

**Agriculture (Poisonous Substances) Act, 1952 : 15 & 16 Geo. 6 & 1 Eliz. 2.
Ch. 60.**

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Agriculture (Poisonous Substances) Act, 1952

15 & 16 GEO. 6 & 1 ELIZ. 2 CH. 60

ARRANGEMENT OF SECTIONS

Section

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CHAPTER 60

An Act to provide for the protection of employees against risks of poisoning by certain substances used in agriculture. [30th October 1952.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) Provision shall be made by regulations under this Act Protection of employees against risks of poisoning. for the purpose of protecting workers against risks of poisoning by substances to which this Act applies arising from their working—

- (a) in connection with the use in agriculture of such substances, or
- (b) on land on which such substances are being or have been used in agriculture.

(2) Regulations under this Act (which may be either regulations applying to Great Britain and made by the Minister of Agriculture and Fisheries and the Secretary of State jointly, or applying to England and Wales only and made by the said Minister, or applying to Scotland only and made by the Secretary of State) may make any such provision for the purpose mentioned in the preceding subsection as appears to them or him to be reasonably practicable and to meet the necessity of the case, and may impose obligations on employers of workers employed to work as mentioned in the preceding subsection, on such workers themselves, and on others.

(3) Without prejudice to the generality of the last preceding subsection, regulations under this Act may provide for—

- (a) imposing restrictions or conditions as to the purposes for which, the circumstances in which, or the methods or



means by which, a substance may be used (including, in the case of a substance as to which it appears to the authority making the regulations necessary so to provide, restrictions or conditions involving a general prevention of the use thereof in agriculture);

- (b) requiring the provision, and keeping available and in good order, of protective clothing and equipment, of facilities for washing and cleaning, and of other things needed for protecting persons, clothing, equipment and appliances from contamination or for removing sources of contamination therefrom;
- (c) requiring the observance of precautions against poisoning, including the use of things provided in pursuance of the regulations, and including abstention from eating, drinking and smoking in circumstances involving risk of poisoning;
- (d) securing intervals between, or limitation of, periods of exposure to risk of poisoning;
- (e) requiring the observance of special precautions in the case of persons who, by reason of their state of health, age or other circumstances, are subject to particular risk of poisoning or of injury therefrom, or imposing in the case of persons so subject prohibitions (whether temporary or permanent), or restrictions, on employment for working as mentioned in subsection (1) of this section;
- (f) measures for detecting and investigating cases in which poisoning has occurred, and cases falling within the preceding paragraph, including medical examinations, making of blood tests, and notification of absences from work in circumstances involving suspicion of poisoning;
- (g) requiring the provision, and keeping available and in good order, and the use, of facilities for preventive and first aid treatment;
- (h) requiring the provision of, and submission to, instruction and training in the use of things provided in pursuance of the regulations and in the observance of precautions;
- (i) the keeping and inspection of records and the furnishing of returns and information.

(4) Regulations under this Act may make different provision to meet different circumstances and, in particular, differences in the composition of the substances dealt with and in their effect under different conditions of use and on different classes of persons.

(5) Regulations under this Act may provide for empowering an inspector appointed under this Act to exempt particular cases or particular persons from the operation of provisions of the regulations.

(6) When the Minister of Agriculture and Fisheries and the Secretary of State, or either of them, propose or proposes to make regulations under this Act, they or he shall before making the regulations consult with such organisations as appear to them or him to represent the interests concerned.

(7) The power of making regulations under this Act shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

2.—(1) No worker employed to work as mentioned in sub-section (1) of section one of this Act shall— Duties of employees.

(a) wilfully interfere with or misuse any appliance, clothing, equipment, facilities or other thing provided in pursuance of regulations under this Act; or

(b) wilfully and without reasonable cause do anything likely to cause risk of poisoning, by a substance to which this Act applies, to himself or others.

(2) Nothing in this section shall be taken as limiting the power conferred by section one of this Act to make by regulations any such provision as is therein mentioned, including further provision as to matters which are the subject of this section.

3.—(1) The appropriate Minister may, with the approval of the Treasury as to numbers and salaries appoint such inspectors as he thinks necessary for the execution of this Act. Appointment of inspectors and their powers.

(2) An inspector appointed under this Act, for the purpose of the execution of this Act or of regulations thereunder and on producing, if so required, some duly authenticated document showing his appointment, may enter at all reasonable hours any land or premises—

(a) on which a substance to which this Act applies is being, or has recently been or is about to be, used in agriculture, or

(b) which is or are being used, or has or have recently been or is or are about to be, used for a purpose connected with the use in agriculture of a substance to which this Act applies, or

(c) on which things required by regulations under this Act to be provided or done are provided or done,

or which he has reasonable cause to believe to be land or premises falling within any of the preceding paragraphs:

Provided that admission shall not be demanded under this subsection to a dwelling house, other than one in which there are, or are reasonably believed by the inspector to be, washing

facilities or other things provided for persons not living in the house for whom such things are required by regulations under this Act to be provided, unless twenty-four hours' notice of the intended entry has been given to the occupier of the house.

(3) An inspector appointed under this Act shall have power to do all or any of the following things for the purpose of the execution of this Act or of regulations thereunder, that is to say—

- (a) to require the production of, and to inspect, examine and copy, registers, records or other documents kept in pursuance of regulations under this Act;
- (b) to make such examinations and inquiries as may be necessary to ascertain whether the provisions of this Act and of regulations thereunder are complied with;
- (c) to require any person whom he finds on such land or premises as are mentioned in subsection (2) of this section to give such information as it is in his power to give as to who is the occupier thereof or the employer of workers employed to work thereon;
- (d) to examine, either alone or in the presence of any other person, as the inspector thinks fit, with respect to the observance of provisions of this Act or of regulations thereunder, any person whom he finds on such land or premises as are mentioned in subsection (2) of this section or whom he has reasonable cause to believe to be, or to have been within the preceding two months, employed to work thereon, and to require any such person to be so examined and to sign a declaration of the truth of the matters respecting which he is so examined; so, however, that no one shall be required under this provision to answer any question or to give any evidence, tending to criminate himself;
- (e) in the case of an inspector who is a duly qualified medical practitioner, to carry out medical examinations;
- (f) to exercise such other powers as may be necessary for carrying this Act and regulations thereunder into effect.

(4) A person shall be deemed to obstruct an inspector in the execution of his powers under this Act if he wilfully delays an inspector in the exercise of any power under this section, or fails to comply with any requirement of an inspector made in pursuance of this section, or conceals or prevents, or attempts to conceal or prevent, a person from appearing before or being examined by an inspector under this section.

Offences and
punishment
therefor.

4.—(1) If a person—

- (a) contravenes any provision of regulations under this Act;
- (b) contravenes any provision of section two of this Act;
- (c) obstructs an inspector appointed under this Act in the execution of his powers or duties under this Act or regulations thereunder; or

- (d) wilfully makes a false entry in a register, record, return or other document kept or furnished in pursuance of regulations under this Act, or wilfully makes use of such a false entry, or wilfully makes or signs as being a declaration required by an inspector in pursuance of this Act a declaration which is false;

he shall be guilty of an offence against this Act.

(2) A person guilty of an offence against this Act shall be liable on summary conviction to a fine not exceeding fifty pounds, and, if a contravention of a provision of this Act or of regulations thereunder in respect of which a person has been convicted is continued by him after his conviction, he shall be guilty of a further offence and liable in respect thereof to a fine not exceeding ten pounds for each day on which the contravention is so continued.

(3) Where a contravention of a provision of regulations under this Act consists in a failure to do anything at or within a time specified in the regulations, and the regulations provide that this subsection shall apply to a failure so to do it, the contravention shall be deemed to continue until that thing is done.

(4) Where an offence against 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 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.

In this subsection, the expression "director", in relation to any body corporate which is established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking and whose affairs are managed by the members thereof, means a member of that body.

5.—(1) A person against whom proceedings are brought under this Act shall, upon information duly laid by him and on giving to the prosecution not less than three clear days' notice of his intention, be entitled to have brought before the court in the proceedings any person to whose act or default he alleges that the contravention of the provision in question was due, and, if after the contravention has been proved the original defendant proves that the contravention was due to the act or default of that other person, that other person may be convicted of the offence, and, if the original defendant further proves—

Defence available in certain circumstances to person charged where some other person is responsible.

- (a) that he has used all due diligence to secure that the provision in question was complied with, and

(b) that the said other person's act or default was without his consent, connivance or wilful default, he shall be acquitted of the offence.

(2) Where a defendant seeks to avail himself of the preceding subsection—

(a) the prosecution, as well as the person whom the defendant charges with the offence, shall have the right to cross-examine the defendant, if he gives evidence, and any witness called by him in support of his pleas, and to call rebutting evidence;

(b) the court may make such order as it thinks fit for the payment of costs by any party to the proceedings to any other party thereto.

(3) Where it appears to the appropriate Minister that an offence has been committed in respect of which proceedings might be taken under this Act against some person and the said Minister is reasonably satisfied that the offence of which the complaint is made was due to an act or default of some other person and that the first-mentioned person could establish a defence under subsection (1) of this section, he may cause proceedings to be taken against that other person without first causing proceedings to be taken against the first-mentioned person.

In any such proceedings the defendant may be charged with, and, on proof that the contravention was due to his act or default, be convicted of, the offence with which the first-mentioned person might have been charged.

Provisions as
to samples.

6.—(1) An inspector appointed under this Act may take for analysis a sample of any substance or thing which in his opinion may be or contain a substance to which this Act applies, and which he finds on, or has reasonable cause to believe to be in transit to or from, such land or premises as are mentioned in subsection (2) of section three of this Act.

(2) An inspector taking a sample under the preceding subsection with the intention of having it analysed shall, if practicable, forthwith after taking it give information of his intention to the employer of any person then working as mentioned in subsection (1) of section one of this Act on the land or premises in question, and shall then and there divide the sample into parts, each part to be marked, and sealed or fastened up, in such manner as its nature will permit, and shall—

(a) if required so to do by an employer so informed, deliver one part to him;

(b) retain one part for future comparison; and

(c) if the inspector thinks fit to have an analysis made, submit one part to an analyst approved by the appropriate Minister for the purposes of this Act.

(3) Where it is not practicable for the inspector to give information of his intention as mentioned in the last preceding subsection to an employer, the inspector shall, if he intends to have the sample analysed and if he can ascertain the name and address of the employer, forward one part of the sample to him by registered post or otherwise, together with a notice informing him that he intends to have the sample analysed.

(4) A document purporting to be a certificate by an analyst approved by the appropriate Minister for the purposes of this Act as to the result of an analysis of a sample shall in proceedings under this Act be admissible as evidence of the matters stated therein, but either party may require the person by whom the analysis was made to be called as a witness.

(5) In any proceedings under this Act in which the prosecutor intends to rely on evidence relating to a sample taken under this section, the summons shall not be made returnable less than fourteen days from the day on which it is served, and a copy of any certificate of analysis obtained on behalf of the prosecutor shall be served with the summons.

(6) In any proceedings under this Act in which the prosecutor relies on evidence relating to a sample taken under this section, the part of the sample retained by the inspector for future comparison shall be produced at the hearing.

(7) 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 produced before the court under the last preceding subsection to be sent to the Government Chemist who shall make an analysis, and transmit to the court a certificate of the result thereof, and the cost of the analysis shall be paid by the prosecutor or the defendant as the court may order.

If, in a case where an appeal is brought, no action has been taken under the preceding provisions of this subsection, those provisions shall apply also in relation to the court by which the appeal is heard.

7. This Act and regulations thereunder shall bind the Crown, Application but regulations under this Act may provide for modifications or to the Crown. exceptions in the application of this Act or such regulations to, or in relation to, the Crown.

8. Any expenses incurred by the Minister of Agriculture and Expenses. Fisheries or the Secretary of State in carrying out this Act shall be paid out of moneys provided by Parliament.

9.—(1) The substances to which this Act applies are—

- (a) dinitro-phenols and their salts;
- (b) dinitro-substituted phenols and their salts;

Substances
to which this
Act applies.

- (c) organo-phosphorus compounds;
- (d) preparations or mixtures containing any of the substances mentioned in the preceding paragraphs;
- (e) substances to which this Act for the time being applies by virtue of an exercise of powers conferred by the succeeding provisions of this section.

(2) If the Minister of Agriculture and Fisheries and the Secretary of State are satisfied as to a substance not being one to which this Act for the time being applies that its use in agriculture involves, or that if used in agriculture its use therein would be likely to involve, substantial risk of poisoning to workers employed to work as mentioned in subsection (1) of section one of this Act, the said Minister and the Secretary of State may by order direct that this Act shall apply to that substance.

(3) An order under this section may be varied or revoked by a subsequent order made by the said Minister and the Secretary of State.

(4) The power of making orders under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Interpretation. 10.—(1) In this Act the following expressions have the meanings hereby assigned to them respectively, that is to say—

“agriculture” includes dairy-farming, the production of any consumable produce which is grown for sale or for consumption or other use for the purposes of a trade or business or of any other undertaking (whether carried on for profit or not), and the use of land as grazing, meadow or pasture land or orchard or osier land or woodland or for market gardens or nursery grounds;

“consumable produce” means produce grown for consumption or for other use after severance from the land on which it is grown;

“the appropriate Minister” means, for the purposes of the application of this Act to England and Wales, the Minister of Agriculture and Fisheries, and, for the purposes of the application thereof to Scotland, the Secretary of State;

“worker” means a person employed under a contract of service or apprenticeship, and “employer” and “employed” have corresponding meanings.

(2) Any reference in this Act to a contravention of any provision shall include a reference to a failure to comply with that provision.

11.—(1) The provisions of this section shall have effect for the purposes of the application of this Act to Scotland. Application to Scotland.

(2) Nothing in section three shall be construed as authorising an inspector to institute proceedings in any court in Scotland for an offence against this Act.

(3) Section five shall not apply, but—

(a) where a contravention of any provision of this Act or of regulations thereunder for which any person on conviction would be liable to a penalty under this Act was due to an act or default of any other person, then, whether proceedings are or are not taken against the first-mentioned person, that other person may be charged with and convicted of the contravention and shall be liable on conviction to the same punishment as might have been inflicted on the first-mentioned person if he had been convicted of the contravention; and

(b) where a person who is charged with a contravention of any provision of this Act or of regulations thereunder proves to the satisfaction of the court that he has used all due diligence to secure that the provision in question was complied with, he shall be acquitted of the contravention.

(4) For the purposes of any proceedings under this Act a certificate which is admitted as evidence under subsection (4) of section six shall be sufficient evidence of the matters stated therein unless a party requires the person by whom the analysis in question was made to be called as a witness, and in the latter event any evidence given by that person as to the result of the analysis shall be sufficient evidence of that result.

(5) In the application of section six the expression “defendant” means accused; the expression “hearing” means trial; any reference to a summons shall be construed as a reference to a complaint; and for references to the day on which a summons is served and to the day on which it is returnable there shall be substituted respectively references to the day on which a complaint is served and to the day on which the prosecution thereon proceeds to trial.

12.—(1) This Act may be cited as the Agriculture (*Poisonous Substances*) Act, 1952. Short title and extent.

(2) This Act shall not extend to Northern Ireland.

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