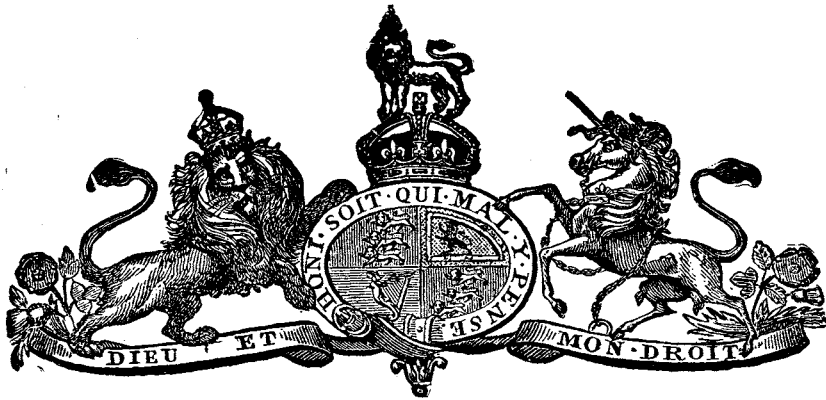


TASMANIA.



1913.

ANNO QUARTO

GEORGII V. REGIS.

No. 47.

ANALYSIS.

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| <ul style="list-style-type: none"> <li>1. Short title.</li> <li>Commencement.</li> <li>2. Interpretation.</li> <li>3. Administration.</li> <li>Officers.</li> <li>4. Standards may be fixed as to constituents.</li> <li>5. Sale of article not in accordance with standard.</li> <li>6. Constituents to be stated upon sale.</li> <li>7. Invoice to be given on sale.</li> <li>8. Packages to be branded to correspond with invoice</li> <li>9. Offences by seller.</li> <li>10. Buyer need not accept delivery unless Act complied with.</li> </ul> | <ul style="list-style-type: none"> <li>11. Obstructing inspector.</li> <li>12. Powers of inspector.</li> <li>13. Procedure on taking sample.</li> <li>14. Right of buyer to analysis.</li> <li>15. Publication of result of analysis.</li> <li>16. Protection to officers acting under the Act.</li> <li>17. Regulations.</li> <li>18. Offence as to sample deemed offence as to whole lot.</li> <li>19. Certificate of analyst.</li> <li>20. Evidence.</li> <li>21. General penalty.</li> <li>22. Impersonating officers.</li> <li>23. Expenses of administration.</li> <li>24. Recovery of penalties, &amp;c.</li> <li>25. Appropriation.</li> </ul> |
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AN ACT to regulate the Sale of Insecticides, Fungicides, Vermin Destroyers, and Weed Destroyers, and for other purposes.

A.D. 1913.

[24 December, 1913.]

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 ;—

*Insecticides.*

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Short title.

Commencement.

Interpretation.

3 Geo. V. No. 23.

**1** This Act may be cited as "The Insecticides Act, 1913," and shall commence on the First day of July, One thousand nine hundred and fourteen.

**2** In this Act, unless the context otherwise determines—  
"Analyst" means—

i. The Government Analyst ;

ii. Any other analyst approved by the Minister as an agricultural analyst under "The Fertilisers Act, 1912," or any Act amending or substituted for that Act :

"Destructive preparation" means and includes any fungicide, insecticide, vermin destroyer, and weed destroyer as defined by this section :

"Fungicide" means and includes any substance used for the purpose of destroying or preventing the attacks of fungi, or other parasitic plants, or bacteria, which substance the Governor, by proclamation, declares to be a fungicide for the purposes of this Act :

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

i. Destroying insects or other pests which affect or attack plants or fruit, or animals ; or

ii. Preventing such insects or pests from infesting or attacking plants or fruit, or animals—

which substance the Governor, by proclamation, declares to be an insecticide for the purposes of this Act :

"Inspector" means an inspector appointed under this Act :

"Package" includes anything in or by which an insecticide, fungicide, vermin destroyer, or weed destroyer is cased, covered, closed, contained, or packed :

"This Act" includes regulations made under this Act :

"Vermin destroyer" means and includes any substance used for preventing the ravages of or for the purpose of destroying rabbits, vermin, rodents, or other noxious animals or noxious birds, which substance the Governor, by proclamation, declares to be a vermin destroyer for the purposes of this Act :

"Weed destroyer" means and includes any substance used for the purpose of destroying or preventing the spread of weeds or noxious plants, which substance the Governor, by proclamation, declares to be a weed destroyer for the purposes of this Act :

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 ;

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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 or 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.

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**3—**(1) The Department of Agriculture and Stock is hereby charged with the administration and enforcement of this Act. Administration.

(2) 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. Officers.

(3) Every inspector under "The Fertilisers Act, 1912," shall have all the powers and authorities of an inspector under this Act. 3 Geo. V. No. 23.

**4—**(1) The Governor may, by proclamation, prescribe a standard for any destructive preparation, fixing all or any of the following matters:— Standards may be fixed as to constituents.

i. The constituents that may or shall be contained therein:

ii. The quantities or proportions of such constituents:

iii. The chemical or physical conditions of such constituents.

(2) Such standard may fix a maximum and a minimum or a maximum or a minimum only of any constituent, or may prohibit entirely any substance from being a constituent of the destructive preparation.

(3) The Governor may, from time to time, by proclamation, abolish or alter any standard so prescribed or proclaim another standard in lieu thereof.

**5** When a standard for any destructive preparation has been fixed as mentioned in Section Four, no person shall sell any of such destructive preparation which is not in accordance with the standard so fixed and for the time being in force. Sale of article not in accordance with standard.

**6** The Governor may, by the proclamation whereby a standard is prescribed for a destructive preparation, or by another proclamation, require that a specified constituent or specified constituents of such destructive preparation, with the percentage or percentages thereof, shall be stated upon the sale thereof. Constituents to be stated upon sale.

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Invoice to be  
given on sale.

**7—(1)** When any person sells any destructive preparation as to which there is in force a proclamation under Section Six, he shall sign and give to the purchaser an invoice or statement, on which shall be stated—

- i. The distinctive name, figure, word, trade mark, or trade description which is for the purpose of identification associated or used in connection with the destructive preparation so sold at that time to such purchaser : and
- ii. The percentages contained in the destructive preparation so sold of all such constituents as are by such proclamation required to be stated upon the sale thereof :
- iii. Such other particulars as may be prescribed.

(2) Such invoice or statement shall, notwithstanding any agreement to the contrary, have effect as a warranty by the seller of the accuracy of all the matters stated therein.

Packages to be  
branded to  
correspond with  
invoice.

**8** When any person sells any destructive preparation as to which there is in force a proclamation under Section Six, he shall brand or stamp upon or durably affix to, or cause to be branded or stamped upon or durably affixed to, every package containing any of such destructive preparation—

- i. A distinctive name, figure, word, trade mark, or trade description corresponding with the distinctive name, figure, word, trade mark, or trade description stated on the invoice or statement given by the seller to the purchaser upon the sale of such destructive preparation : and
- ii. A statement of the percentages contained in such destructive preparation of all such constituents as are by such proclamation required to be stated upon the sale thereof :
- iii. Such other particulars as may be prescribed.

Offences by seller.

**9—(1)** Any person who sells any destructive preparation as to which there is in force a proclamation under Section Six, and—

- i. Fails without reasonable excuse to give, on or before, or as soon as possible after the delivery of such destructive preparation or any of it, the invoice or statement required by Section Seven : or
- ii. Causes or permits any invoice, statement, or description with respect to or of such destructive preparation to be false in any material particular : or
- iii. Fails to brand or stamp upon or durably affix to any package containing any of such destructive preparation before delivery thereof, the distinctive name, figure, word, trade mark, trade description, statement, or particulars required by Section Eight—

shall be guilty of an offence against this Act.

(2) In any proceedings for either of the offences described in Paragraphs i. and iii. of Subsection (1) of this section, the burden of proof that Section Seven or Eight, according to the nature of the case, has been complied with shall lie on the defendant.

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**10** No person shall be bound to accept delivery on sale of any destructive preparation unless all the provisions of Sections Seven and Eight have been complied with as to such destructive preparation. A.D. 1913.

Buyer need not accept delivery unless Act complied with.

**11** Any person who in any way obstructs or interferes with any person 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.

**12** Any analyst or inspector may, at any reasonable time enter any conveyance or upon any land or into any warehouse, store, shop, building, or other premises where he has reasonable ground for believing that any destructive preparation is kept for sale or sold, and may— Powers of inspector.

- i. Examine, and on payment of the ordinary market price therefor (if demanded), take a quantity of any destructive preparation there found as a sample for analysis :
- ii. Do any act or thing permitted by regulation or required 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 analyst or inspector takes a sample for analysis under Section Twelve he shall— Procedure on taking sample.

- i. Divide such sample into Three approximately equal parts :
- ii. Place each such part in a separate package and seal or fasten each such package :
- iii. 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 :
- iv. Deliver One of such parts to the person in charge, or apparently in charge of the premises : and
- v. Retain One of such parts for future comparison.

The other of such parts may be utilised for analysis.

(2) When the destructive preparation is sold in packages containing not more than Two Pounds avoirdupois net weight thereof, Paragraph i. of Subsection (1) hereof shall be deemed to be complied with if the analyst or inspector takes Three unopened packages of the destructive preparation, and deals with such packages as if they were the Three parts into which the sample is to be divided.

**14** Any person who has bought any destructive preparation, shall, on complying with the conditions laid down for an analyst or inspector in Section Thirteen and with the regulations in that behalf, be entitled to have a sample of the destructive preparation so bought analysed by an analyst, and to receive from him a certificate of the result of the analysis. Right of buyer to analysis.

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Publication of  
result of analysis.

**15** The result of the analysis by an analyst of any sample or part of a sample of any destructive preparation together with the name and address or place of business of the person from whom the destructive preparation was bought, or of the person in the occupation or apparent occupation of the premises where the sample was taken, may be published in the "Agricultural Gazette", and in such other manner as the Minister directs.

Protection to  
officers acting  
under the Act.

**16** 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.

Regulations.

**17** The Governor may make regulations 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 this Act, and, amongst others, the following things—

- i. The procedure to be adopted by the purchaser of any destructive preparation in order that he may obtain an analyst's analysis :
- ii. The fees to be paid for obtaining an analyst's analysis :
- iii. Fees to be paid for anything done under this Act, either in addition to or in substitution for any fees fixed by this Act :
- iv. Forms to be used in connection with anything done under this Act :
- v. 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 objects of this Act :
- vi. Penalties not exceeding in any case the sum of Ten Pounds or a continuing penalty not exceeding Two Pounds per diem for a contravention of any regulation.

Offence as to  
sample deemed  
offence as to  
whole lot.

**18** 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 destructive preparation, such contravention shall be deemed to have been proved with regard to the whole lot from which the sample was taken, or all the destructive preparation bought at the same time as such sample.

Certificate of  
analyst.

**19** 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 Forty-eight hours previous to the day fixed for the return of the summons or the hearing, that he requires the analyst to be called as a witness.

In any case where the attendance of an analyst is required as mentioned in this section, the adjudicating police magistrate or justices

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may, in addition to any other order which may be made as to costs, make such order as he or they deem proper as to the expenses of and remuneration to be paid for the analysis. A.D. 1913.

**20** In any proceedings, unless the contrary is proved— Evidence.

- i. Parol evidence that any person is an inspector or an analyst, shall be deemed sufficient :
- ii. Authority to do any act or take any proceedings shall be presumed :
- iii. The allegation that any destructive preparation was sold, shall be sufficient evidence of the fact alleged.

**21**—(1) Any contravention of or failure to observe any provision of this Act, whether by act or omission, shall be an offence against this Act. General penalty.

(2) Any person guilty of an offence against this Act, for which no penalty is specified, shall be liable to a penalty for a First offence of not more than Ten Pounds, and for any subsequent offence of not less than Five Pounds, nor more than Fifty Pounds.

**22** Any person who shall falsely represent himself to be, or shall personate an analyst or inspector in any manner whatsoever, shall be guilty of a misdemeanour 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. Impersonating officers. Cf. 3 Geo. V. No. 23, s. 24.

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

**24** All informations for offences against this Act or the regulations shall be heard and determined, and all penalties imposed by this Act or the regulations shall be recovered in a summary way by and before any police magistrate or any Two or more justices in the mode prescribed by "The Magistrates' Summary Procedure Act." Recovery of penalties, &c. 19 Vict. No. 8.

**25** All fees (except fees paid to the Government Analyst), and all penalties recovered under this Act shall be paid into and form part of the consolidated revenue. Appropriation.

