

This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.

House of Representatives,
29th September, 1927.

Hon. Mr. Hawken.

FUNGICIDES AND INSECTICIDES.

ANALYSIS.

- | | |
|---|--|
| <p>Title.</p> <ol style="list-style-type: none"> 1. Short Title and commencement. 2. Interpretation. 3. Exception from Act. 4. Appointment of Analysts and Inspectors. 5. Powers of entry to take samples. 6. Taking of samples. 7. Analyst to analyse and give certificate. | <ol style="list-style-type: none"> 8. Offences. 9. General penalty. 10. Sales by agent or servant. 11. No defence that offence not wilfully or intentionally committed. 12. Proceedings for an offence. 13. Magistrate may order independent analysis. 14. Regulations. |
|---|--|

A BILL INTITULED

AN ACT to regulate the Manufacture and Sale of certain Chemical Specifics for Plant Diseases and Pests, and of certain Chemical Weed-killers. Title.

5 BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

10 1. This Act may be cited as the Fungicides and Insecticides Act, 1927, and shall come into operation on the first day of April, nineteen hundred and twenty-eight. Short Title and commencement.

2. In this Act, if not inconsistent with the context,— Interpretation.

“Analyst” means an Analyst appointed under this Act:

15 “Fungicide” means any oil or other chemical, whether mixed with any other substance or not, sold or commonly used for the purpose of destroying or of preventing the attacks of fungi, bacteria, or other parasitic plants which attack plants or fruit:

20 “Insecticide” means any oil or other chemical, whether mixed with any other substance or not, sold or commonly used for the purpose of destroying or of preventing the attacks of insects or other invertebrate animals which attack plants or fruit:

“Inspector” means an Inspector appointed under this Act:

“Package” includes every means by which goods for carriage or for sale are cased, covered, enclosed, contained, or packed:

25 “Sale” or “sell” includes barter, and also includes offering or attempting to sell, or receiving for sale, or having in possession for sale, or exposing for sale, or sending or delivering for sale, or causing or allowing to be sold, offered, or exposed for sale:

30 “Weed-killer” means any oil or other chemical, whether mixed with any other substance or not, sold or commonly used for the purpose of killing weeds.

Exception from Act.

3. Nothing in this Act shall apply to any material commonly used as a fungicide, insecticide, or weed-killer in any case where such material is sold in a form or in quantities precluding its economical use as a fungicide, insecticide, or weed-killer, or if at the time of sale of the material there is an understanding between the vendor and purchaser that it is required for use for some other purpose than as a fungicide, insecticide, or weed-killer.

5

Appointment of Analysts and Inspectors.

4. There may from time to time be appointed such Analysts and Inspectors as are required for the purposes of this Act, who shall perform the duties hereinafter set out, and such other duties as are prescribed.

10

Powers of entry to take samples.

5. (1) Every Inspector may at all reasonable times enter upon any premises on which he has reason to believe there are any fungicides, insecticides, or weed-killers for sale, and may take a sample of any fungicide, insecticide, or weed-killer required for purposes of analysis under this Act.

15

(2) Every person who obstructs an Inspector in the exercise of his powers under this section is liable to a fine of *ten* pounds.

Taking of samples.

6. (1) Every sample taken by an Inspector shall be taken in the prescribed manner in the presence of the vendor, or, if the vendor is not present, then in the presence of some witness. If the fungicide, insecticide, or weed-killer of which a sample is desired is in packages containing too small a quantity of the material to enable a suitable sample to be taken, two or more unopened packages purporting to contain the same material under the same brand and description may be taken and the contents mixed. Any regulations prescribing the manner of taking samples may deal with the taking of samples in such case.

20

25

(2) The Inspector shall pay or tender to the vendor the current market value of the sample taken, and the taking of such sample shall be deemed to be a sale within the meaning of this Act of fungicide, insecticide, or weed-killer, as the case may be, to the Inspector.

30

(3) The Inspector shall divide each sample taken by him into three parts, and shall seal each part separately with an official seal in the presence of the vendor or of some other witness. He shall deliver one such part to the vendor and a second part to an Analyst, accompanied by a copy of the description, if any, under which the article is sold. The third part shall be retained by the Inspector and may be sealed by the vendor if he so desires.

35

(4) Delivery of the aforesaid part to the Analyst may be effected personally by the Inspector, or by posting by registered post to the Analyst's usual address.

40

Analyst to analyse and give certificate.

7. The Analyst shall, on receiving the sample delivered to him, divide it into approximately equal representative parts, and shall place one part in a suitable receptacle, and shall seal it. Such part shall be retained for production, if so desired, in any legal proceedings which may thereafter be taken in respect of the result of the analysis. He shall analyse the other part, and shall give to the Inspector a certificate of the result of the analysis, setting out the respects, if any, in which such sample fails to conform to any standard prescribed for the material analysed, or to the description under which the material is sold, or is otherwise not in conformity with the requirements of this Act.

45

50

8. (1) Every person commits an offence who sells any fungicide, insecticide, or weed-killer which fails to conform to the standard, if any, prescribed for such fungicide, insecticide, or weed-killer.

5 (2) Every person commits an offence who sells any fungicide, insecticide, or weed-killer which contains any substance the presence or addition of which is prohibited by regulations hereunder, or which contains a greater percentage of any substance than is permitted by any such regulations.

10 (3) Every person commits an offence who sells any fungicide, insecticide, or weed-killer in any package which bears or has attached thereto a false or misleading statement, word, brand, label, or mark purporting to indicate the nature, quality, strength, purity, composition, or proportion of the article contained in the package or of any ingredient thereof.

15 (4) Every person commits an offence who sells any fungicide, insecticide, or weed-killer in any package which bears or has attached thereto any statement, name, or label claiming, directly or by implication, for such fungicide, insecticide, or weed-killer an efficacy which does not result from and is not likely to result from the use of the
20 fungicide, insecticide, or weed-killer under normal conditions in accordance with the directions for use supplied therewith.

(5) Every person who commits any offence under this section is liable to a fine of *fifty* pounds.

25 9. Every person who commits any breach of the provisions of this Act commits an offence, and shall be liable where no other penalty is specially provided herein to a fine of *twenty-five* pounds. General penalty.

30 10. For the purposes of this Act every person shall be deemed to sell a fungicide, insecticide, or weed-killer who sells the same either on his own account or as the agent or servant of any other person, and in the case of a sale by an agent or servant his principal or employer shall be under the same liability as if he had effected the sale personally. Sales by agent or servant.

35 11. In any prosecution for selling any fungicide, insecticide, or weed-killer contrary to the provisions of this Act or of any regulations thereunder, it shall be no defence that the defendant did not act wilfully, unless he also proves that he took all reasonable steps to ascertain that the sale of the article would not constitute an offence against this Act or regulations thereunder. No defence that offence not wilfully or intentionally committed.

40 12. (1) There shall be served with the summons in any proceedings under this Act a copy of the Analyst's certificate, if any, on which the prosecution is based. Proceedings for an offence.

(2) The production by the prosecutor of a certificate of analysis purporting to be under the hand of an Analyst shall be sufficient evidence of the facts stated therein, unless the defendant requires the Analyst to be called as a witness, in which case he shall give notice
45 thereof to the prosecutor not less than three clear days before the date fixed for the hearing of the prosecution.

50 13. Where a sample has been dealt with in accordance with section *six* hereof, the Court shall, on the request of either party to any proceedings for an offence against this Act, and may if it thinks fit without any such request, order that the part of the sample retained by the Inspector be submitted to another Analyst for analysis. Magistrate may order independent analysis.

Regulations.

14. The Governor-General may from time to time, by Order in Council, make regulations—

- (a) Prescribing the standard of strength, quality, or quantity of any fungicide, insecticide, or weed-killer, or of any ingredient or component part thereof : 5
- (b) Prohibiting the addition or retention of any specified thing, or of more than the specified quantity or proportion thereof, to or in any fungicide, insecticide, or weed-killer :
- (c) Prescribing the mode of labelling fungicides, insecticides, or weed-killers in packages, and the matter to be contained or not to be contained in such labels : 10
- (d) Providing for the registration of the vendors of fungicides, insecticides, or weed-killers :
- (e) Requiring the sale of fungicides, insecticides, or weed-killers under distinctive brands, and providing for the registration of such brands : 15
- (f) Prescribing the method of taking samples of fungicides, insecticides, or weed-killers :
- (g) Prescribing the duties of Analysts and Inspectors under this Act : 20
- (h) Prescribing fines, not exceeding *fifty* pounds, for the breach of any regulation :
- (i) Generally for carrying out the purposes of this Act.