

ELIZABETH II



Horticultural Produce Act 1986

1986 CHAPTER 20

An Act to confer on authorised officers (within the meaning of Part III of the Agriculture and Horticulture Act 1964) powers in relation to the movement of horticultural produce; and for purposes connected therewith.

[26th June 1986]

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) Where an authorised officer inspects any produce which he is entitled to inspect under section 13 of the Act of 1964, he may prohibit its movement if he is satisfied that a grading offence is being committed in respect of it. Power to control the movement of produce.

(2) An officer who exercises the power conferred by subsection (1) above shall, without delay, give to the person who appears to him to be in charge of the produce concerned notice in writing—

- (a) specifying the produce in relation to which the power has been exercised; and
- (b) stating that the produce may not be moved without the written consent of an authorised officer.

(3) If the person to whom the officer gives the notice does not appear to him to be the owner of the produce or an agent or employee of the owner, the officer shall use his best endeavours to bring the contents of the notice to the attention of such a person as soon as practicable.

(4) An authorised officer may affix to any produce in relation to which the power conferred by subsection (1) above has been exercised, or to any container in which the produce is packed, labels warning of the exercise of the power.

Consents to the movement of controlled produce.

2.—(1) An authorised officer may, at any time, give written consent to the movement of controlled produce.

(2) An authorised officer shall, upon request, give written consent to the movement of controlled produce if—

(a) he is satisfied that no grading offence would be committed in respect of the produce if it were sold in circumstances in which grading rules apply; or

(b) he, or another authorised officer, has been given a written undertaking that the produce will be disposed of in a specified manner, he is satisfied that if the produce is disposed of in that manner no grading offence will be committed in respect of it and he has no reason to doubt that the terms of the undertaking will be met.

(3) An authorised officer shall, upon request, give written consent to the movement of controlled produce if—

(a) he, or another authorised officer, has been given a written undertaking to the effect that—

(i) the produce will be moved to a place approved by an authorised officer;

(ii) there will be taken there the steps required to ensure that the produce may be sold in circumstances in which grading rules apply without a grading offence being committed in respect of it; and

(iii) the produce will not be moved from that place without the written consent of an authorised officer; and

(b) he has no reason to doubt that the terms of the undertaking will be met.

(4) A consent given by an authorised officer under this section shall—

(a) specify the produce to which it relates; and

(b) where the consent is given under subsection (3) above, state that the produce continues to be controlled.

Power to change the circumstances in which consent must be given.

3.—(1) The Ministers may by order made by statutory instrument make such amendments of this Act as they think fit for the purpose of changing the circumstances in which an authorised officer is required to give written consent to the movement of produce.

(2) Before making such an order, the Ministers shall consult such organisations as appear to them to represent interests likely to be affected by the order.

(3) An order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(4) In this section “the Ministers” means the Minister of Agriculture, Fisheries and Food and the Secretary of State, acting jointly.

4.—(1) Any person who, knowing produce to be controlled, **Offences.** knowingly—

(a) moves it, or

(b) causes it to be moved,

without the written consent of an authorised officer shall be guilty of an offence.

(2) Any person who, knowing produce to be controlled, knowingly—

(a) removes from it, or

(b) causes to be removed from it,

a label which has been affixed under section 1(4) of this Act shall be guilty of an offence.

(3) Any person who fails to comply with an undertaking given by him for the purposes of section 2 of this Act shall be guilty of an offence.

(4) It shall be a defence—

(a) for a person charged with any offence under this section, to prove that, when the power conferred by section 1(1) of this Act was exercised, no grading offence was being committed in respect of the produce concerned;

(b) for a person charged with an offence under subsection (1) or (2) above, to prove that there was a reasonable excuse for the act or omission in respect of which he is charged; and

(c) for a person charged with an offence under subsection (3) above, to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(5) A person guilty of an offence under this section shall be liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

Extension of
the Act of
1964.

5. The following provisions of the Act of 1964 shall have effect as if the provisions of this Act were contained in Part III of that Act—

- (a) section 15 (which penalises the obstruction of an authorised officer acting under that Part);
- (b) section 19 (which applies in relation to the commission by corporations of offences under that Part); and
- (c) section 20(3) (which provides that proceedings in England and Wales for an offence under that Part may only be instituted with the consent of the Attorney General or, in England, the Minister of Agriculture, Fisheries and Food and, in Wales, the Secretary of State).

Interpretation.

1964 c. 28.

6. In this Act—

- “the Act of 1964” means the Agriculture and Horticulture Act 1964;
- “authorised officer” means a person who is an authorised officer for the purposes of Part III of the Act of 1964 (grading of fresh horticultural produce);
- “controlled”, in relation to produce, means that the power conferred by section 1(1) of this Act has been exercised in relation to it and that no consent to its movement has been given under section 2(1) or (2) of this Act;
- “grading offence” means an offence under section 14(1) or (2) of the Act of 1964;
- “grading rules” means the rules enforced under Part III of the Act of 1964.

Short title,
repeals,
commence-
ment and
extent.

7.—(1) This Act may be cited as the Horticultural Produce Act 1986.

(2) In sections 19 and 20(3) of the Act of 1964, the word “foregoing” shall be repealed.

(3) This Act shall come into force at the end of the period of two months beginning with the day on which it is passed.

(4) This Act does not extend to Northern Ireland.

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