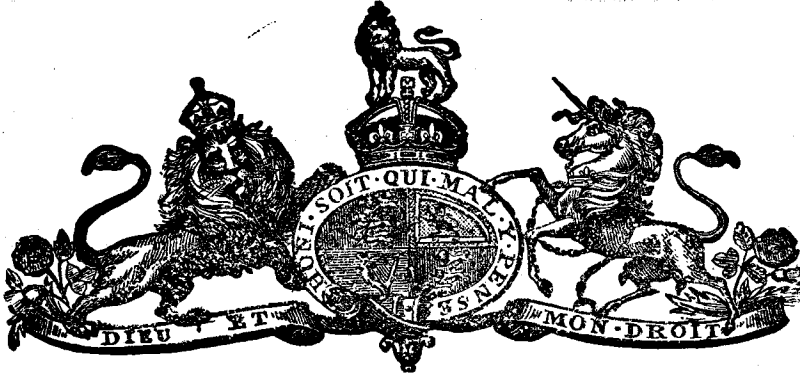


# TASMANIA



1912.

ANNO TERTIO

GEORGII V. REGIS.

No. 23.

## ANALYSIS.

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AN ACT respecting the Sale of Fertilisers.

[17 December, 1912.]

A.D.  
1912.

**B**E 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 :—

*Sale of Fertilisers.*

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Short title.  
Commencement.Repeal of 57 Vict.  
No. 23 and 62  
Vict. No. 41.Interpretation.  
5 Ed. VII. No. 16,  
s. 2 (Q.).

**1** This Act may be cited as "The Fertilisers Act, 1912," and shall commence on the First day of July, One thousand nine hundred and thirteen.

**2** "The Manure Adulteration Act, 1893," and "The Manure Adulteration Act, 1898," are hereby repealed.

**3** In this Act, unless the context otherwise indicates—

"Act" includes regulations :

"Analyst" means—

I. The Government Analyst ;

II. Any other analyst approved by the Minister as an agricultural analyst under this Act :

"Dealer" means any person who carries on business as a manufacturer, importer, seller, or dealer in fertilisers for the purposes of trade, and whether such person carries on any other business or trade or not :

"Director" means the Director of Agriculture for the time being of this State :

"Fertiliser" means any substance containing, in appreciable quantity, nitrogen, phosphoric acid, or potash, manufactured, produced, or prepared in any manner for the purpose of fertilising the soil or supplying nutriment to plants ; but the term does not include farmyard or stable manure, lime, 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 :

"Inspector" means any inspector appointed under or for the purposes of this Act :

"Minister" means the responsible Minister of the Crown for the time being administering this Act :

"Package" includes anything in or by which fertilisers are cased, covered, enclosed, contained, or packed :

"Phosphoric acid" means anhydrous phosphoric acid :

"Potash" means anhydrous oxide of potassium :

"Sell" includes barter.

Officers.  
*Ibid.*, s. 3.

**4**—(1) Such and so many inspectors and other officers as are necessary for the effectual execution of this Act may from time to time be appointed for the purposes of this Act under and in conformity with the provisions of any Act for the time being in force regulating the Public Service of this State.

(2) The Minister may, by writing under his hand, approve of qualified persons to act as agricultural analysts for the purposes of this Act.

Notice by dealers.

**5**—(1) Every dealer shall, within Thirty days after the First day of July, One thousand nine hundred and thirteen, or within Thirty

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days after the date of his commencing business as a dealer, give notice A.D. 1912.  
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 places where the fertiliser can be obtained—

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

(2) Any such person who fails to comply with any provision of Subsection (1) of this section shall be liable to a penalty not exceeding One Pound for each day during which he so fails to comply therewith.

**6**—(1) On or before the Thirty-first day of July in the year One thousand nine hundred and thirteen, and thereafter on or before the Thirty-first day of January in every subsequent year, and in regard to any new brand at any time during that year, every dealer shall—

- i. Pay to the Director a fee of Two Shillings and Sixpence for each fertiliser bearing a distinctive name or brand dealt in by him, but not exceeding in the whole the sum of Ten Shillings in any One year : and
- ii. Deliver to the Director, in the form of Schedule (1), a certificate of the specified ingredients of each such brand of fertiliser : Provided that 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.

Every dealer who fails to comply with this section shall be guilty of an offence against this Act.

(2) 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.

**7**—(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 form of Schedule (1) or to the like effect, signed by the seller or his agent, and stating—

- 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 Schedule (1).

Certificate of ingredients of each brand to be furnished by dealer.

Schedule (1).

Seller to give invoice certificate to buyer.

Schedule 1.

*Ibid.*, Q., s. 6.  
Cf. 6 Ed. VII.  
c. 27, s. 1  
(Eng.).

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Invoice certificate  
a warranty.Labelling  
packages.  
*Ibid.*, Q., s. 7.

(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.

**8**—(1) Every person who sells, or offers or exposes for sale, any fertiliser shall securely affix conspicuously to each package thereof a plainly printed label clearly and truly certifying—

- i. The number of net pounds of fertiliser in the package :
- ii. The figure, trademark, or other sign under which the fertiliser contained in the package is sold : and
- iii. The place of manufacture of fertiliser :
- 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.

(2) In the case of bonedusts or bonemeals, the percentages of coarse material and fine material shall be stated on the label, together with the percentage of phosphoric acid and nitrogen.

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 shall be stated on the label, together with the percentages of total phosphoric acid and citrate soluble phosphoric acid.

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.

Offences by  
vendors.Cf. 6 Ed. VII.  
c. 27, s. 6  
(Eng.).  
*Ibid.*, Q., s. 8.**9** Any dealer who—

- i. Upon a sale of a fertiliser, in any quantity not less than One hundredweight, fails without reasonable excuse to give the required invoice certificate : or
- ii. Fails to affix to every package of fertiliser sold, or offered or exposed for sale, the required label, contrary to the provisions of the immediately preceding section : or
- iii. Causes or permits any invoice certificate or label to be false in any material particular—

shall be guilty of an offence against this Act.

Fertiliser to  
contain certain  
proportions.

**10** Where any fertiliser is found upon analysis under this Act to contain less nitrogen, phosphoric acid, or potash than the proportions

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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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*Ibid.*, Q., s. 9.

- 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—

the dealer selling, or offering or exposing for sale, such fertiliser shall be guilty of an offence against this Act.

**11** Where any fertiliser is sold which has been prepared upon an order in writing of a purchaser who is a *bonâ fide* farmer or horticulturist, and according to a *bonâ fide* special prescription in writing supplied by the purchaser—

Sale of fertiliser prepared according to special prescription.

- i. It shall be sufficient to write or print legibly upon any package thereof, or any invoice certificate or other certificate or label used in connection therewith, the words "fertiliser prepared on purchaser's special prescription only," instead of marking the same with a distinctive name or brand.

Such written or printed statement 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 :

- ii. The seller of any fertiliser so prepared as aforesaid shall not be required to—
  - (a) Deliver to the Director the certificate in the form of Schedule (1) pursuant to Section Six of this Act ; or
  - (b) Comply with the requirements of Section Seven or Section Eight of this Act—

if such seller shall instead thereof furnish to the Director and to his satisfaction such information and particulars with regard to the sale, the prescription, and the fertiliser as the Director may require or as may be prescribed.

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

**12**—(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 fertiliser, or any article used, or which he has reasonable grounds for believing is intended to be offered or used, for fertilising the soil or supplying nutriment to plants; and may inspect and examine and take samples of any such fertiliser or article.

(2) Any inspector may inspect and examine and take samples of any fertiliser or any article used, or which he has reasonable ground for believing is intended to be offered or used, for fertilising the soil or supplying nutriment to plants, and 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 or article, and shall be disposed of as follows:—

- i. One part shall be delivered to the person apparently in charge of the premises or of such fertiliser or article;
- ii. One may be utilised for analysis;
- iii. One shall be retained by such analyst or inspector for future comparison.

Publication of result.

(4) The result of the analysis of any sample taken by an analyst or inspector under this Act, together with the name and address of the dealer from whom the sample was obtained, may be published in the "Agricultural Gazette."

(5) Prior to the publication thereof in the "Agricultural Gazette" a statement of the result of any analysis shall be sent forthwith to the dealer from whom the sample was obtained.

Right of buyer to analysis.  
*Ibid.*, s. 11.

**13** Every buyer of any fertiliser or article for fertilising the soil or supplying nutriment to plants shall, on complying with the regulations, be entitled to submit a sample thereof to the analyst for analysis, and to receive from him a certificate of the result of his analysis.

Analyst's certificate.  
Schedule (2).  
*Ibid.*, s. 12.

**14**—(1) Every analyst shall with all reasonable despatch analyse any sample obtained by him or submitted to him for analysis, and shall prepare a certificate showing the result thereof.

Such certificate shall be in the form of Schedule (2), or as near thereto as circumstances permit.

Costs of analysis.

(2) 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 shall be recoverable 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.

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- 15** Any person who fraudulently tampers with—
- i. Any package of fertiliser so as to procure that any sample of it taken in pursuance of this Act does not correctly represent the contents of the package: or
  - ii. Any brand: or
  - iii. Any sample taken under this Act—
- shall be liable to a penalty not exceeding Fifty Pounds, or to imprisonment for any period not exceeding Six months.
- 16** Any person who wilfully obstructs, hinders, resists, or in any-wise opposes any analyst or inspector under this Act, shall be liable to a penalty not exceeding Twenty Pounds.
- 17**—(1) A prosecution for an offence against this Act may be instituted either by the person aggrieved or by any person authorised either generally or specially by the Director.
- (2) In any proceeding for such offence it shall be no defence to allege that the buyer, having bought only for analysis, was not prejudiced by the sale, or that the fertiliser, though deficient in one or more constituents, was not defective in other constituents.
- (3) A person alleged to have committed such offence in respect of any fertiliser sold by him shall be entitled to the same rights and remedies, civil or criminal, against the person from whom he bought the fertiliser as are available to the person who bought the fertiliser from him, and any damages recovered by him may, if the circumstances justify it, include the amount of any penalty, and costs and expenses paid by him on conviction, and the costs of and incidental to his defence on such conviction.
- 18** 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.
- 19**—(1) A dealer charged with an offence against this Act may, upon information laid by him, have any person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge.
- (2) If, after the commission of the offence has been proved, such dealer satisfies the court—
- i. That he has used due diligence to enforce the provisions of this Act: and
  - ii. That, without his knowledge, consent, or connivance, the said other person committed the offence in question—
- the said other person shall be summarily convicted of such offence, and such dealer shall be exempt from any penalty.
- 20** The informant shall, in the first instance, proceed against the person whom he believes to be the actual offender, without proceeding
- A.D. 1912.  
Tampering with samples.  
*Ibid.*, s. 13.  
Cf. 6 Ed. VII.  
c. 27, s. 7 (Eng.)
- Penalty for obstruction.  
*Ibid.*, s. 14.
- Who may prosecute.  
*Ibid.*, s. 15.
- Defence.
- Rights of seller against person who sold to him.
- Responsibility of persons actually committing offences.
- Exemption of dealer from penalty on conviction of actual offender.
- Proceedings against supposed actual offender in first instance.

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against the dealer, whenever it is made to appear to his satisfaction at the time of discovering the offence—

- i. That such dealer has used all due diligence to enforce the observance of this Act : and
- ii. By whom such offence was committed : and
- iii. That such offence was committed without the knowledge, consent, or connivance of such dealer, and in contravention of his orders.

Penalties.

**21** Any person who commits any offence against this Act for which no other penalty is provided shall, without prejudice to any civil liability, be liable to a penalty not exceeding Twenty Pounds for a first offence, and for any subsequent offence to a penalty not exceeding Fifty Pounds.

Certificate  
evidence.  
*Ibid.*, s. 16.

**22** The production of a certificate of the analyst shall be evidence in any legal proceedings of the facts therein stated, unless the defendant gives notice to the plaintiff or prosecutor, at least Twenty-four hours previous to the day fixed for the return of the summons or hearing, that he requires the analyst to be called as a witness.

Evidence.  
*Ibid.*, s. 17.

**23** In any 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 :
- 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.

Impersonating  
analyst or  
inspector a  
misdemeanour.

**24** Any person who shall falsely represent himself to be or shall personate an analyst or inspector, or a person authorised by an inspector, under this Act in any manner whatsoever, shall be guilty of a misdemeanor, and shall on conviction be liable to be imprisoned for any term not exceeding Twelve months, and shall in addition to such imprisonment be liable to forfeit and pay a penalty of not less than Five Pounds and not exceeding One hundred Pounds.

Regulations.  
*Ibid.*, s. 18.

**25** The Governor may from time to time make regulations for all or any of the following purposes, namely :—

- i. Prescribing the course to be adopted by any buyer desirous of having any fertiliser or article for fertilising the soil or supplying nutriment to plants analysed so that the rights of all parties may be duly protected :
- ii. Prescribing the fees to be paid to the analyst for making any analysis :
- iii. Prescribing forms to be used in place of the forms prescribed by this Act, or for altering any forms prescribed by this Act :



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iv. As to any matter in connection with which the expression "pre- A.D. 1912.  
scribed" is used in this Act, or in respect to any purpose  
for which regulations are contemplated by this Act :

v. Generally, for carrying this Act into effect.

The regulations may impose a penalty not exceeding Ten Pounds for any breach thereof.

**26** The expenses of administering and enforcing this Act shall be Expenses of  
defrayed out of moneys from time to time appropriated by Parliament administration.  
for the purpose.

**27** All informations for offences against the provisions of this Act, Procedure.  
and all penalties and forfeitures imposed by or under the provisions  
of this Act, may be heard, determined, recovered, and enforced in a  
summary way, by and before a police magistrate or any Two or more  
justices, in the mode prescribed by "The Magistrates' Summary Pro- 19 Vict. No. 8.  
cedure Act," the provisions of which Act shall apply.

**28** All fees (except fees paid to the Government Analyst) and all Appropriation of  
penalties received or recovered under this Act shall be paid into and penalties.  
form part of the Consolidated Revenue.

**SCHEDULES.****(1.)**

"THE FERTILISERS ACT, 1912."

Sects. 6 and 7.

**INVOICE CERTIFICATE.**

I, \_\_\_\_\_, of \_\_\_\_\_, in the \_\_\_\_\_ of \_\_\_\_\_,  
hereby certify that the fertiliser this day sold [consigned or forwarded, or as the case  
may be] by me to \_\_\_\_\_, of \_\_\_\_\_, being a quantity of \_\_\_\_\_ tons cwt.  
\_\_\_\_\_ qrs. lbs. [when the fertiliser is being registered at the Department of Agri-  
culture substitute the following words: this day registered by me], is known as  
and is marked with the figure, or trademark, or sign following, that is to say :—

And I also certify that such fertiliser contains the following ingredients, in the  
proportion of the whole, set opposite thereto in the form hereunder :—

Nitrogen as (a)	...	...	...	per centum
Phosphoric Acid—(b)	...	...	...	per centum
Fine material	...	...	...	per centum
Coarse material	...	...	...	per centum
Potash—(c)	...	...	...	per centum
Dated this _____ day of _____ 19 _____				

[Signature of Dealer.]

(a) Here state whether as nitrate of soda, sulphate of ammonia, blood, flesh, fine or coarse bone nitrogen, or unspecified.

(b) Here state the percentages of water soluble, citrate soluble, citrate insoluble, and total phosphoric acid as regards superphosphates, Thomas' phosphates, phosphatic guano, mixed fertilisers, and others unspecified. In the case of Thomas' phosphate or basic slag, the percentage of fine and coarse material to be stated—fine to signify particles smaller than one-hundredth of an inch, and coarse larger than one-hundredth of an inch. In the case of bonedusts and bonemeals, the percentage of phosphoric acid and the percentage of fine and coarse material to be stated—fine to signify the particles smaller than one-fiftieth of an inch, and coarse larger than one-fiftieth of an inch.

(c) Here state whether as sulphate, chloride, nitrate, or so on, or unspecified.

## Sale of Fertilisers.

A.D. 1912.

Sect. 14.

(2.)

"THE FERTILISERS ACT, 1912."

## CERTIFICATE OF ANALYSIS.

To\*

I, the undersigned, analyst at \_\_\_\_\_, in the \_\_\_\_\_, of \_\_\_\_\_, hereby certify that I received on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, from \_\_\_\_\_ a sample of fertiliser for analysis which then weighed \_\_\_\_\_, and which I divided into two parts, one of which I have sealed and retained, and that I have analysed the other part, and declare the result of my analysis to be as follows:—

I am of opinion that the said sample of fertiliser contains the undermentioned ingredients in the following proportions:—

<i>Nitrogen</i> as†	...	...	...	per centum
<i>Phosphoric Acid</i> ‡	...	...	...	per centum
Fine material	...	...	...	per centum
Coarse material	...	...	...	per centum
<i>Potash</i>	...	...	...	per centum

The value per ton of such fertiliser, reckoned according to the official unit values of the local market, would be—

		£ s. d.	
Per cent. Nitrogen as...	(a) Nitrates	...	@
	(b) Ammonia salts	...	"
	(c) Blood ...	...	"
	(d) Flesh or offal...	...	"
	(e) Fine bone	...	"
	(f) Coarse bone	...	"
	(g) Unspecified	...	"
Per cent. Phosphoric Acid	(a) Water soluble	...	"
	(b) Citrate soluble	...	"
	(c) Citrate insoluble	...	"
	(d) Fine material ...	...	"
	(e) Coarse material	...	"
Per cent. Potash	(a) As soluble salts	...	"
	(b) In other forms	...	"

Observations :

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, at \_\_\_\_\_

Analyst.

\* Here state the name of the person submitting the fertiliser for analysis.

† Here insert the name of the person delivering or sending the same by post.

‡ Here state whether as nitrate of soda, sulphate of ammonia, blood, flesh, fine or coarse bone nitrogen.

§ Here state the percentages of water soluble, citrate soluble, citrate insoluble, and total phosphoric acid as regards superphosphates, Thomas' phosphates, phosphatic guanos, mixed fertilisers, and unspecified. In the case of Thomas' phosphate or basic slag, the percentage of fine and coarse material to be stated—fine to signify particles smaller than one-hundredth of an inch, and coarse larger than one-hundredth of an inch. In the case of bonedust and bonemeals, the percentages of coarse and fine material and the percentage of phosphoric acid to be given.

|| Here state whether as sulphate, chloride, nitrate, or so on.