

## FEEDING STUFFS.

19° GEO. V., No. XV.

No. 15 of 1928.

AN ACT relating to the Sale of Feeding Stuffs for Stock.

[Assented to 10th December, 1928.]

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

- Short title.**           1. This Act may be cited as the *Feeding Stuffs Act*, 1928.
- Repeal.**               2. The Acts mentioned in the First Schedule are hereby repealed so far as they relate to feeding stuffs.
- Interpretation.**      3. In this Act, unless the context otherwise indicates or requires—
- See 1904, No. 7,  
3. 3.           “Analyst” means the Government Analyst, or an analyst attached to the Department of Agriculture ;
- “Dealer” means any person who carries on business as an importer, vendor, or dealer in food for stock for purposes of trade, and whether such person carries on any other business or trade or not ;
- “Inspector” means an inspector attached to the Department of Agriculture, and includes any officer of that Department acting as an inspector under this Act ;
- “Minister” means the Minister for Agriculture ;
- “Stock” includes horses, camels, asses, mules, bulls, cows, oxen, heifers, calves, sheep, lambs, goats, swine, poultry, and dogs.

4. (1) Any person who sells any bran or pollard which is not in accordance with the standard prescribed therefor in the Second Schedule to this Act shall be guilty of an offence against this Act.

Bran, pollard,  
and other stock  
foods.  
Cf. Vic. No. 3482  
(1926) s. 2; and  
No. 8 of 1919, and  
regulations in  
*Gazette* vol. cxxi,  
No. 237.

Provided that the Governor may by regulation amend the said Schedule by altering any standard provided for therein, and the Schedule as so amended shall have the same force and effect as if such amendment had been enacted by this subsection, but no such regulation shall have effect until it is laid before both Houses of Parliament.

(2) The Governor may, by regulations—

- (a) require impurities to be removed from bran, pollard and other food for stock by cleaning, scouring or other process; and
- (b) prescribe substances which shall be deemed foreign ingredients relative to any prescribed food for stock, and that the proportion or amount of such foreign ingredients that may be contained therein shall not exceed the proportion or amount prescribed; and
- (c) prescribe physical and chemical standards for any prescribed food for stock and methods for determining the same; and
- (d) provide that no person shall sell, expose for sale, or have in his possession for sale, any bran, pollard or other prescribed food for stock unless such regulations are duly observed.

(3) Any person who acts in contravention of any regulation made under this section, or fails to comply therewith, shall be guilty of an offence against this Act.

(4) Subject to the regulations, stock licks shall be deemed to be food for stock within the meaning of this Act.

5. (1) It shall be the duty of every person who sells for use as food for stock, any article which by an Order in Council published in the *Gazette* is declared to be an article to which this subsection applies, whatever may be the name under which the article is sold, to give to the purchaser an invoice certificate stating the name under which the article is sold, and the prescribed particulars (if any) of the nature, substance and quality of the article, and the percentages of nutritive or other ingredients contained therein.

Invoice certificate.  
See No. 7 of 1904,  
s. 10 (1),<sup>30</sup>  
Cf. 16 and 17,  
Geo. V., c. 45  
(Imp.).

*Sec 16 and 17 Geo. V., c. 45, s. 2 (1.)*

(2) An invoice certificate given by the seller of any such article as aforesaid shall, notwithstanding any contract or notice to the contrary, have effect as a written warranty by the seller that the particulars contained therein are correct.

*No. 7 of 1904, s. 10 (2).*

(3) Where any article sold for use as food for stock is sold under a name or description implying that it was prepared from any particular substance, or from two or more particular substances, and without any indication that it is mixed or compounded with any other substance, there shall be an implied warranty by the seller that it is pure, that is to say, is prepared from that substance or those substances only, or is a product of that seed or those seeds only.

*Ibid., (3).*

(4) On the sale of any article as food for stock there shall be an implied warranty by the seller that the article is suitable for feeding purposes.

*Sec 16 and 17, Geo. V., c. 45, s. 2 (4).*

*No. 7 of 1904, s. 10 (4).*

(5) Any statement as to the amount of the nutritive or other ingredients of an article sold for use as food for stock, made by the seller, in any written document relating thereto given to the purchaser, or in any circular or advertisement descriptive of the article, shall have effect as a warranty by the seller that the facts stated are correct.

(6) Provided that the Governor may, by regulations under this Act, enable the name under which any food for stock to which subsection (1) of this section applies is sold, and the particulars and percentages as aforesaid, to be registered by the seller at the Department of Agriculture on payment of a prescribed fee, and if such name and particulars and percentages are so registered, an invoice in writing given by the seller to a purchaser referring to such food for stock by its registered name followed by the word "registered," shall suffice in lieu of an invoice certificate under subsection (1), and shall be of the same effect as such invoice certificate and as if the registered particulars and percentages were stated in the invoice.

*Limits of variation. 16 and 17 Geo. V. c. 45, s. 2 (5).*

6. No action on any such warranty as is mentioned in the last preceding section shall lie for any mis-statement therein as to the particulars of the nature, substance or quality of the article, or as to the amount of any ingredient, where the mis-statement does not exceed the limits of

variation (if any) prescribed under this Act in relation to such particulars or amounts, but where the mis-statement exceeds such limits, the right of the purchaser under the warranty shall not be affected by such limits.

7. If any person who sells any article for use as food for stock—

Penalties for breach of duty by seller.

*See Ibid.*, s. 12 (4).  
*Cf.*, *Ibid.*, VII., c. 27, s. 6. (Imp.)  
16 and 17 Geo. V., c. 45, s.s. 7, 8.

- (a) fails without reasonable excuse to give, on or before or as soon as possible after the delivery of the article, the invoice certificate required by subsection (1) of section five of this Act, or an invoice in lieu thereof under subsection (6), if applicable ; or
- (b) causes or permits any such invoice certificate or description of the article sold by him to be false in any material particular to the prejudice of the purchaser ; or
- (c) sells for use as food for stock any article which contains any ingredient deleterious to stock, or to which has been added any ingredient worthless for feeding purposes and not disclosed in writing to the purchaser at the time of sale,

he shall be guilty of an offence against this Act.

Provided that a person shall not be convicted of an offence under paragraph (b) of this section if he proves either—

- (i) that he did not know, and could not with reasonable care have ascertained, that the invoice certificate or description was false ; or
- (ii) that he purchased the article sold with a written warranty or invoice certificate from a person in this State, and that that warranty or invoice certificate contained the false statement in question, and that he had no reason to believe at the time when he sold the article that the statement was false, and that he sold the article in the state in which it was when he purchased it.

8. (1) Any inspector may, at any time in the daytime, enter any warehouse, store, shop, building, or place where any food for stock is kept, or exposed for sale, and demand and take samples thereof.

Powers of inspectors.

*Ibid.*, s. 14.

(2) An inspector may at any time take samples of any food for stock from any railway truck, car, cart, lorry, van or other vehicle in which the same may be in course of transit to a purchaser.

Samples.

1904, No. 7, s. 15.

(3) Three samples shall be taken by the inspector in each case and marked, sealed, and fastened by the inspector in the presence of the dealer or his representative, or, if the samples are taken under subsection (2) of this section in the presence of a justice of the peace or a member of the police force, and shall be disposed of as follows :—

- (a) one sample shall be delivered to the person in charge of, or left upon, the premises (if any) from which it was taken or if taken in course of transit as aforesaid, shall be delivered to the vendor or any agent of the vendor in this State, or left at the principal place of business in this State of such vendor or agent ;
- (b) one may be utilised for analysis by an analyst ; and
- (c) one shall be retained by the inspector for future comparison.

Publication of result of analysis.  
*Ibid.*, s. 16.

1911, No. 21, s. 5.

9. The result of the analysis of any sample of food for stock taken by an inspector, together with the name and address of the dealer from whom the sample was obtained, or of the vendor, may be published in the *Gazette* and in such other manner as the Minister may think fit, and a statement of the result of any analysis shall be sent forthwith to the dealer from whom the sample was taken, or if taken in transit, to the vendor or an agent of the vendor in this State.

10. Any person who refuses—

- (a) to permit an inspector to take samples of any food for stock ; or
- (b) to deliver to the inspector, if required so to do, an invoice certificate in respect of any sample taken ; or
- (c) obstructs or interferes with an inspector in the discharge of his duties under this Act,

shall be guilty of an offence against this Act.

Penalty for refusing to permit inspector to take samples.

See 1904, No. 7, s. 17.

Right of buyer to analysis.

*Ibid.*, s. 18.

11. Every buyer of any food for stock shall, on complying with the regulations, be entitled to submit a sample thereof to an analyst for analysis, and to receive from

him a certificate, in the prescribed form, of the result of his analysis, on payment of such fee, if any, as may be prescribed.

12. At the hearing of any civil or criminal proceeding with respect to any article analysed in pursuance of this Act, the production of a certificate of the result of an analysis purporting to be signed by an analyst under this Act, shall be *prima facie* evidence of the facts therein stated, unless the defendant or person charged gives notice to the plaintiff or prosecutor, at least three clear days previous to the day fixed for the hearing, that he requires that the analyst shall be called as a witness.

Certificate evidence.  
*Ibid.*, s. 10.

13. The costs of and incidental to the obtaining of any analysis under this Act shall be a debt due from the seller to the purchaser, if the result of the analysis is against the seller.

Cost of analysis.  
*Ibid.*, s. 10.

14. Any person who—

(a) tampers with any parcel of food for stock 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

Tampering with samples.  
*Ibid.*, s. 21.

(b) tampers with any sample taken under this Act, shall be guilty of an offence against this Act.

15. In any proceeding for an offence under this Act it shall be no defence to allege that the buyer, having bought only for analysis, was not prejudiced by the sale, or that the food for stock though deficient in one or more constituents, was not deficient in other constituents.

Defence.  
*Ibid.*, s. 22.

16. A prosecution for an offence under this Act may be instituted either by the person aggrieved, by an inspector, or by any person authorised by the Director of Agriculture.

Who may prosecute.  
*Ibid.*, s. 24.

17. In any proceedings under this Act the signature of an analyst shall be judicially noticed, and the appointment of any person as an analyst or as an inspector, and the authority of any person to prosecute for any offence shall be presumed, unless the defendant shall prove the contrary.

Evidence.  
*Ibid.*, s. 25.

## Penalty.

*Ibid.*, s. 26.

18. Any person guilty of an offence against this Act shall be liable to a penalty which, if he has not been previously convicted of any offence against this Act, shall not exceed twenty pounds and, if he has been previously so convicted, shall not exceed one hundred pounds.

## Summary procedure.

*Ibid.*, s. 27.

19. Any offence under this Act shall be summarily punishable upon conviction before any two or more justices of the peace in petty sessions.

## Cost of proceedings.

*Ibid.*, s. 28.

20. Every person convicted of an offence against this Act shall be liable, in addition to any penalty imposed, to any expenses incurred by the prosecution in obtaining an analysis as part of the costs of the proceedings.

## Saving of civil remedy.

*Ibid.*, s. 29.

21. No proceedings taken under this Act against any person shall in any way interfere with or lessen any right or remedy by civil process of any party aggrieved by any offence against this Act.

## Regulations.

*Ibid.*, s. 30.

22. The Governor may, from time to time, make such regulations that may be necessary to give effect to this Act.

## FIRST SCHEDULE.

Sec. 2.

Short Title.	Year and Number.
The Fertilisers and Feeding Stuffs Act, 1904 ... ..	No. 7 of 1904
The Fertilisers and Feeding Stuffs Amendment Act, 1905 ...	No. 10 of 1905
The Fertilisers and Feeding Stuffs Amendment Act, 1911 ...	No. 21 of 1911

## SECOND SCHEDULE.

## STANDARD FOR BRAN AND POLLARD.

*Bran.*

Bran shall consist of the outer skin or coating of the wheat grain or berry obtained in the usual commercial milling process from wheat. There shall not be more than 1 per cent. of foreign ingredients. It shall contain (subject to the undermentioned limits of variation) not more than 10·5 per cent. of moisture, nor more than 9 per cent. of fibre, nor more than 4 per cent. of ash, calculated on a moisture content equal to 10·5 per cent.

*Limits of Variation.*

Moisture and fibre ... ..	1 per cent.
Ash ... ..	$\frac{1}{2}$ per cent.

*Pollard.*

Pollard shall be a by-product of milling wheat, other than flour and bran, in which there shall not be more than 1 per cent. of foreign ingredients. It shall contain (subject to the undermentioned limits of variation) not more than 10·5 per cent. of moisture, nor more than 5 per cent. of fibre, nor more than 2 per cent. of ash, calculated on a moisture content equal to 10·5 per cent.

Pollard shall be of such fineness as to permit of 50 per cent. passing through a silk-cloth or grit gauze sieve with 36 meshes to the lineal inch, and of the whole of it passing through a silk-cloth or grit gauze sieve with 24 meshes to the lineal inch.

*Limits of Variation.*

Moisture and fibre ... ..	1 per cent.
Ash ... ..	$\frac{1}{2}$ per cent.