

FERTILISERS REGULATION 1997

under the
FERTILISERS ACT 1985

UPDATED 8 SEPTEMBER 1997

NO AMENDMENTS (SINCE GAZETTAL OF 29.8.1997)

New South Wales

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HIS Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the Fertilisers Act 1985.

RICHARD AMERY, M.P.,
Minister for Agriculture

Explanatory note

The object of this Regulation is to repeal and replace the Fertilizers Regulation 1985. The Regulation deals with the following matters:

- (a) composition standards for soil improving agents, particulars to be registered in relation to soil improving agents and requirements to be complied with in the sale of trace element products (Part 2),
- (b) requirements relating to the sale and supply (including the packaging and advertising) of soil improving agents (Part 3),
- (c) the issuing and cancellation of permits to analyse substances for the purposes of the Act and requirements in relation to the sampling and analysis of substances (Part 4),
- (d) the manner in which appeals under the Act may be made (Part 5),
- (e) other related and formal matters (Parts 1 and 6).

This Regulation is made under the Fertilisers Act 1985, including section 42 (the general regulation making power) and various other sections referred to in the Regulation.

This Regulation adopts or refers to the following publications:

- ☐ the publication entitled Test Sieves, numbered "AS 1152" and issued by Standards Australia, as in force on 14 June 1993,
- ☐ the 15th edition of the publication entitled Official Methods of Analysis of the Association of Official Analytical Chemists, published in 1990 by the Association of Official Analytical Chemists, Arlington, Virginia, USA, a copy of which is available for inspection at the Wollongbar office of the Department of Agriculture.

This Regulation is made in connection with the commencement of Schedule 3 to the Fertilizers (Amendment) Act 1992 and Schedule 1.8 to the Statute Law (Miscellaneous Provisions) Act 1997.

This Regulation is also made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.

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Fertilisers Regulation 1997

Part 1 Preliminary

1 Name of Regulation

This Regulation is the Fertilisers Regulation 1997.

2 Commencement

This Regulation commences on 1 September 1997.

3 Definitions

(1) In this Regulation:

Australian Standard sieve means a sieve that complies with the standard entitled Test Sieves, numbered "AS 1152" and issued by Standards Australia, as in force on 14 June 1993.

biuret means the substance having the chemical formula

$\text{NH}_2\text{CONHCONH}_2$.

blood and bone includes blood, bone meal, meat meal, fish, flesh and feather meal.

effectiveness of a liming material means the neutralising value of the liming material determined in accordance with clause 4.

neutralising value of a liming material means the value equivalent to the amount of acid neutralised by the liming material, expressed as a percentage of the amount of acid neutralised by an equal amount of calcium carbonate.

the Act means the Fertilisers Act 1985.

(2) In this Regulation, a reference to a percentage is a reference to a percentage determined in accordance with the methods set out in the 15th edition of the publication entitled Official Methods of Analysis of the Association of Official Analytical Chemists, published in 1990 by the Association of Official Analytical Chemists, Arlington, Virginia, USA, a copy of which is available for inspection at the Wollongbar office of the Department.

4 Effectiveness of liming materials

For the purpose of this Regulation, the effectiveness of a liming material is the sum of the following values:

(a) the value obtained by multiplying the neutralising value of the liming material by the proportion of liming material having a particle size of not more than 300 microns,

(b) the value obtained by multiplying six tenths of the neutralising value of the liming material by the proportion of liming material having a particle size of more than 300 microns but not more than 850 microns,

(c) the value obtained by multiplying one tenth of the neutralising value of the liming material by the proportion of liming material having a particle size of more than 850 microns.

5 Notes

The explanatory note and table of contents do not form part of this Regulation.

Part 2 Composition of soil improving agents and trace element products

6 Composition standards for soil improving agents: sections 7, 10 and 18

For the purposes of sections 7 (2) (b), 10 (2) (a) and 18 (1) of the Act, the prescribed composition standards for soil improving agents are the standards set out in Schedule 1.

7 Registered particulars for fertilisers: section 7

(1) For the purposes of section 7 (3) (c) (ii) of the Act:

(a) the following forms of nitrogen are prescribed:

(i) nitrogen as a nitrate compound,
(ii) nitrogen as an ammonium compound,
(iii) nitrogen as urea,
(iv) nitrogen as an organic compound,
(v) nitrogen in any form other than those referred to in the preceding subparagraphs,

(b) the following forms of phosphorus are prescribed:
(i) phosphorus as water soluble,
(ii) phosphorus as ammonium citrate soluble,
(iii) phosphorus as ammonium citrate insoluble,
(iv) phosphorus in any form other than those referred to in the preceding subparagraphs,

(c) the following forms of potassium are prescribed:
(i) potassium chloride,
(ii) potassium nitrate,
(iii) potassium phosphate,
(iv) potassium sulphate,
(v) potassium in any form other than those referred to in the preceding subparagraphs.

(2) For the purposes of section 7 (3) (c) (iii) of the Act, the following particulars are prescribed:

(a) the proportions in which cadmium, lead and mercury occur in the fertiliser, expressed as the number of milligrams of cadmium, lead or mercury, as the case requires, per kilogram of fertiliser,

(b) for a fertiliser that contains biuret, the proportion in which biuret occurs in the fertiliser,

(c) for a fertiliser that contains calcium as gypsum, dolomite or superphosphate, the proportions in which calcium occurs in the fertiliser in each of those forms,

(d) for a fertiliser that contains sulphur in elemental form or as a sulphate, the proportions in which sulphur occurs in the fertiliser in each of those forms,

(e) for a fertiliser that contains trace elements, the proportions in which each of those trace elements occurs in the fertiliser,

(f) for a fertiliser that consists of or contains bone meal, the proportion of the bone meal that is capable of passing through the mesh of an Australian Standard sieve having an aperture of 0.50 millimetres,

(g) for a fertilizer that contains nitrogen, phosphorus or potassium in a form referred to in subclause (1) (a) (v), (b) (iv) or (c) (v), the chemical identity of each form in which the nitrogen, phosphorus or potassium occurs.

8 Registered particulars for liming materials: section 7

(1) For the purposes of section 7 (3) (d) (ii) of the Act:

(a) the following forms of calcium are prescribed:

- (i) calcium carbonate,
- (ii) calcium hydroxide,
- (iii) calcium oxide,

(b) the following forms of magnesium are prescribed:

- (i) magnesium carbonate,
- (ii) magnesium hydroxide,
- (iii) magnesium oxide,

(c) sulphur as a sulphate compound is a prescribed form of sulphur.

(2) For the purposes of section 7 (3) (d) (iii) of the Act, the effectiveness of a liming material is a prescribed particular for that liming material.

9 Sale of trace element products

(1) A dealer must not sell a trace element product:

of the product, or
the product, or
of the product.

- (a) containing more than 50 milligrams of cadmium per kilogram
- (b) containing more than 500 milligrams of lead per kilogram of
- (c) containing more than 5 milligrams of mercury per kilogram

Maximum penalty: 20 penalty units.

(2) However, a dealer may sell a trace element product containing more than 500 milligrams (but not more than 2,000 milligrams) of lead per kilogram of the product if the product is represented as being suitable only for direct application to soil.

Part 3 Sale and supply of soil improving agents

10 Minimum level of certain constituents for fertilisers: section 16

(1) A dealer must not sell a fertiliser if:
(a) the label on a parcel of the fertiliser, or
(b) an invoice or delivery docket for the fertiliser,
indicates the presence in the fertiliser of a substance referred to in Column 1 of Schedule 2 unless the substance is present in a concentration no less than the relevant concentration specified in Column 2 of that Schedule (in the case of a fertiliser in solid form) or Column 3 of that Schedule (in the case of a fertiliser in liquid form).

Maximum penalty: 20 penalty units.

(2) For the purposes of section 16 (1) (d) of the Act, if:
(a) the presence of nitrogen, phosphorus or potassium in a fertiliser is indicated on a label, invoice or delivery docket in accordance with subclause (1), and
(b) the form in which that substance occurs in the fertiliser is represented by the word "other" in Column 1 of Schedule 2,
the specific form in which the substance occurs must also be indicated on the label, invoice or delivery docket.

11 Information and warnings to be marked on parcels of and invoices for soil improving agents

(1) A dealer must not sell any soil improving agent specified in Column 1 of Schedule 3 unless the matter set out in Column 2 of that Schedule in relation to the soil improving agent is marked on:

- (a) any label attached to a parcel of the soil improving agent, and
- (b) any invoice or delivery docket for the soil improving agent.

Maximum penalty: 20 penalty units.

(2) A dealer must not sell any soil improving agent (including, but not limited to, a soil improving agent specified in Schedule 3) unless the maximum concentrations of cadmium, lead and mercury present in the soil improving agent are marked on:

- (a) any label attached to a parcel of the soil improving agent, and
- (b) any invoice or delivery docket for the soil improving agent.

Maximum penalty: 20 penalty units.

12 Organic fertilisers

(1) A dealer must not, for the purposes of sale or supply, represent a fertiliser to be an organic fertiliser unless the fertiliser contains at least 95 per cent organic matter.
Maximum penalty: 20 penalty units.

(2) A dealer must not, for the purposes of sale or supply, represent a fertiliser to be an organically based fertiliser unless the fertiliser contains at least 65 per cent organic matter.

Maximum penalty: 20 penalty units.

(3) A dealer must not, for the purposes of sale or supply, represent that a fertiliser contains organic matter unless the fertiliser contains at least 30 per cent organic matter.

Maximum penalty: 20 penalty units.

(4) This clause does not apply to blood and bone.

13 Blood and bone

(1) A dealer must not, for the purposes of sale, represent a fertiliser to be a blood and bone fertiliser unless:

(a) at least 90 per cent of the fertiliser consists of blood and bone, and

(b) the fertiliser contains at least 4.5 per cent total nitrogen and at least 5 per cent total phosphorus, and

(c) the fertiliser contains not more than 0.2 per cent water soluble nitrogen and not more than 0.5 per cent water soluble phosphorus.

Maximum penalty: 20 penalty units.

(2) A dealer must not, for the purposes of sale, represent a fertiliser to be a blood and bone based fertiliser unless at least 65 per cent of the fertiliser consists of blood and bone.

Maximum penalty: 20 penalty units.

14 Information to be included on parcels of trace element products: section 21

For the purposes of section 21 (1) (d) of the Act, the proportions in which cadmium, lead and mercury are present in a trace element product, expressed as the number of milligrams of cadmium, lead or mercury, as the case requires, per kilogram of fertiliser, are prescribed as particulars to be marked on any parcel of trace element product.

15 Marking of parcels

Any matter required by the Act or this Regulation to be marked on a parcel:

(a) may be so marked by means of a label (made of durable material) attached to the parcel, and

(b) must be indelibly inscribed on the parcel or label in characters that are conspicuous and clearly legible.

Part 4 Sampling and analyses of soil improving agents

16 Permits to carry out analyses: section 29

(1) An application for a permit to carry out analyses for the purposes of the Act must be in a form approved by the Director-General and must specify the substance or substances for which authorisation to analyse is sought.

(2) A permit is subject to the condition that any analysis of a substance carried out under the authority of the permit is to be carried out in a laboratory that is certified by the National Association of Testing Authorities for analysis of that substance.

(3) A permit:

(a) may be issued subject to additional conditions, and
(b) must specify the substance or substances that the holder of the permit is authorised to analyse for the purposes of the Act.

(4) A permit to carry out analyses may be cancelled:

(a) if the holder of the permit fails to comply with any condition of the permit, or
(b) if, in the opinion of the Director-General, cancellation of the permit is in the public interest.

(5) A permit to carry out analyses remains in force, unless sooner cancelled, for 3 years from the date of its issue.

17 Sampling and analyses

(1) The procedures to be followed in connection with the taking of samples of substances for examination under the Act and the methods of analysis to be used for those samples are those determined by the Director-General and set out in guidelines available from the Wollongbar office of the Department.

- (2) The guidelines must make provision for:
 - (a) the retention of part of a sample taken for examination under the Act for a period of at least 12 months for the use and benefit of the person from whom the sample was obtained, and
 - (b) the retention of part of a sample examined by an analyst under the Act for a period of at least 12 months for use in any legal proceedings that may arise in relation to the substance concerned.
- (3) An analyst is to allow the following tolerances when analysing a sample of a substance for the purposes of the Act:
 - (a) in relation to the effectiveness of a liming material a tolerance of plus or minus 5 per cent,
 - (b) in relation to any ingredient the content of which is required to be 25 per cent or more of the substance by weight a tolerance of plus or minus 5 per cent,
 - (c) in relation to any ingredient the content of which is required to be 10 per cent or more but less than 25 per cent of the substance by weight a tolerance of plus or minus 6 per cent,
 - (d) in relation to any ingredient the content of which is required to be less than 10 per cent of the substance by weight a tolerance of plus or minus 10 per cent.

Part 5 Appeals

18 Appeals: section 12

- (1) For the purposes of section 12 (1) of the Act, a person making an appeal must lodge a notice of appeal at a Local Court:
 - (a) if the appeal relates to the refusal of the Director-General to register a brand name the subject of an application under section 6 of the Act within 28 days after notice of the refusal is served on the applicant under section 7 (4) of the Act or, in the case of a deemed refusal under section 7 (5) of the Act, within 28 days after the expiration of the 60 days referred to in that subsection, or
 - (b) if the appeal relates to the refusal by the Director-General to vary the registered particulars the subject of an application under section 9 of the Act within 28 days after notice of the refusal is served on the appellant under section 10 (3) of the Act or, in the case of a deemed refusal under section 10 (4) of the Act, within 28 days after the expiration of the 60 days referred to in that subsection, or
 - (c) if the appeal relates to the cancellation by the Director-General of the registration of a brand name within 28 days after the publication in the Gazette of the order by which the registration is cancelled.
- (2) A person making such an appeal must serve on the Director-General a copy of the notice of appeal (endorsed by the Clerk of the Local Court with the place and date fixed by the Court for the hearing of the appeal) not later than 7 days before the date fixed for the hearing of the appeal.
- (3) A notice of appeal must:
 - (a) state the grounds on which the appeal is based, and
 - (b) be signed by the appellant or the appellant's solicitor or agent.
- (4) A copy of the notice of appeal that is required to be served on the Director-General may be served personally or by means of a letter addressed to the Director-General at the Wollongbar office of the Department.

Part 6 Miscellaneous

19 Fees

The fee prescribed for the purposes of a provision of the Act specified in Column 1 of Schedule 4 is shown opposite that provision in Column 2 of that Schedule.

20 Forms

(1) For the purposes of section 14 (2) of the Act, the prescribed form for a certificate containing a copy of the registered particulars for a brand name is Form 1 in Schedule 5.

(2) For the purposes of section 30 (4) (b) of the Act, the prescribed form for the certificate of the results of an examination of a sample submitted for analysis is Form 2 in Schedule 5.

21 Prescribed offices for lodging of applications relating to brand names

The Wollongbar office of the Department is a prescribed office for the purposes of sections 6 (2) (d) and 9 (2) (d) of the Act.

22 Repeal

(1) The Fertilizers Regulation 1985 is repealed.

(2) Any act, matter or thing that, immediately before the repeal of the Fertilizers Regulation 1985, had effect under that Regulation continues to have effect under this Regulation.

Schedule 1 Composition standards for soil improving agents
(Clause 6)

Part 1 Composition standards for fertilisers

1 Nitrogen, phosphorus and potassium

(1) A fertiliser in dry or solid form must contain not less than 3 per cent of nitrogen, phosphorus or potassium.

(2) A fertiliser in liquid form must contain not less than 2 per cent of nitrogen, phosphorus or potassium.

(3) If phosphorus is a specified ingredient of a fertiliser:

(a) any excess of water-soluble phosphorus is taken to compensate for a deficiency of citrate-soluble phosphorus, and

(b) any excess of citrate-soluble phosphorus is taken to compensate for a deficiency of water-soluble phosphorus if the percentage of citrate-soluble phosphorus is less than 25 per cent of the combined water plus citrate soluble phosphorus.

2 Cadmium

(1) A phosphatic fertiliser must not contain more than 350 milligrams of cadmium per kilogram of phosphorus.

(2) A non-phosphatic fertiliser must not contain more than 10 milligrams of cadmium per kilogram of the fertiliser.

3 Lead

A fertiliser must not contain more than 100 milligrams of lead per kilogram of the fertiliser.

4 Mercury

A phosphatic fertiliser must not contain more than 5 milligrams of mercury per kilogram of the fertiliser.

5 Superphosphate

(1) A fertiliser described as single superphosphate:

(a) must be rock phosphate treated with sulphuric acid, and
(b) must contain at least 7 per cent water soluble phosphorus,
and

(c) must contain at least 8 per cent (water plus citrate) soluble phosphorus, and

(d) must contain at least 10 per cent sulphur, and

(e) must not contain more than 3.5 per cent of the sum of the percentages of iron and aluminium expressed as mixed oxides, and
(f) must not contain more than 2 per cent of iron expressed as the oxide (Fe₂O₃).

(2) A fertiliser described as double superphosphate:
(a) must contain at least 13 per cent water soluble phosphorus,
and
(b) must contain at least 15 per cent (water plus citrate) soluble phosphorus.

(3) A fertiliser described as triple superphosphate:
(a) must contain at least 15 per cent water soluble phosphorus,
and
(b) must contain at least 17 per cent (water plus citrate) soluble phosphorus.

6 Rock phosphate
A fertiliser described as rock phosphate or reactive rock phosphate:
(a) must be derived from naturally occurring deposits and
contain no additives, and
(b) must contain at least 12 per cent of phosphorus,
and at least 70 per cent of the fertiliser must be capable of passing through the mesh of an Australian Standard sieve having an aperture of 0.50 millimetres.

7 Biuret

A fertiliser must not contain more than 2 per cent of biuret.

8 Bone meal
If the fertiliser consists of or contains bone meal, not less than 50 per cent of the bone meal must be capable of passing through the mesh of an Australian Standard sieve having an aperture of 0.50 millimetres.

Part 2 Composition standards for liming materials

9 Gypsum

A liming material described as gypsum:
(a) if further described as being phosphogypsum, must contain at least 18.5 per cent calcium and 14 per cent sulphur, and
(b) if further described as being Grade 1, must contain at least 19 per cent calcium and 15 per cent sulphur, and
(c) if further described as being Grade 2, must contain at least 15 per cent calcium and 12.5 per cent sulphur, and
(d) if further described as being Grade 3, must contain at least 12.5 per cent calcium and 10 per cent sulphur.

10 Calcite (burnt or hydrated lime)

A liming material described as calcite, or as burnt or hydrated lime:
(a) if further described as being Grade 1:
(i) must contain at least 30 per cent calcium, and
(ii) must have an effectiveness of at least 80 per cent,
and
(b) if further described as being Grade 2:
(i) must contain at least 30 per cent calcium, and
(ii) must have an effectiveness of at least 65 per cent,
and
(c) if further described as being Grade 3:
(i) must contain at least 20 per cent calcium, and
(ii) must have an effectiveness of at least 50 per cent.

- 11 Dolomite (dolomitic lime)
- A liming material described as dolomite, or as dolomitic lime:
- (a) if further described as being Grade 1:
- (i) must contain at least 14 per cent calcium and 8 per cent magnesium, and
- (ii) must have an effectiveness of at least 80 per cent, and
- (b) if further described as being Grade 2:
- (i) must contain at least 14 per cent calcium and 9 per cent magnesium, and
- (ii) must have an effectiveness of at least 65 per cent, and
- (c) if further described as being Grade 3:
- (i) must contain at least 9 per cent calcium and 6 per cent magnesium, and
- (ii) must have an effectiveness of at least 50 per cent.

- 12 Magnesite lime
- A liming material described as magnesite lime:
- (a) if further described as being Grade 1:
- (i) must contain at least 18 per cent magnesium, and
- (ii) must have an effectiveness of at least 80 per cent, and
- (b) if further described as being Grade 2:
- (i) must contain at least 18 per cent magnesium, and
- (ii) must have an effectiveness of at least 65 per cent, and
- (c) if further described as being Grade 3:
- (i) must contain at least 12 per cent magnesium, and
- (ii) must have an effectiveness of at least 50 per cent.

Schedule 2 Minimum concentration of constituents (Clause 10)

Column 1
Column 2
Column 3

Constituent
Solid fertilisers Concentration (%) w/w
Liquid fertilisers Concentration (%) w/v

Nitrogen (N)

☐ as nitrate, ammonia, urea or other
0.2

☐ total nitrogen
0.5
0.1

Phosphorus (P)

☐ as water or citrate soluble
0.2

☐ as citrate insoluble or other
0.1

☐ total phosphorus
0.5
0.1

Potassium (K)

☐ as sulphate, chloride, nitrate or other
0.2

☐ total potassium
0.5
0.1

Calcium (Ca)
0.5
0.01

Magnesium (Mg)
0.5
0.01

Sulphur (S)
0.5
0.1

Iron (Fe)
0.01
0.005

Manganese (Mn)
0.01
0.005

Copper (Cu)
0.005
0.005

Zinc (Zn)
0.005

0.005

Boron (B)

0.005

0.005

Molybdenum (Mo)

0.001

0.001

Cobalt (Co)

0.001

0.001

Schedule 3 Warning statements for soil improving agents
(Clause 11)

Column 1

Column 2

Soil improving agent

Warning statement

Fertilisers containing more than 10 grams but not more than 20 grams biuret per kilogram of total nitrogen

WARNING

Repeated foliar applications of this fertiliser may cause damage to citrus.

Fertilisers containing more than 20 grams but not more than 30 grams biuret per kilogram of total nitrogen

WARNING

This product is not recommended for repeated foliar application on annual or perennial horticultural crops.

Fertilisers containing more than 30 grams biuret per kilogram of total nitrogen

WARNING

This product is not recommended for foliar application.

Fertilisers containing more than 1 milligram per kilogram of cadmium

WARNING

Use of this product may result in cadmium residues in excess of the Maximum Permissible Concentration (MPC) in plant and animal products and may result in accumulation of these residues in soils.

Fertilisers containing more than 20 milligrams per kilogram of lead

WARNING

Continued use of this product may result in accumulation of lead residues in soils.

Fertilisers containing more than 0.2 milligrams per kilogram of mercury

WARNING

Continued use of this product may result in accumulation of mercury residues in soils.

Fertilisers sold in bulk or in packages containing more than 25 kilograms

WARNING

The dust from this product may irritate the eyes and skin. Avoid contact with eyes and skin. Avoid inhaling dust.

Fertilisers containing more than 0.001 per cent of molybdenum

WARNING

Excessive use of molybdenum can be harmful to stock. Plant levels of molybdenum can be high for up to four weeks after application. It is advisable to keep stock off treated areas for this period. Check rate and frequency of molybdenum use with appropriate authorities.

Fertilisers containing more than 0.001 per cent of selenium

WARNING

This fertiliser should only be used in areas where selenium deficiency of stock exists. Do not allow stock access to spills of fertiliser. Seek advice on application rates from appropriate authorities.

Liming materials containing calcium oxide

WARNING

Do not swallow product. Product may irritate the eyes and skin. Avoid contact with eyes and skin.

Liming material (being a liming material that consists of or contains gypsum) containing more than 0.8 per cent of sodium

WARNING

This product is not suitable for the reclamation of saline sodic soils.

Schedule 4 Fees (Clause 19)

Column 1

Column 2

Provision of Act

Fees

Section 6 (2) (c) (application for registration of a brand name for a soil improving agent)
\$250

Section 9 (2) (c) (application for variation in registered particulars for brand name)
\$10

Section 14 (2) (copy of registered particulars for brand name)
\$30 for each hour or part of an hour involved

Section 29 (3) (application for permit to carry out analyses)
\$250

Section 30 (2) (b) (application for analysis of sample):

- (a) particulars of presence of specified substance
\$50 for each substance for which particulars are sought with the maximum fee being \$200
- (b) complete particulars of composition
\$200

Schedule 5 Forms
(Clause 20)

Form 1

CERTIFICATE OF REGISTERED PARTICULARS

Fertilisers Act 1985 (Section 14 (2))

I CERTIFY that the registered particulars in respect of the brand
name
are as follows:

.....

Director-General of Agriculture

Date:

Form 2

CERTIFICATE OF ANALYSIS

Fertilisers Act 1985 (Section 30 (4) (b))

I CERTIFY that I have examined a sample of a substance received
from
of
on and that the results of the examination
are as follows:

Analyst

Date: