

SCHEDULE

Section 7.

ENFORCEMENT

*Food subsidies*

- 1 If any person, for the purpose of obtaining for himself or any other person any payment under a scheme under section 1 of this Act, knowingly or recklessly makes a false statement, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400.
- 2 (1) The Secretary of State or the Minister of Agriculture, Fisheries and Food may, by an order made for the purposes of this paragraph in respect of subsidy payments of any description, prescribe conditions to be observed by any person—
- (a) who claims or receives subsidy payments of that description ; or
  - (b) to whom any food is sold otherwise than by retail, being food in respect of which subsidy payments of that description have been or can be made, and to whom notice of the conditions has been given under this paragraph.
- (2) A person who has sold food otherwise than by retail shall not be entitled in respect of that food to any subsidy payments of a description to which an order under this paragraph applies unless he has given the purchaser notice of the conditions required to be observed by him under this paragraph ; and if a person sells otherwise than by retail food in respect of which he has claimed or received subsidy payments of any such description, or in relation to which he has himself received a notice under this paragraph, he shall give a like notice to the purchaser.
- (3) Any notice under sub-paragraph (2) above shall be in writing and given not later than the time when the goods are delivered pursuant to the sale.
- (4) If any person knowingly contravenes a condition required to be observed by him under this paragraph or fails to give any notice which he is required to give under sub-paragraph (2) above he shall be—
- (a) guilty of an offence and liable on summary conviction to a fine not exceeding £400 ; and
  - (b) liable to pay to the Secretary of State or the Minister of Agriculture, Fisheries and Food, on demand, a sum not exceeding the subsidy payments made in respect of the food to which the contravention relates.
- (5) The power to make an order under this paragraph shall be exercisable by statutory instrument and includes power to vary or revoke a previous order; and a statutory instrument containing an order under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) This paragraph is without prejudice to the matters that may be included in a scheme under section 1 of this Act and to the imposition of any condition, as a matter of contract, on persons who claim or receive subsidy payments.
- (7) In this paragraph " subsidy payments " means any payment under a scheme under section 1 of this Act and any allowance made by a Board as defined in Article 2(1) of the Order mentioned in subsection (3) of that section in respect of milk supplied by it in the year there mentioned.
- 3 (1) A duly authorised officer of the Secretary of State or of the Minister of Agriculture, Fisheries and Food may, at all reasonable hours and on production, if required, of his

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credentials, exercise the powers specified in sub-paragraph (2) below for the purpose of determining—

- (a) whether any payment is to be, or has been, properly made under any scheme under section 1 of this Act or falls to be repaid in accordance with any conditions subject to which it was made or falls to be made to the Secretary of State by virtue of any order under subsection (7) of that section ; or
- (b) whether any condition required to be observed under paragraph 2 above has been contravened.

(2) The said powers are—

- (a) a power to inspect and take samples of any goods and to enter any land or any premises other than premises used only as a dwelling ; and
- (b) a power to require any person carrying on a business, or employed in connection with a business, to produce any documents relating to the business, and a power of making extracts from, or making copies of, the documents.

(3) Any person who—

- (a) wilfully obstructs an officer acting under this paragraph ; or
  - (b) wilfully fails to comply with a requirement imposed under this paragraph,
- shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400.

(4) Any person who, with intent to deceive, produces, in compliance with a requirement under this paragraph, a document which to his knowledge is or may be misleading, false or deceptive in a material particular shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400.

(5) Nothing in this paragraph shall be construed as compelling the production by a barrister, advocate or solicitor of a document containing a privileged communication made by or to him in that capacity.

(6) In this paragraph " premises " include any stall, vehicle or vessel.

4 The powers conferred by paragraph 3 above shall also be exercisable by any officer of a department, board, authority or body with which the Secretary of State has made arrangements under section 1(9) of this Act and who is designated for the purposes of this paragraph by the Secretary of State.

*Price regulation, price marking and price range notices*

5 (1) Any person who contravenes an order under section 2, 4 or 5 of this Act shall be guilty of an offence and liable—

- (a) on conviction on indictment, to a fine ;
- (b) on summary conviction, to a fine not exceeding £400.

(2) A transaction shall not be invalid because it involves a price in excess of that permitted by an order under section 2 of this Act; but the person paying the price shall be entitled to recover the excess over the permitted price unless he is himself liable to punishment by reason of his having aided, abetted, counselled or procured the contravention of the order by the other party to the transaction.

(3) Section 23 of the Trade Descriptions Act 1968 (offences due to fault of other person) and section 24(1) and (2) of that Act (defence of mistake, accident etc.) shall have

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effect in relation to an offence in respect of an order under section 4 of this Act as they have effect in relation to an offence under that Act.

- 6 It shall be the duty of every local weights and measures authority to enforce within their area any such order as is mentioned in paragraph 5(1) above.
- 7 A local weights and measures authority may make, or may authorise any of their officers to make, any purchases of goods for the purpose of determining whether any such order is being complied with.
- 8 (1) Proceedings for an offence under paragraph 5 above shall not be instituted except by or on behalf of a local weights and measures authority.
- (2) Proceedings for any such offence shall not be instituted—
- (a) unless there has been served on the person charged a notice in writing of the date and nature of the offence alleged, being (except where he is a street trader) a notice served before the expiration of the period of thirty days beginning with that date ; or
  - (b) after the expiration of the period of three months beginning with that date.
- (3) Such a notice as is mentioned in sub-paragraph (2)(a) above may be served on any person either by serving it on him personally or by sending it to him by post at his usual or last known residence or place of business in the United Kingdom or, in the case of a company, at the company's registered office.
- (4) Sub-paragraph (1) above does not apply to Scotland.
- 9 (1) A duly authorised officer of a local weights and measures authority may, at all reasonable hours and on production, if required, of his credentials, exercise any of the powers specified in paragraph 3(2) above and any of the powers specified in sub-paragraph (2) below for the purpose of determining whether an offence under paragraph 5 above has been committed.
- (2) The said powers are—
- (a) a power to seize and detain any document or goods which the officer has reason to believe may be required as evidence in proceedings for such an offence ; and
  - (b) a power to seize and detain any goods if the officer has reason to believe that their examination is likely to produce evidence of the commission of any such offence.
- (3) Any person who—
- (a) wilfully obstructs an officer acting under this paragraph ; or
  - (b) wilfully fails to comply with a requirement imposed under this paragraph; or
  - (c) without reasonable cause fails to give to any officer acting under this paragraph any other assistance or information which the officer may reasonably require for the performance by the officer of his functions under this Schedule,
- shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400.
- (4) Any person who, with intent to deceive, produces or gives, in compliance with a requirement under this paragraph, a document or information which to his knowledge is or may be misleading, false or deceptive in a material particular shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400.

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- (5) Nothing in this paragraph shall be construed as requiring a person to answer any question or give any information if to do so might incriminate him or as authorising the taking of possession of any such document as is mentioned in paragraph 3(5) above which is in the possession of a barrister, advocate or solicitor.
- 10 Where a local weights and measures authority have made arrangements for the discharge of any of their functions as such by another local authority, the powers conferred by paragraph 9 above shall also be exercisable by a duly authorised officer of that other local authority.
- 11 In relation to any offence in respect of an order under section 2(1)(a) of this Act, the powers conferred by paragraph 9 above shall also be exercisable by any officer designated for the purposes of this paragraph by the Secretary of State, being an officer of a government department, of any such board, authority or body as is mentioned in paragraph 4 above or of the Price Commission.

*Restriction on disclosure of information*

- 12 (1) This paragraph applies to information given or supplied in pursuance of any scheme under section 1 of this Act or obtained in the course of exercising the powers conferred by paragraph 3 or 9 above.
- (2) No such information shall be disclosed except—
- (a) with the consent of the person by whom or on whose behalf the information was given or supplied or, as the case may be, the owner of the goods or the occupier of the land or premises ; or
  - (b) to any Minister of the Crown, or an officer or servant appointed by, or person exercising functions on behalf of, a Minister of the Crown; or
  - (c) in the case of information obtained for the purpose of determining any such matter as is mentioned in paragraph 3(1)(b) above, to any member, officer or servant of any such Board as is mentioned in paragraph 2(7) above; or
  - (d) to, or to any officer of, a local weights and measures authority or any such other local authority as is mentioned in paragraph 10 above ; or
  - (e) in the case of information obtained by an officer designated under paragraph 11 above, to any member, officer or servant of any board, authority or other body whose officer he is; or
  - (f) with a view to the institution of, or otherwise for the purposes of, any criminal proceedings pursuant to or arising out of this Act.
- (3) Any person who contravenes this paragraph shall be guilty of an offence and liable—
- (a) on conviction on indictment, to a fine,
  - (b) on summary conviction, to a fine not exceeding £400.

*Offences by bodies corporate*

- 13 Where an offence under this Schedule committed by a body corporate 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 the offence and shall be liable to be proceeded against and punished accordingly.

*Northern Ireland*

- 14 (1) In the application of this Schedule to Northern Ireland for any reference to a local weights and measures authority there shall be substituted a reference to the Department of Commerce for Northern Ireland and paragraph 10 above shall be omitted.
- (2) In paragraph 11 above the reference to a government department includes a reference to a Northern Ireland department and in paragraph 12(2)(b) above references to a Minister of the Crown include references to a Northern Ireland department and the head of a Northern Ireland department.