



Agriculture and Horticulture Act 1964

1964 CHAPTER 28

PART I

PRICE STABILITY OF IMPORTED PRODUCTS

1 Price stability of imported products

- (1) In the interest of maintaining in the United Kingdom a stable market for agricultural or horticultural produce of any description produced in the United Kingdom, the Minister of Agriculture, Fisheries and Food and the Secretaries of State respectively concerned with agriculture in Scotland and Northern Ireland acting jointly may by order specify produce of that description or any of its related products or both as commodities in relation to which the powers conferred by subsection (2) below may be exercised; and for the purposes of this section " specified commodity " means any description of produce or related product in relation to which those powers are for the time being exercisable by virtue of such an order.
- (2) In relation to any specified commodity the Ministers aforesaid may by order prescribe a minimum price level for imports into the United Kingdom; and with a view to maintaining the level so prescribed for any commodity or to allowing for the effect for that or other specified commodities of its maintenance, they may by order direct that on any specified commodity imported into the United Kingdom there shall be charged for the use of Her Majesty such levy as may be prescribed by or determined in accordance with the order.
- (3) Where in the case of any specified commodity a minimum price level is prescribed or levy is imposed under subsection (2) above, the Ministers aforesaid may by order provide for the granting, in such circumstances and subject to such conditions as may be provided for in the order,—
 - (a) of allowances or reliefs in respect of the levy (if any) chargeable on the imported commodity; and
 - (b) in connection with the exportation of any goods from the United Kingdom, of such other allowances on or relating to the commodity (whether or not

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imported or subject to any levy) as appear to the Ministers aforesaid to be proper by reason of the effects of the minimum price level or levy;

and orders under this subsection may require the payment to the Ministers aforesaid or any of them of fees or other charges in connection with applications made to them or him with a view to the granting of any allowance or relief under this subsection.

- (4) No order shall be made under subsection (2) or (3) above without the approval of the Treasury, unless the order deals only with the rates of any levy, allowance or relief which is provided for by a previous order.
- (5) The Minister of Agriculture, Fisheries and Food acting alone shall have the like powers as the Ministers aforesaid have under subsections (2) and (3) above to make orders dealing only with the rates of levies, allowances and reliefs provided for by previous orders.
- (6) Orders under subsection (2) or (3) above may make different provision for any specified commodity by reference to quality, origin or otherwise; and in exercising their powers under this section the Ministers aforesaid may have regard to the interests of agricultural or horticultural producers in the Commonwealth and elsewhere overseas.
- (7) Any power to make orders under this section shall include power to vary or revoke any order made in the exercise of the power, and shall be exercisable by statutory instrument.
- (8) Orders under this section, other than orders made after a draft has been laid before Parliament and approved by resolution of each House, shall be subject to the following provisions:—
 - (a) any order by virtue of which a commodity not for the time being a specified commodity becomes a specified commodity shall cease to have effect at the end of the forty days beginning with that on which it is made (but without prejudice to anything previously done under the order or to the making of a new order), unless the order is within those forty days approved by resolution of each House of Parliament; and
 - (b) any other order, not being an order dealing only with the rates of any levy, allowance or relief which is provided for by a previous order, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

In reckoning for the purposes of paragraph (a) above any period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- (9) Subject to the provisions of this section and of any order made under it, the provisions set out in the Schedule to this Act shall have effect for the administration of and other purposes relating to levies, allowances and reliefs under this section.
- (10) For the purposes of this section "produce" includes anything (whether live or dead) produced in the course of agriculture or, as the case may be, horticulture; and "related product", in relation to produce of any description, means—
 - (a) any product of a description which is obtained from that produce or from any related product, with or without any process of manufacture, or is obtained by the use of that produce or by that of any related product as a material, component or ingredient; and
 - (b) any substance or article of a like nature or use to the produce or to any related product.

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- (11) The Government, of Ireland Act 1920 shall have effect as if any levy imposed under this section were a duty or tax included among those mentioned in section 22(1) of that Act (which relates to reserved taxes).
- (12) Section 2 of the Isle of Man Act 1958 (which relates to the division of customs revenues between the United Kingdom and the Isle of Man) and any other enactments relating to customs in the Isle of Man shall have effect in relation to levies under this section and any corresponding levies imposed in the Isle of Man as if they were duties of customs.

PART II

FURTHER GRANTS FOR HORTICULTURAL IMPROVEMENTS

Extension of system of grants under Part I of Horticulture Act 1960

2 Grants for improving efficiency of small production businesses

- (1) The appropriate Minister may with the approval of the Treasury make a scheme containing provision for the making by him of a grant in connection with the carrying out by any person of a programme designed to increase the efficiency of a small horticultural production business and submitted to and approved by that Minister in accordance with the scheme.
- (2) A scheme under this section (hereinafter referred to as "a scheme") may—
- provide for the payment of grants by instalments over such period as is specified in the scheme ;
 - make the payment of grants, or of instalments of grants, subject to compliance with such conditions, whether as to the capacity of the business (determined in accordance with the scheme), the security of tenure of land on which the business is carried on, the period within which or the manner in which the programme or any part thereof is to be carried out, or any other matter, as are specified in or under the scheme;
 - provide for a programme approved by the appropriate Minister under the scheme to be modified from time to time with his approval, and thereafter to have effect for the purposes of the scheme as so modified;
 - contain such incidental and supplemental provisions as appear to the appropriate Minister expedient for the purposes of the scheme.
- (3) Subject to subsection (4) below, where the appropriate Minister has approved a programme for the purposes of a scheme he may revoke the approval if, at any time before the carrying out of the programme is completed, it appears to him—
- that the business has ceased to be carried on or has ceased to be a small horticultural production business ; or
 - that any condition imposed in connection with the payment of a grant or instalments thereof under this section in relation to the programme has not been, or will not be, complied with; or
 - that in connection with an application for approval of the programme or of any modification of the programme the applicant gave information on any matter which was false or misleading in a material respect;

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and if before the revocation any payment is made by way of grant under the scheme in respect of the programme, the appropriate Minister may recover the payment or so much thereof as he may think fit.

- (4) Before revoking an approval under subsection (3) above the appropriate Minister—
- (a) shall give to any person to whom any payment by way of grant in relation to the programme would be payable, or from whom any such payment would be recoverable, a written notification of the reasons for the proposed revocation ; and
 - (b) shall accord to each such person an opportunity, either in person or by counsel, solicitor or agent, of appearing before and being heard by a person appointed for the purpose by that Minister; and
 - (c) shall consider the report of a person so appointed and supply a copy of the report to each person who was entitled to appear before the person submitting it.
- (5) A scheme may be made for England and Wales, for Scotland, for Northern Ireland or for any two or all of those parts of the United Kingdom jointly, and may be varied or revoked by a subsequent scheme.
- (6) In this section " small horticultural production business " means, in relation to any scheme, a horticultural production business which is conducted on land not exceeding in extent such area as is specified in that behalf in the scheme, and which satisfies such other requirements (whether as to minimum area or otherwise) as may be so specified :
- Provided that a horticultural production business shall not, so far as concerns a programme relating to the business submitted at any time for approval under a scheme, be treated as ceasing to be a small horticultural production business by reason only of any increase after that time in the area of the land on which the business is conducted.

3 Grants for clearing orchards

- (1) The appropriate Minister may, in such manner and subject to such conditions as he may with the approval of the Treasury determine, make a grant to the owner or occupier of any agricultural land of an amount equal to one-third of expense reasonably incurred by him in clearing, by the removal of fruit trees and other vegetation, any part of that land bearing an orchard, being a part which when cleared is intended to be used as agricultural land.
- (2) Section 3 of the Horticulture Act 1960 (which allows standard costs to be fixed) shall apply for the purposes of this section as it applies for the purposes of sections 1 and 2 of that Act.
- (3) In this section—
- " agricultural land " means land used for agriculture (within the meaning of the Agriculture Act 1947, the Agriculture (Scotland) Act 1948 or the Agriculture Act (Northern Ireland) 1949, as the case may require) which is so used for the purposes of a business ;
- " owner ", in relation to any land, includes any person for the time being entitled to receive the rents and profits of the land.

4 Grants for improvement or initial operation of co-operative marketing businesses

- (1) Subject to section 6 of this Act where the appropriate Minister approves a programme making provision for expanding, or increasing the efficiency of, an existing horticultural producers' marketing business or for the initial operation of a newly-established horticultural producers' marketing business he may, in such manner and subject to such conditions as with the approval of the Treasury he may determine, make to the person carrying on or proposing to carry on the business a grant towards the expense of carrying out the programme not exceeding one-third of an amount specified in the programme as being the estimated amount of that expense.
- (2) The reference in subsection (1) above to the initial operation of a business shall be construed, in relation to any matter dealt with by a programme, as a reference to its operation during such period ending not later than two years after the establishment of the business as is specified in relation to that matter in the programme.
- (3) Subject to subsection (4) below, where the appropriate Minister has approved a programme under this section relating to a horticultural producers' marketing business he may revoke the approval if, at any time before the carrying out of the programme is completed, it appears to him—
 - (a) that the business has ceased to be carried on, or has ceased to be a horticultural producers' marketing business; or
 - (b) that any condition imposed by him in relation to the programme has not been, or will not be, complied with; or
 - (c) that in connection with an application for approval of the programme the applicant gave information on any matter which was false or misleading in a material respect;and if before the revocation any payment is made by way of grant under this section in respect of the programme, the appropriate Minister may recover the payment or so much thereof as he may think fit.
- (4) Subsection (4) of section 2 of this Act shall apply in relation to a revocation of approval under subsection (3) above as it applies in relation to a revocation of approval under subsection (3) of the said section 2.

5 Grants for co-operative markets

- (1) In section 1(2) of the Horticulture Act 1960 (which authorises the making of grants to persons carrying on horticultural producers' marketing businesses in respect of expenditure on specified facilities for the storage, preparation for market or transport of horticultural produce in the course of the business) there shall be inserted at the end the words " or for conducting a market for the sale of horticultural produce in the course of the business, being a market wholly or mainly for transactions by wholesale "
- (2) As respects grants in relation to the provision of facilities for conducting markets, references in the said section 1(2) as so amended to a horticultural producers' marketing business shall include references to a business which—
 - (a) is carried on by an association the members of which are persons carrying on horticultural producers' marketing businesses or consist of one or more such persons together with another person or other persons, and which answers the

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description set out in paragraph (a) or (b) of the definition of " co-operative association " contained in section 8(4) of the Horticulture Act 1960, and

- (b) consists of the marketing of horticultural produce produced in the course of horticultural production businesses by persons—
- (i) who are members of the association, or
 - (ii) who are members of a co-operative association (within the meaning of the said section 8(4)) which is itself a member of the association, or
 - (iii) where the Land Settlement Association Limited is a member of the association, who are occupiers of land under the management of that Association;

and shall also include references to so much of a larger business so carried on as consists of the marketing of horticultural produce so produced.

6 Supply of produce to co-operative marketing businesses

- (1) A grant under section 4 of this Act or section 1(2) of the Horticulture Act 1960 (as amended by section 5 of this Act) shall not be made to an association whose business comprises the marketing of horticultural produce grown by its members unless the appropriate Minister is satisfied that the constitution of the association contains provision designed to secure that a sufficient proportion of the horticultural produce grown by a member is made available by him for marketing by the, association.
- (2) Subsection (1) above shall not apply to a grant under the said section 1(2) where application was made for the grant before the commencement of this Act.

7 Aggregate amount of grants, and time for application therefor

- (1) The aggregate amount of the grants under the provisions of sections 1 and 4 of the Horticulture Act 1960 and sections 2 to 5 above shall not exceed twenty-four million pounds or, if the Minister and the Secretary of State acting jointly (in this Act referred to as " the Ministers ") by order made with the approval of the Treasury so direct, twenty-seven million pounds.
- (2) No grant shall be payable under any of the said provisions unless the application therefor was made, or, in the case of a grant in respect of the carrying out of an approved programme, the programme was submitted to the appropriate Minister for his approval, before the expiration of ten years from the commencement of this Act.
- (3) Section 5 of the Horticulture Act 1960 (which restricts the aggregate amount of grants under the said sections 1 and 4 and imposes time limits on applications) is hereby repealed.

8 Construction of sections 2 to 6

Sections 2 to 7 above shall be construed as one with Part I of the Horticulture Act 1960.

Other grants

9 Grants towards fulfilling guarantees of bank loans

- (1) The Minister may, in such manner and subject to such conditions as he may with the approval of the Treasury determine, make a grant to any person in respect of

expenditure incurred by that person in fulfilling a guarantee given by him, during the period of five years beginning on 1st April 1964, as security for a loan made in the course of a banking business to a person requiring the loan for the purposes of a horticulture business carried on by him.

- (2) The aggregate of sums paid by way of grant under this section in a year shall be subject to a limit of one hundred thousand pounds increased, where the aggregate of sums so paid in the last preceding year fell short of the limit for that year, by the amount of the difference or two hundred thousand pounds, whichever is the less.
- (3) The Minister may from time to time, by order made by statutory instrument with the approval of the Treasury, extend or further extend the period mentioned in subsection (1) above by such additional period, not exceeding five years, as may be specified in the order; but an order under this subsection shall be of no effect unless approved by resolution of the Commons House of Parliament.
- (4) In this section—
 - " horticulture business " means either—
 - (a) a horticultural production business as defined by section 8(2) of the Horticulture Act 1960, or
 - (b) a horticultural producers' marketing business as defined by section 8(3) and (4) of that Act, but in the application of the said section 8(4) for the purposes of this definition " the appropriate Minister " shall in all cases mean the Minister;
 - " year " means a period of twelve months beginning on 1st April.

10 Grants for wholesale markets of national importance

- (1) The appropriate Minister may, with the approval of the Treasury and in such manner and subject to such conditions as he may with that approval determine, make a grant of an amount not exceeding one-third of the amount of expenditure reasonably incurred by any person in, or in connection with, the provision, reconstruction or extension of a market for the sale of horticultural produce by wholesale, being a market which, having regard to the volume of business transacted or expected to be transacted therein, appears to the Ministers to be, or to be likely to become, of major importance in the national system of distribution of horticultural produce.
- (2) As respects the making in relation to a market of a grant to a local authority under this section—
 - (a) where expenditure in, or in connection with, the provision, reconstruction or extension of the market is reasonably incurred by the authority in the execution of works on land neither purchased by the authority (whether compulsorily or by agreement) for the purpose of the market nor previously used by the authority for that purpose, the authority shall be treated as having incurred in the acquisition of the land for that purpose expenditure equal to an amount calculated as follows, that is to say—
 - (i) where the land was appropriated by the authority for the purpose of the market, the amount shall be equal to such amount as, on the adjustment of the accounts of the authority following the appropriation, was treated as being the then value of the land, or
 - (ii) where the land became vested in the authority under any enactment as the direct or indirect successor to another local authority by whom the land was purchased (whether compulsorily or by agreement) for

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the purpose of the market or was appropriated for that purpose, the amount shall be equal to the expenditure incurred by that authority in carrying out the purchase or, as the case may be, to such amount as, on the adjustment of the accounts of that authority following the appropriation, was treated as being the then value of the land;

- (b) a condition imposed under subsection (1) above may require the local authority to establish a reserve fund for the market, to pay into the fund such receipts from the market as may be specified by the condition, and to administer the fund in such manner, and apply it towards meeting such expenditure, as may be so specified ; and notwithstanding any enactment the authority shall have power to comply with the condition.
- (3) For the purposes of this section, expenditure in relation to a market which in part is used or intended to be used for or in connection with transactions other than the sale" by wholesale of horticultural produce shall be treated as reduced by an amount equal to so much thereof as is referable to that use or intended use.
- (4) No payment by way of grant under this section shall be made after the end of the period of ten years beginning with the commencement of this Act except in relation to a market the provision, reconstruction or extension of which is completed before the end of that period in accordance with any conditions imposed by the appropriate Minister in making the grant; and where before the end of that period any such payment is made in relation to a market the provision, reconstruction or extension of which is not so completed, that Minister may recover the payment or so much thereof as he may think fit.
- (5) The aggregate amount of grants under this section shall not exceed twenty million pounds.
- (6) The Ministers may by order made by statutory instrument with the approval of the Treasury—
- (a) extend the period mentioned in subsection (4) above by not more than two years ;
 - (b) increase the aggregate amount mentioned in subsection (5) above by not more than five million pounds;
- but an order under this subsection shall be of no effect unless approved by resolution of the Commons House of Parliament.

(7) In this section—

" the appropriate Minister " means the Minister in relation to a market in England or Wales or Northern Ireland and the Secretary of State in relation to a market in Scotland;

" horticultural produce " means—

- (a) fresh fruit, dried fruit, frozen fruit and fruit preserved in airtight containers ;
- (b) fresh vegetables, dried vegetables, frozen vegetables and vegetables preserved in airtight containers;
- (c) fresh herbs and dried herbs ;
- (d) fresh edible fungi, dried edible fungi and edible fungi preserved in airtight containers;
- (e) nuts;
- (f) cut flowers;

- (g) dried flowers;
- (h) decorative foliage;
- (i) Christmas trees;
- (j) pot plants, bedding plants and herbaceous plants;
- (k) shrubs and flowering trees;
- (l) fruit trees, fruit bushes and fruit plants; and
- (m) seeds, bulbs, corms, tubers and seed potatoes.

PART III

GRADING AND TRANSPORT OF FRESH HORTICULTURAL PRODUCE

Grading of produce

11 Power to prescribe grades

- (1) The Ministers may in relation to any description of fresh horticultural produce by regulations designate and define grades of quality, and prescribe for each grade the form of a label for indicating that produce in connection with which the label is used falls within that grade.
- (2) Regulations under subsection (1) above may provide that a label recognised under the law of any country outside Great Britain as indicating that produce in connection with which it is used is of a quality not inferior to that required for a grade prescribed under that subsection shall be treated for the purposes of this Part of this Act as if it were in the form so prescribed for that grade.

12 Duties as to grading of produce

- (1) Except in such circumstances as are mentioned in subsection (2) below, a person shall not sell any fresh horticultural produce of a description in relation to which grades of quality are designated and defined under section 11(1) above (in this Part of this Act referred to as "regulated produce") unless the produce falls within a prescribed grade and is packed in a container to which is affixed a label in the form prescribed for that or any lower grade or, if not packed in a container, has affixed to it such a label.
- (2) The circumstances referred to in subsection (1) above are as follows:—
 - (a) a sale of the produce by retail;
 - (b) a sale where the produce is to be (transported to a country outside the United Kingdom by, or to the order of, the buyer;
 - (c) a sale where the produce is to be used by the buyer in manufacturing or producing any commodity for sale or other disposal by him ;
 - (d) a direct sale by the producer of any produce to a person who undertakes—
 - (i) that before any sale by him of any of the produce, not being a sale such as is mentioned in paragraph (b) or (c) above, the produce will be sorted into the prescribed grades and produce the quality of which is inferior to that required for the lowest prescribed grade will be separated from other produce, and

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- (ii) that on any sale by him of any of the produce falling within a prescribed grade, not being a sale such as is mentioned in paragraph (b) or (c) above, the produce will be packed in a container to which is affixed a label in the form prescribed for that or any lower grade or, if not packed in a container, will have affixed to it such a label; or
 - (e) a direct sale by the producer of any produce where the produce is, or is to be, delivered at premises, or at any stall or vehicle, from which it is to be sold by retail.
- (3) The Ministers may if they think fit by order provide that subsection (2) above shall have effect, in relation to such sales as are described in the order, as if paragraph (e) were omitted ; and an order made under this subsection may be varied or revoked by a subsequent order made by the Ministers.
- (4) In this section " direct sale " means a sale where negotiations on behalf of the vendor are not conducted by any agent other than a person employed by him under a contract of service.

13 Powers as to entry of premises and regrading of produce

- (1) A person authorised in that behalf either by the Minister or the Secretary of State (in this Part of this Act referred to as an " authorised officer"), on producing, if so required, a duly authenticated document showing his authority, shall have a right—
- (a) to enter, at any reasonable time, any premises (other than a building used only as a private dwelling-house) which he has reasonable cause to believe to be premises where regulated produce is grown for sale, graded or packed, or on which regulated produce intended for sale otherwise than by retail is to be found, and
 - (b) to inspect and take samples of any regulated produce found on the premises and to seize and detain any label (together with any container to which the label is affixed) used in connection with such produce.
- (2) Where, on premises which he has a right to enter under the foregoing subsection, an authorised officer finds any regulated produce—
- (a) which has affixed to it a label in the form prescribed for any prescribed grade or is in a container to which such a label is affixed, but
 - (b) which he has reasonable cause to believe to be of a quality inferior to the quality required for that grade,
- he may, in such manner as may be prescribed by regulations made by the Ministers, cancel that label and affix to the produce or, as the case may be, the container a label, in such form as may be so prescribed, indicating what appears to him to be the correct grade or, where it appears to him that the quality of the produce is inferior to that required for the lowest prescribed grade, indicating that fact.
- (3) If a justice of the peace, on sworn information in writing, is satisfied—
- (a) that an authorised officer has been refused admission to any premises which he has a right to enter under subsection (1) above, or that such a refusal is apprehended, and that notice of the intention to apply for a warrant has been given to the occupier; or

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- (b) that an application for admission to the premises, or the giving of such a notice, would defeat the object of the entry, or that the premises are unoccupied or the occupier temporarily absent;

the justice may by warrant under his hand, which shall continue in force for a period of one month, give authority to an authorised officer to enter the premises by force if need be.

In the application of this subsection to Scotland, the expression " a justice of the peace " shall be construed as including the sheriff and, in relation to premises in a burgh, a magistrate of the burgh.

- (4) An authorised officer entering any premises by virtue of this section may take with him such other persons and such "equipment as may appear to him necessary.
- (5) On leaving any premises which he has entered by virtue of this section, being premises which are unoccupied or the occupier of which is temporarily absent, an authorised officer shall leave them as effectively secured against unauthorised entry as he found them.
- (6) If any authorised officer or other person who enters any work-place by virtue of this section discloses to any person any information obtained by him in the work-place with regard to any manufacturing process or trade secret, he shall, unless the disclosure was made in the performance of his duty, be guilty of an offence.
- (7) The foregoing provisions of this section shall apply in relation to a stall or vehicle as they apply in relation to premises, but nothing in this section shall authorise a person to stop any vehicle on a highway.

14 Offences in connection with grading

- (1) A person shall be guilty of an offence if he sells any regulated produce in contravention of section 12 above or, with intent to sell any such produce in circumstances such that the sale would contravene that section, he—
- (a) offers or exposes the produce for sale, or
 - (b) not being the producer thereof, has the produce in his possession for sale, or
 - (c) being the producer thereof, consigns the produce for sale.
- (2) A person shall be guilty of an offence if, on behalf of the owner of any regulated produce,—
- (a) he carries out a sale of the produce in circumstances such that the sale contravenes section 12 above, or
 - (b) with intent to carry out a sale of the produce in such circumstances, he offers or exposes it for sale or has it in his possession for sale.
- (3) A person shall be guilty of an offence if, having given an undertaking such as is mentioned in section 12(2)(d) of this Act, he fails to comply with the undertaking.
- (4) A person shall be guilty of an offence if—
- (a) he wilfully represents, whether by affixing an incorrect label to the container of any regulated produce or in any other manner, that regulated produce the quality of which is inferior to that required for a prescribed grade falls within that grade, or
 - (b) without lawful authority he affixes to the container of any regulated produce, or to the produce itself, a label in a form prescribed for the purposes of

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- section 13(2) above or for the purposes of any corresponding provision of an enactment of the Parliament of Northern Ireland for the time being in force, or
- (c) where under the said section 13(2) or any such corresponding provision a label has been affixed to the container of any regulated produce, or to the produce itself, he, with intent to deceive, removes, alters, defaces or conceals the label.

15 Obstruction

- (1) A person shall be guilty of an offence if—
- (a) he wilfully obstructs an authorised officer acting in the execution of this Part of this Act; or
- (b) without reasonable cause he fails to give to any authorised officer acting as aforesaid any assistance or information which the authorised officer may reasonably require of him for the purposes of the performance by the authorised officer of his functions under this Part of this Act.
- (2) A person shall be guilty of an offence if, in giving to an authorised officer any such information as is mentioned in the foregoing subsection, he gives any information which he knows to be false.
- (3) Nothing in this section shall be construed as requiring a person to answer any question or give any information if to do so might incriminate him.

16 Penalty for act or default leading to commission of offence by another,

Where the commission by any person of an offence under section 14(1), (2) or (3) above was due to an act or default of another person occurring in Great Britain, then, whether proceedings are taken against the first-mentioned person or not, that other person may be charged with and convicted of the offence, and shall on conviction be liable to the same punishment as that to which the first-mentioned person is, on conviction, liable.

17 Pleading of warranty as defence

- (1) Subject to the provisions of this section, where in proceedings for an offence in relation to any produce under section 14(1) or (2) above it would have been a defence for the person charged to prove that the produce conformed to a prescribed grade, it shall be a defence for him to prove—
- (a) that he bought or took delivery of the produce as being of a quality falling within that grade, and with a written warranty to that effect; and
- (b) that at the time of the commission of the offence he had no reason to believe the statement contained in the warranty to be inaccurate, that he then did believe in its accuracy and that he had taken such steps (if any) as were reasonably practicable to check its accuracy; and
- (c) that he took all reasonable steps to ensure that the quality of the produce was the same at the time of the commission of the offence as when it left the possession of the person by whom the warranty was given.
- (2) Where the proceedings are in respect of an offence committed by the person charged in the course of his employment, it shall be a defence for him to prove—
- (a) that if his employer had been charged the employer would have had a defence under subsection (1) above in respect of a warranty, and

- (b) that at the time of the commission of the offence the person charged had no reason to believe the statement contained in the warranty to be inaccurate.
- (3) Where the person charged intends to set up a defence under this section he shall, not later than three days before the date of the hearing,—
 - (a) send to the prosecutor a copy of the warranty with a notice stating that he intends to rely on it and specifying the name and address of the person by whom it is alleged to have been given, and
 - (b) send to the last-mentioned person a notice giving the date and place of the hearing and stating that he intends to rely on the warranty.
- (4) The person by whom the warranty is alleged to have been given shall be entitled to appear at the hearing and give evidence.
- (5) If the person charged in any such proceedings as aforesaid wilfully attributes to any produce a warranty given in relation to any goods not including that produce, he shall be guilty of an offence.
- (6) For the purposes of this section a grade designation entered in an invoice relating to any produce or indicated by a label affixed to the produce or the container thereof shall be deemed to be a written warranty that the produce conforms to the grade indicated by that designation.

18 Pleading of mistake, act of third party, etc. as defence

In proceedings for an offence in respect of any produce under section 14(1), (2) or (3) above it shall be a defence for the person charged to prove—

- (a) that the commission of the offence was due to the act or default of some other person, or to a mistake, 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 in respect of that produce by himself or any person under his control.

19 Offences by corporations

- (1) Where an offence under any of the foregoing provisions of this Part of this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (2) In the foregoing subsection, "director", in relation to any board established under the Agricultural Marketing Act 1958 or any body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by the members thereof, means a member of that board or body corporate.

20 Punishment of offences

- (1) A person guilty of an offence under section 15(1) of this Act shall be liable on summary conviction to a fine not exceeding twenty pounds.
- (2) A person guilty of an offence under any of the foregoing provisions of this Part of this Act other than section 15(1) shall be liable on summary conviction to a fine not exceeding one hundred pounds (or, in the case of a second or any subsequent offence under the same provision, two hundred and fifty pounds), or to imprisonment for a term not exceeding three months, or to both.
- (3) Proceedings in England or Wales for an offence under any of the foregoing provisions of this Part of this Act may be instituted only by or with the consent of the Minister or with the consent of the Attorney General.

Transport of produce

21 Power to require use of prescribed containers, etc.

- (1) With a view to reducing the risk of deterioration of or damage to produce while in transit or promoting efficiency in the transport and handling of produce, the Ministers may make regulations imposing a duty on any person carrying on a horticultural production business to secure that such containers, pallets and other articles as may be prescribed by the regulations are used for the transport of fresh horticultural produce from premises where that business is carried on to any such market or other premises as may be so prescribed.
- (2) Regulations under this section may confer powers of entry, inspection and sampling, may provide for the punishment of offences against the regulations and may contain such other provisions as the Ministers consider expedient for the purposes of the regulations:

Provided that—

- (a) the regulations shall not confer power to enter any building used only as a private dwelling-house or to stop any vehicle on a highway, and in relation to any power of entry conferred thereby shall include provisions to the like effect as section 13(5) and (6) of this Act; and
 - (b) the penalty for an offence under the regulations shall be limited to a fine not exceeding fifty pounds or, in the case of a second or subsequent offence thereunder, not exceeding one hundred pounds.
- (3) In this section " horticultural production business " has the same meaning as in Part I of the Horticulture Act 1960.

Miscellaneous

22 Miscellaneous amendments

- (1) The Agricultural Produce (Grading and Marking) Acts 1928 and 1931 shall cease to apply to fresh horticultural produce.
- (2) Neither a label in a form prescribed under this Part of this Act, or under corresponding provisions of any enactment of the Parliament of Northern Ireland for the time

being in force, nor a grade designation so prescribed shall for the purposes of the Merchandise Marks Acts 1887 to 1953 or any enactment for the time being amending or supplementing those Acts be treated, when applied to any fresh horticultural produce, as a trade description within the meaning of section 2 of the Merchandise Marks Act 1887.

- (3) Notwithstanding anything in section 7 of the Agricultural Marketing Act 1958, a scheme under that Act shall not empower the board administering the scheme—
- (a) to grade, or regulate the grading or marking of, any produce to which regulations under section 11(1) of this Act apply, or
 - (b) to pack or transport, or regulate the packing or transporting of, any produce to which regulations under section 21 of this Act apply,
- otherwise than in conformity with the regulations under the said section 11(1) or 21, as the case may be.

In relation to the doing of any act in Northern Ireland, references in the foregoing provisions of this subsection to section 11(1) or 21 of this Act shall be construed as references to the corresponding provisions of any enactment of the Parliament of Northern Ireland for the time being in force.

23 Regulations and orders

- (1) Before the making of any regulations or order under this Part of this Act the Minister or the Secretary of State shall consult with such organisations as appear to either of them to be representative of interests affected by the regulations or order.
- (2) Any power conferred by this Part of this Act to make regulations or orders shall be exercisable by statutory instrument, and a statutory instrument containing regulations or an order so made shall be subject to annulment in pursuance of a resolution of either House of Parliament.

24 Interpretation of Part III

In this Part of this Act—

" authorised officer " has the meaning assigned to it by section 13(1) of this Act;

" container " includes any basket, pail, tray, package or receptacle of any kind, whether open or closed;

" fresh horticultural produce " means—

- (a) fruit, vegetables, herbs, nuts and edible fungi, whether freshly-gathered or stored or taken from store, but not including maincrop potatoes or hops or any dried, frozen, bottled, canned or preserved produce;
- (b) cut flowers and decorative foliage ;
- (c) pot plants, bedding plants and herbaceous plants; .
- (d) shrubs and flowering trees ;
- (e) fruit trees, fruit bushes and fruit plants; and
- (f) bulbs, corms and tubers;

" label " includes any device for conveying information by written characters or other symbols, and any characters or symbols stamped or otherwise placed directly on to any produce or container, and references to the affixing of a label shall be construed accordingly ;

Status: This is the original version (as it was originally enacted).

" prescribed grade ", in relation to regulated produce of any description, means a grade of quality designated and defined in relation to produce of that description under section 11(1) of this Act;

" regulated produce " has the meaning assigned to it by section 12(1) of this Act.

PART IV

SUPPLEMENTAL

25 Expenses and receipts

- (1) There shall be defrayed out of moneys provided by Parliament—
 - (a) any expenses incurred by the Minister on account of any allowance or relief granted under section 1 of this Act;
 - (b) any payments made by way of grant under Part II of this Act, and any increase attributable to that Part in the expenses incurred by the Minister or the Secretary of State under Part I of the Horticulture Act 1960 ;
 - (c) the administrative expenses of the Minister and the Secretary of State under this Act.
- (2) There shall be paid into the Exchequer—
 - (a) any fees or charges received by a Minister under section 1 of this Act;
 - (b) any sums recovered by the Minister or the Secretary of State under section 2(3), 4(3) or 10(4) of this Act.

26 Short title, interpretation and extent

- (1) This Act may be cited as the Agriculture and Horticulture Act 1964.
- (2) In this Act—
 - " the Minister " means the Minister of Agriculture, Fisheries and Food;
 - " the Ministers " means the Minister and the Secretary of State acting jointly.
- (3) The provisions of Part III of this Act (other than section 22(2) and (3)) shall not extend to Northern Ireland, but notwithstanding anything in the Government of Ireland Act 1920 the Parliament of Northern Ireland shall have power to make laws for purposes similar to the purposes of any of those provisions.