Agriculture Act 1970

1970 CHAPTER 40

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 feeding stuff for such descriptions of animals as may be prescribed, being animals which, or kinds of which, are commonly kept for the production of food, wool, skins or fur or for the purpose of their use in the farming of land ;

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

" 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 acting jointly;

" 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;

" 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) Tor 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.

67 Enforcement authorities and appointment of inspectors and analysts

(1) In England and Wales it shall be the duty of the council of a county, county borough 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.

(2) In Scotland it shall be the duty of the town council as respects a large burgh within the meaning of the Local Government (Scotland) Act 1947, and the county council as respects a county inclusive of any burgh other than as aforesaid, to enforce this Part of this Act within their respective areas.

(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) Each enforcement authority shall, whenever the Minister so directs, make to him a report on the exercise of their functions under this Part of this Act in such form and containing such particulars as he may direct, and the agricultural analyst for the area of the authority shall furnish to the authority such information as may be necessary for the report.

(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.

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.

(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 which are false to the prejudice of a 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 £400 or, on a second or subsequent conviction under this subsection, to a fine not exceeding £400 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.

(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.

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 or feeding stuff 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 £400, or, on a second or subsequent conviction under this subsection, to a fine not exceeding £400 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 £50.

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 £400 or, on a second or subsequent conviction under this subsection, to a fine not exceeding £400 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.

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 £400 or, on a second or subsequent conviction under this subsection, to a fine not exceeding £400 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.

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.

73 Deleterious ingredients in feeding stuff

(1) Subject to the provisions of this section, any person who—

(a) sells any material for use as a feeding stuff; 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,

shall be guilty of an offence if a sampled portion of the material is shown by an analysis of the sample taken from it to contain any ingredient which is deleterious to animals of any description prescribed for the purpose of the definition of " feeding stuff " in section 66(1) of this Act.

(2) If in proceedings for an offence under subsection (1) of this section, the person charged proves that he sold the material in question, or, in a case under paragraph (b) of that subsection, that he intended to sell it—

(a) as suitable only for animals of a particular description ; or

(b) for use in accordance with written instructions given by him to the purchaser,

he shall not be convicted by reason of the fact that the sampled portion of the material contains an ingredient which is deleterious only to other animals or, as the case may be, only if used otherwise than in accordance with those instructions.

(3) For the purposes of this section it shall be presumed, until the contrary is proved—

(a) that any substance prescribed for the purposes of this subsection, or

(b) in such cases as may be so prescribed, that any substance so prescribed if present in a sampled portion of any material to an amount exceeding such quantity as may be so prescribed,

is an ingredient which is deleterious to animals of any such description as aforesaid in relation to which that substance is so prescribed.

(4) A person guilty of an offence under subsection (1) of this section shall be liable on summary conviction to a fine not exceeding £400 or, on a second or subsequent conviction under that subsection, to a fine not exceeding £400 or imprisonment for a term not exceeding three months or both.

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 misstatement as to the nature, substance or quality of any material if the misstatement does not exceed any limits of variation prescribed in relation thereto

for the purposes of this section; but if the misstatement 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 misstatement therein as to the nature, substance or quality of the material if the misstatement does not exceed the said limits of variation.

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.

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 £50.

(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.

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.

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 Minister of Technology with the approval of the Treasury, and different fees may be fixed for different materials and for different analyses of the same material.

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 circum-; stances 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 sub mitted for analysis under this Part of this Act,

shall be liable on summary conviction to a fine not exceeding £400 or, on a second or subsequent conviction under this subsection, to a fine not exceeding £400 or imprisonment for a term not exceeding three months or both.

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) No proceedings for an offence under any of the following provisions of this Act, namely, sections 68(4)(b) and (c), 69(4)(c), 70(2), 71(2)(b) and 73, shall be instituted by any person other than the Minister unless the prosecutor has given to the Minister a notice of his intention to institute the proceedings, together with a summary of the facts on which the charges are founded, and either a period of twenty-eight days has elapsed since the giving of the notice or the Minister has signified that the proceedings may be instituted before the expiration of that period.

(3) A certificate of the Minister that the requirements of subsection (2) of this section have been complied with in relation to any proceedings shall be conclusive evidence that those requirements have been so complied with; and any document purporting to be such a certificate and to be signed on behalf of the Minister shall be deemed to be such a certificate unless the contrary is proved.

(4) Subsections (2) and (3) of this section shall not apply to Scotland.

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.

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(4)(b) and (c), 69(4)(c), 70(2), 71(2)(b) and 73, 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.

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 £50.

(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 £200 or, on a second or subsequent conviction under this subsection, to a fine not exceeding £200 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 £400.

(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.

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.

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) to the sale of any material which is to be delivered to the purchaser outside the United Kingdom;

(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.

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—

"' chief agricultural analyst ' means the chief agricultural analyst for Northern Ireland";

(b) the definitions of " enforcement authority", " the Minister " and " the Ministers " shall be omitted.

(3) For section 67 there shall be substituted the following—

(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."

(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 Minister of Technology 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) In section 80, subsections (2) to (4) shall be omitted.

(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:—

"(b) shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954."

(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 ".

87 Commencement of Part IV, savings and amendments

(1) This Part of this Act shall come into force on such date as the Ministers may appoint by order made by statutory instrument, and different dates may be appointed for different provisions; and, for the purposes of this subsection, Part V of Schedule 5 to this Act, so far as it relates to the Fertilisers and Feeding Stuffs Act 1926, shall be deemed to be included in this Part of this Act.

(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) In section 2(4) of the Trade Descriptions Act 1968 (which contains an exemption for descriptions applied to certain articles in pursuance of the said Act of 1926) for the words " any description applied in pursuance of the Fertilisers and Feeding Stuffs Act 1926 to an article included in the first column of Schedule 1 to that Act" there shall be substituted the words " any statement made in respect of, or mark applied to, any

material in pursuance of Part IV of the Agriculture Act 1970, any name or expression to which a meaning has been assigned under section 70 of that Act when applied to any material in the circumstances specified in that section ".

(4) In section 90(3) of the Medicines Act 1968 (which contains an exemption for marks and statements made in pursuance of the said Act of 1926) for paragraphs (a) and (b) there shall be substituted the following—

"(a) of any mark which is made on a container or package in pursuance of Part IV of the Agriculture Act 1970 ; or

(b) of any statement which, in pursuance of that Part, is made in any leaflet supplied, or intended to be supplied, with any material."