

## TASMANIA.

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 THE STOCK MEDICINES, FERTILISERS, AND  
 PESTICIDES ACT 1936.
 

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## ANALYSIS.

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TASMANIA.



1936.

ANNO PRIMO

# EDWARDI VIII. REGIS ET PRIMO GEORGII VI. REGIS.

No. 45.



AN ACT to regulate and control the Sale of Stock Medicines and Fertilisers ; and of certain Preparations for the Destruction or Prevention of Plant Diseases and Pests, and of Weeds. [23 December, 1936.]

A.D.  
**1936.**

**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 :—

**1** This Act may be cited as the *Stock Medicines, Fertilisers, and Pesticides Act 1936.* Short title.

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## PART I.

### PRELIMINARY.

**2** The enactments enumerated in the schedule are hereby repealed. Repeal.

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Interpretation.

**3** In this Act, unless the contrary intention appears—

- “Analyst” means a Government Analyst or any analyst approved by the Minister for the purposes of this Act :
- “Dealer” means any person who carries on business as a manufacturer, importer, seller of, or dealer in stock medicines, fertilisers, or pesticides, as the case may be, for the purposes of trade, and whether such person carries on any other business or trade or not :
- “Director” means the Director of Agriculture :
- “Fertiliser” means any substance containing nitrogen, phosphoric acid, or potash manufactured, produced, or prepared in any manner for the purpose of fertilising the soil or supplying nutriment to plants, or any lime or compound of lime ; but the term does not include farmyard or stable manure, marl, seaweed, crude nightsoil, crude offal, or any crude refuse which has not been dried or otherwise treated so that decomposition will be arrested until such refuse is applied to the land :
- “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, fungus, bacteria, or other parasitic plants which attack plants or fruit :
- “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 anything in or by which any fertiliser or pesticide is cased, covered, enclosed, contained, or packed :
- “Pesticide” means any fungicide, insecticide, or weed-killer :
- “Phosphoric acid” means anhydrous phosphoric acid :

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“Potash” means anhydrous oxide of potassium :

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“Sale” includes any disposal by way of trade :

“Stock” includes all animals used for domestic or industrial purposes and all animals kept in captivity and domestic animals :

“Stock medicine” means any preparation, compound, or mixture of one or more drugs or ingredients in any form, or any biological product, including living or dead vaccines, sera, or diagnostic agents intended to be administered, in any manner, or by any means, to stock for the purpose of—

- i. Curing, alleviating, or preventing any injury to, or disease in, any stock : or
- ii. Improving the condition, or increasing the capacity, of any stock for work or production, or for show purposes :

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

**4—**(1) The Governor may appoint such inspectors and other officers as he may think necessary for the purposes of this Act.

Appointment  
of officers.

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

## PART II.

## STOCK MEDICINES.

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

Stock Medicines  
Board.

(2) The Board shall consist of the Director, who shall be Chairman of the Board, the Government Analyst, and the Chief Inspector of Stock.

(3) It shall be the duty of the Board to report to the Minister as and when prescribed on all stock medicines submitted for its consideration.

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(4) Two members of the Board shall form a quorum thereof, but, if at any meeting so constituted the members present differ, the question shall be postponed until all the members are present.

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

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

Application of  
this Part.

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

- i. 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
- ii. By a pharmaceutical chemist registered under the *Pharmacy Act* 1908 in a particular case for which he has specifically prescribed—

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

Dealers in  
stock medicines  
to be licensed.

**7**—(1) No person shall sell, or offer or expose for sale, any stock medicine unless—

- i. He is the holder of a subsisting licence for that purpose under this Act :
- ii. Such medicine is registered under this Act : and
- iii. The package containing the same bears the prescribed label.

Penalty : Twenty pounds.

(2) Any person desiring to obtain a licence to sell stock medicine shall make application in the prescribed form to the Director for that purpose.

(3) Upon receipt of any such application and upon payment of the prescribed fee, if any, and upon production of such further particulars or information, if any, as he may think necessary, the Minister, in his discretion, may issue a licence in the prescribed form to the applicant, but if the applicant is a registered pharmaceutical chemist no fee shall be payable.

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(4) The Minister at any time may cancel any licence issued under this section in such cases, for such reasons, and subject to such conditions, if any, as may be prescribed. A.D. 1936.

**8**—(1) Every dealer in stock medicines within thirty days after the commencement of this Act, or within seven days after commencing business as such dealer, shall give to the Director in the prescribed form notice in writing, stating—

Stock medicines  
to be registered.

- i. His full name and place of business :
  - ii. The distinctive name and brand of every stock medicine in which he proposes to deal : and
  - iii. Such other particulars as may be prescribed—
- and, where any dealer proposes to sell any stock medicine not previously registered by him, he shall give to the Director the like notice as aforesaid in respect thereof before selling any such medicine.

(2) Where the constituents of any stock medicine sold under any distinctive name or brand are altered, the dealer shall register such medicine as so altered before selling the same.

(3) With every such notice as aforesaid the dealer shall lodge with the Director—

- i. A fair average sample of the prescribed weight, and contained in a prescribed package, for analysis, of every medicine to which the notice relates :
- ii. A statutory declaration in the prescribed form and setting forth the prescribed particulars :
- iii. A specimen copy of the prescribed printed label to be used for each such medicine : and
- iv. The fees, if any, prescribed—

except where, or as far as, such notice applies only to a medicine which is already registered under this Act.

(4) The Director may submit any sample received by him as aforesaid to an analyst for analysis.

(5) Every application for registration shall be considered by the Board, and the Board shall report thereon to the Minister.

(6) Subject to this section, the Director may register any stock medicine by the distinctive name supplied in respect thereof in the application, but no such medicine shall be registered if the Board has reported to the Minister that the medicine is such that it should not be registered.

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## PART III.

## FERTILISERS.

Notice by  
deal rs.

**9** Every dealer in fertilisers shall, within thirty days after commencing business as such dealer, give notice in writing to the Director stating—

- i. His name and place of business :
- ii. The distinctive name or brand of each fertiliser dealt in by him :
- iii. The place of manufacture of fertiliser : and
- iv. The place where the fertiliser can be obtained—

and shall forward with such notice two separate copies of each brand.

Daily penalty : One pound.

Certificate of  
ingredients of  
fertiliser.

**10**—(1) Every dealer shall—

- i. Not later than the first day of November in any year, lodge with the Director a certificate in the prescribed form, setting forth the ingredients of each brand of fertiliser in which he proposes to deal :
- ii. Before selling or offering for sale any new brand of fertiliser, lodge with the Director a like certificate in respect of such fertiliser : and
- iii. Pay to the Director a fee of two shillings and sixpence in respect of each such brand of fertiliser, but not exceeding ten shillings in any one year.

Penalty : Twenty pounds.

(2) For the purposes of subsection (1) hereof in the case of a fertiliser manufactured from the by-products of a meat works or boiling-down establishment, where the fertiliser is liable to vary in quality during the year, the certificate shall so state, and it shall be sufficient to set forth in the certificate a minimum percentage of the specified ingredients.

(3) Such certificate with respect to any brand of fertiliser may be amended in any particular by giving one week's notice in writing to the Director.

Lists of ferti-  
lisers to be  
published.

**11**—(1) The Government Analyst shall—

- i. From the result of the analyses of fertilisers set forth in the certificates delivered annually to the Director pursuant to section ten, and taking into account the constituents which have a commercial



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value, and the value thereof in the simple fertilisers in which they occur, calculate the average unit values of such constituents: and

ii. Compile a complete list of all the fertilisers in respect of which such certificates have been so delivered, showing—

- (a) The prices asked for the same:
- (b) The average unit values as so calculated:
- (c) The several distinctive names or brands of such fertilisers: and
- (d) Such other matters as may be prescribed.

(2) The average unit values from time to time set forth in any such list shall constitute the basis for calculating the values of all fertilisers for the period indicated for the purpose in such list.

**12**—(1) Upon the sale of any fertiliser, in any quantity not less than one hundredweight, whether paid for at the time of sale or not, the seller shall, at the time of sale or on or before delivery of the same or any part thereof, give or forward to the buyer an invoice certificate in the prescribed form, signed by the seller or his agent, and stating—

Seller to give  
invoice certificate  
to buyer.

- i. The full name and place of business of the seller:
- ii. The figure, trademark, or other sign attached to or associated with the fertiliser and intended for identifying it:
- iii. The place of manufacture of fertiliser:
- iv. The quantity of fertiliser comprised in the sale: and
- v. The proportion per centum in which the fertiliser contains the three ingredients—nitrogen, phosphoric acid, and potash, and the respective forms in which they occur as provided in the prescribed form.

Penalty: Ten pounds.

(2) Every such invoice certificate shall be deemed a representation or warranty by the seller to the buyer of the truth of the matters referred to therein.

**13**—(1) Every person who sells, or offers or exposes for sale, any fertiliser shall securely affix conspicuously to each

Packages to be  
labelled.

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package thereof a plainly printed label clearly and truly certifying—

- i. The number of nett pounds of fertiliser in the package :
- ii. The figure, trademark, or other sign under which the fertiliser contained in the package is sold :
- iii. The place of manufacture of fertiliser : and
- iv. A chemical analysis stating the proportion per centum in which the fertiliser contains the three ingredients—nitrogen, phosphoric acid, and potash, and the respective forms in which they respectively occur as required to be stated in the invoice certificate.

Penalty : Ten pounds.

(2) In the case of bonedusts or bonemeals, the percentages of coarse material and fine material respectively shall be stated on the label, together with the percentage of phosphoric acid and nitrogen. For the purposes of this subsection fine material is the portion which passes through a sieve of fifty meshes to the linear inch, and coarse material is the portion retained in the mesh of the sieve.

(3) In the case of basic slag, Thomas' phosphate, or ground mineral phosphates, the percentages of coarse material and fine material respectively shall be stated on the label, together with the percentages of total phosphoric acid and citrate soluble phosphoric acid. For the purposes of this subsection fine material is the portion which passes through a sieve of one hundred meshes to the linear inch, and coarse material is the portion retained in the mesh of the sieve.

(4) Every such label shall be deemed a representation or warranty by the dealer of the truth of the matters certified thereby.

(5) The provisions of this section shall not apply to any packet of a fertiliser containing less than one hundredweight, unless such packet is included in a sale of one hundredweight or more of the fertiliser.

Fertiliser to  
contain stated  
proportions.

**14** Where any fertiliser is found upon analysis under this Act to contain less nitrogen, phosphoric acid, or potash than the proportions thereof respectively stated in the invoice certificate or on the label attached to each package containing such fertiliser, and such deficiency—

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- i. As to nitrogen amounts to one-half per centum of the whole sample in fertilisers certified to contain less than ten per centum of nitrogen ; or as to phosphoric acid amounts to one per centum of the whole sample in fertilisers certified to contain less than fifteen per centum of phosphoric acid ; or as to potash amounts to one-half per centum of the whole sample in fertilisers certified to contain less than ten per centum of potash : or
- ii. As to nitrogen amounts to five per centum of the total nitrogen certified to be present in fertilisers represented to contain not less than ten per centum of nitrogen ; or as to phosphoric acid amounts to seven per centum of the total phosphoric acid certified to be present in fertilisers represented to contain not less than fifteen per centum of phosphoric acid ; or as to potash amounts to five per centum of the total potash certified to be present in fertilisers represented to contain not less than ten per centum of potash —

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the dealer selling, or offering or exposing for sale, such fertiliser shall be liable to a penalty of twenty pounds.

**15**—(1) The provisions of sections twelve and thirteen 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 by such person.

Sale on prescription.

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

(3) The statement required by subsection (2) 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 purchaser.

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## PART IV.

## FUNGICIDES : INSECTICIDES : WEED-KILLERS.

Regulation of  
sale of  
pesticides.**16** No person shall sell or offer or expose for sale any pesticide—

- I. Which does not conform to the standard, if any, prescribed in respect thereof :
- II. Unless there is indorsed on every package containing the same the prescribed particulars relating thereto :
- III. Which contains any substance prohibited by the regulations or a greater percentage of any substance than is prescribed in respect thereof :
- IV. 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 :
- V. 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 : or
- VI. In contravention of the regulations relating thereto.

Penalty : Twenty pounds.

## PART V.

## GENERAL.

Entry and  
inspection of  
place and  
fertilisers  
therein, and  
taking samples  
for analysis.  
*Ibid.*, Q., s. 10.**17**—(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—

- I. Stock medicine :
- II. Fertiliser : or
- III. Pesticide —

or any article which he has reasonable ground to believe is intended to be used or offered as a stock medicine, fertiliser,

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or pesticide respectively ; and may inspect and examine and take samples of any such stock medicine, fertiliser, pesticide, or article. A.D. 1936.

(2) Any inspector may inspect and examine and take samples of any such stock medicine, fertiliser, pesticide, or article as aforesaid which is in course of transit or delivery by any means whatsoever.

(3) Every sample taken shall be divided by such 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 of such fertiliser, pesticide, or article.

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

- i. One shall be delivered to the person apparently in charge of the premises or of such fertiliser, pesticide, or article :
- ii. One may be utilised for analysis : and
- iii. The remaining one shall be retained by such analyst or inspector for future comparison.

**18**—(1) Where any sample of 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 such sample, and the name and address of the dealer from whom the sample was obtained.

Publication of analysis in certain cases.

(2) No person concerned in any such publication shall be liable to any action or proceeding in respect thereof if the same is made in good faith.

(3) Before any such publication is made, a statement of the result of the analysis shall be sent to the dealer from whom the sample was obtained, and, if the fertiliser or pesticide from which such sample was taken was imported by the seller 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 the Government Analyst.

**19** 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 thereof to an analyst and obtain an analysis thereof.

Purchaser may obtain analysis.

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Certificate of analysis.

**20**—(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 such analysis.

(2) The cost of obtaining any such 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 thereof.

Liability of third parties in certain cases.

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

(2) A dealer charged with 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 himself.

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

- i. He has used due diligence to comply with the provisions of this Act : and
- ii. Without his knowledge, consent, or connivance, such other person as aforesaid committed the offence in question—

such other person may be convicted of such 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—

- i. The dealer has used all due diligence to comply with the observance of this Act :
- ii. The offence was committed by another person of whose guilt the complainant is satisfied : and
- iii. The offence was committed without the knowledge, consent, or connivance of the dealer, and in contravention of his orders—

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

Evidence.

**22**—(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

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facts therein stated, unless the party against whom the certificate is tendered gives notice to the other party to the proceedings at least twenty-four hours prior to the day appointed for the return of the summons, that he requires the analyst to be called as a witness.

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(2) In any such proceedings, unless the contrary is proved—

- i. Parol evidence that any person is an analyst or an inspector under this Act shall be deemed sufficient :
- ii Authority to do any act or take any proceeding shall be presumed : and
- iii. 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.

**23** 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.

Offences relating to samples.

Penalty : Twenty pounds.

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

Fees.

**25**—(1) The Governor may make regulations for the purposes of this Act.

Regulations.

(2) Any such regulations may prescribe generally or in respect of any stock medicine, fertiliser, or pesticide respectively—

- i. The exemption from the provisions of this Act of any commodity of any specified kind, class, or description when sold or intended to be used for any specified purpose :
- ii. Standards of strength, quality, or quantity to which any commodity, or any constituent part of any commodity, shall conform :
- iii. The prohibition of any specified constituent or thing in any commodity, either absolutely or in excess of a prescribed quantity, proportion, or percentage :
- iv. The manner in which any commodity, or any particular class, description, or kind of com-

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- commodity shall be labelled, and the matter which shall, or may, or may not, be contained in any label thereon :
- v. The registration of brands, marks, or names applied to commodities ; and may require that any specified commodity shall be sold under a distinctive brand :
  - vi. The registration of vendors of any specified commodity or of any particular class or description thereof :
  - vii. The methods to be observed in taking and dealing with samples of any commodity, and the conditions to be fulfilled by any purchaser obtaining samples for analysis :
  - viii. Fees which shall be paid in respect of any matter under this Act—

and may make provision generally for the purposes of this Act ; and may impose penalties not exceeding twenty pounds in respect of any contravention of the regulations.

## THE SCHEDULE.

Regnal Year and Number.	Title of Act.
3 Geo. V. No. 23 .....	<i>The Fertilisers Act 1912</i>
4 Geo. V. No. 47 .....	<i>The Insecticides Act 1913</i>
10 Geo. V. No. 44 .....	<i>The Fertilisers Act 1919</i>
13 Geo. V. No. 15 .....	<i>The Fertilisers Act 1923</i>
15 Geo. V. No. 22 .....	<i>The Insecticides Act 1924</i>
15 Geo. V. No. 25 .....	<i>The Fertilisers Act 1924</i>