such a name or expression as aforesaid; or
- (b) has on his premises for the purpose of selling it in the course of trade for such use any material which is ready for sale and marked as aforesaid,

then, if a sampled portion of the material fails, to the prejudice of a purchaser, to accord with the meaning which has been assigned to that name or expression, he shall be liable on summary conviction to a fine not exceeding [level 5 on the standard scale or imprisonment for a term not exceeding three months or both].

(3) In the case of any material which has been imported subsections (1) and (2) of this section shall have effect subject to such modifications as may be prescribed.

(4) In proceedings for an offence under subsection (2) of this section the fact that a sampled portion of any material fails to accord with the meaning in question shall be proved by evidence of the result of an analysis of the sample taken from that portion.

(5) For the purposes of this section material shall be treated as marked whether the mark is on the material itself, on a label attached to the material, on a package or container enclosing the material or, in a case within subsection (2)(b) of this section, in such a place on the premises in question that it is likely to be taken as referring to the material.

[(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.]

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 87(1).

### Appointment

Appointment: 1 January 1974: see SI 1973/1520, art 2.

### Amendment

Sub-s (2): enhanced penalty on a subsequent conviction abolished, maximum fine increased and converted to a level on the standard scale by the Criminal Justice Act 1982, ss 35, 37, 38, 46.

Sub-s (6): inserted in relation to England by SI 2010/2503, reg 14(1), (5)(b), in relation to Wales by SI 2010/2652, reg 14(1), (5)(b), in relation to Northern Ireland by the Animal Feed Regulations (Northern Ireland) 2010, SR 2010/355, reg 14(1), (5)(b) and in relation to Scotland by SSI 2010/373, reg 14(1), (5).

Date in force (in relation to England): 23 November 2010: see SI 2010/2503, reg 1.

Date in force (in relation to Wales): 23 November 2010: see SI 2010/2652, reg 1.

Date in force (in relation to Northern Ireland): 23 November 2010: see the Animal Feed Regulations (Northern Ireland) 2010, SR 2010/355, reg 1.

Date in force (in relation to Scotland): 23 November 2010: see SSI 2010/373, reg 1.

### Modification

Sub-s (1)(a) modified, in relation to feeding stuffs, by the Animal Feed (England) Regulations 2010, SI 2010/2503, reg 14(1), (5)(a).

Sub-s (1)(a) modified, in relation to feeding stuffs, by the Animal Feed (Scotland) Regulations 2010, SSI 2010/373, reg 14(1), (5)(a).

Sub-s (1)(a) modified, in relation to feeding stuffs, by the Animal Feed (Wales) Regulations 2010, SI 2010/2652, reg 14(1), (5)(a).

Sub-s (1)(a) modified, in relation to feeding stuffs, by the Animal Feed Regulations (Northern Ireland) 2010, SR 2010/355, reg 14(1), (5)(a).

Sub-ss (2), (4) modified, in relation to feeding stuffs, by the Feed (Sampling and Analysis and Specified Undesirable Substances) (England) Regulations 2010, SI 2010/2280, regs 8, 12.

Sub-ss (2), (4) modified, in relation to feeding stuffs, by the Feed (Sampling and Analysis and Specified Undesirable Substances) (Wales) Regulations 2010, SI 2010/2287, regs 8, 12.

Sub-ss (2), (4) modified, in relation to feeding stuffs, by the Feed (Sampling and Analysis and Specified Undesirable Substances) (Scotland) Regulations 2010, SSI 2010/354, regs 8, 12.

Sub-ss (2), (4) modified, in relation to feeding stuffs, by the Feed (Sampling and Analysis and Specified Undesirable Substances) Regulations (Northern Ireland) 2010, SR 2010/323, regs 7, 11.

### See Further

See further, in relation to the disapplication of this section for the purposes of the EC Fertilisers (England and Wales) Regulations 2006, SI 2006/2486: the EC Fertilisers (England and Wales)



Regulations 2006, SI 2006/2486, reg 21.

See further, in relation to the disapplication of this section for the purposes of the EC Fertilisers (Scotland) Regulations 2006, SSI 2006/543: the EC Fertilisers (Scotland) Regulations 2006, SSI 2006/543, reg 21.

### **Transfer of Functions**

Certain functions under this section, so far as they are exercisable in or as regards Scotland, are transferred to the Scottish Ministers: see the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 2006, SI 2006/304, arts 2, 5, Schedule.

### **Subordinate Legislation**

Fertilisers Regulations 1991, SI 1991/2197 (made under sub-s (1)).

Fertilisers (Amendment) Regulations 1995, SI 1995/16 (made under sub-s (1)).

Fertilisers (Amendment) Regulations 1997, SI 1997/1543 (made under sub-s (1)).

Feeding Stuffs Regulations 2000, SI 2000/2481 (made under sub-s (1)).

Feeding Stuffs (Wales) Regulations 2001, SI 2001/343 (made under sub-s (1)).

Feeding Stuffs (Application to Zootechnical Additives etc) (Scotland) Regulations 2005, SI 2005/3362 (made under sub-s (1)).

### **71 Particulars to be given of certain attributes if claimed to be present**

(1) A person shall not—

(a) sell for use as a fertiliser or feeding stuff any material—

(i) which he describes, in a statutory statement or any document given by him to the purchaser in connection with the sale, as having any attribute prescribed for the purposes of this section (not being an attribute of which particulars are required to be contained in the statutory statement); or

(ii) which is marked with a statement that it has any such attribute; or

(b) have on his premises for the purpose of selling it in the course of trade for such use any material which is ready for sale and marked as aforesaid,

unless the statement, document or mark, as the case may be, also states such particulars of that attribute as may be prescribed.

(2) Any person who—

(a) fails to comply with subsection (1) of this section; or

(b) in purported compliance with that subsection describes or marks any material with particulars which, as respects a sampled portion of that material, are false to the prejudice of a purchaser,

shall be liable on summary conviction to a fine not exceeding [level 5 on the standard scale or imprisonment for a term not exceeding three months or both].

(3) In proceedings for an offence under subsection (2)(b) of this section the fact that any particulars are false as respects a sampled portion of any material shall be proved by evidence of the result of an analysis of the sample taken from that portion.

(4) Failure to comply with subsection (1) of this section shall not invalidate a contract of sale; and on the sale of any material in relation to which particulars are or purport to be stated as required by that subsection there shall, notwithstanding any contract or notice to the contrary, be implied a warranty by the seller that the particulars are correct; but in Scotland a contract of sale may not be treated as repudiated

by reason only of a breach of that warranty.

(5) For the purposes of this section material shall be treated as marked whether the mark is on the material itself, on a label attached to the material, on a package or container enclosing the material or, in a case within subsection (1)(b) of this section, in such a place on the premises in question that it is likely to be taken as referring to the material.

[(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.]

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 87(1).

### Appointment

Appointment: 1 January 1974: see SI 1973/1520, art 2.

### Amendment

Sub-s (2): enhanced penalty on a subsequent conviction abolished, maximum fine increased and converted to a level on the standard scale by the Criminal Justice Act 1982, ss 35, 37, 38, 46.

Sub-s (6): inserted in relation to England by SI 2010/2503, reg 14(1), (6)(b), in relation to Wales by SI 2010/2652, reg 14(1), (6)(b), in relation to Northern Ireland by the Animal Feed Regulations (Northern Ireland) 2010, SR 2010/355, reg 14(1), (6)(b) and in relation to Scotland by SSI 2010/373, reg 14(1), (6)(b).

Date in force (in relation to England): 23 November 2010: see SI 2010/2503, reg 1.

Date in force (in relation to Wales): 23 November 2010: see SI 2010/2652, reg 1.

Date in force (in relation to Northern Ireland): 23 November 2010: see the Animal Feed Regulations (Northern Ireland) 2010, SR 2010/355, reg 1.

Date in force (in relation to Scotland): 23 November 2010: see SSI 2010/373, reg 1.

### Modification

Sub-ss (2)(b), (3) modified, in relation to feeding stuffs, by the Feed (Sampling and Analysis and Specified Undesirable Substances) (Scotland) Regulations 2010, SSI 2010/354, regs 8, 13.

Sub-ss (2)(b), (3) modified, in relation to feeding stuffs, by the Feed (Sampling and Analysis and Specified Undesirable Substances) (England) Regulations 2010, SI 2010/2280, regs 8, 13.

Sub-ss (2)(b), (3) modified, in relation to feeding stuffs, by the Feed (Sampling and Analysis and Specified Undesirable Substances) (Wales) Regulations 2010, SI 2010/2287, regs 8, 13.

Sub-ss (2)(b), (3) modified, in relation to feeding stuffs, by the Feed (Sampling and Analysis and Specified Undesirable Substances) Regulations (Northern Ireland) 2010, SR 2010/323, regs 7, 12.

Sub-s (4) modified, in relation to feeding stuffs, by the Animal Feed (England) Regulations 2010, SI 2010/2503, reg 14(1), (6)(a).

Sub-s (4) modified, in relation to feeding stuffs, by the Animal Feed (Wales) Regulations 2010, SI 2010/2652, reg 14(1), (6)(a).

Sub-s (4) modified, in relation to feeding stuffs, by the Animal Feed (Scotland) Regulations 2010, SSI 2010/373, reg 14(1), (6)(a).

Sub-s (4) modified, in relation to feeding stuffs, by the Animal Feed Regulations (Northern Ireland) 2010, SR 2010/355, reg 14(1), (6)(a).

### See Further

See further, in relation to the disapplication of this section for the purposes of the EC Fertilisers (England and Wales) Regulations 2006, SI 2006/2486: the EC Fertilisers (England and Wales) Regulations 2006, SI 2006/2486, reg 21.

See further, in relation to the disapplication of this section for the purposes of the EC Fertilisers (Scotland) Regulations 2006, SSI 2006/543: the EC Fertilisers (Scotland) Regulations 2006, SSI 2006/543, reg 21.

### Transfer of Functions

Certain functions under this section, so far as they are exercisable in or as regards Scotland, are transferred to the Scottish Ministers: see the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 2006, SI 2006/304, arts 2, 5, Schedule.

### **Subordinate Legislation**

Feeding Stuffs (Application to Zootechnical Additives etc) (Scotland) Regulations 2005, SI 2005/3362 (made under sub-s (1)).

## **72 Warranty of fitness of feeding stuff**

- (1) On the sale of any material for use as a feeding stuff there shall be implied a warranty by the seller that the material is suitable to be used as such; but—
- (a) if the material is sold as suitable only for animals of a particular description, no warranty shall be implied by virtue of this subsection that the material is suitable for other animals; and
  - (b) if the material is sold to be used as a feeding stuff only after being mixed with something else, no warranty shall be implied as aforesaid that the material is suitable to be so used without being so mixed.
- (2) On the sale of any material of a prescribed description for use as a feeding stuff there shall be implied a warranty by the seller that the material does not, except as stated in the statutory statement, contain any ingredient prescribed for the purposes of this subsection.
- (3) This section shall have effect notwithstanding any contract or notice to the contrary; but in Scotland a contract of sale may not be treated as repudiated by reason only of a breach of such a warranty as is referred to in subsection (1) or (2) of this section.

## **NOTES**

### **Initial Commencement**

#### ***To be appointed***

To be appointed: see s 87(1).

### **Appointment**

Appointment: 1 January 1974: see SI 1973/1520, art 2.

### **See Further**

See further, in relation to the disapplication of this section for the purposes of the EC Fertilisers (England and Wales) Regulations 2006, SI 2006/2486: the EC Fertilisers (England and Wales) Regulations 2006, SI 2006/2486, reg 21.

See further, in relation to the disapplication of this section for the purposes of the EC Fertilisers (Scotland) Regulations 2006, SSI 2006/543: the EC Fertilisers (Scotland) Regulations 2006, SSI 2006/543, reg 21.

### **Transfer of Functions**

Certain functions under this section, so far as they are exercisable in or as regards Scotland, are transferred to the Scottish Ministers: see the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 2006, SI 2006/304, arts 2, 5, Schedule.

## **73 . . .**

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## **NOTES**

### **Amendment**

Repealed in relation to England by SI 2010/2503, reg 14(1), (7), in relation to Wales by SI 2010/2652, reg 14(1), (7), in relation to Northern Ireland by the Animal Feed Regulations (Northern Ireland) 2010, SR 2010/355, reg 14(1), (7) and in relation to Scotland by SSI 2010/373, reg 14(1),

(7).

Date in force (in relation to England): 23 November 2010: see SI 2010/2503, reg 1.  
Date in force (in relation to Wales): 23 November 2010: see SI 2010/2652, reg 1.  
Date in force (in relation to Northern Ireland): 23 November 2010: see the Animal Feed Regulations (Northern Ireland) 2010, SR 2010/355, reg 1.  
Date in force (in relation to Scotland): 23 November 2010: see SSI 2010/373, reg 1.

## [73A]

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## NOTES

### Amendment

Inserted by SI 1982/980, reg 7.

Repealed in relation to England by SI 2010/2503, reg 14(1), (7), in relation to Wales by SI 2010/2652, reg 14(1), (7), in relation to Northern Ireland by the Animal Feed Regulations (Northern Ireland) 2010, SR 2010/355, reg 14(1), (7) and in relation to Scotland by SSI 2010/373, reg 14(1), (7).

Date in force (in relation to England): 23 November 2010: see SI 2010/2503, reg 1.  
Date in force (in relation to Wales): 23 November 2010: see SI 2010/2652, reg 1.  
Date in force (in relation to Northern Ireland): 23 November 2010: see the Animal Feed Regulations (Northern Ireland) 2010, SR 2010/355, reg 1.  
Date in force (in relation to Scotland): 23 November 2010: see SSI 2010/373, reg 1.

## 74 Limits of variation

(1) No action shall lie on any warranty arising under the foregoing provisions of this Part of this Act for any mis-statement as to the nature, substance or quality of any material if the mis-statement does not exceed any limits of variation prescribed in relation thereto for the purposes of this section; but if the mis-statement exceeds any such limits the purchaser's rights under the warranty shall not be affected by the limits.

(2) Particulars with respect to any material which are contained in a statutory statement or in any document, or which are marked on, or denoted by a mark on, the material, shall not for the purposes of this Part of this Act be treated as false by reason of any mis-statement therein as to the nature, substance or quality of the material if the mis-statement does not exceed the said limits of variation.

[(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.]

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 87(1).

### Appointment

Appointment: 1 January 1974: see SI 1973/1520, art 2.

### Amendment

Sub-s (3): inserted in relation to England by SI 2010/2503, reg 14(1), (7), in relation to Wales by SI 2010/2652, reg 14(1), (7), in relation to Northern Ireland by the Animal Feed Regulations (Northern Ireland) 2010, SR 2010/355, reg 14(1), (7) and in relation to Scotland by SSI 2010/373, reg 14(1), (7).

Date in force (in relation to England): 23 November 2010: see SI 2010/2503, reg 1.  
Date in force (in relation to Wales): 23 November 2010: see SI 2010/2652, reg 1.  
Date in force (in relation to Northern Ireland): 23 November 2010: see the Animal Feed

Regulations (Northern Ireland) 2010, SR 2010/355, reg 1.  
Date in force (in relation to Scotland): 23 November 2010: see SSI 2010/373, reg 1.

### **Modification**

Sub-s (2): modified by the Feeding Stuffs Regulations (Northern Ireland) 2005, SR 2005/545, reg 10.

### **See Further**

See further, in relation to the disapplication of this section for the purposes of the EC Fertilisers (England and Wales) Regulations 2006, SI 2006/2486: the EC Fertilisers (England and Wales) Regulations 2006, SI 2006/2486, reg 21.

See further, in relation to the disapplication of this section for the purposes of the EC Fertilisers (Scotland) Regulations 2006, SSI 2006/543: the EC Fertilisers (Scotland) Regulations 2006, SSI 2006/543, reg 21.

### **Transfer of Functions**

Certain functions under this section, so far as they are exercisable in or as regards Scotland, are transferred to the Scottish Ministers: see the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 2006, SI 2006/304, arts 2, 5, Schedule.

### **Subordinate Legislation**

#### **UK**

Fertilisers Regulations 1991, SI 1991/2197 (made under sub-s (1)).

Fertilisers (Amendment) Regulations 1995, 1995/16 (made under sub-s (1)).

Fertilisers (Amendment) Regulations 1997, SI 1997/1543 (made under sub-s (1)).

Feeding Stuffs Regulations 2000, SI 2000/2481 (made under sub-s (1)).

Feeding Stuffs (Wales) Regulations 2001, SI 2001/343 (made under sub-s (1)).

Feeding Stuffs (Application to Zootechnical Additives etc) (Scotland) Regulations 2005, SI 2005/3326 (made under sub-s (1)).

Feed (Specified Undesirable Substances) (England) Regulations 2006, SI 2006/3120 (made under sub-s (1)).

#### **Scotland**

Feeding Stuffs (Scotland) and the Feed (Hygiene and Enforcement) (Scotland) Amendment Regulations 2006, SSI 2006/578 (made under sub-s (1)).

### **[74A]**

[(1) Regulations under this Part of this Act, with a view to controlling in the public interest the composition or content of fertilisers and of material intended for the feeding of animals, may make provision—

- (a) prohibiting or restricting, by reference to its composition or content, the importation into and exportation from the United Kingdom, the sale or possession with a view to sale, or the use, of any prescribed material;
- (b) regulating the marking, labelling and packaging of prescribed material and the marks to be applied to any container or vehicle in which any prescribed material is enclosed or conveyed.

(2) Regulations made under subsection (1) above with respect to any material may include provision excluding or modifying the operation in relation to that material of any other provision of this Part of this Act; but, subject to any provision so made, references in this Part of this Act to feeding stuffs shall apply to all material which is intended for the feeding of animals and with respect to which regulations are for the time being in force under that subsection.

(3) Any person who contravenes any prohibition or restriction imposed by regulations under subsection (1) above, or fails to comply with any other provision of the regulations, shall be liable on summary conviction to a fine not exceeding [level 5 on the standard scale or to imprisonment for a term not exceeding three months, or to both].

(4) With a view to implementing or supplementing any [EU] instrument relating to fertilisers or to material intended for the feeding of animals, regulations may provide for the application, in relation to any material specified in the regulations, of all or any of the provisions of this Part of this Act, subject to any modifications which may be so specified.]

## NOTES

### Amendment

Inserted by the European Communities Act 1972, s 4, Sch 4, para 6.

Sub-s (3): enhanced penalty on a subsequent conviction abolished, maximum fine increased and converted to a level on the standard scale by the Criminal Justice Act 1982, ss 35, 37, 38, 46.

Sub-s (4): reference to "EU" in square brackets substituted by SI 2011/1043, art 6(1)(d).

Date in force: 22 April 2011: see SI 2011/1043, art 2; for transitional savings see art 3(3) thereof.

### See Further

See further, in relation to the disapplication of this section for the purposes of the EC Fertilisers (England and Wales) Regulations 2006, SI 2006/2486: the EC Fertilisers (England and Wales) Regulations 2006, SI 2006/2486, reg 21.

See further, in relation to the disapplication of this section for the purposes of the EC Fertilisers (Scotland) Regulations 2006, SSI 2006/543: the EC Fertilisers (Scotland) Regulations 2006, SSI 2006/543, reg 21.

See further, in relation to the disapplication of sub-s (3) above in relation to regulations concerning feed: the Animal Feed (Scotland) Regulations 2010, SSI 2010/373, reg 14(1), (9).

See further, in relation to the disapplication of sub-s (3) above in relation to regulations concerning feed: the Animal Feed (England) Regulations 2010, SI 2010/2503, reg 14(1), (9).

See further, in relation to the disapplication of sub-s (3) above in relation to regulations concerning feed: the Animal Feed (Wales) Regulations 2010, SI 2010/2652, reg 14(1), (9).

See further, in relation to the disapplication of sub-s (3) above in relation to regulations concerning feed: the Animal Feed Regulations (Northern Ireland) 2010, SR 2010/355, reg 14(1), (9).

### Transfer of Functions

Certain functions under this section, so far as they are exercisable in or as regards Scotland, are transferred to the Scottish Ministers: see the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 2006, SI 2006/304, arts 2, 5, Schedule.

### Subordinate Legislation

#### UK

Fertilisers Regulations 1991, SI 1991/2197 (made under sub-ss (1), (2), (4)).

Fertilisers (Amendment) Regulations 1995, SI 1995/16 (made under sub-ss (1), (2), (4)).

Fertilisers (Sampling and Analysis) Regulations 1996, SI 1996/1342.

Fertilisers (Amendment) Regulations 1997, SI 1997/1543 (made under sub-ss (1), (2), (4)).

Fertilisers (Amendment) Regulations 1998, SI 1998/2024 (made under sub-ss (1), (2), (4)).

Feeding Stuffs Regulations 2000, SI 2000/2481.

Feeding Stuffs (Wales) Regulations 2001, SI 2001/343.

Feeding Stuffs (Amendment) Regulations 2002, SI 2002/892.

Feeding Stuffs (Amendment) (Wales) Regulations 2002, SI 2002/1797.

Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (England) Regulations 2003, SI 2003/1503.

Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2003, SI 2003/1850.

Feeding Stuffs (Application to Zootechnical Additives etc) (Scotland) Regulations 2005, SI 2005/3362.

Feed (Specified Undesirable Substances) (England) Regulations 2006, SI 2006/3120.

Feed (Specified Undesirable Substances) (Wales) Regulations 2006, SI 2006/3256.

Feed (Sampling and Analysis and Specified Undesirable Substances) (England) Regulations 2010, SI 2010/2280.

Feed (Sampling and Analysis and Specified Undesirable Substances) (Wales) Regulations 2010,

SI 2010/2287 (made under sub-s ()).

Animal Feed (England) Regulations 2010, SI 2010/2503 (made under sub-ss (1), (2), (4)).

Animal Feed (Wales) Regulations 2010, SI 2010/2652 (made under sub-ss (1), (2), (4)).

Animal Feed (Composition, Marketing and Use) (England) Regulations 2015, SI 2015/255 (made under sub-s (1)).

Animal Feed (Hygiene, Sampling etc and Enforcement) (England) Regulations 2015, SI 2015/454 (made under sub-s (4)).

### **Scotland**

Feeding Stuffs Amendment (Scotland) Regulations 2002, SSI 2002/285.

Feeding Stuffs (Miscellaneous Amendments) (Scotland) Regulations 2003, SSI 2003/277.

Feeding Stuffs (Scotland) and the Feed (Hygiene and Enforcement) (Scotland) Amendment Regulations 2006, SSI 2006/578.

Feed (Hygiene and Enforcement) (Scotland) Amendment Regulations 2008, SSI 2008/201.

Animal Feed (Scotland) Regulations 2010, SSI 2010/373 (made under sub-ss (1), (2), (4)).

## *Sampling and analysis*

### **75 Purchaser's right to have sample taken and analysed**

(1) Subject to the provisions of this section, the purchaser of any material which was sold to him for use as a fertiliser or feeding stuff and in respect of which a warranty was given, or is treated by virtue of this Part of this Act as having been given, by the seller shall be entitled to have a sample of the material taken in the prescribed manner by an inspector and analysed by the agricultural analyst for the inspector's area.

(2) A purchaser of any material who requests a sample of it to be taken under this section shall, if so required by the inspector—

- (a) tell him the name and address of the seller; and
- (b) furnish him with, or with a copy of, any statutory statement or document containing or giving rise to the warranty relating to the material and, in the case of a warranty which by virtue of section 70(1) or 71(4) of this Act is implied by reason of the material being marked as mentioned in paragraph (b) of the said section 70(1) or subsection (1)(a)(ii) of the said section 71, of the matters stated by the mark in question.

(3) No sample of any material shall be taken under this section—

- (a) where the warranty is contained in or arises from a statutory statement or document, after the expiration of six months from the delivery of the material to the purchaser or the receipt by him of the statutory statement or document, whichever is the later;
- (b) in any other case, after the expiration of six months from the delivery of the material to the purchaser.

(4) Any request for a sample to be taken and analysed under this section shall be accompanied by such fee as may be fixed by the enforcement authority whose inspector is to take the sample; and different fees may be fixed for different materials and for different analyses of the same material.

### **NOTES**

#### **Initial Commencement**

##### ***To be appointed***

To be appointed: see s 87(1).

#### **Appointment**

Appointment: 1 January 1974: see SI 1973/1520, art 2.

## **Modification**

Sub-s (1) modified by the Feeding Stuffs (Enforcement) Regulations 1999, SI 1999/2325, regs 7, 8 (as amended in relation to England by the Feeding Stuffs (Sampling and Analysis), the Feeding Stuffs (Enforcement) and the Feeding Stuffs (Establishments and Intermediaries) (Amendment) (England) Regulations 2003, SI 2003/1296, regs 8–10 and in relation to Scotland by the Feeding Stuffs (Miscellaneous Amendments) (Scotland) Regulations 2003, SI 2003/277, regs 8–10 and in relation to Wales by the Feeding Stuffs (Sampling and Analysis), the Feeding Stuffs (Enforcement) and the Feeding Stuffs (Establishments and Intermediaries) (Amendment) (Wales) Regulations 2003, SI 2003/1677, regs 8–10; further amended in relation to England by Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (England) Regulations 2003, SI 2003/1503, regs 16, 17).

Sub-s (1) modified, in relation to feeding stuffs, by the Feed (Sampling and Analysis and Specified Undesirable Substances) (England) Regulations 2010, SI 2010/2280, regs 8, 16.

Sub-s (1) modified, in relation to feeding stuffs, by the Feed (Sampling and Analysis and Specified Undesirable Substances) (Wales) Regulations 2010, SI 2010/2287, regs 8, 16.

Sub-s (1) modified, in relation to feeding stuffs, by the Feed (Sampling and Analysis and Specified Undesirable Substances) (Scotland) Regulations 2010, SSI 2010/354, regs 8, 16.

Sub-s (1) modified, in relation to feeding stuffs, by the Feed (Sampling and Analysis and Specified Undesirable Substances) Regulations (Northern Ireland) 2010, SR 2010/323, regs 7, 15.

## **See Further**

See further, in relation to the disapplication of this section for the purposes of the EC Fertilisers (England and Wales) Regulations 2006, SI 2006/2486: the EC Fertilisers (England and Wales) Regulations 2006, SI 2006/2486, reg 21.

See further, in relation to the disapplication of this section for the purposes of the EC Fertilisers (Scotland) Regulations 2006, SSI 2006/543: the EC Fertilisers (Scotland) Regulations 2006, SSI 2006/543, reg 21.

## **Transfer of Functions**

Certain functions under this section, so far as they are exercisable in or as regards Scotland, are transferred to the Scottish Ministers: see the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 2006, SI 2006/304, arts 2, 5, Schedule.

## **Subordinate Legislation**

### ***UK***

Fertilisers (Sampling and Analysis) Regulations 1996, SI 1996/1342 (made under sub-s (1)).

Feeding Stuffs (Amendment) Regulations 2002, SI 2002/892 (made under sub-s (1)).

Feeding Stuffs (Amendment) (Wales) Regulations 2002, SI 2002/1797 (made under sub-s (1)).

Feeding Stuffs (Sampling and Analysis), the Feeding Stuffs (Enforcement) and the Feeding Stuffs (Establishments and Intermediaries) (Amendment) (England) Regulations 2003, SI 2003/1296 (made under sub-s (1)).

Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (England) Regulations 2003, SI 2003/1503 (made under sub-s (1)).

Feeding Stuffs (Sampling and Analysis), the Feeding Stuffs (Enforcement) and the Feeding Stuffs (Establishments and Intermediaries) (Amendment) (Wales) Regulations 2003, SI 2003/1677 (made under sub-s (1)).

Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2003, SI 2003/1850 (made under sub-s (1)).

### ***Scotland***

Feeding Stuffs Amendment (Scotland) Regulations 2002, SSI 2002/285 (made under sub-s (1)).

Feeding Stuffs (Miscellaneous Amendments) (Scotland) Regulations 2003, SSI 2003/277 (made under sub-s (1)).

Feeding Stuffs (Sampling and Analysis) Amendment (Scotland) Regulations 2004, SSI 2004/414 (made under sub-s (1)).

## **76 Inspector's power to enter premises and take samples**



- (1) An inspector may at all reasonable times enter—
  - (a) any premises on which he has reasonable cause to believe that there is any fertiliser or feeding stuff which is kept there for the purpose of being sold in the course of trade and is ready for sale;
  - (b) any premises (not being premises used only as a dwelling) on which he has reasonable cause to believe that there is any fertiliser or feeding stuff which the occupier of the premises has purchased;

and the inspector may take a sample in the prescribed manner on those premises of any material on the premises (including any material in a vehicle) which he has reasonable cause to believe to be such a fertiliser or feeding stuff as aforesaid.

- (2) An inspector may require a person who has purchased any fertiliser or feeding stuff—
  - (a) to tell him the name and address of the seller; and
  - (b) to produce, and allow him to take copies of—
    - (i) any statutory statement received from the seller;
    - (ii) where the fertiliser or feeding stuff was described or marked as mentioned in section 70(1) or 71(1) of this Act, the document or mark in question;

and any person who without reasonable excuse fails to comply with such a requirement shall be liable on summary conviction to a fine not exceeding [level 3 on the standard scale].

- (3) An inspector entering any premises by virtue of this section may take with him such other persons and such equipment as may appear to him to be necessary.

(4) Without prejudice to his powers and duties as to the taking of samples in the prescribed manner, an inspector may for the purposes of this Part of this Act take a sample in a manner other than that prescribed of any material which has been sold for use as a fertiliser or feeding stuff or which he has reasonable cause to believe to be intended for sale as such.

(5) Where for the purpose of taking a sample of any material an inspector takes some of it from each of one or more parcels of the material which are exposed for sale by retail and none of which weighs more than fourteen pounds or the prescribed metric substitution the owner of the parcel or parcels may require the inspector to purchase the parcel or parcels on behalf of the authority for whom he acts.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 87(1).

### Appointment

Appointment: 1 January 1974: see SI 1973/1520, art 2.

### Amendment

Sub-s (2): maximum fine increased and converted to a level on the standard scale by the Criminal Justice Act 1982, ss 37, 38, 46.

### Modification

Sub-s (5) modified, in relation to fertilisers, by the Fertilisers (Sampling and Analysis) Regulations 1996, SI 1996/1342, reg 8(b).

Sub-ss (1), (4), (5) modified, in relation to feeding stuffs, by the Feed (Sampling and Analysis and Specified Undesirable Substances) (Wales) Regulations 2010, SI 2010/2287, regs 3(b), 8, 17.

Sub-ss (1), (4), (5) modified, in relation to feeding stuffs, by the Feed (Sampling and Analysis and Specified Undesirable Substances) (Scotland) Regulations 2010, SSI 2010/354, regs 3(b), 8, 17.  
Sub-ss (1), (4) modified, in relation to feeding stuffs, by the Feed (Sampling and Analysis and Specified Undesirable Substances) Regulations (Northern Ireland) 2010, SR 2010/323, regs 7, 16.  
Sub-ss (1), (4), (5) modified, in relation to feeding stuffs, by the Feed (Sampling and Analysis and Specified Undesirable Substances) (England) Regulations 2010, SI 2010/2280, regs 3(b), 8, 17.

### **See Further**

See further, the application of this section, with modifications, for the purposes of the Genetically Modified Animal Feed (Scotland) Regulations 2004, SSI 2004/433: the Genetically Modified Animal Feed (Scotland) Regulations 2004, SSI 2004/433, reg 6(1)(b), (2).

See further, the application of sub-s (2)(b) above, with modifications, for the purposes of the Genetically Modified Animal Feed (Wales) Regulations 2004, SI 2004/3221 and Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed: the Genetically Modified Animal Feed (Wales) Regulations 2004, SI 2004/3221, reg 6(1), (2)(a).

See further, the application of sub-s (2)(b) above, with modifications, for the purposes of the Feeding Stuff (Safety Requirements for Feed for Food-Producing Animals) Regulations 2004, SI 2004/3254 and Regulation (EC) No 178/2002, arts 15, 16, 18, 20: the Feeding Stuff (Safety Requirements for Feed for Food-Producing Animals) Regulations 2004, SI 2004/3254, reg 4(1), (2)(b).

See further, in relation to the disapplication of this section for the purposes of the EC Fertilisers (England and Wales) Regulations 2006, SI 2006/2486: the EC Fertilisers (England and Wales) Regulations 2006, SI 2006/2486, reg 21.

See further, in relation to the disapplication of this section for the purposes of the EC Fertilisers (Scotland) Regulations 2006, SSI 2006/543: the EC Fertilisers (Scotland) Regulations 2006, SSI 2006/543, reg 21.

See further, in relation to the application of sub-s (5) above, with modifications, in relation to feeding stuffs: see the Feed (Sampling and Analysis and Specified Undesirable Substances) Regulations (Northern Ireland) 2010, SR 2010/323, regs 2, 3(b).

### **Transfer of Functions**

Certain functions under this section, so far as they are exercisable in or as regards Scotland, are transferred to the Scottish Ministers: see the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 2006, SI 2006/304, arts 2, 5, Schedule.

### **Subordinate Legislation**

#### **UK**

Fertilisers (Sampling and Analysis) Regulations 1996, SI 1996/1342 (made under sub-s (1)).

Feeding Stuff (Amendment) Regulations 2002, SI 2002/892 (made under sub-s (1)).

Feeding Stuff (Amendment) (Wales) Regulations 2002, SI 2002/1797 (made under sub-s (1)).

Feeding Stuff (Sampling and Analysis), the Feeding Stuff (Enforcement) and the Feeding Stuff (Establishments and Intermediaries) (Amendment) (England) Regulations 2003, SI 2003/1296 (made under sub-s (1)).

Feeding Stuff, the Feeding Stuff (Sampling and Analysis) and the Feeding Stuff (Enforcement) (Amendment) (England) Regulations 2003, SI 2003/1503 (made under sub-s (1)).

Feeding Stuff (Sampling and Analysis), the Feeding Stuff (Enforcement) and the Feeding Stuff (Establishments and Intermediaries) (Amendment) (Wales) Regulations 2003, SI 2003/1677 (made under sub-s (1)).

Feeding Stuff, the Feeding Stuff (Sampling and Analysis) and the Feeding Stuff (Enforcement) (Amendment) (Wales) Regulations 2003, SI 2003/1850 (made under sub-s (1)).

#### **Scotland**

Feeding Stuff Amendment (Scotland) Regulations 2002, SSI 2002/285 (made under sub-s (1)).

Feeding Stuff (Miscellaneous Amendments) (Scotland) Regulations 2003, SSI 2003/277 (made under sub-s (1)).

Feeding Stuff (Sampling and Analysis) Amendment (Scotland) Regulations 2004, SSI 2004/414 (made under sub-s (1)).

## 77 Division of samples and analysis by agricultural analyst

(1) Where a sample has been taken by an inspector in the prescribed manner, then, subject to subsection (2) of this section, he shall divide it into three parts of as near as may be equal size and cause each part to be marked, sealed and fastened up in the prescribed manner; and the inspector—

- (a) shall send one part to the agricultural analyst for the inspector's area;
- (b) shall send another part—
  - (i) where the sample was taken pursuant to the request of a purchaser under section 75 of this Act, to the seller or his agent;
  - (ii) in any other case, if the person on whose premises the sample was taken purchased the material in question for use and not for resale, to the seller or his agent and otherwise to the person on whose premises the sample was taken; and
- (c) subject to section 78 of this Act, shall retain the remaining part for nine months.

(2) If the person who manufactured any material of which an inspector has taken a sample in the prescribed manner is not a person to whom a part of the sample is required to be sent under subsection (1) of this section, that subsection shall have effect as if for the reference to three parts there were substituted a reference to four parts, and the inspector shall send the fourth part to the manufacturer unless he does not know the manufacturer's name, or any address of the manufacturer in the United Kingdom, and is unable after making reasonable inquiries to ascertain that name, or, as the case may be, any such address before the expiration of fourteen days from the date when the sample was taken.

(3) There shall be sent with the part of a sample sent to the agricultural analyst—

- (a) a statement signed by the inspector that the sample was taken in the prescribed manner;
- (b) a copy of any statutory statement relating to the material sampled, a copy of any matters with which that material had been marked pursuant to this Part of this Act and, where the material sampled was described or marked as mentioned in section 70(1) or 71(1) of this Act, a copy of the document or the matters stated by the mark in question.

(4) The agricultural analyst shall analyse the part of a sample which is sent to him under subsection (1)(a) of this section in such manner, if any, as may be prescribed and send a certificate of analysis in the prescribed form to the inspector who shall send a copy of it—

- (a) where the sample was taken pursuant to the request of a purchaser under section 75 of this Act, to the purchaser and to the seller or his agent;
- (b) in any other case, to the person to whom a part of the sample has been sent under subsection (1)(b)(ii) of this section;

and, in either case, to any person to whom he has sent a part of the sample under subsection (2) of this section.

(5) If the agricultural analyst to whom a sample is sent for analysis determines that for any reason an effective analysis of the sample cannot be made by him or under his direction he shall send it to the agricultural analyst for another area together with any documents received by him with the sample; and thereupon the foregoing provisions of this section shall apply as if that other analyst were the agricultural analyst for the inspector's area and the sample had originally been sent to him.

## NOTES

## **Initial Commencement**

### ***To be appointed***

To be appointed: see s 87(1).

## **Appointment**

Appointment: 1 January 1974: see SI 1973/1520, art 2.

## **Modification**

Sub-ss (1)–(4) modified, in relation to feeding stuffs, by the Feed (Sampling and Analysis and Specified Undesirable Substances) (England) Regulations 2010, SI 2010/2280, regs 8, 18.

Sub-ss (1)–(4) modified, in relation to feeding stuffs, by the Feed (Sampling and Analysis and Specified Undesirable Substances) (Wales) Regulations 2010, SI 2010/2287, regs 8, 18.

Sub-ss (1)–(4) modified, in relation to feeding stuffs, by the Feed (Sampling and Analysis and Specified Undesirable Substances) (Scotland) Regulations 2010, SSI 2010/354, regs 8, 18.

Sub-ss (1)–(4) modified, in relation to feeding stuffs, by the Feed (Sampling and Analysis and Specified Undesirable Substances) Regulations (Northern Ireland) 2010, SR 2010/323, regs 7, 17.

## **See Further**

See further, the application of this section, with modifications, for the purposes of the Genetically Modified Animal Feed (Scotland) Regulations 2004, SSI 2004/433: the Genetically Modified Animal Feed (Scotland) Regulations 2004, SSI 2004/433, reg 6(1)(a)(i), (2).

See further, the application of this section, with modifications, for the purposes of the Genetically Modified Animal Feed (Wales) Regulations 2004, SI 2004/3221 and Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed: the Genetically Modified Animal Feed (Wales) Regulations 2004, SI 2004/3221, reg 6(1), (2)(b).

See further, the application of this section, with modifications, for the purposes of the Feeding Stuffs (Safety Requirements for Feed for Food–Producing Animals) Regulations 2004, SI 2004/3254 and Regulation (EC) No 178/2002, arts 15, 16, 18, 20: the Feeding Stuffs (Safety Requirements for Feed for Food–Producing Animals) Regulations 2004, SI 2004/3254, reg 4(1)(a), (c), (2)(c), (3).

See further, in relation to the disapplication of this section for the purposes of the EC Fertilisers (England and Wales) Regulations 2006, SI 2006/2486: the EC Fertilisers (England and Wales) Regulations 2006, SI 2006/2486, reg 21.

See further, in relation to the disapplication of this section for the purposes of the EC Fertilisers (Scotland) Regulations 2006, SSI 2006/543: the EC Fertilisers (Scotland) Regulations 2006, SSI 2006/543, reg 21.

## **Transfer of Functions**

Certain functions under this section, so far as they are exercisable in or as regards Scotland, are transferred to the Scottish Ministers: see the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 2006, SI 2006/304, arts 2, 5, Schedule.

## **Subordinate Legislation**

### ***UK***

Fertilisers (Sampling and Analysis) Regulations 1996, SI 1996/1342.

Feeding Stuffs Regulations 2000, SI 2000/2481 (made under sub-s (4)).

Feeding Stuffs (Sampling and Analysis) (Amendment) (England) Regulations 2001, SI 2001/541 (made under sub-s (4)).

Feeding Stuffs (Sampling and Analysis) (Amendment) (Wales) Regulations 2001, SI 2001/2253 (made under sub-s (4)).

Feeding Stuffs (Amendment) Regulations 2002, SI 2002/892 (made under sub-s (4)).

Feeding Stuffs (Amendment) (Wales) Regulations 2002, SI 2002/1797 (made under sub-s (4)).

Feeding Stuffs (Sampling and Analysis), the Feeding Stuffs (Enforcement) and the Feeding Stuffs (Establishments and Intermediaries) (Amendment) (England) Regulations 2003, SI 2003/1296 (made under sub-s (4)).

Feeding Stuffs (Sampling and Analysis), the Feeding Stuffs (Enforcement) and the Feeding Stuffs (Establishments and Intermediaries) (Amendment) (Wales) Regulations 2003, SI 2003/1677 (made under sub-s (4)).

Feeding Stuffs (Application to Zootechnical Additives etc) (Scotland) Regulations 2005, SI 2005/3362 (made under sub-s (4)).

**Scotland**

Feeding Stuffs (Sampling and Analysis) Amendment (Scotland) Regulations 2001, SSI 2001/104 (made under sub-s (4)).

Feeding Stuffs Amendment (Scotland) Regulations 2002, SSI 2002/285 (made under sub-s (4)).

Feeding Stuffs (Miscellaneous Amendments) (Scotland) Regulations 2003, SSI 2003/277 (made under sub-s (4)).

Feeding Stuffs (Sampling and Analysis) Amendment (Scotland) Regulations 2004, SSI 2004/414 (made under sub-s (4)).

## **78 Further analysis by Government Chemist**

(1) Where a sample of any material has been taken pursuant to the request of a purchaser under section 75 of this Act, any of the following persons, that is to say, the purchaser, the person who sold the material to him and any other person against whom a cause of action may lie in respect of the sale of that material, shall be entitled to require the inspector—

- (a) to send the part retained by the inspector under section 77(1)(c) of this Act (hereafter in this section referred to as “the remaining part”) for analysis to the Government Chemist;
- (b) to supply the person making the request with a copy of the Government Chemist’s certificate of analysis of that remaining part, whether that part was sent to the Government Chemist for analysis in pursuance of the request of that person or otherwise.

(2) Where a sample of any material has been taken by an inspector in the prescribed manner and it is intended to institute proceedings against any person for an offence under this Part of this Act and to adduce on behalf of the prosecution evidence of the result of an analysis of the sample—

- (a) the prosecutor, if a person other than the inspector, shall be entitled to require the inspector—
  - (i) to send the remaining part of the sample for analysis to the Government Chemist;
  - (ii) to supply the prosecutor with a copy of the Government Chemist’s certificate of analysis of that remaining part, whether that part was sent to the Government Chemist for analysis in pursuance of the request of the prosecutor or otherwise;
- (b) the inspector, if he is the prosecutor, shall be entitled himself so to send that remaining part.

(3) Where a prosecutor avails himself of his rights under subsection (2) of this section he shall cause to be served with the summons a copy of the agricultural analyst’s certificate of analysis and a copy of the Government Chemist’s certificate of analysis; and where a prosecutor does not avail himself of his rights under that subsection he shall, not less than fourteen days before the service of the summons, cause to be served on the person charged a copy of the agricultural analyst’s certificate of analysis and a notice of intended prosecution, and if, within the period of fourteen days beginning with the service of the notice, that person sends the prosecutor a written request to that effect accompanied by the amount of the fee payable by the prosecutor for the purpose under subsection (8) of this section (which shall be refunded to that person by the prosecutor if the prosecution is not brought) the prosecutor shall exercise his rights under subsection (2) of this section and the proceedings shall not be instituted until he has sent that person a copy of the Government Chemist’s certificate of analysis.

(4) Where proceedings are brought against any person for an offence under this Part of this Act and evidence is given or sought to be given of the result of an analysis of a sample of any material taken by

an inspector in the prescribed manner but it appears that the sample has not been analysed by the Government Chemist, the court may, of its own motion or on the application of either party, order the remaining part of the sample to be sent for analysis to the Government Chemist.

(5) Where under this section a part of a sample is sent for analysis to the Government Chemist there shall be sent with it—

- (a) a copy of any document which was sent with the part of the sample sent to the agricultural analyst; and
- (b) if the part is sent to the Government Chemist under subsection (2) or (4) of this section, a statement of the particulars on which the proceedings or intended proceedings are based.

(6) The Government Chemist shall analyse in such manner, if any, as may be prescribed any part of a sample sent to him under this section but, where the part is accompanied by a statement such as is mentioned in subsection (5)(b) of this section, the analysis shall be made only with respect to the particulars in the statement unless the person or court requesting or ordering the analysis requires it to extend also to other matters.

(7) A certificate of any analysis under this section shall be sent by the Government Chemist—

- (a) if the material analysed was sent to him in pursuance of subsection (1) or (2) of this section, to the inspector
- (b) if it was sent to him in pursuance of an order of the court under subsection (4) of this section, to the court.

(8) A request for an analysis under subsection (1) or (2) of this section shall be of no effect unless accompanied by the appropriate fee; and the appropriate fee for any analysis ordered by the court under subsection (4) of this section shall be paid by such party to the proceedings as the court may direct.

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

- (a) for any reference to the court there shall be substituted a reference to the sheriff;
- (b) in subsection (2), in paragraph (a) the words “if a person other than the inspector” and paragraph (b) shall be omitted;
- (c) in subsection (3), for any reference to the summons there shall be substituted a reference to the complaint;
- (d) for subsection (8) there shall be substituted the following subsection—

“(8) A request for an analysis—

- (a) under subsection (1) of this section; or
- (b) under subsection (2) thereof where the request is made at the instance of a person charged with an offence who has received a notice of intended prosecution,

shall be of no effect unless accompanied by the appropriate fee; and the appropriate fee for any analysis ordered by the sheriff under subsection (4) of this section shall be paid by such party to the proceedings as the sheriff may direct.”

(10) In subsection (8) of this section “the appropriate fee” means such fee as may be fixed by the [Secretary of State] with the approval of the Treasury, and different fees may be fixed for different

materials and for different analyses of the same material.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 87(1).

### Appointment

Appointment: 1 January 1974: see SI 1973/1520, art 2.

### Amendment

Sub-s (10): words in square brackets substituted by virtue of SI 1970/1537.

### Modification

Sub-ss (1), (2), (4)–(6) modified, in relation to feeding stuffs, by the Feed (Sampling and Analysis and Specified Undesirable Substances) (England) Regulations 2010, SI 2010/2280, regs 8, 19.

Sub-ss (1), (2), (4)–(6) modified, in relation to feeding stuffs, by the Feed (Sampling and Analysis and Specified Undesirable Substances) (Wales) Regulations 2010, SI 2010/2287, regs 8, 19.

Sub-ss (1), (2), (4)–(6) modified, in relation to feeding stuffs, by the Feed (Sampling and Analysis and Specified Undesirable Substances) (Scotland) Regulations 2010, SSI 2010/354, regs 8, 19.

Sub-ss (1), (2), (4)–(6) modified, in relation to feeding stuffs, by the Feed (Sampling and Analysis and Specified Undesirable Substances) Regulations (Northern Ireland) 2010, SR 2010/323, regs 7, 18.

### See Further

See further, the application of sub-ss (2)–(10) above, with modifications, for the purposes of the Genetically Modified Animal Feed (Scotland) Regulations 2004, SSI 2004/433: the Genetically Modified Animal Feed (Scotland) Regulations 2004, SSI 2004/433, reg 6(1)(a)(ii), (2).

See further, the application of sub-ss (2)–(8), (10) above, with modifications, for the purposes of the Genetically Modified Animal Feed (Wales) Regulations 2004, SI 2004/3221 and Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed: the Genetically Modified Animal Feed (Wales) Regulations 2004, SI 2004/3221, reg 6(1), (2)(c).

See further, the application of sub-ss (2)–(10) above, with modifications, for the purposes of the Feeding Stuffs (Safety Requirements for Feed for Food–Producing Animals) Regulations 2004, SI 2004/3254 and Regulation (EC) No 178/2002, arts 15, 16, 18, 20: the Feeding Stuffs (Safety Requirements for Feed for Food–Producing Animals) Regulations 2004, SI 2004/3254, reg 4(1), (2)(d).

See further, in relation to the disapplication of this section for the purposes of the EC Fertilisers (England and Wales) Regulations 2006, SI 2006/2486: the EC Fertilisers (England and Wales) Regulations 2006, SI 2006/2486, reg 21.

See further, in relation to the disapplication of this section for the purposes of the EC Fertilisers (Scotland) Regulations 2006, SSI 2006/543: the EC Fertilisers (Scotland) Regulations 2006, SSI 2006/543, reg 21.

### Transfer of Functions

Functions under this section, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

Certain functions under this section, so far as they are exercisable in or as regards Scotland, are transferred to the Scottish Ministers: see the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 2006, SI 2006/304, arts 2, 5, Schedule.

### Subordinate Legislation

#### *UK*

Fertilisers (Sampling and Analysis) Regulations 1996, SI 1996/1342 (made under sub-ss (2), (4), (6)).

Feeding Stuffs Regulations 2000, SI 2000/2481 (made under sub-s (6)).

Feeding Stuffs (Sampling and Analysis) (Amendment) (England) Regulations 2001, SI 2001/541

(made under sub-s (6)).

Feeding Stuffs (Sampling and Analysis) (Amendment) (Wales) Regulations 2001, SI 2001/2253 (made under sub-s (6)).

Feeding Stuffs (Amendment) Regulations 2002, SI 2002/892 (made under sub-s (6)).

Feeding Stuffs (Amendment) (Wales) Regulations 2002, SI 2002/1797 (made under sub-s (6)).

Feeding Stuffs (Sampling and Analysis), the Feeding Stuffs (Enforcement) and the Feeding Stuffs (Establishments and Intermediaries) (Amendment) (England) Regulations 2003, SI 2003/1296 (made under sub-s (6)).

Feeding Stuffs (Sampling and Analysis), the Feeding Stuffs (Enforcement) and the Feeding Stuffs (Establishments and Intermediaries) (Amendment) (Wales) Regulations 2003, SI 2003/1677 (made under sub-s (6)).

Feeding Stuffs (Application to Zootechnical Additives etc) (Scotland) Regulations 2005, SI 2005/3362 (made under sub-s (6)).

#### **Scotland**

Feeding Stuffs (Sampling and Analysis) Amendment (Scotland) Regulations 2001, SSI 2001/104 (made under sub-s (6)).

Feeding Stuffs Amendment (Scotland) Regulations 2002, SSI 2002/285 (made under sub-s (6)).

Feeding Stuffs (Miscellaneous Amendments) (Scotland) Regulations 2003, SSI 2003/277 (made under sub-s (6)).

Feeding Stuffs (Sampling and Analysis) Amendment (Scotland) Regulations 2004, SSI 2004/414 (made under sub-s (6)).

Feed (Hygiene and Enforcement) (Scotland) Amendment Regulations 2008, SSI 2008/201 (made under sub-s (6)).

### **79 Supplementary provisions relating to samples and analysis**

(1) The regulations with respect to the taking of samples under this Part of this Act may include provision requiring an inspector who proposes to take such a sample, in such circumstances as may be specified in the regulations, to satisfy himself as to such matters affecting the state of the material to be sampled as may be so specified.

(2) Regulations may make provision with respect to the handling and storage of the parts into which samples are divided and with respect to the period within which analyses are to be carried out.

(3) Where the method of analysis for determining any fact as to the nature, substance or quality of any material is prescribed, any statement of that fact—

- (a) in a statutory statement or in, or denoted by, a mark applied to any material in pursuance of this Part of this Act; or
- (b) in any document or in, or denoted by, any mark, being a document or mark which is not a statutory statement but which gives rise to a warranty by virtue of this Part of this Act,

shall be taken to be a statement of that fact as determined by analysis in accordance with the method prescribed.

(4) Any analysis required to be made by an agricultural analyst or the Government Chemist may be made by any person acting under his directions.

(5) A certificate of analysis by an analyst appointed under section 67(3)(b) of this Act shall be signed by that analyst or another analyst so appointed for the same area, and a certificate of analysis by the Government Chemist shall be signed by him or a person authorised by him to sign the certificate.

(6) A certificate of analysis by an agricultural analyst or the Government Chemist shall, in any legal proceedings, be received as evidence of the facts stated therein if the party against whom it is to be given



in evidence has been served with a copy of it not less than twenty-one days before the hearing and has not, before the seventh day preceding the hearing, served on the other party a notice requiring the attendance of the person who made the analysis.

(7) In any legal proceedings in Scotland, a certificate of analysis received in evidence by virtue of subsection (6) of this section, or, where the attendance of the person who made the analysis is required under that subsection, the evidence of that person, shall be sufficient evidence of the facts stated in the certificate.

(8) Any document purporting to be a certificate of the kind mentioned in the foregoing provisions of this section shall be deemed to be such a certificate unless the contrary is proved.

(9) Any part of a sample, notice, certificate or other document required to be sent to or served on any person under this section or section 77 or 78 of this Act shall be sent or served in such manner, if any, as may be prescribed.

(10) Any person who—

- (a) tampers with any material so as to procure that any sample of it taken or submitted for analysis under this Part of this Act does not correctly represent the material; or
- (b) tampers or interferes with any sample taken or submitted for analysis under this Part of this Act,

shall be liable on summary conviction to a fine not exceeding [level 5 on the standard scale or imprisonment for a term not exceeding three months or both].

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 87(1).

### Appointment

Appointment: 1 January 1974: see SI 1973/1520, art 2.

### Amendment

Sub-s (10): enhanced penalty on a subsequent conviction abolished, maximum fine increased and converted to a level on the standard scale by the Criminal Justice Act 1982, ss 35, 37, 38, 46.

### Modification

Sub-s (3) modified, in relation to feeding stuffs, by the Feed (Sampling and Analysis and Specified Undesirable Substances) (England) Regulations 2010, SI 2010/2280, regs 8, 20.

Sub-s (3) modified, in relation to feeding stuffs, by the Feed (Sampling and Analysis and Specified Undesirable Substances) (Wales) Regulations 2010, SI 2010/2287, regs 8, 20.

Sub-s (3) modified, in relation to feeding stuffs, by the Feed (Sampling and Analysis and Specified Undesirable Substances) (Scotland) Regulations 2010, SSI 2010/354, regs 8, 20.

Sub-s (3) modified, in relation to feeding stuffs, by the Feed (Sampling and Analysis and Specified Undesirable Substances) Regulations (Northern Ireland) 2010, SR 2010/323, regs 7, 19.

### See Further

See further, the application of sub-ss (4)–(8), (10) above, with modifications, for the purposes of the Genetically Modified Animal Feed (Scotland) Regulations 2004, SSI 2004/433: the Genetically Modified Animal Feed (Scotland) Regulations 2004, SSI 2004/433, reg 6(1)(a)(iii), (2).

See further, the application of sub-ss (4), (5), (6), (8), (10) above, with modifications, for the purposes of the Genetically Modified Animal Feed (Wales) Regulations 2004, SI 2004/3221 and Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed: the Genetically Modified Animal Feed (Wales) Regulations 2004, SI 2004/3221, reg 6(1), (2)(d).

See further, the application of sub-ss (3)–(10) above, with modifications, for the purposes of the Feeding Stuffs (Safety Requirements for Feed for Food–Producing Animals) Regulations 2004, SI 2004/3254 and Regulation (EC) No 178/2002, arts 15, 16, 18, 20: the Feeding Stuffs (Safety Requirements for Feed for Food–Producing Animals) Regulations 2004, SI 2004/3254, reg 4(1), (2)(e).

See further, in relation to the disapplication of this section for the purposes of the EC Fertilisers (England and Wales) Regulations 2006, SI 2006/2486: the EC Fertilisers (England and Wales) Regulations 2006, SI 2006/2486, reg 21.

See further, in relation to the disapplication of this section for the purposes of the EC Fertilisers (Scotland) Regulations 2006, SSI 2006/543: the EC Fertilisers (Scotland) Regulations 2006, SSI 2006/543, reg 21.

### **Transfer of Functions**

Certain functions under this section, so far as they are exercisable in or as regards Scotland, are transferred to the Scottish Ministers: see the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 2006, SI 2006/304, arts 2, 5, Schedule.

### **Subordinate Legislation**

#### **UK**

Fertilisers (Sampling and Analysis) Regulations 1996, SI 1996/1342 (made under sub-ss (1), (2), (9)).

Feeding Stuffs (Amendment) Regulations 2002, SI 2002/892 (made under sub-s (1)).

Feeding Stuffs (Amendment) (Wales) Regulations 2002, SI 2002/1797 (made under sub-s (1)).

Feeding Stuffs (Sampling and Analysis), the Feeding Stuffs (Enforcement) and the Feeding Stuffs (Establishments and Intermediaries) (Amendment) (England) Regulations 2003, SI 2003/1296 (made under sub-ss (1), (2)).

Feeding Stuffs (Sampling and Analysis), the Feeding Stuffs (Enforcement) and the Feeding Stuffs (Establishments and Intermediaries) (Amendment) (Wales) Regulations 2003, SI 2003/1677 (made under sub-ss (1), (2)).

Feeding Stuffs (Application to Zootechnical Additives etc) (Scotland) Regulations 2005, SI 2005/3362 (made under sub-ss (1), (2), (9)).

Feed (Sampling and Analysis and Specified Undesirable Substances) (England) Regulations 2010, SI 2010/2280 (made under sub-s (9)).

Feed (Sampling and Analysis and Specified Undesirable Substances) (Wales) Regulations 2010, SI 2010/2287 (made under sub-s (9)).

Animal Feed (Hygiene, Sampling etc and Enforcement) (England) Regulations 2015, SI 2015/454 (made under sub-s (9)).

#### **Scotland**

Feeding Stuffs Amendment (Scotland) Regulations 2002, SSI 2002/285 (made under sub-s (1)).

Feeding Stuffs (Miscellaneous Amendments) (Scotland) Regulations 2003, SSI 2003/277 (made under sub-ss (1), (2), (9)).

Feeding Stuffs (Sampling and Analysis) Amendment (Scotland) Regulations 2004, SSI 2004/414 (made under sub-ss (1), (2)).

Feed (Hygiene and Enforcement) (Scotland) Amendment Regulations 2008, SSI 2008/201 (made under sub-ss (1), (2), (9)).

### *Prosecutions under Part IV*

### **80 Institution of prosecutions**

(1) Without prejudice to any other enactment relating to the place where proceedings may be taken, proceedings for an offence under this Part of this Act may be taken in the place where the person charged resides or carries on business.

(2)–(4) . . .

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 87(1).

### Appointment

Appointment: 1 January 1974: see SI 1973/1520, art 2.

### Amendment

Sub-ss (2)–(4): repealed by the Local Government, Planning and Land Act 1980, ss 1(1), 194, Sch 1, para 9, Sch 34, Part I.

### See Further

See further, the application of this section, with modifications, for the purposes of the Genetically Modified Animal Feed (Scotland) Regulations 2004, SSI 2004/433: the Genetically Modified Animal Feed (Scotland) Regulations 2004, SSI 2004/433, reg 6(1)(a)(iv), (2).

See further, the application of this section, with modifications, for the purposes of the Genetically Modified Animal Feed (Wales) Regulations 2004, SI 2004/3221 and Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed: the Genetically Modified Animal Feed (Wales) Regulations 2004, SI 2004/3221, reg 6(1), (2)(e).

See further, the application of this section, with modifications, for the purposes of the Feeding Stuffs (Safety Requirements for Feed for Food–Producing Animals) Regulations 2004, SI 2004/3254 and Regulation (EC) No 178/2002, arts 15, 16, 18, 20: the Feeding Stuffs (Safety Requirements for Feed for Food–Producing Animals) Regulations 2004, SI 2004/3254, reg 4(1), (2)(f).

See further, in relation to the disapplication of this section for the purposes of the EC Fertilisers (England and Wales) Regulations 2006, SI 2006/2486: the EC Fertilisers (England and Wales) Regulations 2006, SI 2006/2486, reg 21.

See further, in relation to the disapplication of this section for the purposes of the EC Fertilisers (Scotland) Regulations 2006, SSI 2006/543: the EC Fertilisers (Scotland) Regulations 2006, SSI 2006/543, reg 21.

## 81 Offences due to fault of other person

Where the commission by any person of an offence under this Part of this Act is due to the act or default of some other person that other person shall be guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this section whether or not proceedings are taken against the first-mentioned person.

## NOTES

### Initial Commencement

#### *To be appointed*

To be appointed: see s 87(1).

### Appointment

Appointment: 1 January 1974: see SI 1973/1520, art 2.

### See Further

See further, the application of this section, with modifications, for the purposes of the Genetically Modified Animal Feed (Scotland) Regulations 2004, SSI 2004/433: the Genetically Modified Animal Feed (Scotland) Regulations 2004, SSI 2004/433, reg 6(1)(a)(v), (2).

See further, the application of this section, with modifications, for the purposes of the Genetically Modified Animal Feed (Wales) Regulations 2004, SI 2004/3221 and Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed: the Genetically Modified Animal Feed (Wales) Regulations 2004, SI 2004/3221, reg 6(1), (2)(f).

See further, the application of this section, with modifications, for the purposes of the Feeding Stuffs (Safety Requirements for Feed for Food–Producing Animals) Regulations 2004, SI 2004/3254 and Regulation (EC) No 178/2002, arts 15, 16, 18, 20: the Feeding Stuffs (Safety

Requirements for Feed for Food–Producing Animals) Regulations 2004, SI 2004/3254, reg 4(1), (2)(g).

See further, in relation to the disapplication of this section for the purposes of the EC Fertilisers (England and Wales) Regulations 2006, SI 2006/2486: the EC Fertilisers (England and Wales) Regulations 2006, SI 2006/2486, reg 21.

See further, in relation to the disapplication of this section for the purposes of the EC Fertilisers (Scotland) Regulations 2006, SSI 2006/543: the EC Fertilisers (Scotland) Regulations 2006, SSI 2006/543, reg 21.

## **82 Defence of mistake, accident, etc**

(1) In any proceedings for an offence under any of the following provisions of this Act, namely, sections [68(1A), (4)(b) and (c)], 69(4)(c), 70(2), 71(2)(b) [73, 73A and 74A], it shall, subject to subsection (2) of this section, be a defence for the person charged to prove—

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

(2) If in any case the defence provided by the foregoing subsection 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 charged shall not, without leave of the court, be entitled to rely on that defence unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his possession.

## **NOTES**

### **Initial Commencement**

#### ***To be appointed***

To be appointed: see s 87(1).

### **Appointment**

Appointment: 1 January 1974: see SI 1973/1520, art 2.

### **Amendment**

Sub-s (1): words in square brackets substituted by SI 1995/1412, reg 20(3).

### **See Further**

See further, the application of this section, with modifications, for the purposes of the Genetically Modified Animal Feed (Scotland) Regulations 2004, SSI 2004/433: the Genetically Modified Animal Feed (Scotland) Regulations 2004, SSI 2004/433, reg 6(1)(a)(vi), (2).

See further, the application of this section, with modifications, for the purposes of the Genetically Modified Animal Feed (Wales) Regulations 2004, SI 2004/3221 and Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed: the Genetically Modified Animal Feed (Wales) Regulations 2004, SI 2004/3221, reg 6(1), (2)(g).

See further, the application of this section, with modifications, for the purposes of the Feeding Stuffs (Safety Requirements for Feed for Food–Producing Animals) Regulations 2004, SI 2004/3254 and Regulation (EC) No 178/2002, arts 15, 16, 18, 20: the Feeding Stuffs (Safety Requirements for Feed for Food–Producing Animals) Regulations 2004, SI 2004/3254, reg 4(1), (2)(h).

See further, in relation to the disapplication of this section for the purposes of the EC Fertilisers (England and Wales) Regulations 2006, SI 2006/2486: the EC Fertilisers (England and Wales) Regulations 2006, SI 2006/2486, reg 21.

See further, in relation to the disapplication of this section for the purposes of the EC Fertilisers

(Scotland) Regulations 2006, SSI 2006/543: the EC Fertilisers (Scotland) Regulations 2006, SSI 2006/543, reg 21.

### *Supplementary provisions*

#### **83 Exercise of powers by inspectors**

- (1) An inspector exercising his powers under this Part of this Act shall, if so required, produce written evidence of his authority.
- (2) Any person who wilfully obstructs an inspector in the exercise of his powers under this Part of this Act shall be liable on summary conviction to a fine not exceeding [level 3 on the standard scale].
- (3) Any person who, not being an inspector, purports to act as such under this Part of this Act shall be liable on summary conviction to a fine not exceeding [level 4 on the standard scale or imprisonment for a term not exceeding three months or both].
- (4) Subject to subsection (5) of this section, if any person discloses to any other person—
  - (a) any information with respect to any manufacturing process or trade secret obtained by him in premises which he has entered by virtue of this Part of this Act; or
  - (b) any information obtained by him in pursuance of this Part of this Act,

then, unless the disclosure was made in and for the purpose of the performance by him or any other person of functions under this Part of this Act, he shall be liable on summary conviction to a fine not exceeding [level 5 on the standard scale].

- (5) Subsection (4) of this section shall not prevent an inspector who has taken a sample of any material under section 76(4) of this Act from disclosing to the manufacturer or to the last seller of the material information as to the place where and the person from whom the sample was taken or from disclosing to that manufacturer or last seller or to any person who had the material on his premises for the purpose of sale information as to the results of any analysis of that sample.

#### **NOTES**

##### **Initial Commencement**

###### ***To be appointed***

To be appointed: see s 87(1).

##### **Appointment**

Appointment: 1 January 1974: see SI 1973/1520, art 2.

##### **Amendment**

Sub-ss (2), (4): maximum fines increased and converted to levels on the standard scale by the Criminal Justice Act 1982, ss 37, 38, 46.

Sub-s (3): enhanced penalty on a subsequent conviction abolished, maximum fine increased and converted to a level on the standard scale by the Criminal Justice Act 1982, ss 35, 37, 38, 46.

##### **Modification**

Modified by the Feeding Stuffs (Enforcement) Regulations 1999, SI 1999/2325, regs 7, 12 (as amended in relation to England by the Feeding Stuffs (Sampling and Analysis), the Feeding Stuffs (Enforcement) and the Feeding Stuffs (Establishments and Intermediaries) (Amendment) (England) Regulations 2003, SI 2003/1296, regs 8, 9 and in relation to Scotland by the Feeding Stuffs (Miscellaneous Amendments) (Scotland) Regulations 2003, SSI 2003/277, regs 8, 9, 14 and in relation to Wales the Feeding Stuffs (Sampling and Analysis), the Feeding Stuffs (Enforcement) and the Feeding Stuffs (Establishments and Intermediaries) (Amendment) (Wales) Regulations 2003, SI 2003/1677, regs 8, 9, 13; further amended by the Feeding Stuffs, the Feeding Stuffs

(Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (England) Regulations 2003, SI 2003/1503, regs 16, 17).

#### **See Further**

See further, the application of this section, with modifications, for the purposes of the Genetically Modified Animal Feed (Scotland) Regulations 2004, SSI 2004/433: the Genetically Modified Animal Feed (Scotland) Regulations 2004, SSI 2004/433, reg 6(1)(a)(vii), (2).

See further, the application of this section, with modifications, for the purposes of the Genetically Modified Animal Feed (Wales) Regulations 2004, SI 2004/3221 and Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed: the Genetically Modified Animal Feed (Wales) Regulations 2004, SI 2004/3221, reg 6(1), (2)(h).

See further, the application of this section, with modifications, for the purposes of the Feeding Stuffs (Safety Requirements for Feed for Food-Producing Animals) Regulations 2004, SI 2004/3254 and Regulation (EC) No 178/2002, arts 15, 16, 18, 20: the Feeding Stuffs (Safety Requirements for Feed for Food-Producing Animals) Regulations 2004, SI 2004/3254, reg 4(1), (2)(i).

See further, in relation to the disapplication of this section for the purposes of the EC Fertilisers (England and Wales) Regulations 2006, SI 2006/2486: the EC Fertilisers (England and Wales) Regulations 2006, SI 2006/2486, reg 21.

See further, in relation to the disapplication of this section for the purposes of the EC Fertilisers (Scotland) Regulations 2006, SSI 2006/543: the EC Fertilisers (Scotland) Regulations 2006, SSI 2006/543, reg 21.

#### **84 Regulations**

(1) Any regulations authorised to be made under this Part of this Act shall be made by the Ministers after consultation with such persons or organisations as appear to them to represent the interests concerned, and anything which under this Part of this Act is authorised to be prescribed shall be prescribed by regulations made as aforesaid.

(2) Any regulations under this Part of this Act shall be made by statutory instrument, and—

(a) may make different provision for different circumstances; and

(b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

[(3) Subsection (1) shall not apply in any case in which consultation is required by Article 9 of Regulation (EC) No 178/2002.]

#### **NOTES**

##### **Initial Commencement**

###### ***To be appointed***

To be appointed: see s 87(1).

##### **Appointment**

Appointment: 1 January 1974: see SI 1973/1520, art 2.

##### **Amendment**

Sub-s (3): inserted in relation to Great Britain by SI 2004/3254, regs 9, 12 and (subject to minor variation) in relation to Northern Ireland by the Feeding Stuffs (Safety Requirements for Feed for Food-Producing Animals) Regulations (Northern Ireland) 2004, SR 2004/506, regs 9, 12.

Date in force (in relation to Northern Ireland): 1 January 2005: see the Feeding Stuffs (Safety Requirements for Feed for Food-Producing Animals) Regulations (Northern Ireland) 2004, SR 2004/506, reg 1(1).

Date in force (in relation to Great Britain): 1 January 2005: see SI 2004/3254, reg 1.

#### **See Further**

See further, in relation to the disapplication of this section for the purposes of the EC Fertilisers

(England and Wales) Regulations 2006, SI 2006/2486: the EC Fertilisers (England and Wales) Regulations 2006, SI 2006/2486, reg 21.

See further, in relation to the disapplication of this section for the purposes of the EC Fertilisers (Scotland) Regulations 2006, SSI 2006/543: the EC Fertilisers (Scotland) Regulations 2006, SSI 2006/543, reg 21.

### **Transfer of Functions**

Functions under this section, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

Certain functions under this section, so far as they are exercisable in or as regards Scotland, are transferred to the Scottish Ministers: see the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 2006, SI 2006/304, arts 2, 5, Schedule.

### **Subordinate Legislation**

#### **UK**

Feed (Sampling and Analysis and Specified Undesirable Substances) (England) Regulations 2010, SI 2010/2280.

Animal Feed (England) Regulations 2010, SI 2010/2503.

Animal Feed (Wales) Regulations 2010, SI 2010/2652.

#### **Scotland**

Animal Feed (Scotland) Regulations 2010, SSI 2010/373.

### **85 Exemption for certain sales**

This Part of this Act shall not apply—

- (a) *to the sale of any material in the case of which, at the time when apart from section 66(3) of this Act the material would fall to be treated as delivered to the purchaser in pursuance of the contract of sale, the material is not in the United Kingdom or, having been imported, has not been released from customs control;*
- (b) . . .
- (c) to the sale of any material in the exercise of a statutory power to enforce a right or to satisfy a claim or lien; or
- (d) where the sale is made by a sheriff, bailiff or other officer to satisfy a writ of execution or warrant or decree of any court, or a distress for rent or warrant of distress [or warrant of control].

### **NOTES**

#### **Initial Commencement**

##### ***To be appointed***

To be appointed: see s 87(1).

#### **Appointment**

Appointment: 1 January 1974: see SI 1973/1520, art 2.

#### **Amendment**

Para (a) repealed, in so far as it relates to delivery outside the United Kingdom, in relation to England by SI 2005/3281, reg 3(4)(a), in relation to Scotland by SSI 2005/605, reg 3(4)(a) and in relation to Wales by SI 2006/116, reg 3(4)(a).

Date in force (in relation to Scotland): 1 January 2006: see SSI 2005/605, reg 1(1).

Date in force (in relation to England): 1 January 2006: see SI 2005/3281, reg 1.

Date in force (in relation to Wales): 25 January 2006: see SI 2006/116, reg 1.

Para (b) repealed in relation to England by SI 2005/3281, reg 3(4)(b), in relation to Scotland by SSI 2006/605, reg 3(4)(b) and in relation to Wales by SI 2006/116, reg 3(4)(b).

Date in force (in relation to Scotland): 1 January 2006: see SSI 2005/605, reg 1(1).

Date in force (in relation to England): 1 January 2006: see SI 2005/3281, reg 1.

Date in force (in relation to Wales): 25 January 2006: see SI 2006/116, reg 1.

In para (d) words “or warrant of control” in square brackets inserted by the Tribunals, Courts and Enforcement Act 2007, s 86, Sch 14, para 30.

Date in force: 6 April 2014: see SI 2014/768, art 2(1).

### **Modification**

Paras (a), (b): modified, in relation to Northern Ireland, by the Feeding Stuffs Regulations (Northern Ireland) 2005, SR 2005/545, reg 3(4)

### **See Further**

See further, in relation to the disapplication of this section for the purposes of the EC Fertilisers (England and Wales) Regulations 2006, SI 2006/2486: the EC Fertilisers (England and Wales) Regulations 2006, SI 2006/2486, reg 21.

See further, in relation to the disapplication of this section for the purposes of the EC Fertilisers (Scotland) Regulations 2006, SSI 2006/543: the EC Fertilisers (Scotland) Regulations 2006, SSI 2006/543, reg 21.

### **86 Modifications of Part IV in application to Northern Ireland**

(1) In its application to Northern Ireland, this Part of this Act shall have effect subject to the modifications specified in the following provisions of this section.

(2) In section 66(1)—

(a) there shall be inserted the following definition, namely—

*[ISOB*

““chief agricultural analyst” means the chief agricultural analyst for Northern Ireland”;

*[ISOE*

(b) the definitions of “enforcement authority”, “the Minister” and “the Ministers” shall be omitted.

(3) For section 67 there shall be substituted the following—

*[ISOB*

**“67**

(1) The Ministry of Agriculture for Northern Ireland (in this Part of this Act referred to as “the Ministry”) shall enforce the provisions of this Part of this Act.

(2) For the purpose of enforcing this Part of this Act the Ministry may appoint such agricultural analysts, deputy agricultural analysts and inspectors as appear to the Ministry to be necessary.”

*[ISOE*

(4) In section 76(5), for the words “the authority for whom he acts” there shall be substituted the words “the Ministry”.

(5) In sections 75 and 77, for any reference to the agricultural analyst for an inspector’s area there shall be substituted a reference to an agricultural analyst in Northern Ireland, and the expression “agricultural analyst” shall not include the chief agricultural analyst.



(6) In section 78, for any reference to the Government Chemist there shall be substituted a reference to the chief agricultural analyst; and in subsection (10) of that section for the words “the [Secretary of State] with the approval of the Treasury” there shall be substituted the words “the Ministry with the approval of the Ministry of Finance for Northern Ireland”.

(7) In section 79, for any reference to the Government Chemist there shall be substituted a reference to the chief agricultural analyst, and in subsection (5) the words “(3)(b)” shall be omitted.

(8) . . .

(9) In section 84, for any reference to the Ministers there shall be substituted a reference to the Ministry, and in subsection (2) thereof the words “shall be made by statutory instrument, and” shall be omitted and for paragraph (b) there shall be substituted the following:—

*[ISOB*

“(b) shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954.”

*[ISOE*

(10) Section 87(1) shall have effect with the substitution for the word “Ministers” of the word “Ministry” and with the omission of the words “made by statutory instrument”.

## **NOTES**

### **Initial Commencement**

#### ***To be appointed***

To be appointed: see s 87(1).

### **Appointment**

Appointment: 1 January 1974: see SI 1973/1520, art 2.

### **Amendment**

Sub-s (8): repealed by the Local Government, Planning and Land Act 1980, s 194, Sch 34, Part I.

### **Modification**

The Northern Ireland Act 1998 makes new provision for the government of Northern Ireland for the purpose of implementing the Belfast Agreement (the agreement reached at multi-party talks on Northern Ireland and set out in Command Paper 3883). As a consequence of that Act, any reference in this section to the Parliament of Northern Ireland or the Assembly established under the Northern Ireland Assembly Act 1973, s 1, certain office-holders and Ministers, and any legislative act and certain financial dealings thereof, shall, for the period specified, be construed in accordance with Sch 12, paras 1–11 to the 1998 Act.

Modified by the Feeding Stuffs (Enforcement) Regulations 1999, SI 1999/2325, regs 7, 13 (as amended in relation to England by the Feeding Stuffs (Sampling and Analysis), the Feeding Stuffs (Enforcement) and the Feeding Stuffs (Establishments and Intermediaries) (Amendment) (England) Regulations 2003, SI 2003/1296, regs 8–10 and in relation to Scotland by the Feeding Stuffs (Miscellaneous Amendments) (Scotland) Regulations 2003, SSI 2003/277, regs 8, 9, 15 and in relation to Wales by the Feeding Stuffs (Sampling and Analysis), the Feeding Stuffs (Enforcement) and the Feeding Stuffs (Establishments and Intermediaries) (Amendment) (Wales) Regulations 2003, SI 2003/1677, regs 8, 9; further amended in relation to England by the Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis), and the Feeding Stuffs (Enforcement) (Amendment) (England) Regulations 2003, SI 2003/1503, regs 16, 17).

### **See Further**

See further, in relation to the disapplication of this section for the purposes of the EC Fertilisers (England and Wales) Regulations 2006, SI 2006/2486: the EC Fertilisers (England and Wales)

Regulations 2006, SI 2006/2486, reg 21.

See further, in relation to the disapplication of this section for the purposes of the EC Fertilisers (Scotland) Regulations 2006, SSI 2006/543: the EC Fertilisers (Scotland) Regulations 2006, SSI 2006/543, reg 21.

## **87 Commencement of Part IV, savings and amendments**

(1) . . .

(2) The appointment of any person under the said Act of 1926 as an inspector, agricultural analyst or deputy agricultural analyst shall continue to have effect as if made under the corresponding provision of this Part of this Act.

(3), (4) < . . . >

### **NOTES**

#### **Initial Commencement**

##### ***To be appointed***

To be appointed: sub-s (1) stated that Part IV of this Act would come into force on such date as the Ministers may appoint by order made by statutory instrument, and that different dates could be appointed for different provisions; and, for the purposes of sub-s (1), Part V of Schedule 5 hereof, so far relating to the Fertilisers and Feeding Stuffs Act 1926, shall be deemed to be included in Part IV of this Act.

#### **Appointment**

Appointment: 1 January 1974: see SI 1973/1520, art 2.

#### **Amendment**

Sub-s (1): repealed by the Statute Law (Repeals) Act 2004.

Date in force: 22 July 2004: (no specific commencement provision).

Sub-s (3): amends the Trade Descriptions Act 1968, s 2(4).

Sub-s (4): amends the Medicines Act 1968, s 90(3).

#### **See Further**

See further, in relation to the disapplication of this section for the purposes of the EC Fertilisers (England and Wales) Regulations 2006, SI 2006/2486: the EC Fertilisers (England and Wales) Regulations 2006, SI 2006/2486, reg 21.

See further, in relation to the disapplication of this section for the purposes of the EC Fertilisers (Scotland) Regulations 2006, SSI 2006/543: the EC Fertilisers (Scotland) Regulations 2006, SSI 2006/543, reg 21.

## **Part V**

. . .

**88 . . .**

. . .

### **NOTES**

#### **Amendment**

Repealed by the Land Drainage Act 1976, s 117(3), Sch 8.

**89 . . .**

. . .

**NOTES**

**Amendment**

Repealed by the Land Drainage Act 1976, s 117(3), Sch 8.

**90 . . .**

. . .

**NOTES**

**Amendment**

Repealed by the Land Drainage Act 1976, s 117(3), Sch 8.

**91 . . .**

. . .

**NOTES**

**Amendment**

Repealed by the Land Drainage Act 1976, s 117(3), Sch 8.

**Part VI**  
**Flood Warning Systems in Scotland**

**92 . . .**

. . .

**NOTES**

**Amendment**

Repealed by the Flood Risk Management (Scotland) Act 2009, s 96, Sch 3, para 2.  
Date in force: 26 November 2009: see SSI 2009/393, art 2, Schedule; for transitional provisions see arts 3–5 thereof.

**93 . . .**

. . .

**NOTES**

**Amendment**

Repealed by the Local Government (Scotland) Act 1973, s 237(1), Sch 29.

**94 . . .**

. . .

**NOTES**

**Amendment**

Repealed by the Flood Risk Management (Scotland) Act 2009, s 96, Sch 3, para 2.  
Date in force: 26 November 2009: see SSI 2009/393, art 2, Schedule; for transitional provisions see arts 3–5 thereof.

**95 . . .**

. . .

## NOTES

### Amendment

Repealed by the Local Government and Planning (Scotland) Act 1982, ss 21(c), 66(2)(a), Sch 4, Pt I.

96 . . .

. . .

## NOTES

### Amendment

Repealed by the Local Government and Planning (Scotland) Act 1982, ss 21(c), 66(2)(a), Sch 4, Pt I.

97 . . .

. . .

## NOTES

### Amendment

Repealed by SI 1981/127, arts 3, 5, Sch 1.

## 98 Extent of Part VI

[The Scottish Environment Protection Agency] may exercise the powers conferred by [section 92(1)] of this Act in an area in England subject (except in the case of the power to maintain apparatus) to prior consultation with [the Environment Agency]; but save as aforesaid this Part of this Act extends to Scotland only.

## NOTES

### Initial Commencement

#### *Royal Assent*

Royal Assent: 29 May 1970: (no specific commencement provision).

### Amendment

Words in square brackets substituted by the Environment Act 1995, s 120, Sch 22, para 14(5).

## Part VII Miscellaneous Provisions

99 . . .

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## NOTES

### Amendment

Repealed, in relation to England and Wales, by the Protection from Eviction Act 1977, s 12, Sch 3.

100 . . .

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## NOTES

### Amendment

Repealed by the Rent Act 1977, s 155, Sch 25.

**101 . . .**

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**NOTES**

**Amendment**

Repealed by the Rent (Scotland) Act 1971, s 135(5), Sch 20.

**102 . . .**

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**NOTES**

**Amendment**

Repealed by the Statute Law (Repeals) Act 2004.

Date in force: 22 July 2004: (no specific commencement provision).

**103 . . .**

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**NOTES**

**Amendment**

Repealed by the Agriculture Act 1986, s 24(5), Sch 4.

**104 . . .**

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**NOTES**

**Amendment**

Repealed by the Employment and Training Act 1973, s 14(2), Sch 4.

**105 . . .**

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**NOTES**

**Amendment**

Repealed in part by the Diseases of Animals Act 1975, s 4(3), Sch 2; remainder repealed by the Animal Health Act 1981, s 96, Sch 6.

**106 Eradication of brucellosis**

(1) The appropriate Minister may, in accordance with a scheme made by the appropriate authority with the consent of the Treasury, pay to the owner of any herd of cattle kept in the United Kingdom, or to any person concerned with the management of such a herd, such sums as that Minister thinks fit to expend in connection with the eradication of brucellosis, and may in particular, if the scheme so provides, pay any such sum by way of supplement to, and subject to any terms or conditions governing the payment of, any grant or subsidy payable under or by virtue of any enactment other than this section.

(2) A board constituted by any scheme relating to the marketing of milk and made under the

Agricultural Marketing Act 1958 or any enactment of the Parliament of Northern Ireland shall, in accordance with any scheme in that behalf made by the appropriate authority with the consent of the Treasury, make to producers registered under the scheme constituting the board payments in connection with the eradication of brucellosis, being payments in respect of milk sold, or deemed for the purpose of any payments under the scheme constituting the board to have been produced, on or after 1st April 1970; and the sums from time to time required by such a board for the making of payments under this subsection shall be paid to the board by the appropriate Minister.

(3) . . .

(4) Any person who offers for sale, otherwise than for slaughter, any animal known to him to be a reactor to brucella abortus shall be guilty of an offence and liable on summary conviction to a fine not exceeding [level 5 on the standard scale], or, if the offence is committed with respect to more than ten animals, to a fine not exceeding [level 3 on the standard scale] for each animal.

(5), (6) . . .

(7) Any person who knowingly or recklessly makes any false statement for the purpose of obtaining for himself or any other person any payment under a scheme under subsection (1) or (2) of this section shall be liable on summary conviction to a fine not exceeding [level 3 on the standard scale] or imprisonment for a term not exceeding three months or both.

(8) Any of the following officers—

- (a) in England and Wales, any officer of the Minister of Agriculture, Fisheries and Food authorised in writing by that Minister to exercise the powers conferred by this subsection;
- (b) in Scotland, any officer of the Secretary of State or of the said Minister having the like authority of that Secretary of State, and
- (c) in Northern Ireland, any officer within paragraph (a) above, and any officer of the Ministry of Agriculture for Northern Ireland having the like authority of that Ministry;

may, for the purpose of obtaining any information which he may consider necessary in connection with a scheme under subsection (1) or (2) of this section, enter upon any land or premises and there inspect any animal, apply any test or take any sample, and examine and take copies of or extracts from any document.

The right of entry under this subsection may be exercised at any reasonable time, but only after production of the officer's authority if so required; and any person who obstructs or impedes an officer acting in the exercise of his powers under this subsection shall be liable on summary conviction to a fine not exceeding [level 3 on the standard scale or imprisonment for a term not exceeding one month or both].

(9) In subsections (1) and (2) of this section—

“the appropriate Minister” means the Minister of Agriculture, Fisheries and Food or, in relation to herds kept in Scotland or sums required for making payments to producers in Scotland, the Secretary of State; and

“the appropriate authority” means the Minister of Agriculture, Fisheries and Food or, for the purposes of a scheme relating to herds or producers in Wales (including Monmouthshire), that Minister and the Secretary of State acting jointly or, for the purposes of a scheme relating to herds or producers in Scotland, the Secretary of State.

(10) A Scheme under subsection (1) or (2) of this section—

- (a) may relate to herds or producers in one part only of the United Kingdom or (the appropriate authorities acting jointly for the purpose, if different) in two or more such parts;
- (b) may be varied or revoked by a subsequent scheme under that subsection;
- (c) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## NOTES

### Initial Commencement

#### ***Royal Assent***

Royal Assent: 29 May 1970: (no specific commencement provision).

### Amendment

Sub-s (3): repealed by the Animal Health Act 1981, s 96, Sch 6.

Sub-s (4): maximum fines increased and converted to levels on the standard scale by the Criminal Justice Act 1982, ss 37, 38, 46.

Sub-s (5): repealed by the European Communities Act 1972, s 4, Sch 3, Pt IV.

Sub-s (6): repealed by SI 2008/576, art 18, Sch 5, para 7.

Date in force: 1 April 2008: see SI 2008/576, art 1(3).

Sub-s (7): maximum fine increased and converted to level 3 on the standard scale by the Criminal Justice Act 1982, ss 37, 38, 46.

Sub-s (8): enhanced penalty on a subsequent conviction abolished, maximum fine on any conviction increased and converted to a level on the standard scale by the Criminal Justice Act 1982, ss 35, 37, 38, 46.

### Modification

The Northern Ireland Act 1998 makes new provision for the government of Northern Ireland for the purpose of implementing the Belfast Agreement (the agreement reached at multi-party talks on Northern Ireland and set out in Command Paper 3883). As a consequence of that Act, any reference in this section to the Parliament of Northern Ireland or the Assembly established under the Northern Ireland Assembly Act 1973, s 1, certain office-holders and Ministers, and any legislative act and certain financial dealings thereof, shall, for the period specified, be construed in accordance with Sch 12, paras 1–11 to the 1998 Act.

### See Further

See further, in relation to summary offences no longer punishable with imprisonment: the Criminal Justice Act 2003, s 280(1), Sch 25, para 71.

### Transfer of Functions

Functions under this section, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

### Subordinate Legislation

Milk (Eradication of Brucellosis) Scheme 1970, SI 1970/1277 (made under sub-ss (2), (9), (10)).

Milk (Eradication of Brucellosis) (Variation) Scheme 1971, SI 1971/532 (made under sub-ss (2), (9), (10)).

Brucellosis Payments Scheme 1971, SI 1971/1967 (made under sub-ss (1), (2), (9), (10)).

Brucellosis (Beef Incentives) Payments Scheme 1972, SI 1972/1329 (made under sub-ss (1), (9), (10)).

Milk (Eradication of Brucellosis) (Variation) Scheme 1972, SI 1972/1645 (made under sub-ss (2), (9), (10)).

Brucellosis (Beef Incentives) Payments (Amendment) Scheme 1975, SI 1975/2211 (made under sub-ss (1), (9), (10)).

Milk (Eradication of Brucellosis) (Variation) Scheme 1976, SI 1976/387 (made under sub-ss (2), (9), (10)).

Brucellosis Incentive Payments Scheme 1977, SI 1977/1303 (made under sub-ss (1), (9), (10)).

Brucellosis Incentive Payments (Amendment) Scheme 1978, SI 1978/594 (made under sub-s (1), (9), (10)).  
Brucellosis Incentive and Pig Industry Restructuring (Non-Capital Grant) Revocations (England) Scheme 2015, SI 2015/793 (made under sub-ss (1), (10)).

107 . . .

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#### NOTES

##### Amendment

Repealed by the Agriculture Act 1986, s 24(5), Sch 4.

108 . . .

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#### NOTES

##### Amendment

Repealed by SI 2008/576, art 18, Sch 5, para 7.

Date in force: 1 April 2008: see SI 2008/576, art 1(3).

109 . . .

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#### NOTES

##### Amendment

Repealed by the Northern Ireland Constitution Act 1973, s 41(1), Sch 6, Pt I.

## Part VIII General

### 110 Offences by bodies corporate

(1) Where a body corporate is guilty of an offence under this Act or any order or scheme made thereunder and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, the foregoing subsection shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

#### NOTES

##### Initial Commencement

###### *Royal Assent*

Royal Assent: 29 May 1970: (no specific commencement provision).

##### See Further

See further, the application of this section, with modifications, for the purposes of the Genetically Modified Animal Feed (Scotland) Regulations 2004, SSI 2004/433: the Genetically Modified Animal Feed (Scotland) Regulations 2004, SSI 2004/433, reg 6(1)(c), (2).



See further, the application of this section, with modifications, for the purposes of the Genetically Modified Animal Feed (Wales) Regulations 2004, SI 2004/3221 and Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed: the Genetically Modified Animal Feed (Wales) Regulations 2004, SI 2004/3221, reg 6(1), (2)(i). See further, the application of this section, with modifications, for the purposes of the Feeding Stuffs (Safety Requirements for Feed for Food–Producing Animals) Regulations 2004, SI 2004/3254 and Regulation (EC) No 178/2002, arts 15, 16, 18, 20: the Feeding Stuffs (Safety Requirements for Feed for Food–Producing Animals) Regulations 2004, SI 2004/3254, reg 4(1), (2)(j).

### **111 Expenses and receipts**

- (1) There shall be paid out of moneys provided by Parliament—
  - (a) any expenditure incurred by any Minister under or by virtue of this Act; and
  - (b) any increase attributable to any provision of this Act in the sums payable out of moneys so provided under any other enactment.
- (2) All receipts of any Minister under this Act . . . shall be paid into the Consolidated Fund.

### **NOTES**

#### **Initial Commencement**

##### ***Royal Assent***

Royal Assent: 29 May 1970: (no specific commencement provision).

#### **Amendment**

Sub-s (2): words omitted repealed by the Statute Law (Repeals) Act 2004.

Date in force: 22 July 2004: (no specific commencement provision).

#### **Transfer of Functions**

Functions under this section, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

### **112 . . .**

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### **NOTES**

#### **Amendment**

Repealed by the Northern Ireland Constitution Act 1973, s 41(1), Sch 6, Pt I.

### **113 Short title, construction of references and repeals**

- (1) This Act may be cited as the Agriculture Act 1970.
- (2) Except in so far as the context otherwise requires, any reference in this Act to any enactment shall be construed as a reference to that enactment as amended, extended or applied by or under any other enactment, including any enactment contained in this Act.
- (3) . . .
- (4) The inclusion in this Act of any express saving, transitional provision or amendment shall not be taken as affecting the operation in relation to this Act of section 38 of the Interpretation Act 1889 (which relates to the effect of repeals).

## NOTES

### Initial Commencement

#### *Royal Assent*

Royal Assent: 29 May 1970: (no specific commencement provision).

### Amendment

Sub-s (3): repealed by the Statute Law (Repeals) Act 1989.

[SCHD

## SCHEDULE 1

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## NOTES

### Amendment

Repealed by the Agriculture Act 1986, ss 9, 24(5), Sch 4.

## SCHEDULE 2

### S 26 OF AGRICULTURE ACT 1967 AS AMENDED

Section 32(8)

...

## NOTES

### Initial Commencement

#### *Royal Assent*

Royal Assent: 29 May 1970: (no specific commencement provision).

### Amendment

This Schedule sets out the Agriculture Act 1967, s 26, as amended.

## SCHEDULE 3

### TRANSITIONAL PROVISIONS FOR PART III

Section 64(1)

1

In this Schedule “the repeal” means the repeal by this Act of the enactments specified in Part III of Schedule 5 thereto, and “the repealed enactments” means the enactments so specified.

2

Any land which immediately before the commencement of Part III of this Act is held by a smallholdings authority for the purposes of smallholdings shall, notwithstanding the repeal, continue to be held by that authority for the purposes of smallholdings, subject to any power exercisable by the authority by virtue of any enactment to appropriate or dispose of it for other purposes.

3

The repeal shall not affect the validity of any letting effected before the commencement of Part III of this Act.

#### 4

The repeal shall not affect the operation of any of the repealed enactments in relation to allotments or in relation to allotment committees.

#### 5

The repeal, in so far as it relates to section 48 of the Small Holdings and Allotments Act 1908, shall not affect the operation of that section in relation to cottage holdings.

#### 6

...

#### 7

The repeal shall not affect any duty of the Minister to give effect to any trust on which any land is held by the Minister or to any scheme established under the Charitable Trusts Acts 1853 to 1939, or any of those Acts, and subsisting immediately before the commencement of Part III of this Act in accordance with section 48(4) of the Charities Act 1960.

#### 8

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#### 9

Without prejudice to the preceding provisions of this Schedule, in so far as any agreement made, record, map or plan compiled and kept, or other thing done by virtue of any of the repealed enactments could have been made, compiled and kept or done by virtue of a corresponding provision of Part III of this Act, it shall not be invalidated by the repeal but shall have effect as if made, compiled and kept or done by virtue of that corresponding provision.

### NOTES

#### Initial Commencement

##### *To be appointed*

To be appointed: see s 65(1).

#### Appointment

Appointment: 1 August 1970: see SI 1970/1048, art 2.

#### Amendment

Para 6: repealed by the Statute Law (Repeals) Act 1993.

Para 8: repealed by the Statute Law (Repeals) Act 2004.

Date in force: 22 July 2004: (no specific commencement provision).

#### Transfer of Functions

Functions under this section, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1.

## SCHEDULE 4 ENACTMENTS AMENDED

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**NOTES**

**Initial Commencement**

***To be appointed***

To be appointed: see s 65(1).

**Appointment**

Appointment: 1 August 1970: see SI 1970/1048, art 2.

**Amendment**

This Schedule contains amendments to the Agricultural Land (Utilisation) Act 1931, s 12, and the Agriculture Act 1947, s 58, Sch 8, Pt II.

Repealed in part by the Agriculture (Miscellaneous Provisions) Act 1972, s 26(3), Sch 6, the Agricultural Holdings (Notices to Quit) Act 1977, s 13(2), Sch 2, and the Agricultural Holdings Act 1986, s 101(1), Sch 15, Pt I.

**SCHEDULE 5**

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**NOTES**

**Amendment**

Repealed by the Statute Law (Repeals) Act 1989, s 1(1), Sch 1, Pt XI.