

THE SCHEDULE.

(Section 3.)

ACTS REPEALED.

Regnal Year and Number of Act.	Short Title of Act.
26 Geo. V. No. 36 ...	The <i>Bush Fires Act</i> 1935
1 Geo. VI. No. 10 ...	The <i>Bush Fires Act</i> 1937
3 & 4 Geo. VI. No. 38	The <i>Bush Fires Act</i> 1939
4 Geo. VI. No. 54 ...	The <i>Bush Fires Act</i> 1940
7 Geo. VI. No. 9 ...	The <i>Bush Fires Act</i> 1943
7 & 8 Geo. VI. No. 75	The <i>Bush Fires Act</i> 1944

STOCK MEDICINES, FERTILISERS, AND
PESTICIDES.

No. 43 of 1950.

AN ACT to consolidate and amend the law relating to the regulation and control of the sale of stock medicines, fertilisers, and pesticides.

[16 November, 1950.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PART I.

PRELIMINARY.

1—(1) This Act may be cited as the *Stock Medicines, Fertilisers, and Pesticides Act* 1950. Short title and commencement.

(2) This Act shall commence on a date to be fixed by proclamation.

2 The Acts enumerated in the schedule to this Act are Repealed.

Interpre-
tation.

Cf. 1 Edw.
VIII. & 1 Geo.
VI. No. 45
(Tas.), s. 3;
24 Geo. V.
No. 33 (Qld.),
s. 2;
26 Geo. V.
No. 19 (Qld.),
s. 3;
3 Geo. VI.
No. 8 (Qld.),
s. 3.

3—(1) In this Act, unless the contrary intention appears—

“analyst” means the Government Analyst or any analyst approved by the Minister for the purposes of this Act;

“auxiliary plant chemical” means any hormone, auxin, or other like substance which is sold or commonly used for retarding the dropping of fruit or the sprouting of tubers or for promoting the growth of cuttings, and includes any bacterial inoculant or other like substance sold or commonly used for retarding or promoting the growth of plants;

“dealer” means any person who carries on business as a seller of, or dealer in, stock medicines, fertilisers, or pesticides, as the case may be, for the purposes of trade, whether that person carries on any other business or trade or not;

“fertiliser” means any prepared substance or natural substance sold or commonly used as a fertiliser or manure or for supplying nutriment or lime to the soil, or remedying any soil deficiency, and includes any auxiliary plant chemical and any other substance declared by proclamation to be a fertiliser for the purposes of this Act; but does not include—

(a) farmyard or stable manure, humus, seaweed, crude nightsoil, crude offal, or any crude refuse or trade waste which has not been dried or otherwise treated so that decomposition will be arrested until the refuse or trade waste is applied to the soil; or

(b) any other substance declared by proclamation not to be a fertiliser for the purposes of this Act;

“fungicide” means any substance sold or commonly used for the purpose of destroying, or of preventing the attacks of, fungi or other parasitic plants, or of bacteria which infest or attack any plants, seeds, fruit, vegetables, or stock foods;

“insecticide” means any substance sold or commonly used for the purpose of destroying, or of preventing the attacks of, insects or other pests which infest or attack any plants, seeds, fruit, vegetables, stock foods, or animals;

“inspector” means an inspector appointed under this Act;

“package” includes anything in or by which any stock medicine, fertiliser, or pesticide is cased, covered, enclosed, contained, or packed;

“pesticide” means any fungicide, insecticide, vermin destroyer, or weed-killer;

“phosphoric acid” means phosphorus pentoxide (P_2O_5);

- "potash" means potassium oxide (K_2O);
- "Registrar" means the Registrar of Stock Medicines, Fertilisers, and Pesticides appointed under this Act;
- "registered pharmaceutical chemist" means a person registered as a pharmaceutical chemist under the *Pharmacy Act 1908**;
- "sale" includes any disposal by way of trade;
- "stock" means stock within the meaning of the *Stock Act 1932*†, and includes all domestic animals and all animals kept in captivity;
- "stock medicine" means any preparation, compound, or mixture of any number of drugs or ingredients in any form, or any biological product, including living or dead vaccines, sera, or diagnostic agents, sold or commonly used for administration, in any manner, or by any means, to stock, for the purpose of—
- (a) curing, alleviating, or preventing any injury to, or disease in, any stock, or diagnosing any such disease; or
 - (b) improving the condition, or increasing the capacity, of any stock for work or production, or for show purposes;
- "substance" includes any liquid or gas;
- "vermin destroyer" means any substance sold or commonly used for the purpose of destroying any vermin of any kind whatsoever, and includes any substance sold or commonly used to lure or attract any vermin for the purpose of destruction, and any substance declared, by proclamation, to be a vermin destroyer for the purposes of this Act;
- "weed-killer" means any substance, whether mixed with any other substance or not, sold or commonly used for the purpose of destroying, or preventing the growth of, weeds or other noxious plants, and includes any substance declared, by proclamation, to be a weed-killer for the purposes of this Act;
- "wholesale dealer" means the manufacturer, importer, or other person primarily responsible for placing on the market in this State any stock medicine, fertiliser, or pesticide.

4—(1) The Governor may appoint a Registrar of Stock Medicines, Fertilisers, and Pesticides, and such inspectors and other officers as he may think necessary for the purposes of this Act.

Appointment
of officers.
Tas., s. 4;
24 Geo. V.
No. 33 (Qld.).
s. 10;
26 Geo. V.
No. 19 (Qld.).
s. 16;
3 Geo. VI.
No. 8 (Qld.).
ss. 7, 23.

* 3 Edw. VII. No. 33. For this Act, as amended to 1936, see Reprint of Statutes, Vol. V., p. 361.
† 23 Geo. V. No. 54. For this Act, as amended to 1936, see Reprint of Statutes, Vol. IV., p. 129. Subsequently amended by 2 Geo. VI. No. 63, 3 & 4 Geo. VI. No. 46, 4 Geo. VI. No. 36, 11 Geo. VI. No. 71, and No. 29 of 1949. See also 1 Geo. VI. No. 43.

(2) An officer of the Public Service may be appointed as the Registrar of Stock Medicines, Fertilisers, and Pesticides and any officer so appointed may hold office as Registrar in conjunction with his office as an officer of the Public Service.

(3) The Minister may, by writing under his hand, approve any qualified analyst as an analyst for the purposes of this Act.

PART II.

STOCK MEDICINES.

Stock
Medicines
Board.

Tas., s. 5;
24 Geo. V.
No. 33 (Qld.).
s. 3.

5—(1) For the purposes of this Part there shall be a Board, to be called “the Stock Medicines Board” (in this Part referred to as “the Board”).

(2) The Board shall consist of—

- (a) the Chief Veterinary Officer, who shall be the chairman of the Board;
- (b) the Government Analyst; and
- (c) a registered pharmaceutical chemist in private practice appointed by the Governor.

(3) The member of the Board appointed under paragraph (c) of subsection (2) of this section shall hold office for a term of two years.

(4) Any two members of the Board shall constitute a quorum for the transaction of the business of any meeting of the Board, but if at any meeting at which only a quorum is present the members present differ on any question, that question shall be postponed until all the members are present.

(5) The Board may function, notwithstanding any vacancy in its membership, so long as a quorum remains.

(6) The proceedings of the Board shall be as prescribed, and except as prescribed the Board may regulate its own procedure.

(7) The members of the Board shall be paid such fees or remuneration, if any, as may be prescribed.

Powers, &c.,
of Stock
Medicines
Board.

24 Geo. V.
No. 33 (Qld.).
ss. 3, 4.

6 The Board shall, as and when prescribed, report to the Minister on any stock medicine and any claims made by the manufacturer of any stock medicine as to the efficacy thereof as a stock medicine, and shall consider every application for the registration of a stock medicine; and shall, in addition, have such other powers, authorities, duties, and functions as may be prescribed.

Application
of this Part.
Tas., s. 6.

7 Nothing in this Part shall apply to any stock medicine supplied—

- (a) on the prescription of a veterinary surgeon registered under the *Veterinary Act 1918**, given in a particular case in the ordinary course of the practice of his profession; or

* 9 Geo. V. No. 34. For this Act, as amended to 1936, see Reprint of Statutes, Vol. V., p. 393.

- (b) by a registered pharmaceutical chemist in a particular case for which he has specially prepared the medicine,

but the provisions of this Part shall apply to any stock medicine which is compounded, prepared, or sold by any registered pharmaceutical chemist for general use.

8 No person shall sell, or offer or expose for sale, any stock medicine—

Conditions relating to sale of stock medicines.

(a) unless—

- (i) the stock medicine is registered under this Act; and
 - (ii) the package containing the stock medicine bears the prescribed label; or
- (b) the package containing which bears any false or misleading word, brand, mark, or label purporting to indicate the nature, quality, strength, purity, or composition of the contents of the package.

9—(1) Every wholesale dealer in stock medicines shall, within thirty days after the commencement of this Act, or within thirty days after commencing business as a wholesale dealer, whichever is the later date, and thereafter on or before the thirty-first day of January in each year, make application for the registration of every stock medicine which he sells or in which he deals or proposes to deal.

Registration of stock medicines.
Tas., s. 8;
24 Geo. V.
No. 33 (Qld).
s. 6.

(2) Where any wholesale dealer proposes to sell or deal in any stock medicine not previously registered by him, he shall, before selling or dealing in that stock medicine, make application for the registration of that stock medicine in accordance with this section.

(3) An application under this section for the registration of a stock medicine shall be in writing in the prescribed form and shall specify—

- (a) the full name and place of business of the applicant;
- (b) the distinctive name and brand of every stock medicine which the applicant sells or in which the applicant deals or proposes to deal; and
- (c) such other particulars as may be prescribed.

(4) Every application under this section shall be lodged with the Registrar, together with—

- (a) a statutory declaration in the prescribed form and setting forth the prescribed particulars;
- (b) a fair average sample of the prescribed weight, and contained in a prescribed package, of each of the stock medicines to which the application relates;
- (c) a specimen copy of the prescribed printed label to be used for each of the stock medicines to which the application relates;

- (d) specimen copies of any directions for use which are or will be issued with respect to any of the stock medicines to which the application relates;
- (e) specimen copies of any leaflet or advertising matter which is or will be issued on, or in connection with, the sale or advertising of any of the stock medicines to which the application relates;
- (f) such other statements containing such other particulars (if any) as may be prescribed; and
- (g) the fees (if any) prescribed.

(5) Where the constituents of any stock medicine, sold under any distinctive name or brand, are altered, the wholesale dealer shall, before selling or dealing in the stock medicine, register it as so altered.

(6) The Registrar may submit to an analyst for analysis any sample of a stock medicine received by him under subsection (4) of this section.

(7) Subject to this section, the Registrar, with the approval of the Board, may register any stock medicine by the distinctive name supplied in respect thereof in the application for registration of that stock medicine.

(8) No stock medicine in respect of which an application for registration is made pursuant to this section shall be registered if the Board has reported to the Minister that—

- (a) the stock medicine is such that it should not be registered; or
- (b) it is not satisfied that the claims made by the manufacturer of the stock medicine as to the efficacy thereof as a stock medicine can be substantiated,

and in any such case the Registrar shall give to the applicant notice in writing that the registration of the stock medicine has been refused, and the notice shall specify the grounds upon which the registration of the stock medicine has been refused.

(9) In any case where the registration of a stock medicine is refused, the wholesale dealer may, in the prescribed manner and within the prescribed time, appeal to a police magistrate from such refusal.

(10) The decision of a police magistrate on the hearing of any appeal under subsection (9) of this section shall be final and without appeal, except on questions of law to the Supreme Court, which shall have jurisdiction to hear and determine such appeals.

(11) Every stock medicine in respect of which an application has been lodged with the Registrar in conformity with the provisions of this section shall be deemed to be registered unless the Registrar, within the prescribed time, notifies the applicant, in writing, as required by subsection (8) of this section, that the registration of that stock medicine has been refused.

10 Every dealer in stock medicines (other than a whole-sale dealer) shall within thirty days after the commencement of this Act, or after commencing business as a dealer in stock medicines, whichever is the later date, and thereafter on or before the thirty-first day of January in each year, give notice in writing to the Registrar stating—

Notices to be given by dealers in stock medicines.

- (a) his full name and place of business;
- (b) the distinctive name or brand of each stock medicine which he sells or in which he deals or proposes to deal; and
- (c) such other particulars as may be prescribed,

and where any dealer proposes to sell or deal in any stock medicine in addition to the stock medicines in respect of which he has given such notice he shall, before commencing to sell or deal in that additional stock medicine, give a like notice in respect thereof.

PART III.

FERTILISERS.

11—(1) For the purposes of this Part there shall be a board, to be called “the Fertilisers Board” (in this Part referred to as “the Board”).

Fertilisers Board.

(2) The Board shall consist of three persons appointed by the Governor, of whom—

- (a) one shall be an officer employed as an agronomist in the Department of Agriculture;
- (b) one shall be an officer employed as a horticulturist in that Department; and
- (c) one shall be the Government Analyst.

(3) The Governor shall appoint one of the members of the Board as and to be the chairman thereof.

(4) Any two members of the Board shall constitute a quorum for the transaction of the business of any meeting of the Board, but if at any meeting at which only a quorum is present the members present differ on any question, that question shall be postponed until all the members are present.

(5) The Board may function, notwithstanding any vacancy in its membership, so long as a quorum remains.

(6) The proceedings of the Board shall be as prescribed, and except as prescribed the Board may regulate its own procedure.

12 The Board shall, as and when prescribed, report to the Minister on any fertiliser submitted to it for its consideration and any claims made by the manufacturer of any fertiliser as to the efficacy thereof as a fertiliser, and shall consider every application for the registration of a fertiliser; and shall, in addition, have such other powers, authorities, duties, and functions as may be prescribed.

Powers, &c., of Fertilisers Board.

Conditions
relating
to sale of
fertilisers.

13 No person shall sell, or offer or expose for sale, any fertiliser—

(a) unless—

(i) the fertiliser is registered under this Act; and

(ii) the package containing the fertiliser bears the prescribed label; or

(b) the package containing which bears any false or misleading word, brand, mark, or label purporting to indicate the nature, quality, strength, purity, or composition of the contents of the package.

Registration
of fertilisers.
26 Geo. V.
No. 19 (Qld.)
s. 7.

14—(1) Every wholesale dealer in fertilisers shall, within thirty days after the commencement of this Act, or within thirty days after commencing business as a wholesale dealer, whichever is the later date, and thereafter on or before the thirty-first day of October in each year, make application for the registration of every fertiliser which he sells or in which he deals or proposes to deal.

(2) Where any wholesale dealer proposes to sell or deal in any fertiliser not previously registered by him, he shall, before selling or dealing in that fertiliser, make application for the registration of that fertiliser in accordance with this section.

(3) An application under this section for the registration of a fertiliser shall be in writing in the prescribed form and shall specify—

(a) the full name and place of business of the applicant;

(b) the distinctive name and brand of every fertiliser which he sells or in which he deals or proposes to deal; and

(c) such other particulars as may be prescribed.

(4) Every application under this section shall be lodged with the Registrar, together with—

(a) a statutory declaration in the prescribed form and setting forth the prescribed particulars;

(b) a specimen copy of the invoice certificate to be given in accordance with section seventeen;

(c) a fair average sample of the prescribed weight, and contained in a prescribed package, of each of the fertilisers to which the application relates;

(d) a specimen copy of the prescribed printed label to be used for each of the fertilisers to which the application relates;

- (e) specimen copies of any directions for use which are or will be issued with respect to any of the fertilisers to which the application relates;
- (f) specimen copies of any leaflet or advertising matter which is or will be issued on, or in connection with, the sale or advertising of any of the fertilisers to which the application relates;
- (g) such other statements containing such other particulars (if any) as may be prescribed; and
- (h) the fees (if any) prescribed.

(5) Where the constituents of any fertiliser, sold under any distinctive name or brand, are altered, the wholesale dealer shall, before selling or dealing in the fertiliser, register it as so altered.

(6) The Registrar may submit to an analyst for analysis any sample of a fertiliser received by him under subsection (4) of this section.

(7) Subject to this section, the Registrar, with the approval of the Board, may register any fertiliser by the distinctive name supplied in respect thereof in the application for registration of that fertiliser.

(8) No fertiliser in respect of which an application for registration is made pursuant to this section shall be registered if the Board has reported to the Minister that—

- (a) the fertiliser is such that it should not be registered; or
- (b) it is not satisfied that the claims made by the manufacturer of the fertiliser as to the efficacy thereof as a fertiliser can be substantiated,

and in any such case the Registrar shall give to the applicant notice in writing that the registration of the fertiliser has been refused, and the notice shall specify the grounds upon which the registration thereof has been refused.

(9) In any case where the registration of a fertiliser is refused, the wholesale dealer may, in the prescribed manner and within the prescribed time, appeal to a police magistrate from such refusal.

(10) The decision of a police magistrate on the hearing of any appeal under subsection (9) of this section shall be final and without appeal, except on questions of law to the Supreme Court, which shall have jurisdiction to hear and determine such appeals.

(11) Every fertiliser in respect of which an application has been lodged with the Registrar in conformity with the provisions of this section shall be deemed to be registered unless the Registrar, within the prescribed time, notifies the applicant, in writing, as required by subsection (8) of this section, that the registration of that fertiliser has been refused.

Notices to
be given by
dealers in
fertilisers.

Tas., s. 9;
26 Geo. V.
No. 19 (Qld.),
s. 6.

15—(1) Every dealer in fertilisers (other than a whole-sale dealer) shall, within thirty days after the commencement of this Act, or after commencing business as a dealer in fertilisers, whichever is the later date, and thereafter on or before the thirty-first day of October in each year, give notice in writing to the Registrar stating—

- (a) his name and place of business;
- (b) the distinctive name or brand of each fertiliser which he sells or in which he deals or proposes to deal;
- (c) the place of manufacture of each fertiliser which he sells or in which he deals or proposes to deal; and
- (d) the place where each of those fertilisers can be obtained,

and, except as otherwise prescribed, every notice under this subsection shall be accompanied by a specimen copy of the invoice certificate to be given in accordance with section seventeen.

(2) Where any dealer proposes to sell any fertiliser in addition to the fertilisers in respect of which he has given notice as provided by subsection (1) of this section, he shall give to the Registrar the like notice before selling that additional fertiliser.

(3) Every notice under this section shall be accompanied by the fee (if any) prescribed.

Publication
of lists of
fertilisers.

Tas., s. 11;
26 Geo. V.
No. 19 (Qld.),
s. 18.

16—(1) The Government Analyst may—

- (a) from the result of the analyses (whether made by the Government Analyst or otherwise) of any fertilisers in respect of which applications for registration have been made under section fourteen and taking into account the constituents which have a commercial value, and the value thereof in the simple fertilisers in which they occur, calculate the average unit values of those constituents; and
- (b) compile, and publish as the Board may direct or approve, a complete list of all those fertilisers, showing—
 - (i) the prices asked for the fertiliser;
 - (ii) the average unit values as so calculated;
 - (iii) the several distinctive names or brands of the fertilisers; and
 - (iv) such other matters as may be prescribed.

(2) The average unit values from time to time set forth in any list referred to in paragraph (b) of subsection (1) of this section shall constitute the basis for calculating the values of all fertilisers for the period indicated for the purpose in that list.

17—(1) Upon the sale of any fertiliser at a price exceeding ten shillings, whether the fertiliser is paid for at the time of delivery or not, the seller shall, at the time of sale or on or before delivery of the fertiliser or any part thereof to the buyer, give or forward to the buyer an invoice certificate in the prescribed form, signed by the seller or his agent, and—

Seller of fertiliser to give invoice certificate to buyer.
Tas., s. 12;
26 Geo. V.
No. 19 (Qld.),
s. 9.

- (a) stating the respective proportions in which the active constituents of the fertiliser are present therein; and
- (b) containing such other particulars as may be prescribed,

and the certificate shall contain a warranty in the prescribed form.

(2) Every invoice certificate under this section shall be deemed a representation or warranty by the seller to the buyer of the truth of the matters referred to in the invoice certificate.

(3) Any seller of a fertiliser who fails to comply with any of the provisions of this section, or who affixes to or upon, or issues or uses with or in connection with, a fertiliser, or who gives or forwards to any buyer of a fertiliser, an invoice certificate under this section which is false or misleading in any material particular shall be guilty of an offence against this Act.

Penalty: Ten pounds.

18—(1) The provisions of section seventeen shall not apply to the sale of any fertiliser in accordance with this section to any person carrying on in good faith the business of a farmer or horticulturist in accordance with a special prescription supplied in good faith to that person.

Sale on prescription.
Tas., s. 15.

(2) In any case to which subsection (1) of this section applies the seller shall place legibly upon every package of the fertiliser the words "Fertiliser prepared on buyer's special prescription only", and shall furnish to the Registrar and to his satisfaction such information and particulars as to the sales of the fertiliser and as to the prescription respectively as the Registrar may require or as may be prescribed.

(3) The statement required by subsection (2) of this section to be placed on each package shall be deemed a representation or warranty by the seller to the buyer that the fertiliser has been duly prepared in accordance with the order in writing of the buyer.

19 The provisions of this Part shall not apply to or in respect of any sale in bulk to a manufacturer of fertilisers of any fertiliser or any constituent of a fertiliser.

Application of this Part.
26 Geo. V.
No. 19 (Qld.),
s. 4.

PART IV.

PESTICIDES.

Pesticides
Board.
3 Geo. VI.
No. 8 (Qld.).
s. 6.

20—(1) For the purposes of this Part there shall be a board, to be called the "Pesticides Board" (in this Part referred to as "the Board").

(2) The Board shall consist of six members, five of whom shall be officers of the Department of Agriculture appointed by the Governor, and the remaining member shall be the Government Analyst.

(3) Of the members appointed by the Governor—

- (a) one shall be an agronomist;
- (b) one shall be an entomologist;
- (c) one shall be a horticulturist;
- (d) one shall be a plant pathologist; and
- (e) one shall be a veterinary officer.

(4) The Governor shall appoint one of the members of the Board as and to be the chairman thereof, and, in the absence of the chairman from any meeting of the Board, the members present thereat may appoint one of their number to preside at that meeting, and while so presiding that member shall have, and may exercise, all the powers and authorities of the chairman.

(5) The chairman shall have a deliberative vote, and in the event of an equality of votes on any question, shall have a second or casting vote.

(6) Any three members of the Board shall constitute a quorum, and the Board may function, notwithstanding any vacancy in its membership, so long as a quorum remains.

(7) The proceedings of the Board shall be as prescribed, and except as prescribed the Board may regulate its own procedure.

(8) The Board shall report to the Minister, as and when prescribed, on every pesticide submitted for its consideration and on any claims made by the manufacturer of any pesticide as to the efficacy thereof as a pesticide, and shall consider every application for the registration of a pesticide; and shall, in addition, have such other powers, authorities, duties, and functions as may be prescribed.

Regulation
of sale of
pesticides.
Tas., s. 16:
3 Geo. VI.
No. 8 (Qld.),
s. 15.

21 No person shall sell or offer or expose for sale as such any pesticide—

- (a) unless the pesticide is registered under this Act;
- (b) unless there is endorsed on every package containing the pesticide the prescribed particulars relating thereto;
- (c) which contains any substance prohibited by the regulations or a greater percentage of any substance than is prescribed in respect thereof;

- (d) the package containing which bears any false or misleading word, brand, mark, or label purporting to indicate the nature, quality, strength, purity, or composition of the contents of the package; or
- (e) the package containing which bears or has attached thereto any statement, name, or label claiming directly or by implication for the pesticide an efficiency which does not, and is not likely to, result from the use, under normal conditions, of the pesticide in accordance with the directions for use supplied therewith.

Penalty: Twenty pounds.

22—(1) Every wholesale dealer in pesticides shall, within thirty days after the commencement of this Act, or within thirty days after commencing business as a wholesale dealer in pesticides, whichever is the later date, and thereafter on or before the first day of July in each year, make application for the registration of every pesticide which he sells or in which he deals or proposes to deal.

Registration
of pesticides.
3 Geo. VI.
No. 8 (Qld.).
ss. 11, 12.

(2) Where any wholesale dealer proposes to sell or deal in any pesticide not previously registered by him, he shall, before selling or dealing in that pesticide, make application for the registration of that pesticide in accordance with this section.

(3) An application for the registration of a pesticide shall be in writing in the prescribed form and shall specify—

- (a) the full name and place of business of the applicant;
- (b) the distinctive name and brand of every pesticide which the applicant sells or in which he deals or proposes to deal; and
- (c) such other particulars as may be prescribed.

(4) Every application under this section shall be lodged with the Registrar, together with—

- (a) a fair average sample of the prescribed weight, and contained in a prescribed package, for analysis, of each of the pesticides to which the application relates;
- (b) a specimen copy of the prescribed printed label to be used for each of the pesticides to which the application relates;
- (c) specimen copies of any directions for use which are or will be issued with respect to any of the pesticides to which the application relates;
- (d) specimen copies of any leaflet or advertising matter which is or will be issued on, or in connection with, the sale or advertising of any of the pesticides to which the application relates;

- (e) a statutory declaration in the prescribed form and setting forth the prescribed particulars;
- (f) such other statements containing such other particulars (if any) as may be prescribed; and
- (g) the fees (if any) prescribed.

(5) Where the constituents of any pesticide, sold under a distinctive name or brand, are altered, the wholesale dealer shall, before selling or dealing in the pesticide, register it as so altered.

(6) The Registrar may submit to an analyst for analysis any sample of a pesticide received by him under subsection (4) of this section.

(7) Subject to this section, the Registrar, with the approval of the Board, may register any pesticide by the distinctive name supplied in respect thereof in the application for registration of that pesticide.

(8) No pesticide in respect of which an application for registration is made pursuant to this section shall be registered if the Board has reported to the Minister that—

- (a) the pesticide is such that it should not be registered; or
- (b) it is not satisfied that the claims made by the manufacturer of the pesticide as to the efficacy thereof as a pesticide can be substantiated,

and in any such case the Registrar shall give to the applicant notice in writing that the registration of the pesticide has been refused, and the notice shall specify the grounds upon which the registration thereof has been refused.

(9) In any case where the registration of a pesticide is refused, the wholesale dealer may, in the prescribed manner and within the prescribed time, appeal to a police magistrate from such refusal.

(10) The decision of a police magistrate on the hearing of any appeal under subsection (9) of this section shall be final and without appeal, except on questions of law to the Supreme Court, which shall have jurisdiction to hear and determine such appeals.

(11) Every pesticide in respect of which an application has been lodged with the Registrar in conformity with the provisions of this section shall be deemed to be registered unless the Registrar, within the prescribed time, notifies the applicant, in writing, as required by subsection (8) of this section, that the registration of that pesticide has been refused.

23 Every dealer in pesticides (other than a wholesale dealer) shall, within thirty days after the commencement of this Act, or within thirty days after commencing business as a dealer in pesticides, whichever is the later date, and thereafter on or before the thirty-first day of July in each year, give to the Registrar notice in writing in the prescribed form stating—

- (a) his full name and place of business;

(b) the distinctive name and brand of each pesticide which he sells or in which he deals or proposes to deal; and

(c) such other particulars as may be prescribed, and where any dealer proposes to sell or deal in any pesticide in addition to the pesticides in respect of which he has given such notice, he shall, before commencing to sell or deal in that additional pesticide, give a like notice in respect thereof.

24 The provisions of this Part shall not apply to or in respect of any sale in bulk to a manufacturer of pesticides of any pesticide or any constituent of any pesticide.

Application of this Part.
3 Geo. VI.
No. 8 (Qld.).
s. 4.

PART V.

MISCELLANEOUS.

25—(1) Any analyst or inspector may, at any reasonable time, enter and inspect any place and any conveyance of any kind whatsoever which he has reasonable ground for believing is kept or used for the sale, storage, delivery, conveyance, manufacture, or preparation for sale of any stock medicine, fertiliser, or pesticide, or any article which he has reasonable ground to believe is intended to be used or offered or exposed for sale as a stock medicine, fertiliser, or pesticide, respectively; and may inspect and examine and take samples of the stock medicine, fertiliser, pesticide, or article.

Entry and inspection:
Taking of samples for analysis.
Tas., s. 17;
24 Geo. V.
No. 33 (Qld.).
s. 11;
26 Geo. V.
No. 19 (Qld.).
s. 17;
3 Geo. VI.
No. 8 (Qld.).
s. 24.

(2) Any inspector may inspect and examine and take samples of any stock medicine, fertiliser, pesticide, or article referred to in subsection (1) of this section which is in course of transit or delivery by any means whatsoever.

(3) Every sample so taken shall be divided by the analyst or inspector into three parts, and each part shall be marked, sealed, and fastened by him in the presence of the person apparently in charge of the premises or conveyance, or of the stock medicine, fertiliser, pesticide, or article.

(4) Of the parts into which any sample is so divided—

(a) one shall be delivered to the person apparently in charge of the premises or conveyance or of the stock medicine, fertiliser, pesticide, or article;

(b) one may be used for the purpose of analysis; and

(c) the remaining one shall be retained by the analyst or inspector for future comparison.

(5) In any case where, by reason of the size, weight, or nature of any stock medicine, fertiliser, pesticide, or article, or of any package in which it is contained, it is, in the opinion of the analyst or inspector, impracticable to divide any sample thereof into three parts, this section shall be deemed to be

complied with if the analyst or inspector takes three unopened packages of the stock medicine, fertiliser, pesticide, or article and deals with those packages as if they were the three parts into which a sample is to be divided.

Publication of
analysis in
certain cases.
Tas., s. 18;
26 Geo. V.
No. 19 (Qld.),
s. 18;
3 Geo. VI.
No. 8 (Qld.),
s. 25.

26—(1) Where any sample of a stock medicine, fertiliser, or pesticide has been taken under this Act by an analyst or inspector, the Minister may publish for public information in the *Tasmanian Journal of Agriculture* the result of the analysis of the sample, and the name and address of the dealer from whom the sample was obtained.

(2) Before any publication is made pursuant to subsection (1) of this section, a statement of the result of the analysis shall be sent to the dealer from whom the sample was obtained, and, if the stock medicine, fertiliser, or pesticide from which the sample was taken was imported by the dealer and sold in unbroken packages, he shall be given an opportunity to furnish an explanation of any discrepancy between the analysis received by him on importation and the analysis by an analyst under this Act.

Purchaser
may obtain
analysis.
Tas., s. 19;
24 Geo. V.
No. 33 (Qld.),
s. 14;
26 Geo. V.
No. 19 (Qld.),
s. 21;
3 Geo. VI.
No. 8 (Qld.),
s. 30.

27 Any person who purchases any stock medicine, fertiliser, or pesticide may, upon compliance with the prescribed conditions and upon payment of the prescribed fee, if any, submit a sample of the stock medicine, fertiliser, or pesticide to an analyst and obtain an analysis of it.

28—(1) Every analyst shall without delay analyse any sample sent or submitted to him for analysis in pursuance of this Act, and shall furnish a certificate in the prescribed form showing the result of the analysis.

(2) The cost of obtaining any analysis may be ordered to be paid by any person convicted under this Act of an offence in respect of the particular matter to which the analysis relates, in addition to any penalty imposed on him in respect of that offence.

Seizure and
forfeiture of
commodities.
24 Geo. V.
No. 33 (Qld.),
s. 11;
26 Geo. V.
No. 19 (Qld.),
s. 17;
3 Geo. VI.
No. 8 (Qld.),
s. 24.

29 Where any stock medicine, fertiliser, or pesticide is sold, or offered or exposed for sale by any person in contravention of any of the provisions of this Act, an inspector may seize the stock medicine, fertiliser, or pesticide which shall thereupon be deemed to be forfeited and shall be disposed of in such manner as the Minister may direct.

Power of
inspectors
to require
information
to be
furnished.
24 Geo. V.
No. 33 (Qld.),
s. 13;
26 Geo. V.
No. 19 (Qld.),
s. 19;
3 Geo. VI.
No. 8 (Qld.),
s. 27.

30—(1) Any inspector may at any time require the buyer (whether by wholesale or retail) of any stock medicine, fertiliser, or pesticide to furnish the inspector with such information as the inspector may require with respect to the name and address of the dealer from whom the buyer purchased the stock medicine, fertiliser, or pesticide, and with respect to the price charged therefor by the dealer, and may require the buyer to produce for inspection any invoice, agreement, circular, or advertising matter given to him by the dealer on or in connection with the sale of the stock medicine, fertiliser, or pesticide.

- (2) No person shall, when so required by an inspector—
- (a) fail or refuse to furnish any information required by the inspector pursuant to this section;
 - (b) knowingly furnish any such information which is false or misleading in any material particular; or
 - (c) fail or refuse to produce to the inspector any invoice, agreement, circular, or advertising matter referred to in subsection (1) of this section, the production of which is required by the inspector.

31—(1) Where by any provision of this Act any notice, application, specimen copy of a label or of an invoice certificate, or any other document, or any sample of any stock medicine, fertiliser, or pesticide, is required to be lodged with the Registrar by any dealer or wholesale dealer, it may, if the dealer or wholesale dealer is not resident in this State, be lodged with the Registrar by any person authorised in writing by the dealer or wholesale dealer to act as his agent for that purpose, and where any statutory declaration is required to be taken by any dealer or wholesale dealer, it shall be a sufficient compliance with the provisions of this Act if it is taken by any person so authorised.

Provisions as to giving of notices, &c.
24 Geo. V.
No. 33 (Qld.),
s. 6 (6).

(2) For the purposes of this Act any notice, application, specimen copy of a label or of an invoice certificate, or statutory declaration, or any other document, or any sample of a stock medicine, fertiliser, or pesticide, which is required to be lodged with the Registrar, may be delivered to the Registrar in person or to any person employed in the office of the Registrar, or may be forwarded to the Registrar by post.

32—(1) Where an offence for which a dealer is liable to a penalty under this Act has in fact been committed by some other person, that other person shall be liable to the same penalty as if he were the dealer.

Liability of third parties in certain cases.
Tas., s. 21.

(2) A dealer charged with any such offence may, upon complaint by him, have any person whom he charges as the actual offender brought before the court at the time appointed for hearing the complaint against the dealer.

(3) The two complaints shall be heard together and if, after the commission of the offence has been proved, the dealer satisfies the court that—

- (a) he used due diligence to comply with the provisions of this Act; and
- (b) without his knowledge, consent, or connivance, the other person committed the offence in question,

that other person may be convicted of the offence, and thereupon the dealer shall be exempt from any penalty.

(4) If, in any such case, the original complainant, before making a complaint, is satisfied that—

- (a) the dealer has used all due diligence to comply with the observance of this Act;
- (b) the offence was committed by another person of whose guilt the complainant is satisfied; and
- (c) the offence was committed without the knowledge, consent, or connivance of the dealer, and in contravention of his orders,

the complainant may proceed against that other person in the first instance.

Evidence.

Tas., s. 22;
24 Geo. V.
No. 33 (Qld.),
s. 20;
26 Geo. V.
No. 19 (Qld.),
s. 26;
3 Geo. VI.
No. 8 (Qld.),
s. 32.

33—(1) In any proceedings under this Act the production of the certificate of the analyst who has analysed anything to which the proceedings relate, shall be evidence of the facts therein stated, unless the party against whom the certificate is tendered gives notice to the other party to the proceedings at least three days prior to the day appointed for the return of the summons, that he requires the analyst to be called as a witness.

(2) In any proceedings under this Act, unless the contrary is proved—

- (a) parol evidence that any person is an analyst or an inspector under this Act shall be deemed sufficient;
- (b) authority to do any act or take any proceeding shall be presumed; and
- (c) the allegation that any person was a dealer, or that any fertiliser was sold, or offered or exposed for sale, shall be sufficient evidence of the fact alleged.

(3) Where, in any proceedings under this Act, a contravention of any of the provisions of this Act is proved with respect to any part of any sample taken pursuant to section twenty-five, the contravention shall be deemed to have been proved with respect to the whole lot from which the sample was taken.

Offences relating to samples.

Tas., s. 23;
24 Geo. V.
No. 33 (Qld.),
s. 12;
26 Geo. V.
No. 19 (Qld.),
s. 20;
3 Geo. VI.
No. 8 (Qld.),
s. 28.

34 No person shall tamper with, adulterate, or destroy any sample, or any part of a sample, taken under this Act for the purposes of analysis.

Penalty: Twenty pounds.

35 No person shall—

- (a) sell any substance as a stock medicine, fertiliser, or pesticide;
- (b) use the words "stock medicine" or the word "fertiliser" or the word "pesticide" (either alone or in conjunction with any other word or words) in connection with any substance;

Sale of substance which is not a stock medicine, &c.
26 Geo. V.
No. 19 (Qld.),
s. 13.

- (c) use any means or device whatsoever which is calculated to induce any person purchasing any substance to believe that the substance is a stock medicine, fertiliser, or pesticide; or
- (d) in any manner whatsoever, pass off, or hold out, any substance as being a stock medicine, fertiliser, or pesticide,

unless that substance is registered as a stock medicine, fertiliser, or pesticide, as the case requires, under this Act.

36 No person shall affix to or upon, or issue or use with or in connection with, any stock medicine, fertiliser, or pesticide, or any advertisement relating to any stock medicine, fertiliser, or pesticide, any label, directions for use, or written statement whatsoever which is or are false or misleading in any material particular.

Offences relating to labelling, &c.
26 Geo. V.
No. 19 (Qld.).
s. 14.

37 Any person who is convicted of any offence against this Act for which no penalty is prescribed elsewhere in this Act shall be liable to a penalty of twenty pounds, together, in the case of a continuing offence, with daily penalty of one pound.

General penalty.

38 Nothing contained in this Act, and no proceedings taken under this Act, shall in any way prejudice or interfere with any right or remedy by civil process which any person aggrieved might have had if this Act had not been enacted, but this section shall not be construed as in derogation of the provisions of section thirty-nine.

Saving of civil rights.
24 Geo. V.
No. 33 (Qld.).
s. 21;
26 Geo. V.
No. 19 (Qld.).
s. 25;
8 Geo. VI.
No. 8 (Qld.).
s. 33.

39—(1) No act or thing done by any member of the Stock Medicines Board, the Fertilisers Board, or the Pesticides Board, or by any person acting under the direction of any such Board or member, or by the Registrar or any inspector or other officer, or any analyst appointed or approved under section four, shall, if the act or thing is done in good faith for the purpose of carrying this Act into effect, subject him personally to any liability, action, claim, or demand whatsoever.

Protection of officers, &c.
Cf. 26 Geo. 5
and 1 Ed. 8,
c. 50 (Imp.).
s. 299.

(2) No person concerned in the publication, pursuant to section twenty-six, of any information, shall, if the publication is made in good faith, be subject to any liability, action, claim, or demand whatsoever for or on account of any loss or damage sustained or alleged to have been sustained by any person by reason of the publication of that information.

40 All fees received under this Act, other than fees paid to analysts, shall be paid into the Consolidated Revenue.

Fees.
Tas., s. 24.

41—(1) The Governor may make regulations prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be

Regulations.
Tas., s. 25.

prescribed for carrying out or giving effect to the provisions of this Act, and, in particular—

- (a) prescribing the exemption from the provisions of this Act of any commodity of any specified class or description when sold or intended to be used for any specified purpose;
- (b) prescribing standards of strength, quality, or quantity to which any commodity, or any constituent part of any commodity, shall conform, and prohibiting the sale of any commodity which does not conform to any standard so prescribed;
- (c) prohibiting the use of any specified constituent or thing in any commodity, either absolutely or in excess of a prescribed quantity, proportion, or percentage;
- (d) prohibiting dealers from causing or permitting to be placed in a package bearing the prescribed label which has contained any commodity and which has been wholly or partly emptied, any commodity other than a commodity of the same distinctive name or brand as that originally contained in that package and to which the label refers;
- (e) prescribing and regulating the manner in which any commodity, or any particular class or description of commodity, shall be labelled, and the matter which shall or may be contained in any label thereon, and prohibiting, either generally or in respect of any particular class or description of commodity, any specified matter from being contained in any label thereon;
- (f) prescribing and regulating the registration of brands, marks, or names applied to commodities, and requiring that any specified commodity shall be sold under a distinctive brand;
- (g) prescribing and regulating the registration of any specified commodity or of any particular class or description thereof, and the conditions to be observed in relation thereto by wholesale dealers and other dealers;
- (h) prescribing the methods to be observed in taking and dealing with, or in analysing, samples of any commodity, and the conditions to be fulfilled by any purchaser obtaining samples for analysis;
- (i) prescribing fees which shall be paid in respect of any matter under this Act;
- (j) prescribing the qualifications of analysts who may be approved by the Minister for the purposes of this Act;

- (k) regulating the procedure relating to the making, hearing, and determination of appeals to a police magistrate under sections nine, fourteen, and twenty-two; and
- (l) imposing penalties, not exceeding twenty pounds, in respect of any breach of any such regulation.
- (2) In this section "commodity" means any stock medicine, fertiliser, or pesticide.

THE SCHEDULE.

(Section 2.)

ACTS REPEALED.

Regnal Year and Number of Act.	Short Title of Act.
1 Edw. VIII. and 1 Geo. VI. No. 45	The <i>Stock Medicines, Fertilisers, and Pesticides Act</i> 1936
3 & 4 Geo. VI. No. 45	The <i>Stock Medicines, Fertilisers, and Pesticides Act</i> 1939

GRAIN RESERVE.

No. 44 of 1950.

AN ACT to provide for the Establishment of Reserves of Grain and for their Distribution; for the public Storage of Grain; and for other Matters connected therewith. [16 November, 1950.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PART I.

PRELIMINARY.

- 1 This Act may be cited as the *Grain Reserve Act* 1950. Short title.
- 2 In this Act unless the contrary intention appears— Interpretation.
- “Manager” means the Manager of the organisation appointed under this Act;
- “organisation” means the Tasmanian Grain Elevators established under this Act.