

# Fertilisers and Feeding Stuffs Act 1926

#### **1926 CHAPTER 45**

#### Criminal Liabilities

## 4 Marking of articles prepared for consignment

- (1) Every parcel of an article included in the first column of the First Schedule to this Act when prepared for sale or consignment for use as a fertiliser of the soil or as food for cattle or poultry shall, if exposed for sale, or, if not exposed for sale, before being removed from the premises where it is so prepared, be marked in the prescribed manner with a mark or marks stating or indicating the particulars required by this Act to be contained in the statutory statement.
- (2) Any person dealing in any such parcels may for the purposes of this section keep in such form (if any) as may be prescribed a register of marks specifying the particulars which the several marks entered in the register are used as indicating, and the marking of any parcel with any mark entered in the register shall, for the purposes of this section, be treated as indicating that the particulars of the article are those entered in the register in relation to the mark:

# Provided that—

- (a) on the sale of any parcel so marked the mark shall be added to the statutory statement; and
- (b) where the statutory statement received by the seller on the sale to him of the parcel contains any such mark, and the parcel has not been on his premises, that mark shall be added by him to the statutory statement required to be given by him to a purchaser.
- (3) If any parcel required under this section to be marked is not so marked, or if from the analysis of a sample of the parcel taken by an inspector in the prescribed manner on the premises on which the parcel is exposed for sale or on any premises on which the parcel after having been so marked may happen to be before being delivered to a purchaser or carrying agent, it appears that the particulars marked or indicated by a mark are false to the prejudice of the purchaser, or do not include any particulars which are required by this Act to be contained in the statutory statement, the person

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selling or having in his possession or disposition for the purpose of sale or consigning the parcel or exposing it for sale shall be guilty of an offence against this Act.

# 5 Consignments ex ship or quay

- (1) In the case of an article delivered or consigned direct from a ship or quay to a purchaser, the provisions of this section shall apply in lieu of the provisions of the last preceding section.
- (2) The seller of an article included in the first column of the First Schedule to this Act and so delivered or consigned shall as soon as practicable enter in a register kept by him in such form (if any) as may be prescribed the following particulars:—
  - (a) the date of delivery or consignment to the purchaser, the place of delivery to the purchaser or other destination, and the quantity delivered or consigned;
  - (b) any shipping or other mark on the article;
  - (c) the particulars which by this Act are required to be contained in the statutory statement.
- (3) The seller of any such article shall be guilty of an offence against this Act—
  - (a) if he fails to enter in his register any particular required by this section to be entered therein other than a particular required to be contained in the statutory statement; or
  - (b) if any particular entered therein, other than a particular required to be contained in the statutory statement, is false in any material particular; or
  - (c) if from the analysis of a sample of the article taken by an inspector in the prescribed manner on the quay or at the time of its delivery to the purchaser or during its transit to him it appears that any particular entered in the register, being a particular required to be contained in the statutory statement, is false to the prejudice of the purchaser, or that any particular required to be contained in the statutory statement is not entered in the register.

#### 6 Sales in small quantities

Where an article is sold for use as a fertiliser of the soil or as food for cattle or poultry in small quantities from a parcel which purports to be labelled in manner hereinbefore provided, and from an analysis of a sample thereof taken by an inspector in the prescribed manner on the premises on which the parcel is kept it appears that the particulars stated on the label are false to the prejudice of the purchaser, or do not include any particulars which are required by this Act to be contained in a statutory statement, the owner or seller shall be guilty of an offence against this Act.

## 7 Deleterious ingredients in feeding stuffs

- (1) Any person who sells or offers or exposes for sale for use as food for cattle or poultry any article which contains any ingredient deleterious to cattle or poultry, or has in his possession, packed and prepared, for sale for such use any such article, shall be guilty of an offence against this Act unless he proves—
  - (a) that he did not know and could not with reasonable care have known that the article contained a deleterious ingredient; and
  - (b) where he obtained the article from some other person, that on demand by or on behalf of the prosecutor he gave all the information in his power with respect

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to the person from whom he obtained it, and as to the statutory statement given to him, and as to any mark applied to the article when he obtained it:

Provided that proceedings for an offence under this section shall not be instituted unless the article has been sampled by an inspector in the prescribed manner on the premises on which it was sold or exposed or offered for sale or on which it was when prepared for sale or consignment, and the sample has been analysed in accordance with the provisions of this Act.

(2) Any substance mentioned in the Fifth Schedule shall, if present in a feeding stuff or, where a maximum quantity with regard to the substance is indicated in the Fifth Schedule, if present in excess of that quantity, as the case may be, be -deemed to be a deleterious ingredient unless the contrary is proved.

# 8 Penalties for failure to give and misstatements in statutory statements

- (1) If a person fails to give a statutory statement in such form (if any) as may be prescribed in any case where he is required by this Act so to do, he shall on summary conviction be liable, in the case of a first offence, to a fine not exceeding five pounds and, in the case of a second or subsequent offence, to a fine not exceeding ten pounds.
- (2) If on the sale of an article included in the first column of the First Schedule to this Act a person gives a statutory statement in which the particulars stated therein differ :—
  - (a) from the particulars marked or indicated by a mark placed on a parcel of the article in accordance with this Act; or
  - (b) in the case of an article delivered or consigned direct from a ship or quay to a purchaser, from the particulars entered in accordance with this Act in the seller's register; or
  - (c) in the case of an article which has not been on the premises of the seller, from the particulars stated in the statutory statement given to the seller in respect of the article;

he shall be guilty of an offence against this Act unless he proves that he took all reasonable steps to avoid committing the offence and that he acted without intent to defraud.

(3) If a person fails to add to a statutory statement any mark which by virtue of this Act is required to be added thereto, he shall on summary conviction be liable, in the case of a first offence, to a fine not exceeding five pounds and, in the case of a second or subsequent offence;, to a fine not exceeding ten pounds.

# 9 Inspection of registers and statutory statements

- (1) It shall be the duty of any person by whom a register under this Act is kept, or to whom a statutory statement relating to an article which has been sold by him but which has never been on his premises has been sent, to preserve the register or statement for such period (not exceeding four months) as may be prescribed, and on demand by an inspector at any time within that period to produce it for his inspection, and if the person keeping the register, or to whom such a statutory statement was sent, fails so to preserve it, he shall be liable on summary conviction to a fine not exceeding twenty pounds.
- (2) Any person having in his possession or under his control any register kept under this Act or any statutory statement made under this Act shall on demand by an inspector

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- produce it for his inspection and if he fails to do so, shall be liable on summary conviction to a fine not exceeding twenty pounds.
- (3) An inspector may at all reasonable times enter any premises where he has reasonable cause to believe that any such register or statutory statement is for the time being kept, and may take copies thereof.

# 10 Relief from liability under the Merchandise Marks Acts in certain cases

Where in pursuance of the foregoing provisions of this Act a description has been applied to any article included in the first column of the First Schedule to this Act, and such description is a trade description within the meaning of the Merchandise Marks Act, 1887, no proceedings shall be taken under that Act on the ground that the description so applied is a false description.