



Western Australia.

ANNO QUINQUAGESIMO NONO

VICTORIÆ REGINÆ.

No. XVI.

AN ACT to regulate the Sale of Agricultural Fertilisers and Feeding Stuffs.

[Assented to, 11th September, 1895.]

BE it enacted by the Queen'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:—

1. (1.) EVERY person who sells for use as a fertiliser of the soil any article manufactured or found in the said Colony, or imported from abroad, shall sign and give to the purchaser an invoice stating the name of the article and whether it is an artificially compounded article or not, and what is at least the percentage of the nitrogen, soluble and insoluble phosphates, and potash, if any, contained in the article; and this invoice shall have effect as a warranty by the seller of the statements contained therein.

Warranty on sale of fertiliser.

56 and 57 Vic., c. 56, s. 1.

(2.) For the purposes of this section an article shall be deemed to be manufactured if it has been subjected to any artificial process.

2. (1.) EVERY person who sells, for use as food for cattle, any article which has been artificially prepared, shall give to the purchaser an invoice stating the name of the article and whether it

Warranty on sale of feeding stuff.
Ib. s. 2.

59° VICTORIÆ, No. 16.

Fertilisers and Feeding Stuff's Act, 1895.

has been prepared from one substance or seed, or from more than one substance or seed, and this invoice shall have effect as a warranty by the seller of the statements contained therein.

(2.) Where any article sold for use as food for cattle is sold under a name or description implying that it is prepared from any particular substance, or from two or more particular substances, or is the product of any particular seed, or of two or more particular seeds, and without any indication that it is mixed or compounded with any other substance or seed, 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.

(3.) On the sale of any article for use as food for cattle, there shall be implied a warranty by the seller that the article is suitable for feeding purposes.

(4.) Any statement by the seller of the percentages of nutritive or other ingredients contained in any article sold for use as food for cattle, made after the commencement of this Act, in an invoice of such article, or in any circular or advertisement descriptive of such article, shall have effect as a warranty by the seller.

Penalties for breach
of duty by seller.

Ib. sec. 3.

3. (1.) IF any person who sells any article for use as a fertiliser of the soil or as food for cattle commits any of the following offences, namely:—

- (a.) Fails without reasonable excuse to give, on or before, or as soon as possible after the delivery of the article, the invoice required by this Act; or
- (b.) Causes or permits any invoice 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 cattle any article which contains any ingredient deleterious to cattle, or to which has been added any ingredient worthless for feeding purposes and not disclosed at the time of the sale:

he shall, without prejudice to any civil liability, be liable, on summary conviction, for a first offence, to a fine not exceeding Twenty pounds, and for any subsequent offence to a fine not exceeding Fifty pounds.

(2.) In any proceeding for an offence under this section it shall be no defence to allege that the buyer, having bought only for analysis, was not prejudiced by the sale, or that the article sold, though deficient in one or more constituents, was not defective in other constituents.

59° VICTORIÆ, No. 16.

Fertilisers and Feeding Stuffs Act, 1895.

(3.) A person alleged to have committed an offence under this section in respect of an article sold by him shall be entitled to the same rights and remedies, civil or criminal, against the person from whom he bought the article as are available to the person to whom he sold the article, and any damages recovered by him may, if the circumstances justify it, include the amount of any fine and costs paid by him on conviction under this section, and the costs of and incidental to his defence on such conviction.

4. THE Governor may appoint an agricultural analyst (hereafter referred to as the analyst), and may from time to time make and from time to time repeal or alter regulations for carrying this Act into effect. Such regulations shall be published in the *Government Gazette*, and shall be laid before both Houses of Parliament within fourteen days after such publication, if Parliament be then sitting, and if Parliament be not then sitting, within fourteen days after its next meeting; and all such regulations, when so published, shall have the force of law, and shall continue in force, unless repealed as aforesaid, or disallowed by both Houses of Parliament.

Power to appoint analysts and make regulations.
Ib. sec. 4 altered.

5. EVERY seller and every buyer of any article used for fertilising the soil or as food for cattle shall be entitled, on payment to the analyst of a fee in accordance with the regulations, to have the article analysed by the analyst and to receive from him a certificate of the result of his analysis.

Power for vendor and purchaser to have fertiliser analysed.

The certificate of the analyst as regards fertilisers shall be in the form and contain the particulars mentioned in the Schedule hereto or as near thereto as circumstances permit, and every analyst shall report to the Minister as he directs the result of any analysis made by him in pursuance of this Act.

6. IF the buyer, on receiving delivery of any fertiliser or feeding stuff and before otherwise breaking the bulk thereof, shall, in the presence of the analyst, a Justice of the Peace or a police constable, and in accordance with the regulations, take three samples of the article and cause them to be marked, sealed, and fastened up, and shall deliver or send by post prepaid one sample with the invoice or a copy thereof to the analyst and shall deliver or send by post as aforesaid another sample to the seller and retain the third sample for future comparison, then the following paragraphs (a) and (b) shall have effect:—

If buyer takes samples in a certain way, the analyst's certificate is made evidence of its statements and the costs of the analysis follow the result.

Ibid s. 5 altered.

(a.) At the hearing of any civil or criminal proceeding with respect to any article analysed in pursuance of this section, the production of a certificate of the analyst shall be sufficient evidence of the facts therein stated,

59° VICTORIÆ, No. 16.

Fertilisers and Feeding Stuff's Act, 1895.

unless the person against whom the certificate is proposed to be put in evidence requires that the analyst be called as a witness.

- (b.) The costs of and incidental to the obtaining of any analysis in pursuance of this section shall be borne by the seller or the buyer, in accordance with the results of the analysis, and shall be recoverable as a simple contract debt.

In this section the word "delivery" shall not include delivery to an agent for the purpose of carriage.

The analyst may take the samples at request of buyer or seller.

See *ibid* s. 5.

7. ON the request of the buyer or the seller of any fertiliser or feeding stuff and on payment of the fee prescribed by regulations, the analyst or some person appointed by him in that behalf shall, before or at the delivery of the article, take the samples on behalf of the buyer, and thereupon paragraphs (a) and (b) of the last preceding section shall apply. The word "delivery" shall have the same meaning in this section as in the sixth section of this Act.

Penalty for tampering.

Ib., sec. 6.

8. IF any person knowingly and fraudulently—

- (a.) Tamper with any parcel of fertiliser or feeding stuff 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

- (b.) Tamper with any sample taken under this Act:

he shall be liable on summary conviction to a fine not exceeding Twenty pounds, or to imprisonment for a term not exceeding six months.

Prosecutions.
Ib., sec. 7 altered.

9. A PROSECUTION for an offence under this Act may be instituted either by the person aggrieved, or by any person authorised in that behalf by the Minister.

All offences against this Act shall be summarily punishable upon conviction before any two or more Justices of the Peace in Petty Sessions.

Section A of Shortening Ordinance incorporated.

10. SECTION A of the Schedule to "The Shortening Ordinance, 1853," shall be incorporated with, and taken to form part of this Act to all intents and purposes, and in as full and ample a manner as if the said section had been introduced and fully set forth in this Act.

Interpretation.

11. (1.) THIS Act shall apply to wholesale as well as retail sales.

59° VICTORIÆ, No. 16.

Fertilisers and Feeding Stuffs Act, 1895.

(2.) For the purposes of this Act the words “soluble” and “insoluble” shall respectively mean soluble and insoluble in water; and the word “cattle” shall mean horses, camels, asses, mules, bulls, cows, oxen, heifers, calves, sheep, goats, swine, poultry, and dogs. *Ibid s. 8, enlarged.*

12. THIS Act may be cited as “The Fertilisers and Feeding Stuffs Act, 1895,” and shall come into operation on the first day of January, 1896. *Short title. Commencement.*

In the name and on behalf of the Queen I hereby assent to this Act.

ALEX. C. ONSLOW, Administrator.

SCHEDULE.

Form of Certificate by Analyst.

Fertilisers Act
(S.A.) 1894, No. 602.

I, the undersigned, A. B., analyst, do hereby certify that on the day of _____, 18____, I received a sample, labelled [*here state name of fertiliser, and of the manufacturer or importer, his place of business, trade mark, or figure (if any)*], for analysis, the result of which is as follows, viz. :—

Percentage of nitrogen.
Percentage of soluble phosphates.
Percentage of insoluble phosphates.
Percentage of potash.