

5 EDW. VII. No. 16, 1905. *Fertilisers Act.*

3. Section eighty-three of the Principal Act is repealed, and the following provision is inserted in lieu thereof:—

Where a bank in good faith and without negligence receives payment for a customer of a bill or note, and the customer has no title or a defective title thereto, the bank shall not incur any liability to the true owner of the bill or note by reason only of having received such payment.

In the case of a cheque a bank shall be entitled to the benefit of this section, notwithstanding that, before receiving payment for the customer of such cheque, the bank has credited the account of the customer with the amount of such cheque or any part thereof or allowed the customer to draw against such cheque.

FERTILISERS.

An Act to Amend the Law relating to the Sale of Fertilisers.

[ASSENTED TO 24TH NOVEMBER, 1905.]

5 EDW. VII.
No. 16.
THE
FERTILISERS
ACT OF 1905.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as "*The Fertilisers Act of 1905*," and shall commence and take effect on and from the first day of January, one thousand nine hundred and six.

2. In this Act, unless the context otherwise indicates, the following terms have the meanings set against them respectively, that is to say—

"Minister"—The Secretary for Agriculture or other Minister of the Crown charged for the time being with the administration of this Act;

"Analyst"—The Government Analyst and agricultural chemist, and any analyst approved by the Minister as an agricultural analyst under this Act;

"Dealer"—Any person who carries on business as a manufacturer, importer, seller, or dealer in fertilisers for the purposes of trade, and whether such person carries on any other business or trade or not;

“Fertiliser”—Any substance, containing in appreciable quantity nitrogen, phosphoric acid, or potash, manufactured, produced, or prepared in any manner for the purpose of fertilising the soil or supplying nutriment to plants; the term does not include farmyard or stable manure, seaweed, crude nightsoil, crude offal, or any crude refuse which has not been dried or otherwise treated so that decomposition will be arrested until such refuse is applied to the land; “Package” includes sack, barrel, case, or other package or parcel.

Officers.

3. The Governor in Council may from time to time appoint such and so many officers as are necessary for the effectual execution of this Act.

Every State inspector appointed under “*The Diseases in Stock Acts, 1896 to 1898*,”* “*The Diseases in Plants Act of 1896*,”† or “*The Dairy Produce Act of 1904*,”‡ shall without further appointment be deemed to be an officer under this Act, and shall exercise and perform the powers and duties conferred and imposed upon officers by this Act.

The Minister may, by writing under his hand, approve of qualified persons to act as agricultural analysts for the purposes of this Act.

Notice by dealers.

4. Every dealer shall, within thirty days after the first day of January, one thousand nine hundred and six, or within thirty days after the date of his commencing business as a dealer, give notice in writing to the Minister, stating his name and place of business, and the distinctive names or brands of the fertilisers dealt in by him, and the places where the same can be obtained.

Any such person who fails to give such notice shall be liable to a penalty not exceeding two pounds for each day during which he so fails to give such notice.

Fee and certificate of ingredients. Schedule I.

5. (1.) On or before the thirty-first day of January in each year, every dealer shall—

(a) Pay to the officer authorised in that behalf by the Minister a fee of two shillings and six pence for each fertiliser bearing a distinctive name or brand dealt in by him, but not exceeding in the whole the sum of five shillings in any one year; and

* 60 Vic. No. 1, *supra*, page 6109, and 62 Vic. No. 6, *supra*, page 6733.

† 60 Vic. No. 25, *supra*, page 6048.

‡ 4 Edw. VII. No. 18, *supra*, page 8683.

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- (b) Deliver to such officer a certificate, in the form of the First Schedule to this Act, of the specified ingredients of each such brand of fertiliser :

Provided that in the case of fertiliser manufactured from the by-products of a meat works or boiling-down establishment, where the fertiliser is liable to vary in quality during the year, the certificate shall so state, and it shall be sufficient to set forth in the certificate a minimum percentage of the specified ingredients.

Every dealer who fails to comply with this section shall be guilty of an offence against this Act.

(2.) Such certificate with respect to any brand of fertiliser may be amended in any particular by giving one week's notice in writing to such officer. Certificate may be amended.

(3.) The particulars in any such certificate delivered to such officer shall be published in *The Queensland Agricultural Journal*, and in such other manner as the Minister may direct. Publication of certificate.

6. (1.) Upon the sale of any fertiliser, whether paid for at the time of sale or not, the seller shall, at the time of sale or before delivery of the same or any part thereof, give to the buyer an invoice certificate, in the form of the First Schedule to this Act or to the like effect, signed by the seller or his agent and stating— Seller to give invoice certificate to buyer. Schedule I.

- (a) The full name and place of business of the seller ;
- (b) The figure trade mark or other sign attached to or associated with the fertiliser and intended for identifying it ;
- (c) The quantity of fertiliser comprised in the sale ; and
- (d) The proportion per centum in which the fertiliser contains the three ingredients nitrogen, phosphoric acid, and potash, and the respective forms in which they occur as provided in such Schedule.

(2.) Every such invoice certificate shall be deemed a representation or warranty by the seller to the buyer of the truth of the matters referred to therein. Invoice certificate a warranty.

Labelling of
packages.

7. (1.) Every person who sells, or offers or exposes for sale, any fertiliser shall securely affix conspicuously to each package thereof a plainly printed label clearly and truly certifying—

- (a) The number of net pounds of fertiliser in the package;
- (b) The figure trade mark or other sign under which the fertiliser is sold; and
- (c) A chemical analysis stating the proportion per centum in which the fertiliser contains the three ingredients, nitrogen, phosphoric acid, and potash, and the respective forms in which they respectively occur as required to be stated in the invoice certificate.

(2.) In the case of bonedusts or bonemeals, the percentages of coarse material and fine material shall be stated on the label together with the percentage of phosphoric acid and nitrogen. Fine material is the portion which passes through a sieve of fifty meshes to the linear inch, and coarse material is the portion retained in the mesh of the sieve.

(3.) In the case of basic slag or Thomas phosphate, the percentages of coarse material and fine material shall be stated on the label together with the percentages of total phosphoric acid and citrate soluble phosphoric acid. Fine material is the portion which passes through a sieve of one hundred meshes to the linear inch, and coarse material is the portion retained in the mesh of the sieve.

(4.) Every such label shall be deemed a representation or warranty by the dealer of the truth of the matters certified thereby.

(5.) Provided that where any fertiliser is sold by wholesale in quantities exceeding two hundredweight at a time it shall be a sufficient compliance with this section if the seller at the time of the sale delivers to the buyer a printed label for each package sold, and if each package has plainly marked or printed thereon the particulars set out in paragraphs (a) and (b) of subsection one hereof.

Offences by
vendors.

8. Any dealer who—

- (a) Upon a sale of fertiliser, fails without reasonable excuse to give the required invoice certificate; or
- (b) Fails to affix to every package of fertiliser sold, or offered or exposed for sale, the required

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label; or on a sale by wholesale to comply with the provisions of subsection five of the last preceding section; or

- (e) Causes or permits any invoice certificate or label to be false in any material particular;

shall be guilty of an offence against this Act.

9. Where any fertiliser is found upon analysis under this Act to contain less nitrogen, phosphoric acid, or potash than the proportions thereof respectively stated in the invoice certificate or on the label attached to each package containing such fertiliser, and such deficiency—

Fertiliser to contain certain proportions.

- (a) As to nitrogen amounts to one half per centum of the whole sample in fertilisers certified to contain less than ten per centum of nitrogen; or as to phosphoric acid amounts to one per centum of the whole sample in fertilisers certified to contain less than fifteen per centum of phosphoric acid; or as to potash amounts to one half per centum of the whole sample in fertilisers certified to contain less than ten per centum of potash; or

- (b) As to nitrogen amounts to five per centum of the total nitrogen certified to be present in fertilisers represented to contain not less than ten per centum of nitrogen; or as to phosphoric acid amounts to seven per centum of the total phosphoric acid certified to be present in fertilisers represented to contain not less than fifteen per centum of phosphoric acid; or as to potash amounts to five per centum of the total potash certified to be present in fertilisers represented to contain not less than ten per centum of potash—

the dealer shall be guilty of an offence against this Act.

10. (1.) An analyst or officer under this Act may, at any reasonable time in the day time, enter any manufactory, warehouse, store, shop, building, vessel, wharf, railway station, conveyance, carriage, or place in Queensland where any fertiliser is manufactured, or kept, or exposed for sale, or is in course of delivery or transit, and demand and take samples of any such fertiliser.

Officer may take samples and have same analysed.

(2.) Every sample taken shall be divided by such analyst or officer into three parts, and each part shall be marked, sealed, and fastened by him in the presence of the

person apparently in charge of the premises, and shall be disposed of as follows:—

- (a) One part shall be delivered to the person apparently in charge of the premises or fertiliser;
- (b) One may be utilised for analysis;
- (c) One shall be retained by such analyst or officer for future comparison.

Publication of result.

(3.) The result of the analysis of any sample of fertiliser taken by an analyst or officer under this Act, together with the name and address of the dealer from whom the sample was obtained, may be published in such manner as the Minister may direct.

(4.) A statement of the result of any analysis shall be sent by post forthwith to the dealer from whom the sample was obtained.

Right of buyer to analysis.

11. Every buyer of any fertiliser shall, on complying with the regulations, be entitled to submit a sample of such fertiliser to the analyst for analysis, and to receive from him a certificate of the result of his analysis.

Analyst's certificate.

12. (1.) Every analyst shall with all reasonable despatch analyse any sample of fertiliser obtained by him or submitted to him for analysis, and shall prepare a certificate showing the result thereof. Such certificate shall be in the form of the Second Schedule to this Act, or as near thereto as circumstances permit.

Costs of analysis.

(2.) The costs of and incidental to the obtaining of any analysis shall be paid in the first instance by the person requesting the analysis, but shall subsequently be dependent upon the results of the analysis, and shall be recoverable as a simple contract debt, or, in the case of a conviction for an offence, shall be added to the penalty and be recoverable in the same manner.

Tampering with samples.

13. Any person who knowingly and fraudulently—

- (a) Tampers with any package of fertiliser so as to procure that any sample of it taken in pursuance of this Act does not correctly represent the contents of the package; or
 - (b) Tampers with any sample taken under this Act;
- shall be liable to a penalty not exceeding twenty pounds, or to imprisonment for any period not exceeding six months.

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14. Any person who wilfully obstructs, hinders, Penalty for obstruction. resists, or in anywise opposes, any analyst or officer under this Act shall be liable to a penalty not exceeding twenty pounds.

15. (1.) A prosecution for an offence against this Who may prosecute. Act may be instituted either by the person aggrieved or by any person authorised by the Minister.

(2.) In any proceeding for such offence, it shall be Defence. no defence to allege that the buyer, having bought only for analysis, was not prejudiced by the sale, or that the fertiliser, though deficient in one or more constituents, was not defective in other constituents.

(3.) A person alleged to have committed such offence Rights of seller against person who sold to him. in respect of any fertiliser sold by him shall be entitled to the same rights and remedies, civil or criminal, against the person from whom he bought the fertiliser as are available to the person who bought the fertiliser from him, and any damages recovered by him may, if the circumstances justify it, include the amount of any penalty, and costs and expenses paid by him on conviction, and the costs of and incidental to his defence on such conviction.

(4.) Any person who commits any such offence for Penalties. which no other penalty is provided shall, without prejudice to any civil liability, be liable to a penalty not exceeding twenty pounds for a first offence, and for any subsequent offence to a penalty not exceeding fifty pounds.

(5.) All proceedings in respect of such offences may Summary procedure. be heard and determined in a summary way by and before a police magistrate or any two justices of the peace.

(6.) All penalties recovered under this Act shall be Appropriation of penalties. paid into and become part of the Consolidated Revenue Fund.

16. At the hearing of any civil or criminal proceeding with respect to any fertiliser analysed under this Act, the Certificate evidence. production of a certificate of the analyst shall be evidence of the facts therein stated, unless the defendant gives notice to the plaintiff or prosecutor, at least twenty-four hours previous to the day fixed for the return of the summons or hearing, that he requires the analyst to be called as a witness.

17. In any proceedings—

(a) Parol evidence that any person is an analyst or Evidence. an officer under this Act shall be deemed sufficient, unless the defendant proves the contrary ;

- (b) Authority to do any act or take any proceeding shall be presumed until the contrary is proved ;
- (c) The allegation that any fertiliser was sold, or kept, or offered or exposed for sale, shall be sufficient evidence of the fact until the contrary is proved.

Regulations.

18. The Governor in Council may, from time to time, make regulations for all or any of the following purposes, namely :—

- (i.) Prescribing the course to be adopted by any buyer desirous of having any fertiliser analysed so that the rights of all parties may be duly protected ;
- (ii.) Prescribing the fees to be paid to the analyst for making any analysis ;
- (iii.) Generally, for carrying this Act into effect.

All such regulations shall, upon being published in the *Gazette*, have the same effect as if they were enacted in this Act, and shall not be questioned in any proceedings whatsoever.

SCHEDULE I.

“ *The Fertilisers Act of 1905.* ”

INVOICE CERTIFICATE.

I, _____, of _____, in the _____ of _____, hereby certify that the fertiliser this day sold [consigned or forwarded, or as the case may be] by me to _____, of _____, being a quantity of _____ tons cwt. qrs. lb. [when the fertiliser is being registered at the Department of Agriculture substitute the following words: this day registered by me], is known as _____, and is marked with the figure, or trade mark, or sign following, that is to say :—

And I also certify that such fertiliser contains the following ingredients, in the proportion of the whole, set opposite thereto in the form hereunder :—

<i>Nitrogen</i> as (a)	...	...	...	per centum
<i>Phosphoric Acid</i> —(b)	...	...	...	per centum
<i>Fine material</i>	...	...	per centum	
<i>Coarse material</i>	...	...	per centum	
<i>Potash</i> —(c)	...	...	...	per centum
Dated this _____ day of _____ 19 _____				

[Signature of Dealer.]

(a) Here state whether as nitrate of soda, sulphate of ammonia, blood, flesh, fine or coarse bone nitrogen, or unspecified.

(b) Here state the percentages of water soluble, citrate soluble, citrate insoluble, and total phosphoric acid as regards superphosphates, Thomas phosphates, phosphatic guano, mixed fertilisers, and others unspecified. In the case of Thomas phosphate or basic slag, the percentage of fine and coarse material to be stated—fine to signify particles smaller than one-hundredth of an inch, and coarse larger than one-hundredth of an inch. In the case of bonedusts and bonemeals, the percentage of phosphoric acid and the percentage of fine and coarse material to be stated—fine to signify the particles smaller than one-fiftieth of an inch, and coarse larger than one-fiftieth of an inch.

(c) Here state whether as sulphate, chloride, nitrate, or so on, or unspecified.

[See s. 6.]

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SCHEDULE II.

“*The Fertilisers Act of 1905.*”

CERTIFICATE OF ANALYSIS.

To*

I, the undersigned, analyst at _____, in the _____, of _____, hereby certify that I received on the _____ day of _____, 19____, from† _____, a sample of fertiliser for analysis which then weighed _____, and which I divided into two parts, one of which I have sealed and retained, and that I have analysed the other part, and declare the result of my analysis to be as follows:—

I am of opinion that the said sample of fertiliser contains the under-mentioned ingredients in the following proportions:—

<i>Nitrogen</i> as ‡	...	...	...	per centum
<i>Phosphoric Acid</i> §	...	...	...	per centum
Fine material	...	...	per centum	
Coarse material	...	...	per centum	
<i>Potash</i> ||	...	...	...	per centum

The value per ton of such fertiliser, reckoned according to the official unit values of the local market, would be—

£ s. d.

per cent. Nitrogen as ...	(a) Nitrates	...	...	@
	(b) Ammonia salts	...	...	”
	(c) Blood	...	...	”
	(d) Flesh or offal	...	...	”
	(e) Fine bone	...	...	”
	(f) Coarse bone	...	...	”
	(g) Unspecified	...	...	”
per cent. Phosphoric Acid	(a) Water soluble	...	...	”
	(b) Citrate soluble	...	...	”
	(c) Citrate insoluble	...	...	”
	(d) Fine material	...	...	”
	(e) Coarse material	...	...	”
per cent. Potash	...	(a) As soluble salts	...	”
		(b) In other forms	...	”

Observations :

Dated this _____ day of _____, 19____, at _____.

Analyst.

* Here state the name of the person submitting the fertiliser for analysis.

† Here insert the name of the person delivering or sending the same by post.

‡ Here state whether as nitrate of soda, sulphate of ammonia, blood, flesh, fine or coarse bone nitrogen.

§ Here state the percentages of water soluble, citrate soluble, citrate insoluble, and total phosphoric acid as regards superphosphates, Thomas phosphates, phosphatic guanos, mixed fertilisers, and unspecified. In the case of Thomas phosphate or basic slag, the percentage of fine and coarse material to be stated—fine to signify particles smaller than one-hundredth of an inch, and coarse larger than one-hundredth of an inch. In the case of bonedusts and bone-meals, the percentages of coarse and fine material and the percentage of phosphoric acid to be given.

|| Here state whether as sulphate, chloride, nitrate, or so on.

FIREARMS.

See INFANTS.