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[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1926.

A BILL

To regulate in certain respects the sale of foods for stock and poultry; and for purposes connected therewith.

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:—

1. (1) This Act may be cited as the "Stock Food Act, 1926." Short title and commencement.

(2) This Act shall come into operation on a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. In this Act, unless the context or subject-matter otherwise indicates or requires,—
- “By-products” includes husks, bran, pollard, brewers’ grains, and materials produced from any kind of grain or seed in any process of treatment or manufacture, not being the primary object of such process. Interpretation. cf. Vict. Act, No. 2,732, 1915, s. 3. Qld. Act, 10 Geo. V, No. 8 (1919), s. 2.
- “Chaff” means hay or straw cut into short lengths. Ibid.
- “Chemist” means the chemist of the Department of Agriculture, or any person authorised by the Minister to analyse or examine stock food.
- “Foreign ingredients” includes substances from time to time prescribed. Vict. Act, No. 2,732, 1915, s. 3.
- “Hay” means any plant, either cereal, legume, grass, or other fodder cut before complete ripeness, which has been dried, and from which the grain or seed has not been removed.
- “Hay chaff” means chaff consisting only of hay.
- “Inspector” means inspector appointed under this Act.
- “Mixed chaff” means a mixture of hay chaff and straw chaff in any proportion.
- “Mixed, concentrated, or prepared stock food” includes—
- (a) all kinds of meals and food for stock prepared whether in whole or in part from one or more kinds of grain, seeds, nuts, legumes, oils, juices, or meats or otherwise;
 - (b) compressed fodder; and
 - (c) condimental patented or proprietary stock foods claimed to possess nutritive properties or nutritive as well as medicinal properties.
- “Parcel” includes sack, barrel, case, bale, bundle, and package, and when stock food is sold without containers or exterior packing any block, cake, or slab of stock food.
- “Prescribed” means prescribed by this Act or regulation made thereunder.
- “Sell”

“Sell” includes offer, agreement, or attempt to sell, and exposing, sending, forwarding, delivering, or having in possession for sale; and “sale” has a corresponding interpretation.

“Stock” means any animal of the kind or species to which any of the following animals belong—horse, cow, sheep, pig, mule, ass, camel, goat, dog, domestic fowl, turkey, duck, goose, pigeon, or bird in captivity.

“Stock food” includes hay, straw, chaff, grain, seeds, mixed concentrated or prepared stock food, by-products, and any substance prescribed by regulation.

“Straw” means any plant, either cereal, legume, grass, or other fodder which has been dried, and from which the grain or seed has been removed.

“Straw chaff” means chaff made from straw.

“Vendor” means any person who sells stock food, and includes the agent of a vendor.

3. (1) In all sales or agreements for the sale or delivery of chaff, the chaff sold shall in the absence of a written stipulation to the contrary, be presumed to be hay chaff.

Chaff when offered for sale to be deemed hay chaff, unless otherwise stated.
cf. Vict. Act, 1915, No. 2,732, s. 4.

(2) Any person who sells or agrees to sell or deliver chaff shall, in the absence of such a written stipulation, and if the chaff sold or delivered or tendered for delivery is not hay chaff, be guilty of an offence against this Act; and shall on summary conviction be liable—

Ibid. s. 5.

- (a) for a first offence to a penalty not exceeding *twenty* pounds;
- (b) for a second offence to a penalty of not less than *ten* or more than *fifty* pounds; and
- (c) for each subsequent offence to a penalty of not less than *twenty* or more than *one hundred* pounds, or imprisonment for a term not exceeding *six* months, or to both such penalty and imprisonment.

Stock Food.

4. The proportion or amount of foreign ingredients which may be contained in any kind of stock food, and the character of such foreign ingredients, and the weight or size of battens on bales of hay may be prescribed by regulation.

Foreign ingredients.
Vict. Act, 1915, No. 2,732, s. 6.

5. Upon the sale of any stock food (whether paid for at the time of sale or not) the vendor shall, at the time of sale or within forty-eight hours after the delivery of the stock food or any part thereof, give or send to the purchaser an invoice containing the statements required by this Act, unless such statements are printed on a label attached to the parcel containing the stock food.

Invoice to be given by vendor.
Ibid. s. 9.

An invoice may be sent by post.

6. (1) Every invoice relating to, or statement printed on the label attached to a parcel containing stock food shall state specifically—

Contents of invoice or statement.
cf. Vict. Act, 1915, No. 2,732, s. 7.

- (a) the ingredients of which the stock food consists; and
- (b) the proportions of all low grade stock foods or materials contained therein, such as oat clippings, oat hulls, wheat screenings, corn cobs, rice hulls, salt, sand, shell grit, charcoal, or of any other stock food or material that may be prescribed.

(2) Such statement in any invoice or printed statement aforesaid shall, notwithstanding any agreement to the contrary, constitute a warranty by the vendor that the stock food consists solely of such ingredients and materials, and in such proportions as are so stated, with no greater proportion or amount of foreign ingredients than is prescribed.

7. Every such invoice or printed statement relating to any mixed, concentrated, or prepared stock food, or to by-products—

Invoices, &c., as to mixed foods.
cf. *Ibid.* s. 8.

- (a) shall state specifically the original grain or materials from which such food or by-products were prepared; and
- (b) shall constitute a warranty by the vendor that such food or by-products are prepared only from the specified original grain or materials, and

and also that such food or by-products are suitable as food for stock, and for the particular kind of stock (if any) specified in such invoice or statement.

8. Any person who—

- (a) sells any hay in bales having thereon battens of more than the prescribed weight or size;
- (b) being the vendor of any stock food neglects or refuses to give or send to the purchaser an invoice as required by this Act;
- (c) improperly tampers with any sample or part of a sample taken under this Act;
- (d) sells any stock food—
 - (i) which contains a larger proportion or amount of foreign ingredients than is prescribed;
 - (ii) which does not consist solely of such materials and proportions as are stated in the invoice or printed statement relating thereto;
 - (iii) which is falsely described on the parcel or the label attached thereto or in any statement or advertisement made or published by the vendor relating thereto;
 - (iv) which is not in accordance with the prescribed standard;
 - (v) which contains any substance prohibited by the regulations;
 - (vi) which contains or is mixed with or diluted with any substance in any quantity or in any proportion which diminishes in any manner its food value or nutritive properties as compared with such article in a pure or normal state;
 - (vii) which on the parcel containing the same or in any statement or advertisement made or published by the vendor relating thereto is claimed to have nutritive or medicinal properties which it does not possess;

Offences.
Vict. Act,
1915, No.
2,732, s. 10.

shall

shall be guilty of an offence, and shall on summary conviction be liable for a first offence to a penalty not exceeding *twenty* pounds, and for a second offence to a penalty of not less than *ten* or more than *fifty* pounds, and for each subsequent offence to a penalty of not less than *twenty* or more than *one hundred* pounds, or imprisonment for a term not exceeding *six* months, or to both such penalty and imprisonment.

9. (1) No person shall sell—

- (a) any hay, chaff, or grain which contains prescribed noxious weeds or any prescribed foreign ingredient or which contains such weeds or ingredient in excess of the proportion or amount permitted by the regulations ;
- (b) any hay or chaff which is decomposing through the action of any mould fungus.

Provision
against
adulteration
of chaff.

(2) Any person who contravenes any provision of this section shall be guilty of an offence against this Act.

10. (1) The Minister may appoint inspectors for the purposes of this Act.

Appointment
of inspectors.

(2) The Minister may by writing authorise persons having competent chemical knowledge to act as chemists under this Act.

11. (1) For the purpose of ascertaining whether the provisions of this Act are being complied with, any inspector or any person either generally or specifically authorised by the Minister in writing—

Power to
enter
premises and
take samples.
of. Vict. Act,
1915, No.
2,732, s. 11.

- (a) shall have free access at any reasonable time to any building or premises, or any vessel, boat, or vehicle where he believes stock food is prepared or sold, or to any portion of any farm or land where he believes stock food is kept for sale ;
- (b) may examine and on payment or tender of the current market price therefor, may take as samples for analysis or examination portions of any stock food as samples from any parcel containing the same ; and
- (c) do any act or thing required or permitted by regulation to be done in connection with or for the purpose of anything authorised by this section, or the analysis of samples taken under this section.

(2)

Stock Food.

(2) Samples shall not be less than the weight required by this Act, and shall if possible be taken in the presence of the vendor or his agent, or of the person having the possession of such stock food, or his agent, and shall be taken from parcels comprising not less than ten per centum of each whole lot sampled.

(3) The several portions taken from the whole lot of any one kind of stock food sampled shall be thoroughly mixed and then divided into three approximately equal parts.

A label shall be placed on each part stating the name of the vendor or the person having the possession of the lot from which the sample was taken and the time and place of taking.

The label shall be signed by the inspector or person taking the sample and also where practicable by the vendor or person having the possession of the lot from which the sample was taken.

(4) Each of the parts shall be marked and sealed or fastened up in such manner as its nature permits; and two of the parts shall be forwarded by the inspector or person who has taken the sample to the Department of Agriculture, and one shall be retained by the vendor or person having possession of the lot from which the sample was taken.

(5) Of the parts forwarded to the said department one shall be for analysis and for comparison with the invoice or printed statement relating thereto, and the other shall be retained by the said department for a period of at least three months, and may then be disposed of in accordance with any general directions of the Minister.

12. (1) If the vendor or his agent or the person having the possession of the stock food or his agent fails to attend the taking of the samples when notified so to do, the inspector or person authorised as aforesaid may take the samples in his absence.

Power to take samples in absence of vendor.
Vict. Act, 1915, No. 2,732, s. 12.

(2)

(2) Where the inspector or authorised person has so taken any samples in the absence of the vendor or agent or person he shall forthwith—

- (a) give notice in writing of the taking to the vendor or his agent or the person having possession of the lot from which the samples were taken or his agent; and
- (b) deliver or forward one part marked, sealed, or fastened up in such a manner as its nature permits to the vendor or his agent or to such person or his agent.

13. (1) For the purposes of this Act—

- (a) a sample of hay, straw, or chaff shall be at least thirty pounds in weight; and
- (b) a sample of grain or mixed, concentrated, or prepared stock food or by-products shall be at least three pounds in weight.

Meaning of sample of hay, straw, or chaff.
 cf. Vict. Act, 1915, No. 2,732, s. 14.

(2) Where in any prosecution or proceeding under this Act a contravention of any of the provisions of this Act is proved in regard to any sample or any part thereof the contravention shall be deemed to have been proved with regard to the whole lot from which the sample was taken.

14. (1) An inspector or person authorised by the Minister under section eleven may seize any stock food which, in his opinion, is unfit for feeding to stock, or to any species of stock to which it is being fed, and any parcel containing the same.

Power of seizure.

(2) The Minister may order the stock food to be destroyed or otherwise disposed of.

Any expenses incurred in connection with the destruction or disposal shall be recoverable as a debt in any court of competent jurisdiction from the owner or person in charge of the stock food.

15. (1) The purchaser of any stock food may be required by an inspector or any person authorised by the Minister under section eleven to state the name and address of the vendor from whom he purchased the stock food and the price charged or paid therefor and also to produce for inspection any invoice or printed statement relating thereto.

Power to demand information.
 Vict. Act, 1915, No. 2,732, s. 16.

(2)

(2) Any person who withholds any such information, or refuses so to produce the invoice, or parcel, or printed statement, or obstructs an inspector or person in the execution of any of his duties shall be guilty of an offence against this Act. Penalty for obstruction.

16. (1) In any proceedings under this Act a certificate containing a statement of the result of the analysis or examination of any stock food therein referred to, and purporting to be signed by the chemist, shall be prima facie evidence of the identity of the stock food which is stated in the certificate to have been analysed or examined, and of the result of the analysis or examination, without proof of the signature of the person appearing to have signed the same. Certificate of chemist to be evidence. cf. Vict. Act, 1915, No. 2,723, s. 18.

(2) When a copy of such a certificate has been served upon a defendant who is charged with the commission of an offence against the provisions of this Act, it shall not be competent for the defendant upon the hearing of the charge to dispute the accuracy of any statement contained in the certificate, unless the defendant, within three clear days after service upon him of the copy of the certificate, or within such further time as the court shall allow, has notified the Department of Agriculture that the accuracy of such statement will be disputed at the hearing of the charge.

(3) Service of the copy of the said certificate may be proved in the same manner as service of the summons.

17. Where an offence for which a vendor is liable to a penalty has in fact been committed by some agent, servant, workman, or other person, such agent, servant, workman, or other person shall be liable to the like penalty as if he were the vendor. Penalty on person actually committing offence. Vict. Act, 1915, No. 2,732, s. 20.

18. A vendor charged with an offence against any provision of this Act shall be entitled upon information duly laid by him to have any other person whom he charges as the actual offender brought before the court at the hearing of the charge. Exemption of vendor from penalty on conviction of actual offender. Ibid. s. 21.

If after the commission of the offence has been proved the vendor proves to the satisfaction of the court—

- (a) that he had used due diligence to enforce the execution of this Act; and
- (b)

- (b) that the said other person had committed the offence in question without his knowledge, consent, or connivance, and in contravention of his orders, the said other person shall be summarily convicted of the offence and the vendor shall be exempt from any penalty.

The person so convicted shall in the discretion of the court be also liable to pay any costs incidental to the proceedings.

19. Any person who is guilty of any offence against this Act or is guilty of a contravention of or who fails to comply with any of the provisions of this Act shall, where no penalty is expressly provided therefor, be liable on conviction to a penalty not exceeding *twenty* pounds.

Penalty.
of. Vict. Act,
1915, No.
2,732, s. 19.

20. All penalties imposed by this Act or the regulations may be recovered in a summary manner before a stipendiary or police magistrate or any two justices of the peace in petty sessions.

Recovery of
penalties.

21. Nothing contained in this Act shall interfere with any right or remedy by civil process which any person might have had if this Act had not been passed.

Saving.
Vict. Act, 1915,
No. 2,732, s. 17.

22. (1) The Governor may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or authorised to be prescribed or which are necessary or convenient to be prescribed for giving effect to this Act.

Regulations.

(2) Without limiting the generality of the foregoing provisions, the regulations may provide for all or any of the following matters:—

- (i) prescribing specified stock foods with respect to which all or any of the provisions of this Act shall be observed;
- (ii) prescribing what by-products shall be deemed to be stock foods;
- (iii) prescribing what are foreign ingredients in specified stock foods; prescribing the proportion or amount of foreign ingredients which may be contained in any kind of stock food and the character of such foreign ingredients;
- (iv) standardising and fixing the composition and fair average quality of any stock food;

Stock foods.

By-products.

Foreign
ingredients.

Standards.

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- (v) prescribing forms for the purposes of this Act; Forms.
 - (vi) prescribing labels which shall be used in Labels. connection with any package, and particulars to be printed or written on such labels and the kind and size of type to be used in the printing, and any matters or things which are not to be printed or written on such labels;
 - (vii) prescribing the powers and duties of inspectors Inspectors and chemists. and chemists under this Act.

(3) The regulations may prescribe fees for any examination or analysis under this Act, and a penalty not exceeding *twenty* pounds for a contravention of any regulation.

(4) The regulations may order that a copy of any regulation shall be kept constantly affixed in legible characters in or on some conspicuous place where it may be easily read by a person employed in preparing, selling, or distributing stock food.

(5) The regulations shall—

- (i) be published in the Gazette;
- (ii) take effect from the date of publication, or from a later date to be specified in the regulations; and
- (iii) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before that House disallowing any regulation or part thereof, the regulation or part shall thereupon cease to have effect.
