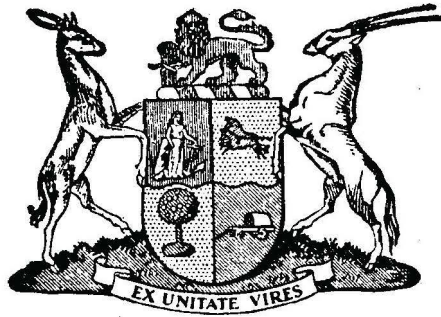


Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.

EXTRAORDINARY



BITENGEWONE

THE UNION OF SOUTH AFRICA

Government Gazette

Staatskoerant

VAN DIE UNIE VAN SUID-AFRIKA

[Registered at the General Post Office as a Newspaper.]

[Geregistreer by die Hoofposkantoor as 'n Nuusblad.]

VOL. CXLVII.] PRICE 6d.

**CAPE TOWN, 17TH JANUARY, 1947.
KAAPSTAD, 17 JANUARIE 1947.**

PRYS 6d. [No. 3751.]

DEPARTMENT OF AGRICULTURE.

DEPARTEMENT VAN LANDBOU.

The following Bill is published for general information.

Onderstaande Wetsontwerp word vir algemene inligting bekendgemaak.

BILL

To provide for the registration of fertilizers, farm feeds, sterilizing plants and certain remedies; to regulate the importation and sale of fertilizers, farm feeds, seeds and certain remedies, and to provide for matters incidental thereto.

BE IT ENACTED by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

Definitions.

1. In this Act, unless the context otherwise indicates—
- “advertisement” includes any statement, picture, design 5
or device—
- (a) published in any newspaper or public print; or
(b) contained in any handbill, circular or other matter
which is distributed to members of the public
through the post or brought to the notice of the 10
public in any other manner whatsoever;
- “analyst” means a person appointed as such in terms
of section *thirteen*;
- “brand” means the impression or representation, or any
combination of the impressions or representations of 15
any letter, number, geometrical figure, mark, sign
or symbol;
- “farm feed” means—
- (a) (i) any substance obtained by a process of crush-
ing, gristing or grinding, or by the addition 20
to any substance or the removal therefrom
of any ingredient; or
(ii) any condimental food or mineral substance
which possesses or is alleged to possess
nutritive properties; or 25
(iii) any bone product;
intended or offered for the feeding of domestic animals
or livestock; or
- (b) any stock lick or substance which can be and is
commonly used as a stock lick, whether or not 30
such stock lick or substance possesses medicinal
properties;
but does not include straw, chaff, unground hay,
silage, any cereal in the grain or any substance which
would otherwise be a farm feed but has been ground, 35
crushed or gristed for a *bona fide* farmer in accordance
with his directions for his own use, unless the Minister
has by notice in the *Gazette* declared such substance
a farm feed for the purposes of this Act;
- “farming requisite” means any fertilizer, farm feed or 40
remedy, or any substance used in the manufacture
of a fertilizer, farm feed or remedy;
- “fertilizer” means any substance which is intended or
offered to be used for improving or maintaining the
growth of plants or the productivity of the soil; 45
- “inspector” means an inspector appointed as such in
terms of section *thirteen*;
- “Minister” means the Minister of Agriculture and
Forestry;
- “prescribed” means prescribed by regulation under 50
this Act;
- “remedy” means any substance which is intended, or
offered to be used—
- (a) for the destruction of any noxious plant or insect,
and has been declared by the Minister by notice 55
in the *Gazette* to be a remedy for the purposes of
this Act;
- (b) in regard to domestic animals, livestock or plants,
for the prevention, treatment, or cure of any 60
disease, infestation or other unhealthy or un-
favourable condition, or for the maintenance of
health, but not including any substance pre-
scribed by a veterinarian for a specific patient or
group of patients;

- “Secretary” means the Secretary for Agriculture ;
 “seed” means any seed which the Minister has by notice in the *Gazette* declared a seed for the purposes of this Act ;
 “sell” includes to offer, advertise, keep, expose, transmit, convey, deliver, or prepare for sale or exchange or to dispose of for any consideration whatever, or to transmit, convey or deliver in pursuance of a sale, exchange or disposal as aforesaid ;
 “sterilizing plant” means a plant used for the sterilizing of bones or other substances derived from an animal carcase ;
 “this Act” includes any regulations thereunder.
- Designation of registering officer. 2. The Minister shall designate an officer in the Department of Agriculture (hereinafter called the registering officer), who shall be charged with the duty of registering fertilizers, farm feeds, remedies or sterilizing plants. 15
- Registration of fertilizers, farm feeds, remedies and sterilizing plants. 3. (1) Every application for the registration of a fertilizer, farm feed, remedy or sterilizing plant shall be submitted to the registering officer in the prescribed form and shall be accompanied by the prescribed registration fee. 20
 (2) If after consideration of any such application such officer is satisfied that the fertilizer, farm feed, remedy or sterilizing plant in question is suitable and sufficiently effective for the purposes for which it is intended, and complies with the requirements which may be prescribed, he shall register such fertilizer, farm feed, remedy or sterilizing plant. 25
 (3) Any registration under this section may be made subject to such conditions as may be determined by the registering officer and shall be valid for such period as may be prescribed. 30
- Cancellation of registration. 4. If the registering officer is satisfied—
 (a) that any person has failed to comply with any condition subject to which any fertilizer, farm feed, remedy or sterilizing plant has been registered ; or
 (b) that any fertilizer, farm feed, remedy or sterilizing plant registered under this Act does not comply with any requirements that may be prescribed ; or
 (c) that any sterilizing plant registered under this Act does not sterilize bones or other substances derived from an animal carcase effectively,
 he may cancel the registration thereof. 40
- Appeal to Minister. 5. Any person—
 (a) whose application for registration has been rejected, or
 (b) whose registration—
 (i) has been made subject to conditions, in terms of sub-section (3) of section *three*, or
 (ii) has been cancelled in terms of section *four*,
 may appeal to the Minister against such rejection, imposition of conditions or cancellation. 45
- Sale of fertilizers, farm feeds and remedies. 6. No person shall sell any fertilizer, farm feed or remedy unless— 50
 (a) it is registered under this Act ;
 (b) it is packed in such manner as may be prescribed ;
 (c) the container in which it is sold, complies with the prescribed requirements and is branded, labelled, marked or sealed in such manner as may be prescribed ; and
 (d) it is of the composition, efficacy, fineness and purity specified in the application for registration thereof, and possesses all other properties so specified. 60
- Use of sterilizing plant. 7. No person shall use any sterilizing plant unless such plant has been registered in terms of section *three*.
- Invoices required in the case of sale of fertilizers and farm feeds. 8. Any person who sells any fertilizer or farm feed, shall give to the purchaser at the time of delivery or send to him at the time of dispatch an invoice in such form and setting forth such particulars in respect of such fertilizer or farm feed as may be prescribed. 65
- Sale of seeds. 9. Save as provided in section *ten*, no person shall sell any seeds unless— 70
 (a) such seeds conform in purity and germinating capacity to such standard as may be prescribed, and
 (b) such seeds are packed and the container in which they are sold is branded, labelled, marked or sealed in such manner as may be prescribed.

- Savings as to seed. 10. The provisions of this Act shall not apply to the sale of seeds—
- (a) grown and sold and delivered by any *bona fide* farmer on his own premises, for seeding by the person to whom they are sold and delivered; or 5
 - (b) which are intended only for use as food; or
 - (c) which are sold to a *bona fide* cleaner of seeds in order that they may be cleaned or graded prior to their use for seeding purposes: Provided that there appears on the container in which such seeds are sold or on a label attached thereto, clearly and legibly the words "For Cleaning Purposes Only".
- Importation, sterilization, manufacture and sale of fertilizers, farm feeds and substances derived from animal carcasses. 11. (1) Save with the written permission of the Minister, and subject to such conditions as he may determine, no person shall import into the Union— 15
- (a) any fertilizer or farm feed, which contains bone or any other substance of animal origin, or
 - (b) bones or any other substances of animal origin for the purpose of manufacturing any fertilizer or farm feed
- unless he has submitted to the Secretary a certificate signed 20 in the country of origin by a person designated by the Minister, in which it is stated that such fertilizers, farm feeds, bones or substances have been effectively and completely sterilized in such manner as may be prescribed and are free from such pathogenic organisms as may be specified by regulation under 25 this Act.
- (2) No person shall manufacture or sell any fertilizer or farm feed containing bone or any other substance derived from an animal carcase, unless such bone or substance has been sterilized in such manner as may be prescribed. 30
- Exclusion of any fertilizer, farm feed, seed or remedy from operation of Act. 12. The Governor-General may by proclamation in the *Gazette* exclude, subject to such conditions as he may determine any fertilizer, farm feed, seed or remedy from the operation of any or all of the provisions of this Act.
- Appointment of inspectors and analysts. 13. The Minister may from time to time by notice in the 35 *Gazette* appoint inspectors and analysts of fertilizers, farm feeds, seeds or remedies, for the purpose of this Act.
- Powers of inspector. 14. (1) An inspector or any other officer specially authorized thereto by the Secretary may at all reasonable times—
- (a) enter upon any premises, place, vehicle or vessel at 40 or in which there is or is on reasonable grounds suspected to be any farming requisite or any seed or sterilizing plant;
 - (b) inspect any farming requisites, or seed, or any sterilizing plant or other machinery, or any book, record or 45 document found upon such premises, place, vehicle or vessel;
 - (c) seize any such farming requisites or seed, or any books, records, or documents found in or upon such premises, place, vehicle or vessel which appear to afford evidence 50 of a contravention of any provision of this Act;
 - (d) take so many samples or such quantities of any such farming requisites or seed, as he may deem necessary for the purpose of examination or analysis in terms of the provisions of this Act. 55
- (2) Any sample taken in terms of paragraph (d) of sub-section (1) shall be taken in the presence of the person who is in charge of such farming requisites or seed, or if there is no such person or if he is absent for any reason, in the presence of any other witness, and shall in the presence of such person 60 or such witness be divided into three parts, each of which shall forthwith be fastened up and sealed and suitably labelled or marked in such manner as its nature may permit. One part shall then be transmitted to an analyst together with a certificate in the prescribed form signed by such inspector 65 or officer. The second part together with a copy of the aforesaid certificate shall be handed or forwarded under registered cover to the owner or seller of such farming requisite or seed, or to his agent. The third part shall be retained by the inspector or officer aforesaid. 70
- (3) The analyst to whom one part of a sample has been transmitted in terms of the provisions of sub-section (2) shall immediately analyze or test the article delivered to him, and the result of the analysis or test shall be stated in a certificate in the prescribed form. 75
- (4) The owner of the farming requisite or seed, from which the sample was taken may claim from the Secretary an amount equal to the market value thereof.

Detention and sampling of imported fertilizers, farm feeds, seeds and remedies.

15. (1) Any officer of the Department of Customs and Excise authorized thereto by the Commissioner of Customs and Excise may detain any quantity of any farming requisites or of any seed landed at or imported through any port or place in the Union, and may take samples thereof. 5

(2) The provisions of section *fourteen* relating to the taking of samples shall *mutatis mutandis* apply to the samples taken in terms of this section.

(3) Subject to the provisions of sub-section (4) no person shall move or cause to be moved from such port or place the farming requisite or seed so detained except with the written permission of such officer. 10

(4) If an examination, analysis or test of such samples shows that any such farming requisite or seed does not comply with the requirements of this Act the Minister may— 15

(a) order such farming requisite or seed—

- (i) to be destroyed without compensation; or
- (ii) to be removed from the Union within a specified period; or

(b) permit the removal thereof from the port or place of entry subject to such conditions as he may determine. 20

(5) If any farming requisite, or seed, which has been detained in terms of sub-section (1), is found to comply with the requirements of this Act, no rent charges shall be payable by the importer in respect of such period of detention, or where the Railways and Harbours Administration is required to deliver or to forward such farming requisite or seed, in respect of any portion of such period of detention which is subsequent to the presentation to the Railways and Harbours Administration of a delivery order, or a forwarding order, as the case may be. 25 30

Offences and penalties.

16. (1) Any person who—

(a) contravenes the provisions of section *eight*; or
 (b) obstructs or hinders any inspector, analyst or officer in the exercise of his powers or performance of his duties under this Act; or 35

(c) contravenes or fails to comply with the provisions of section *six*, *seven*, *nine*, *eleven*, or sub-section (3) of section *fifteen*, or with any condition imposed under sub-section (3) of section *three*, or under sub-section (1) of section *eleven*, or under paragraph (b) of sub-section (4) of section *fifteen*; or 40

(d) fails to comply with an order made under paragraph (a) of sub-section (4) of section *fifteen*; or

(e) tampers with any sample taken in terms of this Act, with fraudulent intent; or 45

(f) makes use, in connection with any fertilizer, farm feed, seed or remedy of any certificate, invoice or other document issued in respect of any other fertilizer, farm feed, seed or remedy; or

(g) makes any false or misleading statement in connection with any fertilizer, farm feed, seed or remedy— 50

- (i) in an application for the registration thereof; or
- (ii) in any invoice issued in terms of section *seven*; or
- (iii) in any advertisement thereof; or
- (iv) in the course of the sale thereof; or 55

(h) sells any fertilizer, farm feed, seed or remedy upon the container of which a false or misleading statement in connection with such contents is printed or written; or

(i) sells or supplies any farming requisite, which is not of the kind, nature, composition, strength, potency or quality described or represented when so sold or supplied; or 60

(j) sells or supplies any seed which is not of the purity, or does not possess the germinating capacity attributed to it when so sold or supplied, 65

shall be guilty of an offence and liable—

(i) in the case of a contravention under paragraph (a) or (b) to a fine not exceeding fifty pounds, or imprisonment for a period not exceeding six months, or to both such fine and such imprisonment; and 70

(ii) in the case of a contravention under paragraph (b), (c), (d), (e), (f), (g) or (h) to a fine not exceeding one hundred pounds, or imprisonment for a period not exceeding twelve months, or to both such fine and such imprisonment. 75

(2) The court convicting any person of an offence under this Act may, upon the application of the prosecutor, declare any farming requisite or seed, in respect of which the offence has been committed, and all farming requisites or seeds of a similar nature to that in respect of which such person has been convicted, and of which such person is the owner, or which are in his possession, to be forfeited to the Crown. 5

(3) All farming requisites or seeds forfeited under this Act shall be destroyed or otherwise dealt with as the Minister may direct. 10

Jurisdiction of
magistrate's
court.

17. Notwithstanding anything to the contrary in any other law contained a magistrate's court shall have jurisdiction to impose any penalty prescribed by this Act.

Procedure and
evidence.

18. (1) In any criminal proceedings under this Act—

(a) any quantity of a farming requisite in or upon any premises, place, vessel or vehicle at the time a sample thereof is taken pursuant to the provisions of this Act shall, unless the contrary be proved, be deemed to be of the same composition, to have the same degree of efficacy and to possess in all other respects the same properties as that sample; and any quantity of seed in or upon any premises, place, vessel or vehicle, at the time a sample thereof is taken as aforesaid shall similarly be deemed to be of the same purity and to possess the same germinating capacity as such sample; 15 20

(b) any person who is proved to have tampered with any sample shall be deemed to have acted with fraudulent intent unless the contrary is proved;

(c) a certificate stating the result of an analysis or test carried out in pursuance of the provisions of subsection (3) of section *fourteen* and purporting to be signed by the analyst who carried out such analysis or test shall be accepted as *prima facie* proof of the facts stated therein. 25 30 35

(d) any statement or entry contained in any book or document kept by any manufacturer, importer or owner of a farming requisite or any importer or owner of seed, or by the manager, agent or employee of such person, or found upon or in any premises occupied by, or any vehicle used in the business of such person, shall be admissible in evidence against him as an admission of the facts set forth in that statement or entry, unless it is proved that that statement or entry was not made by such person, or by any manager, agent or employee of such person in the course of his work as manager, or in the course of his agency or employment. 35 40 45

Special defences
in case of
prosecutions.

19. It shall be a defence for a person charged with the sale of any fertilizer, farm feed or remedy in contravention of the provisions of paragraph (d) of section *six* if he proves to the satisfaction of the court— 50

(a) that he purchased such fertilizer, farm feed, or remedy under a registered name or brand as being the same in all respects as the article which he purported to sell; and 55

(b) that he had no reason to believe at the time of the sale that it was in any respect different from such article; and

(c) that he sold it in the original container and in the state in which it was when he purchased it; and 60

(d) that the container thereof was branded, labelled, marked or sealed in the prescribed manner.

Acts or
omissions by
manager, agent
or employee.

20. (1) Whenever any manager, agent or employee of any manufacturer, importer or owner of a farming requisite, or of any importer or owner of any seed, does or omits to do any act which it would be an offence under this Act for such manufacturer, importer or owner to do or omit to do, then unless it is proved that— 65

(a) in doing or omitting to do that act the manager, agent or employee was acting without the connivance or the permission of the manufacturer, importer or owner; and 70

(b) all reasonable steps were taken by the manufacturer, importer or owner to prevent any act or omission of the kind in question; and 75

(c) it was not under any condition or in any circumstance within the scope of the authority or in the course of the employment of the manager, agent or employee to do or to omit to do acts whether lawful or unlawful of the character of the act or omission charged, 80

the manufacturer, importer or owner, as the case may be, shall be presumed himself to have done or omitted to do that act and be liable to be convicted and sentenced in respect thereof; and the fact that he issued instructions forbidding any act or omission of the kind in question shall not, of itself, be accepted as sufficient proof that he took all reasonable steps to prevent the act or omission. 5

(2) Whenever any manager, agent or employee of any such manufacturer, importer or owner does or omits to do an act which it would be an offence under this Act for the manufacturer, importer or owner to do or omit to do, he shall be liable to be committed and sentenced in respect thereof as if he were the manufacturer, importer or owner. 10

(3) Any such manager, agent or employee may be so convicted and sentenced in addition to the manufacturer, importer or owner. 15

Regulations.

21. (1) The Governor-General may make regulations—

- (a) prescribing the manner in which fertilizers, farm feeds, remedies and sterilizing plants may be registered, the forms to be used for and the information to be furnished with any application for registration, and the fee to be paid for registration; 20
- (b) prescribing the name, brand or description under which any substance may be registered, imported or sold as a fertilizer, farm feed, seed or remedy; 25
- (c) prescribing the manner in which and the time within which an appeal under section *five* must be noted and prosecuted;
- (d) prescribing the form of any invoice to be furnished under section *seven*, and the particulars to be set forth in any such invoice; 30
- (e) prescribing the composition, efficacy, fineness, purity, germinating capacity or other property required in any substance before it may be imported, sold or registered as a fertilizer, farm feed, seed or remedy, as the case may be; 35
- (f) prescribing the limits within which any fertilizer, farm feed or remedy may be deficient in any of its ingredients and the proportion in which any preservative, antiseptic or other constituent may be present therein; 40
- (g) prescribing requirements as to the containers in which fertilizers, farm feeds, seeds or remedies shall be packed, the manner in which they shall be packed into such containers, and the manner in which such containers shall be branded, labelled, marked or sealed; 45
- (h) prescribing the processes by which fertilizers, farm feeds, or remedies, or substances used in the manufacture of fertilizers, farm feeds or remedies shall be sterilized, and the manner of inspection of sterilizing plants. 50
- (i) for preventing the adulteration of fertilizers, farm feeds, seeds or remedies or the tampering with containers thereof;
- (j) prescribing the methods to be employed, the fees to be paid, and the certificates to be issued in respect of the examination, analysis or test of samples taken under this Act; 55
- (k) for preventing the use of false or misleading statements in advertisements of fertilizers, farm feeds, seeds or remedies; 60
- (l) requiring any person who has in his possession or under his control any fertilizers, farm feeds, seeds or remedies, to keep records relating thereto in the form and manner prescribed, and to render returns in the form and manner and at the times prescribed; 65
- (m) prohibiting the disposal, acquisition or use of any farm feed as a fertilizer;
- (n) in respect of any other matter under this Act which is to be prescribed, and 70

generally for the efficient carrying out of the objects and purposes of this Act.

(2) Different regulations may be made under this section in respect of different classes of fertilizers, farm feeds, seeds and remedies, or in respect of different classes or groups of persons. 75

(3) Any regulations made under this section may prescribe penalties for any contravention thereof or failure to comply therewith, but not exceeding the maximum penalty prescribed by section *sixteen*.

Publication of returns.

22. The Secretary may from time to time cause to be 5 published in the *Gazette* a return showing the names of the manufacturers, importers or dealers in fertilizers, farm feeds and remedies which have been registered under this Act. Such return shall state the name and the chemical constituents of each fertilizer, farm feed and remedy so registered and such 10 other particulars as the Secretary may deem necessary.

Repeal of law.

23. The Fertilizers, Farm Feeds, Seeds and Pest Remedies Act, 1917 (Act No. 21 of 1917) is hereby repealed.

Short title and date of commencement.

24. This Act shall be called the Fertilizers, Farm Feeds, Seeds and Remedies Act, 1947, and shall come into operation 15 on a date to be fixed by the Governor-General by proclamation in the *Gazette*.