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[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1912.

A BILL

To regulate the sale and prevent the adulteration of fertilizers ; to provide for the inspection and analysis, and for the registration of brands of fertilizers ; for purposes consequent thereon or incidental thereto ; and to repeal the Fertilizers Act, 1904.

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 New South Wales in Parliament assembled, and by the authority of the same, as follows :—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Fertilizers Act, 1912." Short title and repeal.
It shall commence and come into force on a date to be proclaimed by the Governor in the Gazette.

(2) The Fertilizers Act, 1904, is hereby repealed.

- 2.** In this Act unless the context otherwise indicates—
- “Analyst” means analyst appointed in pursuance of this Act. Definitions.
No. 2,274 Vic., s. 3.
- “Bone dust” means fertilizer consisting only of disintegrated bones or recent animal matter, and containing over fifteen parts of phosphoric acid in each one hundred parts of the fertilizer.
- “Fertilizer” means manure used, or intended to be used, as a fertilizer, not being stable manure, lime, refuse from fellmongeries, or other similar articles in their unmanufactured state.
- “Inspector” means person appointed as an inspector under the provisions of this Act.
- “Phosphoric acid” means phosphorus pentoxide. Ibid.
- “Potash” means potassium monoxide.
- “Prescribed” means prescribed by regulations made in pursuance of this Act.

3. This Act is divided into Parts as follows:—

Division into Parts.

PART I.—PRELIMINARY—*ss.*

PART II.—SALE OF FERTILIZERS.—*ss.*

PART III.—REGISTRATION OF BRANDS—*ss.*

PART IV.—INSPECTION AND ANALYSIS—*ss.*

PART V.—GENERAL AND SUPPLEMENTAL—*ss.*

4. This Act shall not apply to any sale of fertilizer where the quantity sold is less than half a hundredweight. Application of Act.
No. 1,930, Vic., s. 4.

PART II.

SALE OF FERTILIZERS.

5. Upon the sale of any fertilizer, 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 Schedule One to this Act or to the like effect, signed by the vendor or his agent, and stating— Invoice Certificate.
Ibid. s. 5.
Schedule One.

- (a) the full name and place of business of the vendor;
- (b) the figure trade mark or other sign attached to or associated with the fertilizer and intended for identifying it;
- (c) the quantity of fertilizer; and
- (d) the proportion per centum in which such fertilizer contains the following ingredients, namely: nitrogen, phosphoric acid and potash, and the forms in which they respectively occur as provided in such Schedule.

6.

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. Warranty. No. 1,930 Vic., s. 6.

7. (1) Every person who sells or offers or exposes for sale any fertilizer, and every dealer in fertilizers who has in his possession, management, control, or direction any fertilizer, shall securely affix conspicuously to each parcel thereof, a plainly printed label clearly and truly certifying— Label. Ibid. s. 7. No. 2,274 Vic., s. 4.

- the number of net pounds of fertilizer in the parcel ;
- the figure, trade mark, or other sign under which the fertilizer is sold ;
- the name and address of the manufacturer or importer ;
- the place of manufacture ; and
- giving a chemical analysis stating the proportion per centum in which the fertilizer 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 bone dusts and bone meals, the percentage of coarse material and fine materials shall also be stated on the label. Fine material is the material which passes through a sieve of thirty-two linear meshes to the inch, and coarse material is the portion retained in the mesh of the sieve.

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

(4) Where any fertilizer is sold in bulk, the printed labels shall accompany and go with every lot sold.

8. Every vendor who fails to give to the purchaser an invoice certificate, or fails to comply with the provisions of the last-preceding section, shall be guilty of an offence against this Act, and shall be liable on conviction to a penalty not exceeding *five* pounds for the first offence, and to a penalty not exceeding *twenty* pounds for any subsequent offence. Penalty. No. 1,930 Vic., s. 8.



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. Warranty. No. 1,930 Vic., s. 6.

7. (1) Every person who sells or offers or exposes for sale any fertilizer, and every dealer in fertilizers who has in his possession, management, control, or direction any fertilizer, shall securely affix conspicuously to each parcel thereof, a plainly printed label clearly and truly certifying— Label. Ibid. s. 7. No. 2,274 Vic., s. 4.

the number of net pounds of fertilizer in the parcel ;

the figure, trade mark, or other sign under which the fertilizer is sold ;

the name and address of the manufacturer or importer ;

the place of manufacture ; and

giving a chemical analysis stating the proportion per centum in which the fertilizer 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 bone dusts and bone meals, the percentage of coarse material and fine materials shall also be stated on the label. Fine material is the material which passes through a sieve of thirty-two linear meshes to the inch, and coarse material is the portion retained in the mesh of the sieve.

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

(4) Where any fertilizer is sold in bulk, the printed labels shall accompany and go with every lot sold.

8. Every vendor who fails to give to the purchaser an invoice certificate, or fails to comply with the provisions of the last-preceding section, shall be guilty of an offence against this Act, and shall be liable on conviction to a penalty not exceeding *five* pounds for the first offence, and to a penalty not exceeding *twenty* pounds for any subsequent offence. Penalty. No. 1,930 Vic., s. 8.

PART III.

REGISTRATION OF BRANDS.

9. (1) The Minister shall cause to be compiled and kept in a register-book in such form as may be prescribed, a register of brands under this Act. Register book. No. 2,274 Vic., s. 11.

(2) The register shall be open to the inspection of the public at all convenient times on payment of the prescribed fee.

(3) Certified copies of entries in the register shall be given to any person applying for them on payment of the prescribed fee.

10. (1) No brand shall be registered save with the approval of the Minister. Registration of brands. Ibid. s. 12.

(2) No brand shall be registered if in the opinion of the Minister 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.

11. The Minister may cause the register to be amended or altered by— Amendment of register. Ibid. s. 13.

- (a) making any entry wrongly omitted to be made in the register;
- (b) expunging any entry wrongly made in or remaining on the register;
- (c) correcting any error in the register;
- (d) altering the name or address of any person whose name or address appears on the register if he has changed his name or address;
- (e) adding to the list any brand registered pursuant to this Act during the currency of any annual list of brands.

12. Every manufacturer or importer of fertilizers who desires to have a brand registered in respect of any fertilizer 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 Minister for the registration of such brand: Provided that in respect of the first list of registered brands the Minister may substitute for the said first day of November such other date as he thinks fit. Application for registration. Ibid. s. 14.

13. (1) Every such application shall be accompanied by the amount of the prescribed fee for registration not exceeding, in the case of any one manufacturer or importer, the sum of five pounds, and shall set forth— Particulars on application. Ibid. s. 15.

- (a) the full name and place of business of the applicant;
- (b) the name, figure, trade-mark, or other sign (in this Act referred to as the "brand"), to be attached to or associated with the fertilizer and intended for identifying it, which the applicant desires to have registered;

(c)

- (c) the name and address of the manufacturer or importer of the fertilizer ;
- (d) the place of manufacture ;
- (e) the raw materials from which the fertilizer is manufactured or prepared ;
- (f) a statement of the results of a chemical analysis of the fertilizer, stating the proportion per centum in which the fertilizer 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 as provided in Schedule One to this Act; 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.

14. A list of all registered brands under this Act shall be published in the Gazette as soon as practicable after the commencement of this Act, and thereafter as soon as practicable after the first day of January in each year. Publication of list. No. 2,274 Vic., s. 16.

15. (1) After the date of the publication in the Gazette, as required by this Act, of the first list of registered brands, or the first day of January, one thousand nine hundred and thirteen, whichever may first occur, no fertilizer shall be sold except in parcels, each of which and every invoice certificate and label used in connection with such is marked with a registered brand in such manner as may be prescribed. Marking of parcel sold. Ibid. s. 17.

(2) Notwithstanding anything contained in this section, where any fertilizer is sold which has been prepared upon an order in writing of the purchaser and according to a bona fide special prescription in writing supplied by the purchaser—

- (a) it shall not be necessary to mark with a registered brand any parcels thereof or any invoice certificate or label used in connection therewith ;
- (b) the person who prepares the fertilizer (whether a manufacturer, importer, vendor, or dealer in fertilizers) shall, if required by the Minister, furnish to the chemist of the Department of Agriculture such particulars with regard to sale, the prescription, and the fertilizer as may be prescribed.

16. (1) No brand shall, save with the express sanction in writing of the Minister, 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. Interim registration. Ibid. s. 18.

(2) The provisions of this Act with regard to the annual registration of brands shall, so far as they are applicable and with such modifications as are necessary, apply to the registration of brands under this section, and such brands shall, after registration, be published in the

the Gazette, together with a statement containing with respect to the fertilizer the like information as is contained in the annual list of fertilizers published under this Act.

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

Period of registration.
Act 1910, Vic., s. 19.

PART IV.

INSPECTION AND ANALYSIS.

18. The Governor may appoint inspectors and Government analysts under this Act. The chemist of the Department of Agriculture shall, by virtue of his office, be an official analyst under this Act.

Inspectors and Government analysts.

19. Any inspector may at any reasonable time enter and inspect any place which he has reasonable grounds to believe is kept or used for the sale, storage, delivery, conveyance, manufacture, or preparation of any fertilizer, and may inspect such fertilizer.

Power to enter and inspect.

Purchase of samples for analysis.

20. (1) On payment or tender to any person selling or manufacturing or preparing for sale any fertilizer, or who, being a dealer in fertilizers, has in his possession, management, control, or direction any fertilizer, or to his agent or servant, or to any person in charge of the fertilizer, of the current market value thereof or at the rate of payment prescribed, any inspector may demand and select and take or obtain samples of the said fertilizer as required by him for the purposes of this Act.

Power to demand, select, and take samples.

(2) Such inspector may require the said person or his agent or servant to show and permit the inspection of any package or vessel in which such fertilizer is at the time kept, and may take or draw, or may require the said person to take or draw, therefrom the samples demanded:

Provided that where any fertilizer is kept for retail sale in a closed package, no person shall be required by any inspector to sell less than the whole of such package.

Procedure on taking sample.

21. (1) An inspector taking or obtaining any fertilizer with the intention of submitting it to analysis shall thereupon notify such intention to any person then present, being the owner or his agent or servant or other person in charge of such fertilizer.

Manner in which sample may be dealt with.

(2)

(2) The said inspector shall divide any such fertilizer Division of sample. into three parts, to be then and there separated, and each part to be labelled or marked and sealed or fastened up in such manner as its nature will permit, and shall then, if required to do so, deliver one of the said parts to the owner, agent, servant, or person aforesaid, and shall retain one of the said parts for future comparison, and submit the third part to an analyst.

(3) Provided that when any fertilizer is contained in a Where quantity in package is insufficient for analysis. bottle, tin, or other package in such quantity that its division into three parts, as hereinbefore provided, would furnish parts insufficient for accurate analysis, additional bottles, tins, or packages which purport to contain a similar fertilizer under the same brand or label, may be taken or obtained, and the contents of two or more bottles, tins, or packages may be mixed together and the mixture divided and submitted for analysis as hereinbefore provided.

22. Where an inspector takes or obtains a sample of any Forwarding of sample by post. fertilizer in a locality which is situated outside a radius of fifteen miles from the General Post Office, at Sydney, such sample may be forwarded to an analyst through the post office, as a registered article, or may be forwarded under seal in any other convenient way, in which case the certificate of the analyst that, on receipt by him, the seal was unbroken shall be sufficient evidence of identity. Any charge for postage or carriage shall be deemed one of the expenses of the analysis.

The analysis.

23. Any analyst analysing any fertilizer submitted to him in Certificate of analyst to be evidence. pursuance of this Act may give a certificate in the form prescribed of the result of the analysis.

In any legal proceeding under this Act the production of a certificate, purporting to be signed by an analyst, shall be sufficient evidence of the identity of the fertilizer analysed, and of the result of the analysis, without proof of the signature of the person appearing to have signed the same.

24. Where any method of analysis has been prescribed for the Certificate of analysis. analysis of any fertilizer, any analyst, either for the prosecution or defence in any proceedings under this Act, must in his certificate of analysis declare that he has followed the prescribed method in his analysis. But evidence shall be admissible on the part of the defence of analysis made by other than the prescribed method, and to show that the prescribed method is not correct.

25. Any analyst who offends against any of the provisions of Disqualification of analyst for non-compliance. this Act, or of the regulations respecting any method of analysis prescribed, may, if the Governor is satisfied that the offence has been wilfully committed, be disqualified by the Governor for appointment as an analyst for such period as the Governor thinks fit.

26.

26. (1) Where an inspector in any case under this Act, has caused the fertilizer forming the subject of prosecution to be analysed by an analyst, the court may, in case of a conviction for an offence against this Act assess the reasonable expense of and attending such analysis, and award the same against the defendant as part of the costs of the prosecution :

Costs of analysis.

Provided that before the making of such analysis the person prosecuted has had reasonable notice of the time and place of the intended production of the fertilizer to the analyst for examination with the name of such analyst, and has been allowed to attend on such production.

(2) The court may also, in case of any conviction under this Act, assess and award against the defendant as part of the costs of the prosecution the expenses incurred by any inspector in travelling to and attending the trial, including the proportionate part of his salary while so engaged.

27. A copy of the result of any analysis of any fertilizer taken or obtained by an inspector shall, on demand, be supplied by the Minister to the person from whom the fertilizer was taken or obtained, and to the manufacturer or his agent in New South Wales on payment of a fee, to be fixed by the Minister, not exceeding *ten* shillings and *sixpence*.

Copy of result of analysis.

28. No person shall, in any writing for trade purposes or any advertisement, refer to any analysis made for the purposes of this Act.

Analysis not to be referred to for trade purposes.

Any person who contravenes this section shall be liable to a penalty not exceeding *ten* pounds.

Penalty where analysis shows deficiency in fertilizing matter.

29. Where any fertilizer submitted for analysis by any purchaser or inspector is found to contain less nitrogen, phosphoric acid, or potash than the proportions respectively stated in the invoice certificate or on the label attached to any parcel containing such fertilizer, and, in the case of any deficiency, if such deficiency, in regard to the ingredients of fertilizing value exceeds the percentage of deficiency as set forth in Schedule Two to this Act with respect to fertilizers of the like description, the vendor, in every case as aforesaid, shall be liable, on conviction, to a penalty not exceeding *ten* pounds for the first offence, and not exceeding *fifty* pounds for any subsequent offence.

Penalty where fertilizer is deficient in fertilizing matter.

PART V.

GENERAL AND SUPPLEMENTAL.

30. The Governor may make regulations for carrying out the ^{Regulations.} provisions of this Act, and may in such regulations impose any penalty not exceeding *twenty* pounds for any breach of the same.

Such regulations shall be published in the Gazette and laid before both Houses of Parliament without delay.

31. Penalties imposed by this Act or by regulations made ^{Recovery of} thereunder may be recovered in a summary manner before a court of ^{penalties.} petty sessions.

SCHEDULES.

SCHEDULE ONE.

Invoice certificate under the Fertilizers Act, 1912.

I of street in the
of hereby certify that the fertilizer this day sold (consigned or forwarded,
as the case may be) by me to of being a quantity of
tons cwt. qrs. lb., 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 fertilizer contains the following ingredients in the proportion of the whole set opposite thereto in the form hereunder :—

Nitrogen as (a)	per centum.
Phosphoric acid (b)	per centum.
Potash (c)	per centum.

Dated this day of 19 .

(Signature of Vendor).

(a) Here state whether as nitrates 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 fertilizers, and others unspecified. In the case of bone dust, and bone meals, the percentage of phosphoric acid and nitrogen, and the percentage of fine and coarse material to be given.

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

Fertilizers.

SCHEDULE TWO.

Description of fertilizer.	Percentages of deficiency allowed in regard to ingredients of fertilizing value.				
	Nitrogen.	Potash readily soluble.	Phosphoric acid.		
			Water soluble.	Citrate soluble.	Citrate insoluble.
Fertilizers containing nitrogen ...	0.50				
Fertilizers containing potash	1.00			
Fertilizers containing water soluble phosphoric acid.	*1.00		
Fertilizers containing citrate soluble phosphoric acid.	*1.00	
Fertilizers containing citrate insoluble phosphoric acid.	*1.00

* NOTE.—Provided that the total phosphoric acid deficiency shall not exceed 1.50 per cent.