

Hon. Mr. Pitt.

FERTILISERS.

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A BILL INTITULED

AN ACT to make Better Provision for the Control of the Sale of Fertilisers.

Title.

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

1. The Short Title of this Act is "The Fertilisers Act, 1903," and it shall come into operation on the first day of April, one thousand nine hundred and four.

Short Title.

2. In this Act, if not inconsistent with the context,— "Analyst" means an Analyst appointed under this Act:

Interpretation.

"Fertiliser" means any substance used for enriching the soil, containing in appreciable amount either phosphates, nitrogen, or potash, in a state suitable and intended for application to the land; but does not include lime, stable manure, or any crude refuse which has not been dried or so treated that decomposition will be arrested until applied to the land:

"Vendor" means any person who, either on his own account or on behalf of any other person, sells in the ordinary course of his business any fertiliser.

Clause 5 follows.

To stand as a subclause of clause 5.

3. (1) Every manufacturer of fertilisers shall, before offering any fertiliser for sale in New Zealand, deposit with the Secretary for Agriculture, for registration, in respect of every brand of fertiliser sold by him, a statement containing the following particulars:—

Manufacturer to register brands of fertiliser.

Statement of ingredients.	(a.) A fac simile of the brand and the His name and address of the maker ;	
	(b.) A general description of the fertiliser, and its price; A fac-simile of the brand ;	
	(c.) A full statement of its composition description of the fertiliser, showing the minimum percentage of the following ingredients when present, and the unit value attached to each of them :—	5
	Nitrogen soluble in water ; Nitrogen insoluble in water ; Phosphoric anhydride (anhydrous phosphoric acid) soluble in water, equal to tricalcic phosphate made soluble by acid ; Phosphoric anhydride insoluble in water, equal to insoluble tricalcic phosphate ; Dipotassic oxide (potash) soluble in water, equal to sulphate of potash.	10 15
	<i>Struck out.</i>	
Registration of brand may be refused.	(2.) Where the manufacturer of any fertiliser does not reside in New Zealand it shall be sufficient compliance with this section if the deposit is made by some person authorised in writing by the manufacturer in that behalf.	20
	4. The Secretary for Agriculture may, in his discretion, refuse to register any brand of fertiliser if he is of opinion that the composition of the fertiliser to which the brand applies materially differs from that of a fertiliser previously registered under the same brand, or <i>under</i> a brand so similar as to be calculated to mislead a purchaser.	25
	<i>To follow clause 2.</i>	
Vendors to be registered.	5. (1.) Every vendor shall, before offering any fertiliser for sale, and thereafter while carrying on such business, on or before the first day of July in each year, register his name and address with the Secretary for Agriculture in Wellington.	30
	<i>Struck out.</i>	
	6. (1.) There shall be attached by the vendor to every package of fertiliser of two hundredweight or upwards in his possession, or sold or delivered for sale by him, a tag of some substantial material, bearing thereon in distinct and permanent characters true particulars of the contents of such package, corresponding to the particulars supplied to the Secretary for Agriculture under section <i>three</i> hereof.	35 40
	<i>New subclause.</i>	
Description of fertiliser to be affixed to package.	(1A.) On any sale of fertiliser of two hundredweight or upwards, the vendor of such fertiliser shall immediately deliver or post to the purchaser an invoice certificate, which shall set forth the true particulars of the contents of such packages corresponding to the particulars supplied to the Secretary for Agriculture under section <i>three</i> hereof. The packages containing such fertiliser shall be clearly and distinctly branded in accordance with paragraph (b) of section <i>three</i> .	45
	(2.) In every sale or contract for the sale of any fertiliser there shall be implied a warranty by the seller to the purchaser that the particulars stated on the tag <i>invoice certificate</i> are true in substance and in fact.	50

(3.) Every vendor who offers for sale any fertiliser the tag attached to invoice certificate of which contains particulars at variance with the contents of the package, and such variance is materially to the prejudice of a purchaser, is liable, in addition to any civil remedy the purchaser may have, to a fine not exceeding twenty pounds.

(4.) The fact that any fertiliser is in the possession or under the control of a vendor shall be *prima facie* evidence that such fertiliser is offered for sale.

(5.) For the sake of convenience the vendor shall be permitted to use the following abbreviated words or symbols on his tags, the invoice certificate, namely:—

“ N ” meaning nitrogen ;

“ P₂O₅ ” meaning anhydrous phosphoric acid ;

“ K₂O ” meaning potash ;

“ Soluble ” meaning soluble in water ;

“ Insoluble ” meaning insoluble in water ;

and no other meaning shall be allowed to be given to such words or symbols when used on any tag- invoice certificate.

7. (1.) The Governor in Council may from time to time appoint fit persons to be Inspectors and Analysts under this Act.

Appointment of
Inspectors and
Analysts.

(2.) Every Inspector appointed under “ The Stock Act, 1883,” shall be deemed to be an Inspector under this Act.

8. (1.) Every Inspector may at all reasonable times enter the premises of any vendor and purchase of any vendor at a reasonable price such a sample from any package of any fertiliser in the possession or under the control of the vendor as may be required for purposes of analysis under this Act.

Power of purchase.

(2.) Every person who obstructs an Inspector in the exercise of his duty power under this section, or who without reasonable excuse refuses to sell to him any such sample, is liable for each offence to a fine not exceeding ten pounds.

New subclause.

(3.) The sample shall be taken in the following manner, and in the presence of the vendor, or, if he is not present, in the presence of some witness:—

(a.) Where the fertiliser is in bags,—

(i.) A number of bags are to be selected as follows, namely: Not less than two bags where the quantity does not exceed one ton, and for every additional ton an additional bag, provided that in no case need more than ten bags be sampled.

(ii.) An equal quantity of the fertiliser is to be drawn from each bag so selected, and thoroughly mixed after all lumps are broken.

(b.) Where the fertiliser is in bulk, portions are to be taken from different parts of the fertiliser and thoroughly mixed as aforesaid.

Subclause (4) of clause 9 follows.

9. (1.) The Inspector, in the presence of the vendor and such witness, shall divide each such sample into three parts and seal each part separately with an official seal.

Samples, how taken.

(2.) He shall leave one such part with the vendor, and shall subsequently deliver a second part to the nearest an Analyst, together

with a copy of the statement of the fertiliser as shown by the tag, *invoice certificate*, but shall withhold from the Analyst any knowledge of the name of the brand or the vendor; the third part shall be retained by the Inspector, *and shall be sealed by the vendor if he so desires.*

(3.) Delivery of a sample to an Analyst may be effected by posting it by registered post to the Analyst's usual address.

To follow subclause (3) of clause 8.

(4.) A sample *so taken* shall be deemed to be a fair sample if it weighs not less than four pounds, ~~and is taken from any portion of the package at the discretion of the Inspector.~~

Struck out.

(5.) On taking any sample under this section, the Inspector may remove and retain the tag from the package from which the sample is taken, and such tag shall be conclusive evidence of the alleged composition of the fertiliser.

(6.) The taking of a sample under this section shall have all the force of a sale, and the relations existing between the Inspector and the vendor shall be deemed to be those of buyer and seller respectively.

Certificate of analysis.

10. (1.) The Analyst shall give a certificate of the result of the analysis, and shall state therein explicitly the amount (if any) of the ingredients mentioned in section four hereof present in the sample analysed, and shall state in what respect (if any) the results of the analysis differ from the particulars stated on the *tag invoice certificate* attached, and whether or not such difference was materially to the prejudice of the purchaser.

New subclause.

(2.) A copy of such certificate shall be forwarded to the vendor by the Inspector.

New clause.

Sample of fertiliser.

10A. (1.) The buyer of any fertiliser may, at any time within ten days after the delivery of the fertiliser, notify the Inspector in writing that he desires him to take a sample of such fertiliser.

(2.) On payment to him of such fee as is prescribed by regulations, the Inspector, or some person authorised by him in writing, shall attend at the place mentioned in the notice and take a sample of the fertiliser, and shall deal with the sample in the manner hereinbefore directed in section *nine*.

(3.) Not less than four clear days' notice shall be given to the vendor by the Inspector of the time and place at which he intends to take such sample.

Certificate evidence of certain facts.

11. In any proceedings under this Act the production of a certificate of the results of an analysis purporting to be signed by an Analyst shall be evidence that the fertiliser was submitted for analysis in accordance with this Act, and of the identity of the fertiliser analysed, and of the result of the analysis, without proof of the signature of the Analyst.

Analyst may be cross-examined.

12. (1.) Where in any proceedings under this Act the vendor desires to dispute the accuracy of any analysis, or to cross-examine the Analyst, he shall give to the Inspector not less than five days' notice in writing of his desire, and thereupon the Inspector shall give the Analyst notice that his attendance is necessary at the hearing of the proceedings.

(2.) If on such hearing it appears to the Court that the Analyst was called on frivolous or insufficient grounds the defendant shall be liable to pay the costs of the attendance of the Analyst.

5 13. The Court may order that the part of the sample retained by the Inspector under section *nine* hereof be divided into two equal parts and that each of such parts be submitted to an independent Analyst for report. Independent analysis.

14. Every person is liable to a fine not exceeding *fifty* pounds who— Offences.

- 10 (a.) Knowingly and fraudulently tampers with any fertiliser so as to procure that a sample of it taken in pursuance of this Act is not a fair sample of the fertiliser; or
 (b.) Improperly breaks the seal of or tampers with any part of a sample taken in pursuance of this Act.

15 15. Every person who commits an offence against this Act for which no penalty is elsewhere prescribed is liable for the first offence to a fine not exceeding *ten* pounds, and for every subsequent offence to a fine not exceeding *fifty* pounds and not less than *five* pounds. General fines.

20 16. The Secretary for Agriculture may from time to time publish in such manner as he thinks fit the result of any analysis made under this Act, and neither he nor the Government Printer, nor any other person, shall be liable in any way in respect of such publication. Publication of analysis.

25 17. (1.) The Governor may, by Order in Council gazetted, make regulations for carrying out the provisions of this Act, and may in such regulations impose a fine not exceeding *ten* pounds for any breach thereof. Regulations.

30 (2.) All such regulations shall within ten days after publication be laid before Parliament, if sitting, and, if not, then within ten days after the commencement of the next ensuing session.

18. "The Manure Adulteration Act, 1892," is hereby repealed. Repeal.