



Isle of Man

Ellan Vannin

AT 31 of 1975

**FERTILISERS AND FEEDING STUFFS ACT
1975**



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Index

Section	Page
<hr/>	
	<i>Preliminary</i>
1	Enforcement of Act and appointment of inspectors and agricultural analyst5
	<i>Obligations relating to material sold and prepared for sale</i>
2	Duty of seller to give statutory statement6
3	Marking of material prepared for sale7
4	Use of names or expressions with prescribed meanings9
5	Particulars to be given of certain attributes if claimed to be present10
6	Warranty of suitability of feeding stuff11
7	Deleterious ingredients in feeding stuffs11
7A	Unwholesome or dangerous feeding stuff12
8	Limits of variation13
9	Regulations controlling composition and content of certain fertilisers and feeding stuffs, etc13
	<i>Sampling and analysis</i>
10	Purchaser's right to have sample taken and analysed14
11	Inspector's power to enter premises and take samples15
12	Division of samples and analysis by agricultural analyst16
13	Supplementary provisions relating to samples and analysis17
	<i>Prosecutions</i>
14	Institution of prosecutions19
15	Offences due to fault of other person19
16	Defence of mistake, accident, etc19
17	Power of court to request analysis by UK Government Chemist20
	<i>Supplementary provisions</i>
18	Exercise of powers by inspectors20
19	Regulations: general provisions21
20	Application to the Island of legislation relating to fertilisers and feeding stuffs21
20A	S 20: supplementary provisions22

21	Expenses	23
22	Interpretation	23
23	[Amends section 2 of the Consumer Protection (Trade Descriptions) Act 1970.]	25
24	Transitional and saving provisions	25
25	[Repealed].....	25
26	Short title and commencement.....	25
SCHEDULE 1		27
<hr/>		
TRANSITIONAL AND SAVING PROVISIONS		27
SCHEDULE 2		27
ENDNOTES		29
<hr/>		
TABLE OF LEGISLATION HISTORY		29
TABLE OF RENUMBERED PROVISIONS		29
TABLE OF ENDNOTE REFERENCES		29



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FERTILISERS AND FEEDING STUFFS ACT 1975

Received Royal Assent: 19 December 1975
Passed: 17 February 1976
Commenced: 1 June 1976

AN ACT to make better provisions in the law relating to fertilisers and feeding stuffs, and for connected purposes.

GENERAL NOTES

1. The maximum fines in this Act are as increased by the *Fertilisers and Feeding Stuffs (Amendment) Act 1985* Sch and by the *Criminal Justice (Penalties, Etc.) Act 1993* s 1.
2. References to the Finance Department are to be construed as references to the Treasury in accordance with the *Treasury Act 1985* s 6(4).

Preliminary

1 Enforcement of Act and appointment of inspectors and agricultural analyst

[P1970/40/67 (1), (3) and (5)]

- (1) It shall be the duty of the Department of Environment, Food and Agriculture (in this Act referred to as “**the Department**”) to enforce this Act within the Island.¹
- (2) For the purpose of the performance by the Department of its duty under subsection (1) there shall be appointed such inspectors as may be necessary.²
- (3) There shall be appointed a person having the prescribed qualifications to be the agricultural analyst for the purposes of this Act.³

*Obligations relating to material sold and prepared for sale***2 Duty of seller to give statutory statement**

[P1970/40/68; SI1982/980/5]

- (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 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 subsection (1), include in the statutory statement given under that subsection 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 £500.⁴
- (2) Subsection (1) above 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) above; 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) above; 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 subsection (1A), which are false to the prejudice of a purchaser; or⁵
- (c) sells or exposes for sale material from a parcel purporting to be labelled as mentioned in subsection (2)(b) above 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 guilty of an offence and shall be liable on summary conviction to a fine not exceeding £5,000 or to imprisonment for a term not exceeding 3 months, or to both.⁶

- (5) In proceedings for an offence under paragraph (b) of subsection (4) above, 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.

3 Marking of material prepared for sale

[P1970/40/69]

- (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 subsection (1) above, 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) above shall have effect subject to such modifications as may be prescribed.
- (4) Where, at a time when subsection (1) above applies to any person, that person has on his premises for the purposes 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 2(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 2(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 guilty of an offence and shall be liable on summary conviction to a fine not exceeding £5,000 or to imprisonment for a term not exceeding 3 months, or to 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.⁷
- (5) In proceedings for an offence under subsection (4)(c) above, 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 Act as marked with the matters which the mark denotes.
- (7) A person keeping a register pursuant to regulations under subsection (6) above 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 guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000.

4 Use of names or expressions with prescribed meanings

[P1970/40/70]

- (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.
- (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) above, 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 guilty of an offence and shall be liable on summary conviction to a fine not exceeding £5,000 or to imprisonment for a term not exceeding 3 months, or to both.⁸

- (3) In the case of any material which has been imported, subsections (1) and (2) above shall have effect subject to such modifications as may be prescribed.
- (4) In proceedings for an offence under subsection (2) above, 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) above, in such a place on the premises in question that it is likely to be taken as referring to the material.

5 Particulars to be given of certain attributes if claimed to be present

[P1970/40/71]

- (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) above; 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 guilty of an offence and shall be liable on summary conviction to a fine not exceeding £5,000 or to imprisonment for a term not exceeding 3 months, or to both.⁹

- (3) In proceedings for an offence under subsection (2)(b) above, 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) above 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.
- (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) above, in such a place on the premises in question that it is likely to be taken as referring to the material.

6 Warranty of suitability of feeding stuff

[P1970/40/72]

- (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.

7 Deleterious ingredients in feeding stuffs

[P1970/40/73; SI1982/980/5]

- (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 22(1) of this Act or deleterious to pet animals or, through the consumption of products of an animal fed with the material, deleterious to human beings.¹⁰
- (2) If in proceedings for an offence under subsection (1) 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, as suitable only for animals of a specified kind, then —
 - (a) in the case of proceedings for an offence of selling, or having for sale, material which is deleterious to animals he shall not be convicted by reason of the fact that a sampled portion of the material contains an ingredient which is deleterious only to animals of a kind different from that specified;
 - (b) in the case of proceedings for an offence of selling, or having for sale, material which is deleterious to human beings, he shall not be

convicted by reason of the fact that a sampled portion of the material contains an ingredient which is deleterious to human beings only if fed to animals of a kind different from that specified.¹¹

- (2A) If in proceedings for an offence under subsection (1) 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, 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 if used otherwise than in accordance with those instructions.¹²
- (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) above shall be liable on summary conviction to a fine not exceeding £5,000 or to imprisonment for a term not exceeding 3 months, or to both.¹³

7A Unwholesome or dangerous feeding stuff

[SI1982/980/7]

- (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 the material is found, or if a sampled portion of the material is shown by an analysis of the sample taken from it, to be unwholesome for or to be dangerous to animals of any description prescribed for the purpose of the definition of 'feeding stuff' in section 22(1), or to be unwholesome for or to be dangerous to, pet animals or, through the consumption of the products of an animal fed with the material, dangerous to human beings.
- (2) If in proceedings for an offence under subsection (1) 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, as suitable only for animals of a specified kind, then —

- (a) in the case of proceedings for an offence of selling, or having for sale, material which is unwholesome for, or dangerous to animals he shall not be convicted by reason of the fact that the material is found, or a sampled portion of it is shown, to be unwholesome only for or, as the case may be, dangerous only to animals of a kind different from that specified;
 - (b) in the case of proceedings for an offence of selling, or having for sale, material dangerous to human beings, he shall not be convicted by reason of the fact that the material is found, or the sampled portion of it is shown, to be dangerous to human beings only if fed to animals of a kind different from that specified.
- (3) If in proceedings for an offence under subsection (1) the person charged proves that he sold the material or, in a case under paragraph (b) of that subsection, that he intended to sell it 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 material is found, or the sampled portion of it is shown, to be unwholesome or, as the case may be, dangerous only if used otherwise than in accordance with the instructions given.
- (4) A person guilty of an offence under subsection (1) shall be liable on summary conviction to a fine not exceeding £5,000 or imprisonment for a term not exceeding three months or both.¹⁴

8 Limits of variation

[P1970/40/74]

- (1) No action shall lie on any warranty arising under the foregoing provisions 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 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.

9 Regulations controlling composition and content of certain fertilisers and feeding stuffs, etc

[P1970/40/74A; P1972/68; Sch 4/6]

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

- (a) prohibiting or restricting, by reference to its composition or content, the importation into and exportation from the Island, 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 Act; but, subject to any provision so made, references in 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 guilty of an offence and shall be liable on summary conviction to a fine not exceeding £5,000 or to imprisonment for a term not exceeding 3 months, or to both.¹⁵
- (4) With a view to implementing or supplementing any EU instrument or any retained EU law 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 Act, subject to any modifications which may be so specified.¹⁶

Sampling and analysis

10 Purchaser's right to have sample taken and analysed

[P1970/40/75]

- (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 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.
- (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 4(1) or 5(4) of this Act, is implied by reason of the material being marked as mentioned in paragraph (b) of the said section 4(1)

or subsection (1)(a)(ii) of the said section 5, 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 Department after consultation with the Treasury; and different fees may be fixed for different materials and for different analyses of the same material.¹⁷

11 Inspector's power to enter premises and take samples

[P1970/40/76]

- (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 4(1) or 5(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 guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000.

- (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 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.

12 Division of samples and analysis by agricultural analyst

[P1970/40/77]

- (1) Where a sample has been taken by an inspector in the prescribed manner, then, subject to subsection (2) below, 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;
 - (b) shall send another part —
 - (i) where the sample was taken pursuant to the request of a purchaser under section 10 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 17 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) above, 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 Island, 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 Act and, where the material sampled was described or marked as mentioned in section 4(1) or 5(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) above 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 10 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) above,
- and, in either case, to any person to whom he has sent a part of the sample under subsection (2) above;
- (5) If —
- (a) the office of agricultural analyst is vacant and no provision has been made under sections 77 (acting appointments: general provisions), 78 (acting appointments: directions about appointor) and 79 (power of appointment includes certain incidental powers) of the *Interpretation Act 2015* for some other person to exercise his powers and perform his duties; or¹⁸
- (b) the agricultural analyst determines that, for any reason, an effective analysis cannot be performed by him or under his direction,
- the sample shall, together with all relevant documents, be submitted or, as the case may be, sent either by the person seeking to submit it or by the agricultural analyst to an agricultural analyst in the United Kingdom with the request that, upon payment to him of such sum as may be agreed, he shall analyse it and give to the person by whom it was submitted a certificate of analysis in the prescribed form; and subsection (4) above shall, thereupon, have effect as if that person were the inspector.

13 Supplementary provisions relating to samples and analysis

[P1970/40/79(1) to (6) and (8) to (10)]

- (1) The regulations with respect to the taking of samples under 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 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 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 the agricultural analyst may be made by any person acting under his directions.
- (5) A certificate of analysis by the agricultural analyst shall be signed by him or by a person authorised by him to sign the certificate.
- (6) A certificate of analysis by the agricultural analyst 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) 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.
- (8) 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 12 of this Act shall be sent or served in such manner, if any, as may be prescribed.
- (9) Any person who —
- (a) tampers with any material so as to procure that any sample of it taken or submitted for analysis under this Act does not correctly represent the material; or
 - (b) tampers or interferes with any sample taken or submitted for analysis under this Act,
- shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £5,000 or to imprisonment for a term not exceeding 3 months, or to both.¹⁹
- (10) In this section ‘the agricultural analyst’ includes an agricultural analyst in the United Kingdom to whom a sample has been sent or submitted under section 12(5) of this Act.

*Prosecutions***14 Institution of prosecutions**

[P1970/40/80(1) to (3)]

- (1) Without prejudice to any other enactment relating to the place where proceedings may be taken, proceedings for an offence under 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 2(4)(b) and (c), 3(4)(c), 4(2), 5(2)(b), 7 and 7A, shall be instituted by any person other than the Attorney General unless the prosecutor has given to the Attorney General 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 Attorney General has signified that the proceedings may be instituted before the expiration of that period.²⁰
- (3) A certificate of the Attorney General that the requirements of subsection (2) above 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 Attorney General shall be deemed to be such a certificate unless the contrary is proved.

15 Offences due to fault of other person

[P1970/40/81]

Where the commission by any person of an offence under 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.

16 Defence of mistake, accident, etc

[P1970/40/82]

- (1) In any proceedings for an offence under any of the following provisions of this Act, namely, sections 2(4)(b) and (c), 3(4)(c), 4(2), 5(2)(b), 7 and 7A, it shall, subject to subsection (2) below, 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.²¹
- (2) If, in any case, the defence provided by subsection (1) above 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.

17 Power of court to request analysis by UK Government Chemist

- (1) The court before which any proceedings are taken under this Act may, if it thinks fit, and upon the request of either party shall, cause the part of any sample retained by an inspector under section 12(1)(c) of this Act to be sent to the Government Chemist of the United Kingdom with the request that he may direct a qualified scientist of the Laboratory of the Government Chemist to make an analysis and transmit to the court a certificate of the result thereof, and the costs of the analysis shall be paid by the prosecutor or the defendant as the court may order.
- (2) If, in a case where an appeal is brought, no action has been taken under subsection (1) above, the provisions thereof shall apply also in relation to the court by which the appeal is heard.
- (3) Any certificate of the results of an analysis transmitted from the Government Laboratory under this section may be signed by the person making the analysis; and any certificate so transmitted shall be evidence of the facts stated therein unless any party to the proceedings requests that the person by whom it is signed shall be called as a witness, and in that event the evidence of that person shall be sufficient evidence of the aforesaid facts.

Supplementary provisions

18 Exercise of powers by inspectors

[P1970/40/83]

- (1) An inspector exercising his powers under 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 Act shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000.
- (3) Any person who, not being an inspector, purports to act as such under this Act shall be guilty of an offence and shall be liable on summary conviction

to a fine not exceeding £2,500 or to imprisonment for a term not exceeding 3 months, or to both.²²

- (4) Subject to subsection (5) below, 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 Act; or
 - (b) any information obtained by him in pursuance 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 Act, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £5,000.
- (5) Subsection (4) above shall not prevent an inspector who has taken a sample of any material under section 11(4) of this Act from disclosing —
- (a) 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
 - (b) 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.

19 Regulations: general provisions

[P1970/40/84]

- (1) Any regulations authorised to be made under this Act shall be made by the Department after consultation with such persons or organisations as appear to it to represent the interests concerned, and anything which under this Act is authorised to be prescribed shall be prescribed by regulations made as aforesaid.²³
- (2) Any regulations under this Act —
- (a) may make different provision for different circumstances; and
 - (b) shall not have effect until they have been approved by Tynwald.

20 Application to the Island of legislation relating to fertilisers and feeding stuffs

- (1) The Department may by order apply to the Island as part of the law of the Island, subject to such exceptions, modifications and adaptations as may be specified in the order, any provision of the instruments specified in subsection (2).
- (2) Those instruments are —
- (a) Part IV of the Agriculture Act 1970 (an Act of Parliament);

- (b) any enactment of Parliament replacing or modifying, directly or indirectly, the Act specified in paragraph (a);
 - (c) any enactment of Parliament relating to fertilisers or feeding stuffs;
 - (d) any instrument of a legislative character made, or having effect as if made, under any of the enactments mentioned in paragraphs (a) to (c);
 - (e) any EU instrument that concerns fertilisers or feeding stuffs; or²⁴
 - (f) any enactment of Parliament which, in the United Kingdom, implements or gives effect to an EU instrument of a class mentioned in paragraph (e).²⁵
- (3) [Repealed]^{26 27}

20A S 20: supplementary provisions

- (1) An order under section 20 shall be laid before Tynwald as soon as is practicable after it is made (and in any case not later than the second sitting of Tynwald following the making of the order) and if at the sitting at which it is laid Tynwald fails to approve the order it shall cease to have effect.
- (2) Any instrument (whether made before or after this section takes effect) applied by an order under section 20 may be amended, varied or revoked by regulations made under this Act.
- (3) An order under section 20 may modify any statutory provision (other than an enactment in this Act) which is inconsistent with, or is unnecessary or requires modification in consequence of —
 - (a) any instrument applied to the Island by the order;
 - (b) the order.
- (4) An order under section 20 may do all or any of the following —
 - (a) specify the exceptions, adaptations and modifications subject to which the relevant instrument applies to the Island;
 - (b) set out the instrument applied by the order, incorporating the exceptions, adaptations and modifications subject to which it applies to the Island;
 - (c) in the case of an order applying an instrument which amends a previous instrument applied to the Island, set out the previous instrument so applied as amended, incorporating the exceptions, adaptations and modifications subject to which that legislation applies to the Island.
- (5) Subsections (6) and (7) shall not apply in respect of an order setting out the relevant instrument in accordance with subsection (4)(b) or (c).

- (6) An order under section 20 shall have annexed to it a text of the legislation applied by the order, incorporating the exceptions, adaptations and modifications specified in the order.
- (7) The Department shall cause a copy of the text prepared under subsection (6) to be supplied to any person requesting the same on payment of such fee as may be prescribed under Part 5, Division 4 (general fee power) of the *Interpretation Act 2015*.^{28 29}

21 Expenses

Any expenses incurred by the Department in the operation of this Act shall be defrayed out of money provided by Tynwald.³⁰

22 Interpretation

[P1970/40/66; SI1982/980/4]

(1) In this Act, unless the context otherwise requires —

“**the agricultural analyst**” means the agricultural analyst appointed under section 1(3) of this Act;³¹

“**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;

“**the Board**” [Repealed]³²

“**the Department**” means the Department of Environment, Food and Agriculture;³³

“**feeding stuff**” means feeding stuff for pet animals and 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;³⁴

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

“**fish**” includes shellfish;

“**functions**” includes powers and duties;

“**inspector**” means an inspector appointed under section 1(2) of this Act;

“**pet animal**” means any animal belonging to a species normally kept and nourished but not consumed by man, not being an animal which has been or may be prescribed for the purpose of the definition of ‘feeding stuff’;³⁵

“**prescribed**” means prescribed by regulations;

“**prescribed metric substitution**” in relation to a quantity specified in any provision 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 Department 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 Act;³⁶

“**regulations**” means regulations made as provided in section 19 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 2(1) of this Act.

- (2) For the purposes 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 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 Act shall apply separately to each consignment.
- (5) For the purposes 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.

23 [Amends section 2 of the Consumer Protection (Trade Descriptions) Act 1970.]

24 Transitional and saving provisions

The transitional and saving provisions contained in Schedule 1 to this Act shall have effect.

25 [Repealed]³⁷

26 Short title and commencement

- (1) This Act may be cited as the Fertilisers and Feeding Stuffs Act 1975.
- (2) This Act shall, subject to subsection (3) below, come into operation when the Royal Assent thereto has been by the Governor announced to Tynwald and a certificate thereof has been signed by the Governor and the Speaker of the House of Keys.
- (3) This section shall take effect on the coming into operation of this Act and the remaining provisions of this Act shall take effect on such day or days as the Governor may by order appoint, and different dates may be appointed under this subsection for different purposes.³⁸

SCHEDULE 1**TRANSITIONAL AND SAVING PROVISIONS**

Section 24 [P1970/40/85]

Transitional provisions in relation to certain appointments

1. [Repealed]³⁹

Exemption for certain sales

2. This Act shall not apply —
 - (a) to the sale of any material in the case of which, at the time when, apart from section 22(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 Island or, having been imported, has not been released from customs control; or
 - (b) to the sale of any material which is to be delivered to the purchaser outside the Island; or
 - (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 coroner, lockman or other officer to satisfy an execution or the order of any court, or a distress for rent or warrant of distress.

Saving for s 10 of the Interpretation Act 1970

3. Nothing in this Schedule shall affect the provisions of section 10 of the *Interpretation Act 1970* (which relates to the effect of repeals).

SCHEDULE 2⁴⁰

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement

Table of Renumbered Provisions

Original	Current

Table of Endnote References

-
- ¹ Subs (1) amended by SD155/10 Sch 3.
- ² Subs (2) substituted by Civil Service Act 1990 Sch 3.
- ³ Subs (3) substituted by Food Act 1996 Sch 4.
- ⁴ Subs (1A) inserted by Fertilisers and Feeding Stuffs (Amendment) Act 1985 s 1.
- ⁵ Subpara (ii) substituted by Fertilisers and Feeding Stuffs (Amendment) Act 1985 s 1.
- ⁶ Subs (4) amended by Fertilisers and Feeding Stuffs (Amendment) Act 1985 Sch.
- ⁷ Subs (4) amended by Fertilisers and Feeding Stuffs (Amendment) Act 1985 Sch.
- ⁸ Subs (2) amended by Fertilisers and Feeding Stuffs (Amendment) Act 1985 Sch.
- ⁹ Subs (2) amended by Fertilisers and Feeding Stuffs (Amendment) Act 1985 Sch.
- ¹⁰ Subs (1) amended by Fertilisers and Feeding Stuffs (Amendment) Act 1985 s 2.
- ¹¹ Subs (2) substituted by Fertilisers and Feeding Stuffs (Amendment) Act 1985 s 2.
- ¹² Subs 2A inserted by Fertilisers and Feeding Stuffs (Amendment) Act 1985 s 2.
- ¹³ Subs (4) amended by Fertilisers and Feeding Stuffs (Amendment) Act 1985 Sch.
- ¹⁴ S 7A inserted by Fertilisers and Feeding Stuffs (Amendment) Act 1985 s 3.
- ¹⁵ Subs (3) amended by Fertilisers and Feeding Stuffs (Amendment) Act 1985 Sch.
- ¹⁶ Subs (4) amended by SD0606/12 and by SD20169/0039.
- ¹⁷ Subs (4) amended by Treasury Act 1985 s 6 and by GC121/86.
- ¹⁸ Para (a) amended by Interpretation Act 2015 s 107.
- ¹⁹ Subs (9) amended by Fertilisers and Feeding Stuffs (Amendment) Act 1985 Sch.
- ²⁰ Subs (2) amended by Statute Law Revision Act 1997 Sch 1.
- ²¹ Subs (1) amended by Statute Law Revision Act 1997 Sch 1.
- ²² Subs (3) amended by Fertilisers and Feeding Stuffs (Amendment) Act 1985 Sch.
- ²³ Subs (1) amended by GC121/86.

- ²⁴ Para (e) substituted by SD2019/0039 with effect from 31/12/2020 at 23:00.
- ²⁵ Para (f) amended by SD0606/12.
- ²⁶ Subs (3) repealed by Interpretation Act 2015 s 105.
- ²⁷ S 20 substituted by Fertilisers and Feeding Stuffs (Amendment) Act 2008 s 1.
- ²⁸ Subs (7) amended by Interpretation Act 2015 s 106.
- ²⁹ S 20A inserted by Fertilisers and Feeding Stuffs (Amendment) Act 2008 s 1.
- ³⁰ S 21 amended by GC121/86.
- ³¹ Definition of ‘the agricultural analyst’ amended by Miscellaneous Provisions Act 1986 s 2.
- ³² Definition of ‘the Board’ repealed by GC121/86.
- ³³ Definition of ‘the Department’ inserted by GC121/86 and amended by SD155/10 Sch 3.
- ³⁴ Definition of ‘feeding stuff’ amended by Fertilisers and Feeding Stuffs (Amendment) Act 1985 s 4.
- ³⁵ Definition of ‘pet animal’ inserted by Fertilisers and Feeding Stuffs (Amendment) Act 1985 s 4.
- ³⁶ Definition of ‘prescribed metric substitution’ amended by GC121/86.
- ³⁷ S 25 repealed by Statute Law Revision Act 1983 Sch 2.
- ³⁸ ADO (whole Act) 1/6/1976 (GC66/76).
- ³⁹ Para 1 repealed by Statute Law Revision Act 1997 Sch 2.
- ⁴⁰ Sch 2 repealed by Statute Law Revision Act 1983 Sch 2.