

**§ 228. Authority of Secretary****(a) Rules, regulations, and expenditures; appropriations**

The Secretary may make such rules, regulations, and orders as may be necessary to carry out the provisions of this chapter and may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person; and shall have the power to appoint, remove, and fix the compensation of such officers and employees, not in conflict with existing law, and make such expenditures for rent outside the District of Columbia, printing, telegrams, telephones, law books, books of reference, periodicals, furniture, stationery, office equipment, travel, and other supplies and expenses as shall be necessary to the administration of this chapter in the District of Columbia and elsewhere, and as may be appropriated for by Congress, and there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for such purpose.

**(b) Deductions from proceeds for financing promotional, educational, and research activities**

Notwithstanding any other provision of law, the authority of the Secretary under this chapter shall not apply to deductions made from sales proceeds for the purpose of financing promotion and research activities, including educational activities relating to livestock, meat, and other products covered by the chapter.

**(c) Budget estimate; testimony of Secretary before Congressional committees**

On or before February 15 of each calendar year beginning with calendar year 1977, or such other date as may be specified by the appropriate committee, the Secretary of Agriculture shall testify before the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture and provide justification in detail of the amount requested in the budget to be appropriated for the next fiscal year for the purposes authorized in this chapter.

**(d) Development and promulgation of rules governing hearings**

The Secretary shall, not later than sixty days after September 13, 1976, prescribe and implement rules to assure that any hearing from which any order may issue under this chapter or any hearing the expenses of which are paid from funds authorized to be appropriated under this chapter shall—

(1) if such hearing concerns a single unit of local government or the residents thereof, be held within the boundaries of such unit;

(2) if such hearing concerns a single geographic area within a State or the residents thereof, be held within the boundaries of such area; or

(3) if such hearing concerns a single State or the residents thereof, be held within such State.

**(e) Definitions**

For the purposes of subsection (d) of this section—

(1) the term “unit of local government” means a county, municipality, town, township, village, or other unit of general government below the State level; and

(2) the term “geographic area within a State” means a special purpose district or other region recognized for governmental purposes within such State which is not a unit of local government.

(Aug. 15, 1921, ch. 64, title IV, §407, 42 Stat. 169; Pub. L. 85-909, §4, Sept. 2, 1958, 72 Stat. 1750; Pub. L. 88-61, July 8, 1963, 77 Stat. 79; Pub. L. 94-410, §11, Sept. 13, 1976, 90 Stat. 1252; Pub. L. 103-354, title II, §293(b), Oct. 13, 1994, 108 Stat. 3237; Pub. L. 103-437, §4(a)(2), Nov. 2, 1994, 108 Stat. 4581.)

## AMENDMENTS

1994—Subsec. (b). Pub. L. 103-354, §293(b)(1), (2), redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: “The Secretary shall maintain within the Department of Agriculture a separate enforcement unit to administer and enforce subchapter II of this chapter.”

Subsec. (c). Pub. L. 103-437, which directed the amendment of subsec. (d) by substituting “Committee on Agriculture, Nutrition, and Forestry” for “Committee on Agriculture and Forestry”, was executed by making the amendment to subsec. (c) to reflect the probable intent of Congress and the intervening redesignation of subsec. (d) as (c) by Pub. L. 103-354. See below.

Pub. L. 103-354, §293(b)(2), redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

Subsecs. (d) to (f). Pub. L. 103-354, §293(b)(2), (3), redesignated subsecs. (d) to (f) as (c) to (e), respectively, and in subsec. (e) substituted “subsection (d)” for “subsection (e)”.

1976—Subsecs. (d) to (f). Pub. L. 94-410 added subsecs. (d) to (f).

1963—Subsec. (c). Pub. L. 88-61 added subsec. (c).

1958—Pub. L. 85-909 designated existing provisions as subsec. (a) and added subsec. (b).

## REGULATIONS

Pub. L. 110-234, title XI, §11006, May 22, 2008, 122 Stat. 1358, and Pub. L. 110-246, §4(a), title XI, §11006, June 18, 2008, 122 Stat. 1664, 2120, provided that: “As soon as practicable, but not later than 2 years after the date of the enactment of this Act [June 18, 2008], the Secretary of Agriculture shall promulgate regulations with respect to the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.) to establish criteria that the Secretary will consider in determining—

“(1) whether an undue or unreasonable preference or advantage has occurred in violation of such Act;

“(2) whether a live poultry dealer has provided reasonable notice to poultry growers of any suspension of the delivery of birds under a poultry growing arrangement;

“(3) when a requirement of additional capital investments over the life of a poultry growing arrangement or swine production contract constitutes a violation of such Act; and

“(4) if a live poultry dealer or swine contractor has provided a reasonable period of time for a poultry grower or a swine production contract grower to remedy a breach of contract that could lead to termination of the poultry growing arrangement or swine production contract.”

[Pub. L. 110-234 and Pub. L. 110-246 enacted identical provisions. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246, set out as a note under section 8701 of this title.]

**§ 228a. Authority of Secretary to request temporary injunction or restraining order**

Whenever the Secretary has reason to believe that any person subject to this chapter (a) with respect to any transactions subject to this chapter, has failed to pay or is unable to pay for livestock, meats, meat food products, or livestock products in unmanufactured form, or live poultry, or has failed to pay any poultry grower what is due on account of poultry obtained under a poultry growing arrangement, or has failed to remit to the person entitled thereto the net proceeds from the sale of any such commodity sold on a commission basis; or (b) has operated while insolvent, or otherwise in violation of this chapter in a manner which may reasonably be expected to cause irreparable damage to another person; or (c) does not have the required bond; and that it would be in the public interest to enjoin such person from operating subject to this chapter or enjoin him from operating subject to this chapter except under such conditions as would protect vendors or consignors of such commodities or other affected persons, until a complaint under this chapter is issued and dismissed by the Secretary or until an order to cease and desist made thereon by the Secretary has become final and effective within the meaning of this chapter or is set aside on appellate review of the Secretary's order, the Secretary may notify the Attorney General, who may apply to the United States district court for the district in which such person has his principal place of business or in which he resides for a temporary injunction or restraining order. When needed to effectuate the purposes of this section, the court shall, upon a proper showing, issue a temporary injunction or restraining order, without bond. Attorneys employed by the Secretary of Agriculture may, with the approval of the Attorney General, appear in the United States district court representing the Secretary in any action seeking such a temporary restraining order or injunction.

(Aug. 15, 1921, ch. 64, title IV, § 408, as added Pub. L. 94-410, § 5, Sept. 13, 1976, 90 Stat. 1250; amended Pub. L. 100-173, § 8, Nov. 23, 1987, 101 Stat. 919.)

**CODIFICATION**

A prior section 228a, act Sept. 21, 1944, ch. 412, title I, § 101(c), 58 Stat. 734, which related to inspections of livestock, hides, animal products, etc., was transferred to section 396 of this title.

**PRIOR PROVISIONS**

A prior section 408 of act Aug. 15, 1921, was renumbered section 416 and is classified to section 229 of this title.

**AMENDMENTS**

1987—Pub. L. 100-173 inserted “or live poultry, or has failed to pay any poultry grower what is due on account of poultry obtained under a poultry growing arrangement,” after “unmanufactured form.”

**EFFECTIVE DATE OF 1987 AMENDMENT**

Amendment by Pub. L. 100-173 effective 90 days after Nov. 23, 1987, see section 12 of Pub. L. 100-173, set out as a note under section 182 of this title.

**§ 228b. Prompt payment for purchase of livestock**

**(a) Full amount of purchase price required; methods of payment**

Each packer, market agency, or dealer purchasing livestock shall, before the close of the next business day following the purchase of livestock and transfer of possession thereof, deliver to the seller or his duly authorized representative the full amount of the purchase price: *Provided*, That each packer, market agency, or dealer purchasing livestock for slaughter shall, before the close of the next business day following purchase of livestock and transfer of possession thereof, actually deliver at the point of transfer of possession to the seller or his duly authorized representative a check or shall wire transfer funds to the seller's account for the full amount of the purchase price; or, in the case of a purchase on a carcass or “grade and yield” basis, the purchaser shall make payment by check at the point of transfer of possession or shall wire transfer funds to the seller's account for the full amount of the purchase price not later than the close of the first business day following determination of the purchase price: *Provided further*, That if the seller or his duly authorized representative is not present to receive payment at the point of transfer of possession, as herein provided, the packer, market agency or dealer shall wire transfer funds or place a check in the United States mail for the full amount of the purchase price, properly addressed to the seller, within the time limits specified in this subsection, such action being deemed compliance with the requirement for prompt payment.

**(b) Waiver of prompt payment by written agreement; disclosure requirements**

Notwithstanding the provisions of subsection (a) of this section and subject to such terms and conditions as the Secretary may prescribe, the parties to the purchase and sale of livestock may expressly agree in writing, before such purchase or sale, to effect payment in a manner other than that required in subsection (a) of this section. Any such agreement shall be disclosed in the records of any market agency or dealer selling the livestock, and in the purchaser's records and on the accounts or other documents issued by the purchaser relating to the transaction.

**(c) Delay in payment or attempt to delay deemed unfair practice**

Any delay or attempt to delay by a market agency, dealer, or packer purchasing livestock, the collection of funds as herein provided, or otherwise for the purpose of or resulting in extending the normal period of payment for such livestock shall be considered an “unfair practice” in violation of this chapter. Nothing in this section shall be deemed to limit the meaning of the term “unfair practice” as used in this chapter.

(Aug. 15, 1921, ch. 64, title IV, § 409, as added Pub. L. 94-410, § 7, Sept. 13, 1976, 90 Stat. 1250.)