

New Zealand.



FERTILISERS.

1908, No. 62.

AN ACT to consolidate certain Enactments of the General Assembly relating to the Control of the Sale of Fertilisers.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Short Title.

1. (1.) The Short Title of this Act is "The Fertilisers Act, 1908."

Enactments consolidated.

(2.) This Act is a consolidation of the enactments mentioned in the Schedule hereto, and with respect to those enactments the following provisions shall apply:—

Savings.

- (a.) All offices, appointments, regulations, Orders in Council, registers, instruments, and generally all acts of authority which originated under any of the said enactments or any enactment thereby repealed, and are subsisting or in force on the coming into operation of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated.
- (b.) All matters and proceedings commenced under any such enactment, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act.

Interpretation.

1904, No. 48, sec. 2

2. In this Act, if not inconsistent with the context,—

"Analyst" means an Analyst appointed under this Act:

"Fertiliser" means any substance used for enriching the soil, containing in appreciable amount either phosphates, nitrogen, or potash, in a state suitable and intended for application to the land; but does not include lime, stable

manure, or any crude refuse which has not been dried or so treated that decomposition will be arrested until applied to the land :

“ Vendor ” means any person who, either on his own account or on behalf of any other person, sells in the ordinary course of his business any fertiliser.

3. (1.) Every vendor shall, before offering any fertiliser for sale, and thereafter while carrying on such business, on or before the first day of July in each year, register his name and address with the Secretary for Agriculture in Wellington.

Vendors to be registered.
1904, No. 48, sec. 3

(2.) He shall also deposit with the Secretary for Agriculture, for registration, in respect of every brand of fertiliser sold by him, a statement containing the following particulars :—

Brand and description of fertiliser.

(a.) A fac-simile of the brand :

(b.) A general description of the fertiliser, showing the minimum percentage of the following ingredients when present, and the unit value attached to each of them :—

Statement of ingredients.

Nitrogen soluble in water ;

Nitrogen insoluble in water ;

Phosphoric anhydride soluble in water, and its equivalent in tricalcic phosphate made soluble by acid ;

Phosphoric anhydride insoluble in water, and its equivalent in insoluble tricalcic phosphate ;

Dipotassic oxide (potash) soluble in water, and its equivalent in sulphate of potash.

4. The Secretary for Agriculture may, in his discretion, refuse to register any brand of fertiliser if he is of opinion that the fertiliser to which the brand applies materially differs from a fertiliser previously registered under the same brand, or under a brand so similar as to be calculated to mislead a purchaser.

Registration of brand may be refused.

Ibid, sec. 4

5. Every vendor shall, as soon as possible after mixing the ingredients of any fertiliser, fill the same into packages duly branded with the registered brand of the fertiliser, and shall keep the same in such packages until delivery to a purchaser.

Fertiliser to be kept in branded packages.

Ibid, sec. 5

6. (1.) On any sale of fertiliser of five hundredweight or upwards, the vendor shall immediately deliver or post to the purchaser an invoice certificate, containing the true particulars of the fertiliser corresponding to the particulars supplied to the Secretary for Agriculture under section three hereof.

Description of fertiliser to be affixed to package.

Ibid, sec. 6

(2.) The packages containing the fertiliser shall be clearly and distinctly branded with the registered brand :

Provided that where any fertiliser is composed of ingredients and in proportions according to the written instructions of the purchaser it shall be sufficient if the packages containing the fertiliser are clearly and distinctly marked “ special mixture.”

(3.) In every sale or contract for the sale of any fertiliser there shall be implied a warranty by the seller to the purchaser that the particulars stated on the invoice certificate are true in substance and in fact.

(4.) The fact that any fertiliser in branded or marked packages is in the possession or under the control of a vendor shall be *prima facie* evidence that such fertiliser is offered for sale.

(5.) For the sake of convenience the vendor shall be permitted to use the following abbreviated words or symbols on the invoice certificate, namely,—

- “ N ” meaning nitrogen ;
- “ P₂O₅ ” meaning phosphoric anhydride ;
- “ K₂O ” meaning potash ;
- “ Soluble ” meaning soluble in water ;
- “ Insoluble ” meaning insoluble in water ;

and no other meaning shall be allowed to be given to such words or symbols when used on any invoice certificate.

Imported packages
to be so branded.
1904, No. 48, sec. 7

7. Every package of imported bones or bonedust or any other imported animal matter shall, in addition to the registered brand or mark hereinbefore provided for, bear in distinct and legible characters the word “ Imported.”

Appointment of
Inspectors and
Analysts.
Ibid, sec. 8

8. (1.) The Governor in Council may from time to time appoint fit persons to be Inspectors and Analysts under this Act.

(2.) Every Inspector appointed under “ The Stock Act, 1908,” shall be deemed to be an Inspector under this Act.

Power of entry.
Ibid, sec. 9

9. (1.) Every Inspector may at all reasonable times enter upon any premises wherein he has reason to believe that any fertiliser is and take such a sample of any fertiliser in packages branded or marked as aforesaid found there as may be required for purposes of analysis under this Act.

(2.) Every person who obstructs an Inspector in the exercise of his power under this section is liable to a fine not exceeding ten pounds.

(3.) The sample shall be taken in the following manner, and in the presence of the vendor, or, if he is not present, in the presence of some witness, the necessary labour being provided by the vendor :—

(a.) A number of packages are to be selected by the Inspector as follows—namely, not less than three packages where the quantity does not exceed one ton, and for every additional ton an additional package ; provided that in no case need more than ten packages be sampled.

(b.) An equal quantity (as near as may be) of the fertiliser is to be drawn from each package so selected, and thoroughly mixed after all lumps are broken.

(4.) A sample so taken shall be deemed to be a fair sample if it weighs not less than four pounds.

(5.) The provisions of section six hereof shall apply to the taking of a sample under this section as if such taking were a sale of fertiliser of five hundredweight or upwards, and the relations existing between the Inspector and the vendor shall be deemed to be those of buyer and seller respectively.

Samples, how taken.
Ibid, sec. 10

10. (1.) The Inspector shall divide each such sample into three parts, and seal each part separately with an official seal.

(2.) He shall leave one such part with the vendor, and shall deliver a second part to an Analyst, together with a copy of the statement of the fertiliser as shown by the invoice certificate, but shall withhold from the Analyst any knowledge of the name of the brand or the vendor ; the third part shall be retained by the Inspector, and shall be sealed by the vendor if he so desires.

(3.) Delivery of a sample to an Analyst may be effected by posting it by registered post to the Analyst's usual address.

11. (1.) The Analyst shall give a certificate of the result of the analysis, and shall state therein explicitly the amount (if any) of the ingredients mentioned in section three hereof present in the sample analysed, and shall state in what respect (if any) the results of the analysis differ from the particulars stated on the invoice certificate attached, and whether or not such difference was material to the prejudice of the purchaser.

Certificate of analysis.
1904, No. 48, sec. 11

(2.) A copy of such certificate shall be forwarded to the vendor by the Inspector.

12. (1.) The purchaser of any fertiliser may, at any time within ten days after the delivery of the fertiliser, notify the Inspector in writing that he desires him to take a sample of such fertiliser.

Analysis on request of buyer.
Ibid, sec. 12

(2.) On payment to him of such fee as is prescribed by regulations, the Inspector, or some person authorised by him in writing, shall attend at the place mentioned in the notice and take a sample of the fertiliser, and shall deal with the sample in the manner directed in section ten hereof.

(3.) Not less than four clear days' notice shall be given to the vendor by the Inspector of the time and place at which he intends to take such sample.

(4.) The Inspector shall satisfy himself that the packages containing the fertiliser are in a sound condition and have not been opened or tampered with in any way.

(5.) The vendor or his agent shall be at liberty to attend at the time and place specified in such notice.

(6.) The Analyst shall analyse the sample and give a certificate as mentioned in section eleven hereof, a copy of which shall be supplied by the Inspector to both the vendor and the purchaser.

(7.) If the Analyst in any such certificate states that the fertiliser is not materially at variance with the invoice certificate the vendor shall be entitled to any reasonable expenses to which he may have been put in attending at the place at which the sample is taken, and may recover such expenses from the purchaser as a debt.

13. In any proceedings under this Act the production of a certificate of the results of an analysis purporting to be signed by an Analyst shall be evidence that the fertiliser was submitted for analysis in accordance with this Act, and of the identity of the fertiliser analysed, and of the result of the analysis, without proof of the signature of the Analyst.

Certificate evidence of certain facts.
Ibid, sec. 13

14. (1.) Where in any proceedings under this Act the vendor desires to dispute the accuracy of any analysis, or to cross-examine the Analyst, he shall give to the Inspector not less than five clear days' notice in writing of his desire, and thereupon the Inspector shall give the Analyst notice that his attendance is necessary at the hearing of the proceedings.

Analyst may be cross-examined.
Ibid, sec. 14

(2.) If on such hearing it appears to the Court that the Analyst was called on frivolous or insufficient grounds the defendant shall be liable to pay the costs of the attendance of the Analyst.

15. The Court may order that the part of the sample retained by the Inspector under section ten hereof be divided into two

Independent analysis.
Ibid, sec. 15

parts, and that each of such parts be submitted to an independent Analyst for report.

Tampering with
samples.
1904, No. 48, sec. 16

16. Every person is liable to a fine not exceeding fifty pounds who—

- (a.) Knowingly and fraudulently tampers with any fertiliser so as to procure that a sample of it taken in pursuance of this Act is not a fair sample of the fertiliser; or
- (b.) Improperly breaks the seal of or tampers with any part of a sample taken in pursuance of this Act.

Giving false invoice
certificate.
Ibid, sec. 17

17. Every vendor is liable (in addition to any civil remedy the purchaser may have) to a fine not exceeding twenty pounds who—

- (a.) Brands or permits to be branded with a brand whose registered particulars do not materially correspond with the particulars of the contents of such package; or
- (b.) Causes or permits any package marked with any registered brand to be filled with fertiliser materially at variance with the registered particulars of such brand without first effectually effacing such brand; or
- (c.) Who on the sale of any fertiliser gives an invoice certificate at variance with the true particulars of the fertiliser sold, and such variance is materially to the prejudice of a purchaser.

General fines.
Ibid, sec. 18

18. Every person who commits a breach of any of the provisions of this Act for which no penalty is elsewhere prescribed is liable for the first offence to a fine not exceeding ten pounds, and for every subsequent offence to a fine not exceeding fifty pounds and not less than five pounds.

Publication of
analysis.
Ibid, sec. 19

19. The Secretary for Agriculture may from time to time publish, in such manner as he thinks fit, the result of any analysis made under this Act, and neither he nor the Government Printer, nor any other person, shall be liable in any way in respect of such publication.

Regulations.
Ibid, sec. 20

20. (1.) The Governor may, by Order in Council gazetted, make regulations for carrying out the provisions of this Act, and may in such regulations impose a fine not exceeding ten pounds for any breach thereof.

(2.) All such regulations shall within ten days after publication be laid before Parliament if sitting, and if not, then within ten days after the commencement of the next ensuing session.

SCHEDULE.

ENACTMENTS CONSOLIDATED.

1904, No. 48.—“ The Fertilisers Act, 1904.”