

ACT

No 83 of 4 December 1970

concerning

Trade in Fertilizers and Soil-improvements etc.

Section 1

This Act applies to the manufacture for the purpose of sale, and to the importation of, and trade in, fertilizers, soil-improvements, cultivation media and compost preparations offered to the public for the purposes given in the description thereof. The King may determine that other products used for similar purposes shall come within the scope of this Act.

This Act does not apply to the importation of products in transit or products which the importer intends to use for re-processing purposes other than packaging and marking as mentioned under Section 2 (a), below.

The King may except all or some of the provisions of this Act in respect of certain types of products and in respect of batches and packages below a certain specified dimension.

The Ministry may exempt specified batches of products from all or some of the provisions of this Act.

Section 2

For the purposes of this Act the following terms shall mean:

- a) **Manufacture:** Production, processing, mixing, packing and marking.
- b) **Importation:** Transportation or dispatch of goods from abroad.
- c) **Marketing:** Offers for sale, distribution, storage, delivery or forwarding.
- d) **Fertilizer:** Any technically produced or technically treated product having beneficial effects on the growth of plants where such effects are entirely or chiefly due to that product's content of plant nutrients. The Ministry may

- determine what shall be deemed to be plant nutrients.
- e) Soil-improvements: Products which have beneficial effect, exclusively or chiefly, on the chemical, physical or biological condition of the soil, and thereby indirectly on the growth of plants.
- f) Cultivation media: Basic substances which consist of natural or artificially produced materials which, alone or in combination, with or without added nutrient or other materials, are intended for use in the cultivation of plants
- g) Compost preparations: Preparations which, when incorporated in compost materials and farmyard manure, are intended to accelerate the formation of organic matter and enhance the fertilizing effect thereof.
- h) Growth promoting substances: Substances used in order to stimulate the growth of a plant, or to produce a regulating effect on its development, without such stimulation or regulation being attributable to the plant nutrient content of the substance in question.

### Section 3

The manufacture, importation and marketing of products coming within the scope of this Act shall be subject to control, as prescribed by the King.

By way of enforcement of such control, the King may, inter alia:

- a) Prohibit the manufacture, importation or marketing of products which may be deleterious or which fail to comply with the desired quality standards.
- b) Prohibit the importation of mixtures which contain products coming within the scope of this Act and prescribe that the manufacture and marketing of such mixtures may be carried on only by authorization of the Ministry and subject to such conditions as it may lay down.
- c) ~~Prohibit the importation of organic fertilizers or inorganic fertilizers to which have been added certain plant nutrients,~~

soil-improvements, cultivation media and compost preparations, and prescribe that the manufacture or marketing of such products shall be carried on only by authorization of the Ministry and subject to such conditions as it may lay down.

- d) Prohibit the admixture or addition of plant protection substances or growth promoting substances to fertilizers or soil-improvements and the admixture of plant nutrients to lime, and prescribe that the manufacture and marketing of such products shall be carried on only by authorization of the Ministry and subject to such conditions as it may lay down.
- e) Issue regulations concerning the advertising of products coming within the scope of this Act.

In issuing authorizations and establishing conditions in pursuance of b) and c) above, account may be taken of the price of the product as determined in relation to the effect it produces.

#### Section 4

The King may prescribe that any person importing or manufacturing products coming within the scope of this Act shall

- a) notify the Ministry, or whoever the Ministry may appoint, as to the name and package marking that is intended for use in marketing such products,
- b) supply such data and information as the Ministry may require concerning the products in question,
- c) keep such records as the Ministry may deem necessary for the purposes of effective supervision.

#### Section 5

Any person who markets products coming within the scope of this Act shall by means of markings on the package, labels, invoices or the like supply the purchaser with information as to the content and nature of the product, inter alia, as to plant nutrients and other active ingredients, together with specific details regarding circumstances of significance for the assessment of the efficacy of the product as a nutrient source for plants or its effects as soil-improvement.

The King may lay down regulations as to the content and form of the requisite information, the marking of the packaging etc., for the different products. Such regulations may prohibit information to the effect that the product contains nutrients or other active ingredients when these are present in small amounts, in a form producing insignificant effects, or where the amount is not stated. The said regulations may contain provisions to the effect that the product content in certain substances may not exceed certain maximum limits and that information as to the amount of the content shall be stated when this exceeds certain threshold values.

The King may issue regulations as to the storage, marking etc., of products that may cause harm or damage.

Quantities shall be given in terms of weight unless the Ministry requires their statement in terms of volume. The Ministry may lay down regulations as to the notification of quantities.

The information mentioned in the first paragraph shall be given in terms referable to specific analysis methods to be prescribed by the Ministry.

#### Section 6

Where products coming within the scope of this Act enter from abroad, the customs service shall notify the sampler responsible forthwith or, if no such sampler has been appointed, the appropriate control authority, in order that samples may be taken from the consignment in conformity with such provisions as are laid down in respect thereof.

Products may not be withdrawn from customs before such samples have been taken. Samples shall forthwith be sent to the appropriate control authority together with information as to the importer's name, the designation and mark of the product, the amount of the consignment and date of the collection of the sample together with the sampler's name.

The consignee may, as a rule, request a progressive delivery of the products as sampling is effected.

The King may prescribe that specified types of products may not be delivered or despatched from the importer's premises until the analyst's findings have been made known and that such fin-

dings state that the product conforms to conditions laid down pursuant to this Act. The control authorities may in special cases place an embargo as appropriate when there are particular grounds for believing that the consignment does not satisfy conditions laid down pursuant to this Act.

The appropriate Ministry shall decide in each case as to the disposal of products which are not in conformity with the conditions laid down in this act.

The control agency shall notify the importer of the analyst's findings as soon as possible.

#### Section 7

Such agency or agencies or persons as are so empowered by the Ministry shall be responsible for ensuring compliance with this Act and with regulations issued in pursuance thereof.

The control authorities and anyone the Ministry otherwise so empowers, shall have access to warehouses, storage premises, sales premises and transport vehicles used for products coming within the scope of this Act, and to manufacturing plants of products which may not be offered for sale except by special authorization of the Ministry, and shall be empowered to take samples for analysis purposes.

The control authorities and the Ministry may demand all necessary information from persons engaged in the manufacture, import or marketing of products coming within the scope of this Act, for the purposes of control as to compliance with the provisions laid down in this Act or in pursuance thereof, and may in this respect require the submission of the records referred to in Section 4 above.

Any person who in the exercise of his duties for the enforcement of this Act acquires knowledge of manufacturing or production secrets or other information that is not common knowledge shall, subject to the limits entailed by his activities under this Act, be bound to secrecy in respect of such knowledge and may not make use of such information outside his duties. The Ministry may issue regulations as to the collection and analysis of samples of products referred to in this Act.

### Section 8

The King may require the importers, manufacturers and traders concerned to pay fees to cover expenses arising in connection with the collection of samples, analysis, control, supervision and otherwise ensuring compliance with this Act and with the regulations made in pursuance thereof. The said fees may be determined according to rates for the respective control operations and/or in relation to the weight, volume or value of the products imported, manufactured or marketed. The King may likewise issue regulations exempting such fees in general or in respect of individual cases. The Ministry may issue the necessary rules as to the method of computing, collection and payment of fees, as well as control hereof and the obligation to pay interest on amounts of fees not paid by the appointed date. The Ministry may further issue instructions to the effect that the computation of fees shall be undertaken on the basis of a general assessment in cases where it is not possible, in the light of information or other evidence available, to determine the exact amount. Fees may be recovered by distraint.

### Section 9

The King may issue specific regulations for the implementation of this Act.

### Section 10

Any person who wilfully or negligently contravenes the provisions of this Act or the regulations, prohibitions or injunctions issued in pursuance thereof, shall be punished with a fine unless stricter penalties are applicable. Attempts at contravention shall be punished likewise.

Where importers or manufacturers fail to observe the provisions of Section 4 regarding notification and the keeping of records, the Ministry may for such periods as it deems appropriate forbid them to import or to sell the products concerned.

Products or the value of products that have been imported, manufactured or marketed, or where attempt has been made to manufacture, market or import them, in contravention of this Act or any provisions made thereunder may by order of the court be con-

confiscated from the person guilty of such contravention or whoever has acted on that person's behalf or for his benefit. Confiscation may be ordered even where penal proceedings are not, or cannot be, instituted against any person. The Ministry shall decide as to the disposal of products confiscated under this Act.

#### Section 11

1. This Act shall enter into force on such date as the King may determine.
2. At the same time these amendments are introduced into the Act of 27 June 1924 relating to Trade in Feed Concentrates and Artificial Fertilizers:

The title of that Act shall be:

"Act concerning Trade in Feed Concentrates".

Section 1, 2nd paragraph, is repealed.

Section 2 shall read as follows:

"The manufacture, importation and marketing of products coming under this Act shall be subject to supervision in accordance with specific provisions laid down by the King.

For the implementation of such supervision the King may inter alia:

- a. Prohibit the importation, manufacture and marketing of inferior feed concentrates which do not satisfy the qualitative requirements considered desirable.
- b. Prohibit the importation of feed concentrate mixtures, as well as determine that manufacture and marketing of such mixtures may only be effected subject to the conditions laid down by the Ministry.

Similarly the King may decide that anyone importing, manufacturing, marketing or acting as middlemen for the sale of feed concentrates shall notify the Ministry concerned and keep such records in respect thereof as are considered necessary for effective supervision purposes.

The measures implemented under this Act shall not apply to producers of grain and pulse or anyone who markets such

products from his own production facilities unless the seller trades in feed concentrates".

3. Regulations and provisions relating to artificial fertilizers issued in pursuance of the Act of 24 June 1924 relating to Trade in Feed Concentrates and Artificial Fertilizers shall continue in force until repealed or rendered obsolete by regulations and provisions issued in pursuance of this Act.