



ANNO DECIMO

GEORGII V REGIS.

A.D. 1919.

No 1377.

An Act to make better provision for Regulating the Sale of Insecticides and Fungicides, and for other purposes.

[Assented to, November 20th, 1919.]

BE it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. This Act may be cited as the "Insecticides Act, 1919." Short title.
2. The Insecticides Act, 1910, is hereby repealed. Repeal of Act 1013 of 1910.
3. In this Act, unless inconsistent with the context or subject matter— Interpretation.
 - “Analyst” means the Government Analyst, or an analyst appointed under this Act, or any analyst appointed under the Fertilisers Act, 1918: Cf. 1013, 1910, s. 2.
 - “Chief Inspector” means the Chief Inspector of Insecticides and Fungicides:
 - “Dealer” means any person who carries on business as a manufacturer, importer or vendor of, or dealer in, insecticides or fungicides for the purposes of trade, and whether such person carries on any other business or trade or not:
 - “Fungicide” means and includes any substance used for the purpose of destroying or preventing the attacks of fungi, or other parasitic plants, or bacteria: No. 1355 of 1918.

“Insecticide”

Insecticides Act.—1919.

“Insecticide” means and includes any substance used for the purpose of—

- (a) destroying insects or other pests which affect or attack plants or fruit, or animals ; or
- (b) preventing such insects or pests from infesting or attacking plants or fruit, or animals ; or
- (c) destroying rabbits, vermin, rodents, or other noxious animals :

“Inspector” means inspector appointed under this Act, and includes the Chief Inspector :

“Minister” means the Minister of Agriculture :

“Package” means any receptacle used for containing any insecticide or fungicide :

The verb to sell, in whatever person, number, tense, mood, or voice it is used, includes—

- I. to barter or exchange ;
- II. to agree to sell, barter, or exchange ;
- III. to offer, expose, store, have in possession, send, or deliver for or on sale ;
- IV. to receive for sale ;
- V. to cause or suffer to be sold, bartered, or exchanged, or to be agreed to be sold, bartered, or exchanged ;
- VI. to cause or suffer to be offered, exposed, stored, had in possession, sent, or delivered for or on sale ;
- VII. to cause to suffer to be received for sale ; and
- VIII. to attempt to do any of such acts or things ;

and all participles of the verb to sell, and the noun “sale,” have corresponding connotations :

The verb to buy, in whatever person, number, tense, mood, or voice it is used, includes to receive or accept under a sale or agreement to sell, and to offer to receive or accept or cause or suffer to be received or accepted under a sale or agreement to sell ; and all participles of the verb to buy have corresponding connotations.

Notice by dealers.
Cf. Fertilisers Act,
1918, s. 4.

4. (1) Every dealer shall, within thirty days after the date of the passing of this Act, or within thirty days after the date of his commencing in business as a dealer (whichever is the later date), give notice in writing to the Chief Inspector of Insecticides and Fungicides, at the office of the Minister of Agriculture, in Adelaide, of his name and place of business, and of the distinctive names or brands of the insecticides and fungicides dealt in by him, and of the places where the same can be purchased from him. (2) Any

Insecticides Act.—1919.

(2) Any dealer who fails to give such notice shall be liable to a penalty of not more than Five Shillings per day for every day during which such failure continues.

5. (1) Every dealer shall each year on or before the thirtieth day of June—

(a) pay to the Chief Inspector of Insecticides and Fungicides a licence fee of Five Shillings for every insecticide or fungicide bearing a distinctive name or brand dealt in by him, but not exceeding Two Pounds in any one year; and

(b) furnish to the said Chief Inspector a certificate setting out the constituents of every such insecticide or fungicide and the percentage in which each constituent is contained therein, and what percentage of each constituent is soluble in cold water:

Licence fee and certificate as to constituents of insecticide or fungicide.

Cf. *ibid.*, s. 5.

Provided that, when the manufacturer or importer of any insecticide or fungicide bearing a distinctive name or brand has paid the current licence fee for such insecticide or fungicide, and has furnished the certificate with respect to such insecticide or fungicide required by subdivision (b) hereof, it shall be lawful for any other dealer to sell such insecticide or fungicide without payment of any further fee, and without furnishing the certificate with respect to such insecticide or fungicide required by the said subdivision (b).

(2) Any dealer who fails to observe any provision of this section shall be guilty of an offence against this Act.

(3) The certificate of the percentages of the constituents contained in any insecticide or fungicide may be altered upon giving one week's notice in writing to the Chief Inspector and paying a further fee of Two Shillings and Six Pence for the registration of such alteration.

6. (1) Every dealer who sells any insecticide or fungicide of a greater value than Five Shillings shall sign and give to the purchaser an invoice or statement, on which shall be stated the figure, word, trade mark, or trade description which is to be branded or stamped or marked upon every package containing any of the insecticide or fungicide sold at that time to such purchaser.

Invoice to be given on sale of insecticide. Cf. 1013, 1910, s. 6.

(2) Such invoice or statement shall, notwithstanding any agreement to the contrary, be deemed to be and shall have effect as a warranty by such dealer that the constituents of the insecticide or fungicide so sold and the percentage in which each constituent is contained therein and the percentage of each constituent which is soluble in cold water, accurately correspond with the constituents and percentages respectively stated in the certificate furnished to the Chief Inspector under section 5 with respect to insecticide or fungicide of the same name or brand or trade description.

(3) Any dealer who fails to observe any provision of this section shall be guilty of an offence against this Act.

7. (1) Every

Insecticides Act.—1919.

Packages to be
branded to correspond
with invoice.
Cf. *ibid.*, s. 7.

7. (1) Every manufacturer or importer who sells any insecticide or fungicide shall, in manner prescribed, legibly and durably brand, stamp, or mark upon, or cause to be branded, stamped, or marked upon, every package containing any of such insecticide or fungicide—

(a) a figure, word, trade mark, or trade description corresponding to the figure, word, trade mark, or trade description stated on the invoice or statement given under section 6 by such manufacturer or importer upon the sale of such insecticide or fungicide; and

(b) a statement of the constituents of such insecticide or fungicide and the percentage in which each constituent is contained therein, and what percentage of each constituent is soluble in cold water.

(2) Every other dealer who has purchased any such insecticide or fungicide from any manufacturer or importer, and who sells any such insecticide or fungicide in any package other than a package so branded, stamped, or marked as aforesaid by such manufacturer or importer, shall brand, stamp, or mark upon such other package a figure, word, trade mark, or trade description corresponding to the figure, word, trade mark, or trade description stated on the invoice or statement given under section 6 by such dealer upon the sale of such insecticide or fungicide and the statement referred to in subdivision (b) of subsection (1) hereof.

(3) Any dealer who fails to observe any provision of this section shall be guilty of an offence against this Act.

Offences by seller.
Cf. *ibid.*, s. 8.

8. (1) Every dealer who sells any insecticide or fungicide shall be guilty of an offence against this Act if he—

(a) fails, without reasonable excuse, to give, on or before or as soon as possible after the delivery of such insecticide or fungicide, or any of it, the invoice or statement required by section 6; or

(b) causes or permits any invoice, statement, or description with respect to or of such insecticide or fungicide to be false in any material particular; or

(c) fails to brand or stamp or mark upon any package containing any of such insecticide or fungicide, before delivery thereof, the figure, mark, trade mark, or trade description, or the statement required by section 7.

(2) In any proceeding for either of the offences described in subdivisions (a) and (c) of subsection (1) hereof, the burden of proof that section 6 or 7, according to the nature of the case, has been complied with shall lie on the defendant.

Buyer need not
accept delivery unless
Act complied with.
Ibid., s. 9.

9. No person shall be bound to accept delivery on sale of any insecticide or fungicide unless all the provisions of sections 6 and 7 have been complied with as to such insecticide or fungicide.

10. The

Insecticides Act.—1919.

10. The Governor may, for the purposes of this Act, appoint a Chief Inspector of Insecticides and Fungicides, and such other inspectors and other officers as may be necessary, and persons having competent chemical knowledge to be analysts.

Inspectors and analysts.
Cf. *ibid.*, s. 10.

11. Any person who in any way obstructs or interferes with any Inspector or analyst in the discharge of any of his duties or the exercise of any of his powers under this Act shall be guilty of an offence against this Act.

Obstructing Inspector.
Cf. *ibid.*, s. 11.

12. Any Inspector may, at any time during the day time, enter upon any land or into any warehouse, store, shop, building, or other premises where any insecticide or fungicide is or may reasonably be supposed to be kept for sale or sold, and may —

Powers of Inspector.
Ibid., s. 12.

- (a) examine and, on payment of the ordinary market price therefor (if demanded), take a quantity of any insecticide or fungicide there found as a sample for analysis; and
- (b) do any act or thing required or permitted by regulation to be done in connection with or for the purposes of anything authorised by this section or the analysis of samples taken under this section.

13. (1) When an Inspector takes a sample for analysis under section 12 he shall—

Procedure on taking sample.
Cf. *ibid.*, s. 13.

- (a) thoroughly mix such sample and divide it into three approximately equal parts;
- (b) place each such part in a separate package and seal or fasten each such package;
- (c) place on each such package a label stating the name, so far as known to him, of the occupier of the premises or of the person apparently having possession, custody, or control of the lot from which such sample was taken, and the time and place of taking;
- (d) deliver one of such parts to the person in charge, or apparently in charge, of the premises; and
- (e) retain one of such parts for future comparison.

The other of such parts may be utilised for analysis.

(2) When the insecticide or fungicide is sold in packages containing not more than two pounds avoirdupois net weight thereof, subdivision (a) of subsection (1) hereof shall be deemed to be complied with if the Inspector takes three unopened packages of the insecticide or fungicide and deals with such packages as if they were the three parts into which the sample is to be divided.

14. (1) In any case where any package containing any insecticide or fungicide which has been branded or stamped or marked, as required by section 7, is wholly or partly emptied, no person shall place in such package any insecticide or fungicide other than insecticide

Putting into branded packages insecticide or fungicide other than that to which brands refer an offence.

Insecticides Act.—1919.

Cf. Fertilisers Act,
1918, s. 9.

insecticide or fungicide of the same name or brand as that originally contained in such package, and to which the letters and figures, or abbreviations for letters and figures, and other marks appearing upon such package refer.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence against this Act.

Right of buyer to
analysis.
Cf. *ibid.*, s. 21

15. (1) Any person who has bought any insecticide or fungicide shall, subject to this section and to section 17, be entitled to have a sample of the insecticide or fungicide so bought analysed by an analyst, and to receive the analyst's certificate of the result of the analysis.

(2) Every buyer intending to submit a sample for analysis under this section shall, within three months after delivery of such insecticide or fungicide to him or receipt by him of the invoice therefor, give notice in writing by post to the seller or his agent of his intention, and of the day (not being earlier than fourteen days from the date of the posting of such notice) and time when such sample will be taken.

(3) The buyer shall on the day and at the time mentioned in the notice—

(a) take a sample of such insecticide or fungicide in the presence of a Justice of the Peace or member of the Police Force, and of the seller or the agent or other representative of the seller, if the seller or his agent or representative desires to be present, and

(b) thoroughly mix the sample and divide it into three approximately equal parts, as prescribed in section 13, to be then and there separated, and each part to be marked and sealed, or fastened up in such a manner as its nature will permit, and

(c) if required to do so, deliver one of such parts to the seller or his agent or representative.

(4) The buyer shall send or deliver two of such parts to the Chief Inspector.

(5) The Chief Inspector shall retain one of the said parts for future comparison, and shall send or deliver the other part to an analyst, who shall with all convenient speed analyse the same and give or send, by post or otherwise, a certificate in duplicate to the Chief Inspector wherein he shall specify the results of the analysis.

(6) The Chief Inspector shall forward such certificate to the buyer and shall file the duplicate in his office.

Publication of result
of analysis.
Cf. 1013, 1910, s. 15.

16. The result of the analysis by an analyst of any sample or part of a sample of any insecticide or fungicide, together with the name and address or place of business of the dealer from whom the insecticide or fungicide was bought, or of the person in the occupation

Insecticides Act.—1919.

occupation or apparent occupation of the premises where the sample was taken, and the certificate furnished under section 5, and also any explanations of and comments upon the result of the analysis may be published in the *Journal of the Department of Agriculture of South Australia*, and in any newspaper, and in such other manner as the Minister directs or is prescribed.

17. The costs of and incidental to the obtaining of any analysis shall be paid in the first instance by the person requesting the analysis, but shall subsequently be dependent upon the results of the analysis, and if the insecticide or fungicide does not comply with the warranty shall be recoverable from the seller of such insecticide or fungicide as a simple contract debt, or, in the case of a conviction for an offence, shall be added to the penalty, and be recoverable in the same manner: Provided that in cases where the person requesting the analysis is engaged in rural production, and the insecticide or fungicide complies with the warranty, such costs shall be paid by the Treasurer out of moneys voted by Parliament for the purpose.

Costs of analysis.
Cf. Fertilisers Act,
1918, s. 25.

18. A prosecution for an offence against this Act may be instituted either by the person aggrieved, by the Chief Inspector of Insecticides, or by any person authorised in that behalf by the Minister.

Who may prosecute.
Ibid., s. 31.

19. When, in any proceeding in respect of an offence against this Act, a contravention of any of the provisions of this Act is proved with regard to any sample of insecticide or fungicide, such contravention shall be deemed to have been proved with regard to the whole lot from which the sample was taken, or all the insecticide or fungicide bought at the same time as such sample.

Offence as to sample
deemed offence as to
whole lot.
1013, 1910, s. 18.

20. (1) At the hearing of any civil or criminal proceedings with regard to any sample or part thereof which has been analysed by an analyst, or the lot from which such sample was taken, or with regard to the contents of any package of insecticide or fungicide which have been so analysed, the production of a certificate purporting to be signed by an analyst shall, without proof of the signature of the person appearing to have signed the same or that he is an analyst, be sufficient evidence—

Certificate of analyst.
Ibid., s. 19.

- i. of the identity of the thing analysed,
- ii. of the result of the analysis; and
- iii. of the matters stated in such certificate,

unless the defendant, by at least three clear days' (exclusive of Sundays and public holidays) notice in writing delivered to the informant and by a like three clear days' (exclusive as aforesaid) notice delivered, with a witness fee of One Guinea, to the Analyst, requires that such Analyst shall attend as a witness.

(2) In any case where the attendance of an analyst is required as mentioned in this section, the Court or Special Magistrate or Justices

Insecticides Act.—1919.

Justices may, in addition to any other order which may be made as to costs, make such order as it, he, or they deem proper as to the witness fee paid to the Analyst and as to the expenses of and remuneration to be paid for the analysis.

Evidence of office of
Inspector or analyst.
Ibid., s. 20.

21. In any proceedings, civil or criminal, under this Act parol evidence that any person is an Inspector or an analyst shall be deemed sufficient unless the contrary is proved.

Evidence that insecti-
cide or fungicide used
for particular purpose.
New.

22. Where in any proceedings under this Act any question arises as to whether any substance is used for the purpose of—

- (a) destroying insects or other pests which affect or attack plants or fruit, or animals, or
- (b) preventing such insects or pests from infesting or attacking plants or fruit, or animals, or
- (c) destroying rabbits, vermin, rodents or other noxious animals,

or whether any substance is used for the purpose of destroying or preventing the attacks of fungi or other parasitic plants, or bacteria, and it is proved that such substance has been sold for the purpose of being so used, or that such substance has been advertised in any newspaper circulating in the State, or in any leaflet, pamphlet, or circular published or distributed in the State, to be suitable for use for any of such purposes, or that such substance is contained in a package bearing any label stating that the contents are suitable for use for any of such purposes, then such proof shall be sufficient evidence that such substance is used for the purpose for which the same was sold or for which the same was advertised to be suitable, or is indicated by the label on the package containing the same to be suitable, as the case may be.

Exemption of
employer from
penalty on conviction
of actual offender.
1355, 1918, s. 35.

23. (1) When any dealer is charged with an offence against any of the provisions of this Act he shall be entitled, upon information duly laid by him, to have any other person whom he charges as the actual offender brought before the Court at the hearing of the charge, and if after the commission of the offence has been proved the person in the first instance informed against proves to the satisfaction of the Court—

- (a) that he had used due diligence to enforce the execution of this Act, and
- (b) that the said other person had committed the offence in question without his knowledge, consent, or connivance,

the said other person shall be summarily convicted of such offence and the said dealer shall be exempt from any penalty. The person so convicted shall, in the discretion of the Court, be also liable to pay any costs incidental to the proceedings.

(2) Where

Insecticides Act.—1919.

(2) Where it is made to appear to the satisfaction of any analyst, Inspector, or officer appointed under this Act, or any member of the Police Force, at the time of discovering an offence—

- (a) that the dealer has used all due diligence to enforce the execution of this Act; and
- (b) by what person the offence has been committed; and
- (c) that it has been committed without the knowledge, consent, or connivance of the said dealer, and in contravention of his orders.

the said analyst, Inspector, officer, or member of the Police Force, shall proceed against the person whom he believes to be the actual offender without first proceeding against the said dealer.

24. The Governor may make regulations, not inconsistent with this Act, prescribing all things which by this Act are required, contemplated, or permitted to be prescribed, or which may be necessary or convenient to be prescribed for giving effect to the provisions and objects of this Act, and, amongst others, the following things:—

Regulations.
Cf. 1013, 1910, s. 17.

- I. The method to be adopted by the buyer of an insecticide or fungicide in taking a sample of the insecticide or fungicide in order that he may obtain an analyst's analysis thereof:
- II. The methods of analysis to be adopted by analysts in analysing samples of insecticides and fungicides submitted for analysis under this Act:
- III. The fees to be paid for obtaining an analyst's analysis:
- IV. Fees to be paid for anything done under this Act, either in addition to or in substitution of any fees fixed by this Act:
- V. Forms to be used in connection with anything done under this Act:
- VI. Regulating and fixing standards for insecticides or fungicides:
- VII. Determining the extent of variation permitted in the declared or certified percentages of any constituent or constituents in any insecticide or fungicide:
- VIII. The manner in which the powers and duties of Inspectors and analysts are to be exercised and discharged, and generally such things as may be necessary or convenient for enabling Inspectors and analysts to exercise and discharge such powers and duties, and to carry out the provisions and objects of this Act:
- IX. Regulating the branding and stamping of packages; and
- X. Penalties

Insecticides Act.—1919.

x. Penalties for offences against regulations, not exceeding in any case the sum of Twenty Pounds.

General penalty.
Cf. *ibid.*, s. 21.

25. Any person guilty of an offence against this Act for which no penalty is specified shall, without prejudice to any civil liability, be liable to a penalty for a first offence of not more than Twenty Pounds, and for any subsequent offence of not less than Five Pounds nor more than Fifty Pounds.

Summary proceedings.

26. All proceedings in respect of offences against this Act shall be disposed of summarily.

Appeal.

27. There shall be an appeal in respect of proceedings in respect of offences against this Act.

Special case.

28. In the event of an appeal in respect of proceedings in respect of offences against this Act, a special case may be stated.

Protection to officers acting under the Act.
Ibid., s. 16.

29. No Inspector, analyst, or other officer shall be liable, except in respect of wilful misconduct or neglect, to any legal proceedings for anything done or omitted in the exercise or execution of any of his powers or duties under this Act.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

H. L. GALWAY, Governor.



ANNO DECIMO

GEORGII V REGIS.

A.D. 1919.

No. 1378.

An Act to provide for the Making of Advances, out of Moneys provided by the Government of the Commonwealth, to Municipal Corporations and District Councils for the purpose of the Employment of Returned Soldiers, and for other purposes.

[Assented to, November 20th, 1919.]

BE it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

1. This Act may be cited as "Commonwealth Advances for the Employment of Returned Soldiers Act, 1919." Short title.

2. The Treasurer may, on behalf of the Government of the State, arrange with the Government of the Commonwealth for the provision of moneys for the purposes of this Act, and for guaranteeing to the Commonwealth the repayment of any moneys so provided. Treasurer may arrange with Commonwealth for provision of moneys for employment of returned soldiers.

3. (1) The Treasurer may, out of moneys provided by the Government of the Commonwealth in pursuance of any such arrangement, make advances to any Municipal Corporation or District Council, for the purpose of being by it expended in the carrying out of works and undertakings to provide employment for returned soldiers. Treasurer to distribute Commonwealth moneys to local government bodies.

(2) Any such advance shall be made upon such terms and conditions as may be agreed upon by or on behalf of the Government of the State and the Municipal Corporation or District Council to which the advance is made.

(3) The

*Commonwealth Advances for the Employment of Returned Soldiers
Act.—1919.*

(3) The repayment of any such advance in accordance with such terms and conditions, and the carrying out of any agreement made by or on behalf of the Government of the State with the Municipal Corporation or District Council with respect to any such advance, shall—

No. 497 of 1890.

(a) in the case of an advance made to a Municipal Corporation, be deemed a duty imposed upon it by the Municipal Corporations Act, 1890; and

No. 1182 of 1914.

(b) in the case of an advance made to a District Council, be deemed a duty imposed upon it by the District Councils Act, 1914.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

H. L. GALWAY, Governor.



ANNO DECIMO

GEORGII V REGIS.

A.D. 1919.

No. 1379.

An Act to further amend the Workmen's Compensation Act, 1911.

[*Assented to, November 20th, 1919.*]

BE it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. (1) This Act may be cited alone as the "Workmen's Compensation Act Further Amendment Act, 1919." Short titles.

(2) The Workmen's Compensation Acts, 1911 and 1918, and this Act may be cited together as the "Workmen's Compensation Acts, 1911 to 1919."

2. This Act is incorporated with the other Acts mentioned in section 1 of this Act, and those Acts and this Act shall be read as one Act. Incorporation with other Acts.

3. Paragraph (1) of the First Schedule to the Workmen's Compensation Act, 1911 (as amended by the Workmen's Compensation Act Amendment Act, 1918) is further amended by striking out sub-paragraph (b) thereof, and substituting the following sub-paragraph— Amendment of First Schedule to principal Act—
Amount of compensation in case of incapacity for work.

(b) where total or partial incapacity for work results from the injury, a weekly payment during the incapacity not exceeding—

- i. fifty per centum of his average weekly earnings during the previous twelve months, if he has been so long employed; but if not, then for any less period during which he has been in the employment of the same employer; or
- ii. Thirty

Workmen's Compensation Act Further Amendment Act.—1919.

11. Thirty Shillings if he is at the time of the accident a single man, and Two Pounds if he is at the time of the accident a married man,

whichever amount is the greater, but

(i.) the total liability of the employer in respect of such payments shall not exceed Five Hundred Pounds, and

(ii.) the workman shall not be entitled to receive by way of weekly payment under subdivision 11. hereof a greater sum than his average weekly earnings during such period as aforesaid.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

H. L. GALWAY, Governor.