

No. 6196.

## AGRICULTURAL LIME ACT 1958.

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An Act to consolidate the Law relating to the Sale of  
Agricultural Lime.

[30th September, 1958.]

**B**E it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):—

1. This Act may be cited as the *Agricultural Lime Act 1958*, and shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the *Government Gazette*.

Short title  
and com-  
mencement.

2. (1) The Acts mentioned in the First Schedule to the extent thereby expressed to be repealed are hereby repealed accordingly.

Repeal.  
First  
Schedule.

(2) Except as in this Act expressly or by necessary implication provided—

(a) all persons things and circumstances appointed or created by or under the repealed Acts or existing or continuing under any of such Acts immediately before the commencement of this Act shall under

and subject to this Act continue to have the same status operation and effect as they respectively would have had if such Acts had not been so repealed;

- (b) in particular and without affecting the generality of the foregoing paragraph such repeal shall not disturb the continuity of status operation or effect of any regulation appointment application direction notification registration certificate liability or right made effected issued granted given presented passed fixed accrued incurred or acquired or existing or continuing by or under any of such Acts before the commencement of this Act.

Interpretation.  
No. 4271 s. 2.

3. In this Act, unless inconsistent with the context or subject-matter—

"Agricultural lime."

"Agricultural lime" means calcium oxide, calcium hydrate, or calcium carbonate or any material containing any one or more of these ingredients sold or intended to be used for application to the soil, but does not include any fertilizer within the meaning of the *Fertilizers Act 1958*.

"Manufacturer."

"Manufacturer" means any person who manufactures prepares produces or mines agricultural lime for sale.

"Parcel."

"Parcel" or "parcels" includes sack barrel case and package.

"Prescribed."

"Prescribed" means prescribed by this Act or any regulation hereunder.

"Regulations."

"Regulations" means regulations made under this Act.

"Sell."

"Sell" includes sell whether by wholesale or retail and barter or exchange; also dealing in agreeing to sell or offering or exposing for sale or keeping or having in possession for sale or sending forwarding delivering or receiving for sale or on sale or authorizing directing causing suffering permitting or attempting any of such acts or things; and the derivatives of "sell" (which for the purposes of this Act include "vendor") have a corresponding interpretation.

Non-application.  
No. 4271 s. 3.

4. This Act shall not apply to any sale of any agricultural lime where the quantity sold is less than half a ton.

Vendor to give invoice certificate to purchaser.  
No. 4271 s. 4.

5. Upon the sale of any agricultural lime, whether paid for at the time of sale or not, the vendor shall at the time of sale or before delivery of the same or any part thereof give to the

purchaser an invoice certificate in the form of the Second Schedule to this Act or to the like effect, signed by the vendor or his agent and stating—

Second  
Schedule.

- (a) the full name and place of business of the vendor;
- (b) all marks figures words or letters (in this Act referred to as the "brand") attached to or associated with the agricultural lime and intended for identifying it;
- (c) the quantity of agricultural lime comprised in the sale; and
- (d) the proportion per centum of calcium oxide contained in such agricultural lime and the form or forms in which it occurs, the calcium carbonate equivalent per centum of such calcium oxide, the proportion per centum of magnesium oxide contained in such agricultural lime and the form or forms in which it occurs, and the proportion per centum of such agricultural lime passing through a sieve of twenty linear meshes to the inch or (as the case may be) through a sieve of such other mesh as is prescribed.

6. Every such invoice certificate shall be deemed a representation or warranty by the vendor to the purchaser of the truth of the matters referred to therein.

Invoice  
certificate  
warranty.  
No. 4271 s. 5.

7. (1) Every person who sells or offers or exposes for sale any agricultural lime and every dealer in agricultural lime who has in his possession management or control any agricultural lime shall securely and conspicuously affix to each parcel thereof a plainly printed label clearly and truly certifying—

Labelling of  
parcels &c.  
of agricultural  
lime.  
No. 4271 s. 6.

- the brand under which the agricultural lime is sold;
- the name and address of the manufacturer;
- the place of manufacture; and
- the proportion per centum of calcium oxide in such agricultural lime and the form or forms in which it occurs, the calcium carbonate equivalent per centum of such calcium oxide, the proportion per centum of magnesium oxide in such agricultural lime and the form or forms in which it occurs, and the proportion per centum of such agricultural lime passing through a sieve of twenty linear meshes to the inch or (as the case may be) through a sieve of such other mesh as is prescribed.

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

(3) Where any agricultural lime is sold in bulk the printed labels shall accompany and go with every lot sold.

Penalty for non-compliance.  
No. 4271 s. 7.

8. Every vendor who fails to give to the purchaser an invoice certificate as provided by section five and every person such as is mentioned in the last preceding section who fails to comply with any of the provisions thereof shall be liable for the first offence to a penalty of not more than Five pounds and for any subsequent offence to a penalty of not more than Twenty-five pounds.

Official analysts.  
No. 4271 s. 8;  
No. 5602 s. 2.

9. (1) All official analysts appointed under the *Fertilizers Act 1958* or any corresponding previous enactment shall be deemed to be official analysts as if appointed under this Act.

(2) The Chief Chemist of the Department of Agriculture (hereinafter called the said chemist) shall by virtue of his office be an official analyst under this Act.

Right of purchaser to analysis.  
No. 4271 s. 9.

10. Any person who has bought any agricultural lime shall, on complying with the requirements of the regulations, be entitled to have a sample of the agricultural lime so bought analysed by an official analyst and to receive from him a certificate of the results of such analysis.

Penalty for tampering with parcel or sample of agricultural lime.  
No. 4271 s. 10.

11. Every person who—

(a) knowingly and fraudulently tampers with any parcel of any agricultural lime 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

(b) improperly breaks any seal of or tampers with any bottle or jar containing any sample or part of a sample—

shall be liable for the first offence to a penalty of not more than Five pounds and for any subsequent offence to a penalty of not more than Twenty pounds.

Liability of vendor where deficiency found on analysis.  
No. 4271 s. 11.

12. When any agricultural lime submitted for analysis by any purchaser, or collected or taken by the said chemist or any officer either generally or specifically appointed by him as his deputy, is found to contain a smaller percentage of calcium oxide or of magnesium oxide or of material passing through a sieve of twenty meshes per linear inch or (as the case may be) through a sieve of such other mesh as is prescribed than the percentages respectively stated or certified in the invoice certificate or on the label attached to each parcel containing such agricultural lime, the vendor shall in every case where the deficiency exceeds one-twentieth of the percentage so stated or certified be liable for

a first offence to a penalty of not more than Twenty pounds and for any subsequent offence to a penalty of not less than Twenty and not more than Fifty pounds.

13. (1) For the purpose of ascertaining whether the provisions of this Act are being complied with the said chemist or any person either generally or specifically appointed by him in writing as his deputy shall have free access at any reasonable time to any shop store warehouse building premises or vehicle of any manufacturer or vendor of or dealer in agricultural lime or to any land or place where any agricultural lime is stored and may examine it and without payment collect and take for analysis portions of any agricultural lime as samples from any parcels whether in or on any such shop store warehouse building premises land or place or from any vehicle.

Power of  
chemist to  
enter  
buildings and  
land, take  
samples &c.  
No. 4271 s. 12;  
No. 4485 s. 2.

(2) Such samples shall subject to the provisions of sub-section (6) of this section be taken in the presence of the said manufacturer vendor or dealer or any agent or person in charge of such parcels and shall be taken from parcels comprising not less than ten per centum of each whole lot sampled.

(3) The various portions taken from the whole lot of any one class or kind of agricultural lime sampled shall be thoroughly mixed and a quantity therefrom taken not exceeding two pounds in weight which shall then be divided into three approximately equal parts each of which parts shall be placed in a glass vessel and carefully sealed. A label shall be placed on each vessel stating the name of the manufacturer vendor or dealer from whose stock the sample was taken and the time and place of taking. Each label shall be signed by the said chemist or deputy who shall submit it for signature by the manufacturer vendor or dealer concerned or any person in charge at the taking and sealing of the said sample.

(4) One of the parts shall be retained by the said chemist or deputy, one other such part shall be delivered to the person to whom the label is submitted for signature in pursuance of the provisions of the last preceding sub-section and the third part shall be retained as the Minister directs for future reference.

(5) The sample or samples obtained by the said chemist or deputy shall be for analysis and for comparison with the figures of the invoice certificate or the label affixed to each package pursuant to this Act.

(6) If the manufacturer or vendor of or dealer in agricultural lime or some person representing him fails to attend the taking of the sample when notified so to do, the said chemist or his deputy may proceed to take such samples not exceeding two pounds in weight in the absence of any such person

(7) If any sample on analysis by the said chemist or any official analyst is deficient to an extent exceeding the limits allowed by this Act in the percentage of calcium oxide or of material passing through a sieve of twenty meshes per linear inch or (as the case may be) through a sieve of such other mesh as is prescribed the said chemist or deputy may without further delay take proceedings against any manufacturer vendor or dealer or agent having possession of the agricultural lime from which such sample was taken.

Penalty for selling agricultural lime containing more than 5 per cent. of magnesium oxide.

No. 4271 s. 13.

Register of brands to be kept.

No. 4271 s. 14.

Registration of brands.

No. 4271 s. 15.

14. Any person who sells any agricultural lime which contains more than five per centum of magnesium oxide in any form shall be liable to a penalty of not more than Twenty pounds.

15. The Director of Agriculture shall cause to be compiled a register of brands under this Act.

16. (1) No brand shall be registered save with the approval of the Director of Agriculture.

(2) No brand shall be registered if in the opinion of the Director of Agriculture it is substantially identical with any other brand registered or proposed to be registered or so nearly resembles it as to be likely to deceive.

Application for registration.

No. 4271 s. 16.

17. Every manufacturer of agricultural lime who desires to have a brand registered in respect of any agricultural lime shall on or before the first day of November in each year in such form as may be prescribed make application in writing to the Director of Agriculture for the registration of such brand.

Form of application.

No. 4271 s. 17.

18. (1) Every such application shall be accompanied by the amount of the prescribed fee for registration and shall set forth—

- (a) the full name and place of business of the applicant;
- (b) the brand used or intended to be used in connexion with the agricultural lime;
- (c) the name and address of the manufacturer of the agricultural lime;
- (d) the place of manufacture;
- (e) a statement of the results of a chemical analysis of the agricultural lime stating the proportion per centum of calcium oxide contained in such agricultural lime and the form or forms in which it occurs, the calcium carbonate equivalent per centum of such calcium oxide, the proportion per centum of magnesium oxide contained in such agricultural lime and the form or forms in which it occurs, and the proportion per centum of the

agricultural lime which passes through a sieve of twenty linear meshes to the inch or (as the case may be) through a sieve of such other mesh as is prescribed;

(f) the retail price per ton of the agricultural lime free on rails at the railway station nearest the place of manufacture; and

(g) such other matters as may be prescribed.

(2) Every such application shall be verified by a statutory declaration of the applicant in such form as may be prescribed.

(3) The particulars set forth in any application under this section may be published in the *Journal of the Department of Agriculture of Victoria*.

Publication of particulars contained in application for registration.

19. A list of all registered brands under this Act shall be published in the *Government Gazette* as part of the annual list of agricultural limes.

Publication of annual list of brands.  
No. 4271 s. 18.

20. Where information with regard to any matter required to be set forth in an application for the registration of a brand for any agricultural lime is also required by section five or section seven respectively of this Act to be stated in respect of such agricultural lime in any invoice certificate or on any label such information shall be so stated in the same terms as in the application for registration.

Certain information in application for registration to be set forth in invoice &c.  
No. 4271 s. 19.

21. (1) No brand shall save with the express sanction of the Director of Agriculture be registered in the period between the publication of the list of brands for any year and of the list of brands for the following year.

Registration of brands during currency of annual list.  
No. 4271 s. 20.

(2) The provisions of this Act with regard to the annual registration of brands shall so far as they are applicable and with such adaptations as are necessary apply to the registration of brands under this section and such brand shall after registration be published in the *Government Gazette* together with a statement containing with respect to the agricultural lime the like information as is contained in the annual list of agricultural limes published under this Act.

22. The registration of a brand shall continue in force until the publication in the *Government Gazette* of the list of registered brands for the following year and no longer.

Period for which registration continues in force.  
No. 4271 s. 21.

23. (1) The Chief Chemist of the Department of Agriculture shall compile a complete list of all the agricultural limes in respect of which brands are so registered showing—

Compilation and publication annually of lists of agricultural limes.  
No. 4271 s. 22;  
No. 3602 s. 2.

(a) the prices asked for the same;

- (b) the several brands registered in respect of such agricultural limes; and
- (c) such other matters as may be prescribed.

(2) Such list (in this Act referred to as the "annual list of agricultural limes") shall be published in the *Government Gazette* as soon as practicable after the first day of December in every year.

(3) After the publication in the *Government Gazette* of any such annual or supplementary list of registered brands a copy of the same may be published for public and general information in or by any newspaper circulating in any part of Victoria and the publication thereof in any newspaper shall not render the proprietor printer or publisher thereof liable to any action or proceeding in any court whatsoever.

Samples of agricultural limes to be supplied for analysis.  
No. 4271 s. 23;  
No. 5602 s. 2.

24. Every manufacturer or vendor of or dealer in agricultural lime shall when required to do so by the Minister forward for analysis to the Chief Chemist of the Department of Agriculture without payment samples not exceeding two pounds in weight of any agricultural lime in respect of which a brand is registered.

Power to demand information.  
No. 4271 s. 24.

25. (1) The said chemist or deputy or any member of the police force may at any time require the purchaser of any agricultural lime to state the name and address of the vendor from whom he purchased such agricultural lime, and the price charged or paid therefor, and also to produce for inspection any invoice certificate given to him by the vendor pursuant to this Act.

Penalty for obstruction.

(2) Every person who withholds any such information or fails so to produce such invoice certificate or obstructs the said chemist or deputy or any member of the police force in the execution of any of his duties under this Act shall be liable to a penalty of not more than One pound for a first offence and of not more than Five pounds for each subsequent offence.

Penalty for contraventions.  
No. 4271 s. 25.

26. Every vendor or manufacturer of or dealer in agricultural lime or other person who contravenes or fails to comply with any of the provisions of this Act shall where no other penalty is expressly provided for such contravention or failure be liable to a penalty of not more than Five pounds for a first offence and of not more than Twenty pounds for each subsequent offence.

Forgery.  
No. 4271 s. 26.

27. Every person who forges or utters knowing it to be forged any certificate as provided for under this Act shall be guilty of a misdemeanor and shall be liable to imprisonment for a term of not more than five years.



28. Any person who sells any agricultural lime in respect of which no brand is registered under this Act shall for a first offence be liable to a penalty of not less than Ten or more than Fifty pounds and for any subsequent offence to a penalty of not less than Fifty nor more than One hundred pounds.

Penalty for selling agricultural lime in respect of which no brand registered.  
No. 4271 s. 27.

29. The provisions of sections thirty-three to thirty-six and of sections thirty-eight to forty-three of the *Fertilizers Act 1958* with such adaptations as are necessary for carrying out the purposes of this Act are hereby incorporated with this Act:

Incorporation of *Fertilizers Act* ss. 33-36, 38-43 for purposes of this Act.

Provided that for the purposes of this section any reference in the said sections to "fertilizer" or "fertilizers" shall be read and construed as a reference to "agricultural lime."

Procedure, evidence, offenders, costs, protection of officers &c.  
No. 4271 s. 28.

30. (1) The Governor in Council may make regulations for or with respect to—

Regulations.  
No. 4271 s. 29;  
No. 4485 s. 2.

- (a) official methods of analysis chemical and physical to be applied in the analysis of any agricultural lime for the purposes of this Act;
- (b) the size form and quality of the printed labels required to be affixed to parcels of agricultural lime, the information to be set forth thereon and the manner of printing thereof;
- (c) the manner of marking brands upon labels invoice certificates or parcels of agricultural lime;
- (d) prescribing the mesh of any sieve through which agricultural lime or any proportion thereof is to pass;
- (e) prescribing the procedure to be adopted by the purchaser of any agricultural lime in order that he may obtain an official analyst's analysis;
- (f) fees payable under this Act;
- (g) prescribing any forms for use under this Act (and any forms so prescribed or forms to the like effect shall be sufficient in law);
- (h) penalties not exceeding Five pounds for any breach of the regulations; and
- (i) prescribing any matters which by this Act are required or which are necessary or expedient to be prescribed for carrying out or giving effect to this Act.

(2) Where any method of analysis chemical or physical has been prescribed for the analysis of any agricultural lime, any official analyst for the prosecution in any proceedings under this Act shall in his certificate of analysis declare that he has followed the prescribed official method in his analysis.

Prescribed method of making analysis to be followed.

Publication of  
proposed  
regulations

(3) All regulations proposed to be made under this Act shall be published in the *Government Gazette* and shall be laid before both Houses of Parliament at least fourteen days before being submitted for the approval of the Governor in Council if Parliament is then sitting, and if Parliament is not then sitting shall be posted to all members of Parliament at least fourteen days before being submitted for the approval of the Governor in Council.

Section 2.

## SCHEDULES.

### FIRST SCHEDULE.

Number of Act.	Title of Act.	Extent of Repeal.
4271 ..	<i>Agricultural Lime Act 1934</i> .. ..	The whole.
4485 ..	<i>Statute Law Revision Act 1937</i> ..	Item in Schedule referring to <i>Agricultural Lime Act 1934</i> .
5602 ..	<i>Statute Law Revision Act 1951</i> ..	Item in Schedule referring to <i>Agricultural Lime Act 1934</i> .

Section 5.

### SECOND SCHEDULE.

#### INVOICE CERTIFICATE UNDER THE AGRICULTURAL LIME ACT 1958.

I of street in the of hereby certify that the agricultural lime this day sold (consigned or forwarded as the case may be) by me to of being a quantity of tons cwt. 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 agricultural lime contains—

Calcium oxide per centum in the form of  
(equivalent to per centum of calcium carbonate)  
Magnesium oxide per centum in the form of  
Material passing through a 20 mesh sieve [or (as the case may be) through a sieve of such other mesh as is prescribed] per centum.

Dated this day of 19  
(Signature of Vendor).