



# Agriculture Act 1970

## 1970 CHAPTER 40

### PART IV

#### FERTILISERS AND FEEDING STUFFS

##### *Sampling and analysis*

#### **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 [F<sup>1</sup>67(3)(b)] [F<sup>1</sup>67A(2)(a) or (4)(a)] of this Act shall be signed by that analyst or another analyst so appointed

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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 [<sup>F2</sup>level 5 on the standard scale] or, on a second or subsequent conviction under this subsection, to a fine not exceeding [<sup>F2</sup>level 5 on the standard scale] or imprisonment for a term not exceeding three months or both.

#### Subordinate Legislation Made

- P1** S. 79: for previous exercises of power see Index to Government Orders
- P2** S. 79(1)(2)(9): s. 74A (with ss. 66(1), 67(5), 75(1), 76(1), 77, 78(2)(4)(6), 79(1)(2)(9) and 84) power exercised by [S.I.1991/973](#)
- P3** S. 79: S. 74A (with ss. 66(1), 75(1), 76(1), 77, 78(2), (4) and (6), 79(1), (2) and (9), 84 and 86(1), (2), (3) and (9)) power exercised by [S.R. 1991/540](#)

#### Textual Amendments

- F1** Words in s. 79(5) substituted (S.) (1.4.2021) by [The Feed \(Transfer of Functions\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2020 \(S.S.I. 2020/467\)](#), regs. 1(2), **2(7)**
- F2** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 38, 46**, (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289E–289G** and (N.I.) [S.I. 1984/703 \(N.I. 3\)](#), **arts. 5, 6**

#### Modifications etc. (not altering text)

- C1** S. 79 modified (E.) (11.10.2010) by [The Feed \(Sampling and Analysis and Specified Undesirable Substances\) \(England\) Regulations 2010 \(S.I. 2010/2280\)](#), regs. 1, **20**

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- C2 S. 79 modified (W.) (11.10.2010) by The Feed (Sampling and Analysis and Specified Undesirable Substances) (Wales) Regulations 2010 (S.I. 2010/2287), regs. 1, **20**
- C3 S. 79 modified (N.I.) (11.10.2010) by The Feed (Sampling and Analysis and Specified Undesirable Substances) Regulations (Northern Ireland) 2010 (S.R. 2010/323), regs. 1, **19**
- C4 S. 79 modified (S.) (15.11.2010) by The Feed (Sampling and Analysis and Specified Undesirable Substances) (Scotland) Regulations 2010 (S.S.I. 2010/354), regs. 1, **20**
- C5 S. 79(1) transfer of functions (15.2.2006) by Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2006 (S.I. 2006/304), art. 1(1), **Sch.** (with art. 5)
- C6 S. 79(2) transfer of functions (15.2.2006) by Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2006 (S.I. 2006/304), art. 1(1), **Sch.** (with art. 5)
- C7 S. 79(3)-(10) applied (with modifications) (E.W.S.) (1.1.2005) by Feeding Stuffs (Safety Requirements for Feed for Food-Producing Animals) Regulations 2004 (S.I. 2004/3254), regs. 1, **4(2)(e)**
- C8 S. 79(3)-(10) applied (with modifications) (N.I.) (1.1.2005) by The Feeding Stuffs (Safety Requirements for Feed for Food-Producing Animals) Regulations (Northern Ireland) 2004 (S.R. 2004/506), regs. 1(1), **4(1)**, 4(2)
- C9 S. 79(4)-(8) applied (with modifications) (2.8.1999) by S.I. 1999/1872, **reg. 112(1)(2)**
- C10 S. 79(4)-(6) modified (6.5.1998) (N.I.) by S.I. 1998/1049, **reg. 96(2)(a)(i)**
- C11 S. 79(4)-(6) applied (with modifications) (E.) (4.10.2004) by Genetically Modified Animal Feed (England) Regulations 2004 (S.I. 2004/2334), regs. 1(b), **6(2)(d)**
- C12 S. 79(4)-(6) applied (with modifications) (N.I.) (8.10.2004) by The Genetically Modified Animal Feed Regulations (Northern Ireland) 2004 (S.R. 2004/386), regs. 1, **6**
- C13 S. 79(4)-(8) applied (with modifications) (S.) (15.11.2004) by Genetically Modified Animal Feed (Scotland) Regulations 2004 (S.S.I. 2004/433), regs. 1(1), **6(1)(a)(iii)**
- C14 S. 79(4)-(6) applied (with modifications) (W.) (17.12.2004) by The Genetically Modified Animal Feed (Wales) Regulations 2004 (S.I. 2004/3221), regs. 1(b), **6(2)(d)**
- C15 S. 79(4) applied (with modifications) (E.) (30.4.2005) by Feed (Corn Gluten Feed and Brewers Grains) (Emergency Control) (England) Regulations 2005 (S.I. 2005/1265), regs. 1(1), **5**
- C16 S. 79(4)-(8) (10) applied (with modifications) (S.) (6.5.2005) by Feed (Corn Gluten Feed and Brewers Grains) (Emergency Control) (Scotland) Regulations 2005 (S.S.I. 2005/246), regs. 1(1), **5**
- C17 S. 79(4)-(6) applied (with modifications) (W.) (13.5.2005) by The Feed (Corn Gluten Feed and Brewers Grains) (Emergency Control) (Wales) Regulations 2005 (S.I. 2005/1323), regs. 1(1), **5(1)**, 5(2)(d)
- C18 S. 79(4)-(6) amendment to earlier affecting provision S.R. 2004/386 reg. 6 (N.I.) (11.10.2010) by The Feed (Sampling and Analysis and Specified Undesirable Substances) Regulations (Northern Ireland) 2010 (S.R. 2010/323), regs. 1, **21(2)**
- C19 S. 79(5) modified (6.5.1998) (N.I.) by S.I. 1998/1049, **reg. 96(2)(a)(ii)**
- C20 S. 79(5) applied (with modifications) (E.) (30.4.2005) by Feed (Corn Gluten Feed and Brewers Grains) (Emergency Control) (England) Regulations 2005 (S.I. 2005/1265), regs. 1(1), **5**
- C21 S. 79(6) applied (with modifications) (E.) (30.4.2005) by Feed (Corn Gluten Feed and Brewers Grains) (Emergency Control) (England) Regulations 2005 (S.I. 2005/1265), regs. 1(1), **5**
- C22 S. 79(8) applied (with modifications) (E.) (4.10.2004) by Genetically Modified Animal Feed (England) Regulations 2004 (S.I. 2004/2334), regs. 1(b), **6(2)(d)**
- C23 S. 79(8) applied (with modifications) (N.I.) (8.10.2004) by The Genetically Modified Animal Feed Regulations (Northern Ireland) 2004 (S.R. 2004/386), regs. 1, **6**
- C24 S. 79(8) applied (with modifications) (W.) (17.12.2004) by The Genetically Modified Animal Feed (Wales) Regulations 2004 (S.I. 2004/3221), regs. 1(b), **6(2)(d)**
- C25 S. 79(8) applied (with modifications) (E.) (30.4.2005) by Feed (Corn Gluten Feed and Brewers Grains) (Emergency Control) (England) Regulations 2005 (S.I. 2005/1265), regs. 1(1), **5**
- C26 S. 79(8) applied (with modifications) (W.) (13.5.2005) by The Feed (Corn Gluten Feed and Brewers Grains) (Emergency Control) (Wales) Regulations 2005 (S.I. 2005/1323), regs. 1(1), **5(1)**, 5(2)(d)
- C27 S. 79(8)(10) amendment to earlier affecting provision S.R. 2004/386 reg. 6 (N.I.) (11.10.2010) by The Feed (Sampling and Analysis and Specified Undesirable Substances) Regulations (Northern Ireland) 2010 (S.R. 2010/323), regs. 1, 21(2)

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- C28** S. 79(9) transfer of functions (15.2.2006) by [Scotland Act 1998 \(Transfer of Functions to the Scottish Ministers etc.\) Order 2006 \(S.I. 2006/304\)](#), art. 1(1), **Sch.** (with art. 5)
- C29** S. 79(10): in relation to liability on first and subsequent convictions, [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **s. 35** applies (E.W.) and [S.I. 1984/703 \(N.I. 3\)](#) art. 9 applies (N.I.)
- C30** S. 79(10): [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **s. 289E** (in relation to liability on first and subsequent convictions), applies (S.)
- C31** S. 79(10) applied (with modifications) (E.) (4.10.2004) by [Genetically Modified Animal Feed \(England\) Regulations 2004 \(S.I. 2004/2334\)](#), regs. 1(b), **6(2)(d)**
- C32** S. 79(10) applied (with modifications) (N.I.) (8.10.2004) by [The Genetically Modified Animal Feed Regulations \(Northern Ireland\) 2004 \(S.R. 2004/386\)](#), regs. 1, **6**
- C33** S. 79(10) applied (with modifications) (S.) (15.11.2004) by [Genetically Modified Animal Feed \(Scotland\) Regulations 2004 \(S.S.I. 2004/433\)](#), regs. 1(1), **6(1)(a)(iii)**
- C34** S. 79(10) applied (with modifications) (W.) (17.12.2004) by [The Genetically Modified Animal Feed \(Wales\) Regulations 2004 \(S.I. 2004/3221\)](#), regs. 1(b), **6(2)(d)**
- C35** S. 79(10) applied (with modifications) (E.) (30.4.2005) by [Feed \(Corn Gluten Feed and Brewers Grains\) \(Emergency Control\) \(England\) Regulations 2005 \(S.I. 2005/1265\)](#), regs. 1(1), **5**
- C36** S. 79(10) applied (with modifications) (W.) (13.5.2005) by [The Feed \(Corn Gluten Feed and Brewers Grains\) \(Emergency Control\) \(Wales\) Regulations 2005 \(S.I. 2005/1323\)](#), regs. 1(1), **5(1)**, **5(2)(d)**

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