



ANNO SEXAGESIMO TERTIO ET SEXAGESIMO
QUARTO

VICTORIÆ REGINÆ.

A.D. 1900.

No. 747.

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

[Assented to, December 5th, 1900.]

BE it Enacted by the Governor, with the advice and consent of
the Parliament of South Australia, as follows:

1. This Act may be cited as "The Fertilisers Act, 1900." Short title

2. "The Fertilisers Act, 1894," and "The Fertilisers Act Amend- Repeal.
ment Act, 1898," are hereby repealed. This repeal shall not affect
any right, interest, or liability, or anything already done or com-
menced under the repealed Acts.

3. In this Act, unless some other meaning is clearly intended— Interpretation.
"Analyst" means any agricultural analyst appointed under this 602/94, sec. 3.
Act:

"Dealer" means any person who carries on business as a manu- New.
facturer, importer, vendor, or dealer in fertilisers for the
purposes of trade, and whether such person carries on any
other business or trade or not:

"Fertiliser" includes every article for use as a fertiliser of the soil, 694/98, sec. 2.
except farmyard or stable manure, crude nightsoil, crude
offal, seaweed, or other crude material:

"Inspector" means the Inspector of Fertilisers or any Assistant
Inspector of Fertilisers under this Act:

"Water soluble phosphate" means monocalcic phosphate calcu- New.
lated as tricalcic phosphate: " Citrate

The Fertilisers Act.—1900.

- New.** "Citrate soluble phosphate" means bicalcic phosphate calculated as tricalcic phosphate:
- New.** "Acid soluble phosphate" means phosphate soluble in acids calculated as tricalcic phosphate, but other than "water soluble phosphate" and "citrate soluble phosphate" as defined above:
- New.** "Potash" means potash calculated as monoxide of potassium.
- Notice by dealers.**
694/98, sec. 4.
- 4.** Every dealer shall, within thirty days of the first day of January, one thousand nine hundred and one, or within thirty days after the date of his commencing in business as a dealer, give notice in writing to the Inspector of Fertilisers, at the office of the Minister of Agriculture, in Adelaide, of his name and place of business, and of the distinctive names or brands of the fertilisers dealt in by him, and of the places where the same can be obtained; and any such person who shall fail to give such notice shall be liable to a penalty of not exceeding Two Pounds per day for each day on which he shall so fail to give such notice.
- Licence fee.**
New.
- 5.** Every dealer shall, on or before the thirty-first day of January of each year, pay to the Inspector of Fertilisers a licence fee of Two Pounds Two Shillings for each and every fertiliser bearing a distinctive name or brand dealt in by him, but not exceeding Five Pounds Five Shillings in any one year, and shall deliver to such inspector a certificate in the form in Schedule A hereto of the minimum percentages of nitrogen, nitrogen as nitrates, potash in readily soluble form, water soluble phosphate, citrate soluble phosphate, and acid soluble phosphate contained in each such brand of fertiliser: Provided that when the manufacturer or importer of any brand of fertiliser shall have paid the licence fee for such brand of fertiliser it shall be lawful for any other dealer to sell such brand of fertiliser without payment of any further fee: and every dealer who fails to comply with this section shall be guilty of an offence against this Act.
- Certificate of minimum percentages.**
New.
- 6.** The certificate of the minimum percentages of nitrogen, nitrogen as nitrates, potash in readily soluble form, water soluble phosphate, citrate soluble phosphate, and acid soluble phosphate contained in any brand of fertiliser may be amended by giving one week's notice in writing to the Inspector of Fertilisers, and paying a further fee of Five Shillings for the registration of such alteration.
- Duties of seller.**
602/94, sec. 1.
694/98, sec. 10, altered.
- 7.** Every person who sells any fertiliser shall sign and give to the purchaser an invoice, which shall state—
- (a) The names in full and the place or places of business of the manufacturer and vendor of such fertiliser, if manufactured within South Australia; and if imported, or if such fertiliser is not a manufactured article, then the name and place of business of the vendor:
- (b) The

The Fertilisers Act.—1900.

- (b) The figure, word, trade mark, or trade description which is to be branded or stamped upon or affixed to every sack, barrel, case, or other package containing any portion of such fertiliser sold to the purchaser:
- (c) The minimum percentages of nitrogen, nitrogen as nitrates, potash in readily soluble form, water soluble phosphate, citrate soluble phosphate, and acid soluble phosphate, or of such of them as the fertiliser contains:

And this invoice shall have effect as a warranty by the seller of the statements contained therein.

8. Every person who sells or offers for sale any fertiliser shall brand or stamp upon or durably affix to, or cause to be branded or stamped upon or durably affixed to, every sack, barrel, case, or other package containing any portion of such fertiliser the name of the manufacturer or vendor, and a figure, word, trade mark, or trade description corresponding to the figure, word, trade mark, or trade description stated in the invoice.

Packages to be branded.

694/98, sec. 8.

9. It shall be an offence if any person who sells or offers for sale a fertiliser—

Offences by sellers.

602/94, sec. 2, added to.

- (a) Fails without reasonable excuse to give, on or before or as soon as possible after the delivery of the article, the invoice required by this Act; or
- (b) Causes or permits any invoice or description of the article sold by him to be false in any material particular; or
- (c) Fails to brand or stamp upon or affix to every sack, package, or barrel the particulars required by section 8 hereof; or
- (d) Sells or describes as bonedust or bonemeal any fertiliser containing less than forty per centum of tricalcic phosphate derived from bones; or
- (e) Sells or describes as superphosphate or super. any fertiliser containing less than fifteen per centum of water soluble phosphate and a less total than thirty per centum of water soluble phosphate and citrate soluble phosphate.

10. Every dealer who sells or exhibits, or offers for sale any fertiliser which contains a smaller percentage of nitrogen, nitrogen as nitrates, potash in readily soluble form, water soluble phosphate, citrate soluble phosphate, or acid soluble phosphate than that mentioned in the certificate delivered to the Inspector of Fertilisers under section 5 hereof shall, if the deficiency is greater than one-half per centum of nitrogen, or nitrogen as nitrates, one-half per centum of potash in readily soluble form, or two and one-half per centum of phosphate, whether water soluble phosphate, citrate soluble phosphate, or acid soluble phosphate, separately or total, be guilty of an offence against this Act.

Deficiency in registered brands.

New.

11. Any

*The Fertilisers Act.—1900.***Penalties.**

602/94, sec. 2.

11. Any person who commits any offence against this Act for which no other penalty is provided shall, without prejudice to any civil liability, be liable, on summary conviction, to a fine of not exceeding Twenty Pounds for a first offence, and for any subsequent offence to a fine of not exceeding Fifty Pounds and not less than Twenty Pounds.

Inspectors.

694/98, sec. 3, altered.

12. For the better protection of the public the Governor shall appoint an Inspector of Fertilisers, and may appoint one or more Assistant Inspectors of Fertilisers.

Powers of inspectors.

694/98, sec. 5.

13. Any inspector may, at any time in the daytime, enter any manufactory, warehouse, store, shop, building, or place in South Australia where any fertiliser is manufactured, kept, or exposed for sale, and demand and take samples of any such fertiliser.

Samples.

694/98, sec. 6.

14. Three samples shall be taken by the inspector in each case and marked, sealed, and fastened by the inspector in the presence of the dealer or his representative, and shall be disposed of as follows:—

- (a) One sample shall be delivered to the person in charge of the premises:
- (b) One may be utilised for analysis:
- (c) One shall be retained by the inspector for future comparison.

Publication of certificate.

15. The particulars contained in the certificate delivered to the Inspector of Fertilisers under section 5 of this Act may be published in the *Journal of Agriculture*, or in such other manner as the Minister of Agriculture may direct.

Publication of result of analysis.

694/98, sec. 7.

16. The result of the analysis of any sample of fertiliser taken by any inspector, together with the name and address of the dealer from whom the sample was obtained and the certificate mentioned in section 5 hereof, may be published in *The Journal of Agriculture and Industry* and in such other manner as the Minister of Agriculture may direct, and a statement of the result of any analysis shall be sent by post forthwith to the dealer from whom the sample was taken.

Right of buyer to analysis.

602/94, sec. 4 (1).

17. Every buyer of any fertiliser shall, on complying with the regulations, be entitled, within ten days after delivery of the article to the buyer or receipt of the invoice by the buyer, whichever is later, 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.

602/94, sec. 4 (3).

18. The certificate of the analyst shall be in the form and contain the particulars mentioned in the Schedule B hereto, or as near thereto as circumstances permit.

The Fertilisers Act.—1900.

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

Certificate evidence.
602/94, sec. 4 (4),
altered.

20. The costs of and incidental to the obtaining of any analysis in pursuance of section 16 this Act shall be borne by the seller or the buyer, in accordance with the results of the analysis, and shall be recoverable as a simple contract debt.

Costs of analysis.
602/94, sec. 4 (5).

21. The Governor may appoint one or more agricultural analysts.

Analyst.
602/94, sec. 3.

22. If any person knowingly and fraudulently—

Tampering with
samples.

(a) Tampers with any parcel 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 parcel; or

602/94, sec. 5.

(b) Tampers with any sample taken under this Act:

he shall be liable, on summary conviction, to a fine not exceeding Twenty Pounds, or to imprisonment for a term not exceeding six months.

23. In any proceeding for an offence under this Act it shall be 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.

Defence.
602/94, sec. 2 (2).

24. A person alleged to have committed an offence under this Act in respect of an article sold by him shall be entitled to the same rights and remedies, civil or criminal, against the person from whom he bought the article as are available to the person who bought the article from him, and any damages recovered by him may, if the circumstances justify it, include the amount of any fine and costs paid by him on conviction under this Act, and the costs of and incidental to his defence on such conviction.

Rights of seller
against person who
sold to him.
602/94, sec. 2 (3).

25. A prosecution for an offence under this Act may be instituted either by the person aggrieved, by the Inspector of Fertilisers, or by any person authorised by the Minister of Agriculture.

Who may prosecute.
602/94, sec. 6, altered.

26. If the percentage of nitrogen, nitrogen as nitrates, potash in readily soluble form, water soluble phosphate, citrate soluble phosphate, or acid soluble phosphate contained in any fertiliser shall be less by the following amounts, namely, one-half per centum of nitrogen or nitrogen as nitrates, one-half per centum of potash in readily soluble form, or two and one-half per centum of phosphate, whether water soluble phosphate, citrate soluble phosphate, or acid soluble phosphate, separately or total, than the percentages stated in the

What deficiencies
allowed.
New.

The Fertilisers Act.—1900.

the invoice given to the purchaser of such fertiliser, such invoice shall be deemed to be false in a material particular.

Evidence.

New.

27. In any proceedings under this Act parol evidence that any person is an analyst or an Inspector shall be deemed sufficient, unless the defendant shall prove the contrary.

Summary procedure.

602/94, sec. 7.

28. All proceedings in respect of offences under this act shall be conducted under Act No. 6 of 1850, relating to summary convictions and orders, and the Act or Acts amending the same, or under any Act or Acts for the time being in force in that behalf; and there shall be an appeal from any conviction or from any other order dismissing any information to the Local Court of Adelaide in its Full Jurisdiction.

Regulations.

602/94, sec. 4 (2),
added to.

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

- i. Prescribing the method of taking samples by any buyer desirous of having any fertiliser analysed:
- ii. Prescribing the fees to be paid to the analyst for making any analysis:
- iii. Generally for carrying this Act into effect.

Publication in
Gazette.

New.

30. All regulations shall be published in the *Government Gazette*, and shall from the date of publication have the force and effect of law.

Application of Act.

694/98, sec. 9, altered.

31. This Act shall not apply to any dealer or person selling or offering for sale any fertiliser in any quantity less than fifty-six pounds in weight.

Date of coming into
operation.

32. This Act shall come into operation on the first day of January, one thousand nine hundred and one.

In the name and on behalf of Her Majesty, I hereby assent to
this Bill.

TENNYSON, Governor.

The Fertilisers Act.—1900.

SCHEDULES.

SCHEDULE A.

"The Fertilisers Act, 1900."

Certificate of Constituents of Fertilisers.

To the Inspector of Fertilisers.

I [*we*], the undersigned, hereby give you notice that I [*we*] sell the fertilisers mentioned below, and that the minimum percentages of nitrogen, nitrogen as nitrates, potash in readily soluble form, water soluble phosphate, citrate soluble phosphate, and acid soluble phosphate contained in each of the said fertilisers are as hereunder set forth. I [*we*] hereby forward you the sum of £ , being the licence fee as required by section 5 of the Fertilisers Act, 1900, for year ending thirty-first December, 19 .

Name of Manufacturer or Importer.	Name or Brand of Fertiliser.	Nitrogen.	Nitrogen as Nitrates.	Potash in Readily Soluble Form.	Water Soluble Phosphate.	Citrate Soluble Phosphate.	Acid Soluble Phosphate.

Dated

Signed

SCHEDULE B.

"Fertilisers Act, 1900."

Form of Certificate by Agricultural Analyst.

I, the undersigned, agricultural analyst, do hereby certify that on the day of , 19 , I received from a sealed sample labelled for analysis, the result of which is as follows, viz. :—

Nitrogen	Per cent.
" as nitrates	"
Potash in readily soluble form	"
Phosphoric acid calculated as tricalcic phosphate—	
(a) Water soluble phosphate	"
(b) Citrate soluble phosphate	"
(c) Acid soluble phosphate	"

OBSERVATIONS.

As witness my hand this day of , 19 .

, Agricultural Analyst.