Fertilisers Feeding Stuffs and Mineral Mixtures Act, 1955

Number 8 *of* 1955.

FERTILISERS, FEEDING STUFFS AND MINERAL MIXTURES ACT, 1955.

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Number 8 *of* 1955.

FERTILISERS, FEEDING STUFFS AND MINERAL MIXTURES ACT, 1955.

AN ACT TO REGULATE AND CONTROL THE SALE AND MANUFACTURE FOR SALE OF FERTILISERS, FEEDING STUFFS, COMPOUND FEEDING STUFFS AND MINERAL MIXTURES AND TO PROVIDE FOR THE ANALYSIS OF SAMPLES THEREOF AND FOR OTHER MATTERS CONNECTED WITH THE MATTERS AFORESAID. [10*th May,* 1955.]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:—

Definitions.

1.—In this Act—

"*authorised officer*" means a person appointed by the Minister to be an authorised officer for the purposes of this Act;

"*compound feeding stuff*" means (subject to any exceptions which may be prescribed) any feeding stuff which is a mixture of two or more articles at least one of which is a feeding stuff;

"*feeding stuff*" means (subject to any exceptions which may be prescribed) any article manufactured for use as food for horses, mules, jennets, asses, cattle, sheep, swine, goats or poultry;

"*fertiliser*" means (subject to any exceptions which may be prescribed) any article (including, in particular, lime and ground limestone) manufactured for use as a fertiliser of the soil;

"*manufacture*" means manufacture by any process whatsoever, including the mixing of any substance with any other substance, but does not include production merely by natural agencies or in the course of ordinary farm husbandry;

"*mineral mixture*" means (subject to any exceptions which may be prescribed) any article which is intended for use as a supplement in the feeding of horses, mules, jennets, asses, cattle, sheep, swine, goats or poultry and which—

(*a*) purports to be a mineral mixture or mineral supplement, or

(*b*) consists mainly of minerals;

"*the Minister*" means the Minister for Agriculture;

"*prescribed*" means prescribed by regulations made under this Act;

"*purchaser*" includes any person, other than a carrying agent, acting on behalf of a purchaser;

"*sale*" includes offer or exposure for sale or invitation of an offer to buy;

"*the State Chemist*" means the head of the State Laboratory;

"*the Assistant State Chemist*" means the Assistant State Chemist of the State Laboratory.

Statement to be given by seller of fertiliser, feeding stuff, compound feeding stuff or mineral mixture.

2.—(1) A person who sells any fertiliser, feeding stuff, compound feeding stuff or mineral mixture shall give to the purchaser a written statement containing the prescribed particulars with respect to the fertiliser, feeding stuff, compound feeding stuff or mineral mixture, and shall give the statement at the prescribed time and, where a form for the statement is prescribed, in that form.

(2) Regulations for the purposes of this section may contain different provisions in relation to different fertilisers, feeding stuffs, compound feeding stuffs or mineral mixtures or different classes thereof.

(3) A statement given for the purposes of subsection (1) of this section shall have effect as a warranty by the seller that the particulars contained therein are correct, subject to any limits of error which may be prescribed, notwithstanding that any agreement or notice to the contrary has been entered into or given or that the statement does not comply with any regulation made for the purposes of this section.

(4) Where a person contravenes subsection (1) of this section or gives for the purposes of that subsection a statement which in any material respect is not correct, subject to any limits of error which may be prescribed, he shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding twenty-five pounds.

(5) If, in any prosecution for an offence consisting of giving for the purposes of subsection (1) of this section a statement which in any material respect is not correct, or is not correct subject to prescribed limits of error, the defendant proves—

(*a*) that the statement was given in good faith and in reliance on a similar statement received by him, and

(*b*) that he had no reason to believe at the time when he gave the statement that it was not correct, or was not correct subject to prescribed limits of error,

the defendant shall be discharged from the prosecution, but shall be liable to pay the costs incurred by the prosecutor unless he gave due notice to the prosecutor that he proposed to rely on the said defence.

(6) Where it appears to the Minister that an offence has been committed in respect of which proceedings might be taken against some person but that such person could establish a defence under subsection (5) of this section by proving that the offence complained of was due to an act or default of some other person, the Minister may take proceedings against that other person without taking proceedings against the first-mentioned person.

(7) Where any fertiliser, feeding stuff, compound feeding stuff or mineral mixture is delivered to a purchaser in two or more consignments, the foregoing provisions of this section shall apply to each consignment as though it were the subject of a separate sale.

(8) Any statement as to the amount of chemical or other ingredients or as to the fineness of grinding of any fertiliser, or as to the nutritive or other ingredients of any feeding stuff, compound feeding stuff or mineral mixture, which is made after the commencement of this Act in any written document (other than a statement given for the purposes of subsection (1) of this section) descriptive of such fertiliser, feeding stuff, compound feeding stuff or mineral mixture shall have effect as a warranty by the seller that the facts stated are correct.

Taking of sample of fertiliser, feeding stuff, compound feeding stuff or mineral mixture and analysis thereof.

3.—(1) Where a person has on his premises any fertiliser, feeding stuff, compound feeding stuff or mineral mixture which he has purchased and which he proposes to use in the course of his farming operations, he may apply to have a sample thereof taken for analysis.

(2) An application under this section shall—

(*a*) be made within the period prescribed for the purposes of this paragraph to the Minister,

(*b*) be accompanied by the prescribed fee, and

(*c*) if the form and manner of the making of the application are prescribed, be made in that form and manner.

(3) Where an application is duly made under this section, an authorised officer shall take in the prescribed manner and transmit to the State Chemist a sample of the article to which the application relates.

(4) Notwithstanding subsection (3) of this section, where a person applies to have a sample of any article taken under this section—

(*a*) an authorised officer shall not take a sample after the expiration of the period prescribed for the purposes of this paragraph,

(*b*) an authorised officer may, if he so thinks fit, decline to take a sample if—

(i) he is not satisfied that the applicant has purchased the article, or

(ii) he is not satisfied that the applicant proposes to use the article in the course of his farming operations, or

(iii) he is not satisfied that the article as presented for sampling is fairly representative of the article as delivered to the applicant, or

(iv) the applicant does not produce the relevant statement for the purposes of subsection (1) of section 2 of this Act (if given) and permit the authorised officer to examine such statement and to take a copy of the whole or any part thereof, or

(v) the applicant does not furnish such information relating to the article as the authorised officer may require.

(5) Where the State Chemist or the Assistant State Chemist receives a sample taken on an application under this section, he shall cause it to be analysed in the prescribed manner by any person acting under the direction of the State Chemist or the Assistant State Chemist and shall send to the applicant a certificate in the prescribed form of the result of the analysis.

(6) In any legal proceedings the production of a certificate, purporting to be under this section and to be signed by the State Chemist or the Assistant State Chemist, shall be sufficient evidence of the facts stated in the certificate and of the analysis having been duly carried out, unless either party requires the person who made the analysis to be called as a witness.

(7) All fees under this section shall, without prejudice to the next subsection, be paid into or disposed of for the benefit of the Exchequer in accordance with the directions of the Minister for Finance and the Public Offices Fees Act, 1879, shall not apply in respect thereof.

(8) In any case in which he considers it proper so to do (not being a case in which the applicant has received a certificate under this section), the Minister may refund a fee under this section.

(9) The regulations prescribing fees for the purposes of this section may prescribe different fees for different articles or for different quantities of the same article.

Prohibition of sale or manufacture for sale of fertiliser, feeding stuff, compound feeding stuff or mineral mixture.

4.—(1) The Minister may by regulations prohibit the sale or manufacture for sale of any specified fertiliser, feeding stuff, compound feeding stuff or mineral mixture or of any specified class of fertilisers, feeding stuffs, compound feeding stuffs or mineral mixtures.

(2) The Minister shall, before making regulations under this section in relation to the manufacture for sale of a fertiliser or class of fertilisers, consult with the Minister for Industry and Commerce.

(3) A person who contravenes a regulation under this section shall be guilty of an offence under this section and shall be liable on summary conviction thereof, in the case of a first offence, to a fine not exceeding twenty-five pounds and, in the case of a second or any subsequent offence, to a fine not exceeding fifty pounds.

Restriction of manufacture for sale of fertiliser, feeding stuff, compound feeding stuff or mineral mixture.

5.—(1) The Minister may by regulations restrict the manufacture for sale of any fertiliser, feeding stuff, compound feeding stuff or mineral mixture to persons holding licences issued by him under the regulations.

(2) The Minister shall, before making regulations under this section in relation to a fertiliser, consult with the Minister for Industry and Commerce.

(3) Where regulations are made under this section—

(*a*) the Minister may, at his discretion, grant or refuse to grant a licence under the regulations,

(*b*) a licence may be granted under the regulations either without conditions or with such conditions attached as the Minister considers proper,

(*c*) the Minister may, at his discretion, by notice sent by post to the holder of a licence under the regulations—

(i) attach any condition to the licence, or

(ii) revoke or vary any condition which is attached to the licence, or

(iii) revoke the licence.

(4) Where a person contravenes any regulations under this section or, being the holder of a licence under such regulations, fails to comply with any condition attached to the licence, he shall be guilty of an offence under this section.

(5) Where there is sale by a person of any fertiliser, feeding stuff, compound feeding stuff or mineral mixture—

(*a*) which was manufactured in the State,

(*b*) to which regulations under this section relate, and

(*c*) which was not manufactured under a licence under such regulations,

such person shall be guilty of an offence under this section.

(6) A person who is guilty of an offence under this section shall be liable on summary conviction thereof, in the case of a first offence, to a fine not exceeding

twenty-five pounds and, in the case of a second or any subsequent offence, to a fine not exceeding fifty pounds.

Prohibition, limitation or regulation of use of article in manufacture for sale of fertiliser, feeding stuff, compound feeding stuff or mineral mixture, etc.

6.—(1) The Minister may by regulations—

(*a*) prohibit, limit or regulate the use of any specified article in the manufacture for sale of a fertiliser, feeding stuff, compound feeding stuff or mineral mixture,

(*b*) prohibit the sale of a fertiliser, feeding stuff, compound feeding stuff or mineral mixture under a specified description unless it conforms to a specified definition and standard,

(*c*) require manufacturers for sale of or wholesale or retail traders in fertilisers, feeding stuffs, compound feeding stuffs or mineral mixtures to disclose in a specified manner the presence of specified materials in such fertilisers, feeding stuffs, compound feeding stuffs or mineral mixtures,

(*d*) require manufacturers for sale of, importers of or wholesale or retail traders in fertilisers, feeding stuffs, compound feeding stuffs or mineral mixtures to keep specified records of their transactions in such fertilisers, feeding stuffs, compound feeding stuffs or mineral mixtures,

(*e*) prohibit the bringing of specified articles into any premises where any fertiliser, feeding stuff, compound feeding stuff or mineral mixture intended for sale is manufactured, packed, stored or sold.

(2) The Minister shall, before making regulations under this section in relation to the manufacture for sale of a fertiliser, consult with the Minister for Industry and Commerce.

(3) A person who contravenes a regulation under this section shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding twenty-five pounds.

Production of books, etc.

7.—(1) Every person who carries on or is employed in connection with the business of manufacture, import or sale by wholesale or retail of any fertiliser, feeding stuff, compound feeding stuff or mineral mixture shall at all reasonable times—

(*a*) produce, at the request of an authorised officer, any books, documents or records relating to such business which are in the power, possession or procurement of such person, permit the authorised officer to inspect and take extracts from such books, documents or records and give to him any information which he may reasonably require with regard to any entries therein,

(*b*) afford to an authorised officer all reasonable facilities for the inspection, sampling and taking stock of any fertilisers, feeding stuffs, compound feeding stuffs or mineral mixtures or any materials capable of being used

in the manufacture of fertilisers, feeding stuffs, compound feeding stuffs or mineral mixtures on any premises at which such person carries on or is employed in connection with such business,

(*c*) give to an authorised officer any information which he may reasonably require with regard to any purchase, importation or sale effected in the course of such business.

(2) A person who contravenes subsection (1) of this section shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding ten pounds.

Powers of entry, inspection and taking of samples by authorised officer.

8.—(1) An authorised officer may at all reasonable times enter and inspect any premises, railway waggon, vehicle, ship, vessel or aircraft in which he has reasonable grounds for believing that any fertiliser, feeding stuff, compound feeding stuff or mineral mixture is manufactured for sale, kept or carried for sale or sold, and may examine and take samples and stock of any fertilisers, feeding stuffs, compound feeding stuffs or mineral mixtures, or of any materials capable of being used in the manufacture of fertilisers, feeding stuffs, compound feeding stuffs or mineral mixtures, which he finds in the course of his inspection.

(2) A person who obstructs or interferes with an authorised officer when he is exercising a power conferred by this section shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding ten pounds.

(3) A sample may be taken under this section in the prescribed manner or in any other manner.

(4) Where—

(*a*) a sample is taken under this section in the prescribed manner,

(*b*) the State Chemist or the Assistant State Chemist causes the sample to be analysed in the prescribed manner by any person acting under the direction of the State Chemist or the Assistant State Chemist, and

(*c*) the State Chemist or the Assistant State Chemist gives a certificate in the prescribed form of the result of the analysis,

evidence of the result of the analysis may be given in any legal proceedings, but, save as aforesaid, evidence of the result of an analysis of a sample taken under this section shall not be given in any legal proceedings.

(5) In any legal proceedings the production of a certificate, purporting to be under this section and to be signed by the State Chemist or the Assistant State Chemist, shall be sufficient evidence of the facts stated in the certificate and of the analysis having been duly carried out, unless either party requires the person who made the analysis to be called as a witness.

Tampering with samples.

9.—If any person fraudulently—

(*a*) tampers with any article so as to procure that any sample of it taken under this Act does not correctly represent the article, or

(*b*) tampers or interferes with any sample taken under this Act,

he shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding fifty pounds or, at the discretion of the Court, to imprisonment for a term not exceeding six months.

Certificate of appointment of authorised officer.

10.—An authorised officer shall be furnished by the Minister with a certificate of his appointment as authorised officer and when exercising any power conferred by this Act shall, if requested by any person affected, produce the certificate to such person.

General provisions as to regulations.

11.—(1) The Minister may make regulations in relation to any matter or thing referred to in this Act as prescribed or to be prescribed or as being the subject of regulations, but any such regulation which relates to fees shall be subject to the sanction of the Minister for Finance.

(2) A regulation under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next twenty-one days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Prosecution of offences.

12.—An offence under any section of this Act may be prosecuted by the Minister.

Expenses of the Minister.

13.—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Saver for flour milling offals.

14.—Nothing in this Act or in any regulations made thereunder shall apply in relation to the manufacture of flour milling offals.

Repeal.

15.—The Fertilisers and Feeding Stuffs Act, 1906, is hereby repealed.

Commencement.

16.—This Act shall come into operation on such day as the Minister appoints by order.

Short title.

17.—This Act may be cited as the Fertilisers, Feeding Stuffs and Mineral Mixtures Act, 1955.

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