

Chapter 18:12

PREVIOUS CHAPTER**FERTILIZERS, FARM FEEDS AND REMEDIES ACT**

Acts 21/1952, 8/1960 (Federal), 40/1965 (s. 27), 26/1972, 28/1976, 37/1977 (s. 9), 20/1978 (s. 19), 3/1986, 22/2001; R.G.Ns.660/1963, 214/1964, 217/1970.

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AN ACT to provide for the registration of fertilizers, farm feeds, sterilizing plants and certain remedies; to regulate and restrict the importation and sale of fertilizers, farm feeds and certain remedies, and substances of animal origin intended for the manufacture of fertilizers or farm feeds; and to provide for matters incidental to the foregoing.

[Date of commencement: 2nd April, 1953.]

1 Short title

This Act may be cited as the Fertilizers, Farm Feeds and Remedies Act [Chapter 18:12].

2 Interpretation

In this Act—

“advertisement” includes any statement, picture, design 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 public in any other manner whatsoever;

“analyst” means a person appointed an analyst under this Act;

“brand” means the impression or representation of any letter, number, geometrical figure, mark, sign or symbol and includes any combination of such impressions or representations;

“compost” means vegetable matter or mixed vegetable and animal matter so decomposed as to form an organic manure;

“farm feed” means—

(a) any—

(i) substance obtained by a process of crushing, gristing or grinding or by the addition to any substance or the removal therefrom of any ingredient; or

(ii) condimental feed or mineral substance which possesses or is alleged to possess nutritive properties; or

(iii) substance of animal origin;

which is intended or offered for the feeding of poultry, domestic animals or livestock;

(b) any stock lick or substance which can be used and is used as a stock lick, whether or not such stock lick or substance possesses medicinal properties;

but does not include straw, chaff, unground hay, silage or cereal in the grain, or any substance which falls within this definition but which has been crushed, gristed or ground for a farmer in accordance with his directions for his own use, unless by regulation such substance has been declared to be a farm feed for the purposes of this Act;

“farmer” means a person who devotes his attention to farming in Zimbabwe, either exclusively or together with some profession, business or other occupation;

“farming requisite” means any fertilizer, farm feed or remedy, or any substance used in the manufacture of a fertilizer, farm feed or remedy;

“fertilizer” means any substance which is intended or offered for improving or maintaining the growth of plants or the productivity of the soil, but does not include farmyard or stable manure, kraal manure, compost, wood ash, town refuse or night soil when sold in its original condition and under its name;

“inspector” means a person appointed an inspector under this Act;

“Minister” means the Minister of Agriculture or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“registering officer” means a registering officer appointed in terms of section three;

“remedy” means any substance which is intended or offered—

(a) for the destruction of any noxious plant or insect; or

(b) in regard to poultry, domestic animals, livestock or plants, for the prevention, treatment or cure of any disease, infestation or other unhealthy or unfavourable condition, or for the maintenance of health, but does not include any specified drug as defined in the Drugs and Allied Substances Control Act [Chapter 15:03].

“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 carcass.

3 Appointment of registering officers

Subject to the law relating to the Public Service, the Minister shall appoint one or more registering officers for the purposes of this Act.

4 Registration of fertilizers, farm feeds, remedies and sterilizing plants

(1) Application for the registration of a fertilizer, farm feed, remedy or sterilizing plant shall be made to a registering officer in the prescribed form and manner, and

shall be accompanied by the prescribed fee, if any.

(2) As soon as practicable after the receipt of an application the registering officer shall—

(a) where he considers that—

(i) 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 prescribed requirements; and

(ii) it would not be contrary to the public interest to register the fertilizer, farm feed, remedy or sterilizing plant in question;

register such fertilizer, farm feed, remedy or sterilizing plant; or

(b) in any other case, refuse to register such fertilizer, farm feed, remedy or sterilizing plant.

(3) Any registration in terms of this section shall be valid until—

(a) cancelled in terms of this Act; or

(b) the expiry of such period as may be prescribed;

whichever is the earlier.

(4) A registering officer may impose such conditions in regard to any registration under this section as he thinks fit.

(5) Any person who fails to comply with any conditions imposed under subsection (4) or with such conditions as amended by the Minister in terms of section seven shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[amended by Act 22 of 2001, with effect from the 10th September, 2002]

5 Cancellation of registration

If a 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 carcass effectively; or

(d) that it is contrary to the public interest that a registered fertilizer, farm feed, remedy or sterilizing plant should remain registered;

he may cancel the registration thereof and shall thereupon notify the person who applied for the registration of such cancellation.

6 Registering officer to furnish reasons

Upon the written request of any applicant for the registration of any fertilizer, farm feed, remedy or sterilizing plant, a registering officer shall furnish to such applicant the reasons—

(a) why he has refused any registration applied for by such applicant;

(b) why he has imposed conditions in regard to any registration applied for by such applicant;

(c) why he has cancelled any registration effected on the application of such applicant.

7 Appeal against decision of registering officer

(1) Any applicant for the registration of any fertilizer, farm feed, remedy or sterilizing plant who is aggrieved by the decision of the registering officer to refuse registration or to impose conditions in regard thereto or to cancel any registration, may appeal to the Minister against such decision.

(2) Upon such appeal the Minister may uphold the decision of the registering officer or make an order instructing the registering officer—

(a) to register the fertilizer, farm feed, remedy or sterilizing plant in question; or

(b) to strike out all or any of the conditions imposed by the registering officer or to amend such conditions; or

(c) to restore the registration;

and the registering officer shall comply with such order.

(3) Upon the written request of an unsuccessful appellant the Minister shall furnish to him the reasons for his decision.

8 Restrictions on the sale of fertilizers, farm feeds and remedies

(1) Subject to subsections (2) and (3), no person shall sell any fertilizer, farm feed or remedy unless—

(a) it is registered under this Act; and

(b) it is packed in the prescribed manner; and

(c) the container in which it is sold complies with the prescribed requirements and is branded, labelled, marked or sealed in the prescribed manner; and

(d) it is of the composition, efficacy, fineness and purity specified in the application for its registration and possesses all other properties specified in such application.

(1a) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[inserted by Act 22 of 2001, with effect from the 10th September, 2002]

(2) A fertilizer, farm feed or remedy shall be deemed to comply with the requirements of paragraph (d) of subsection (1) if its composition varies within such limits as may be prescribed.

(3) Subsection (1) shall not apply in relation to the sale of any substance referred to in paragraph (b) of the definition of “remedy” in section two which has been compounded by the seller in accordance with a prescription from a veterinary surgeon who is registered under the Veterinary Surgeons Act [Chapter 27:16] for a specific patient or group of patients and is sold for such patient or patients.

9 Use of sterilizing plant

(1) No person shall use any sterilizing plant for the sterilizing of bones or other substances derived from an animal carcass unless such plant has been registered under this Act.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[inserted by Act 22 of 2001, with effect from the 10th September, 2002]

10 Invoices required in the case of sale of fertilizers and farm feeds

(1) 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 setting forth such particulars in respect of such fertilizer or farm feed as may be prescribed.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level three or to imprisonment for a period not exceeding one month or to both such fine and such imprisonment.

[inserted by Act 22 of 2001, with effect from the 10th September, 2002]

11 Importation, sterilization, manufacture and sale

(1) No person shall import into Zimbabwe—

(a) any fertilizer or farm feed which contains bone or any other substance

of animal origin; or

(b) bones or any other substance of animal origin for the purpose of manufacturing any fertilizer or farm feed; unless he has submitted to the Minister a certificate signed in the country of origin by a person designated by the Minister, in which it is stated that such bone, bones or substance have been effectively and completely sterilized and handled in such manner as may be prescribed and are free from such pathogenic organisms as may be prescribed.

(2) No person shall manufacture or sell any fertilizer or farm feed containing bone or any other substance derived from an animal carcass, unless such bone or substance has been sterilized and handled in the prescribed manner.

(3) Any person who fails to comply with any conditions imposed under subsection (1) or who contravenes subsection (2) shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[inserted by Act 22 of 2001, with effect from the 10th September, 2002]

12 Minister may exclude any fertilizer, farm feed or remedy from Act
Subject to such conditions as he may prescribe, the Minister may exclude by regulation any fertilizer, farm feed or remedy from the operation of any or all the provisions of this Act.

13 Appointment of inspectors and analysts

The Minister may appoint persons as inspectors and analysts for the purposes of this Act.

14 Powers of inspector

(1) An inspector or any other officer specially authorized thereto by the Minister may at all reasonable times—

(a) enter upon any premises, place or vehicle at or in which there is or is on reasonable grounds suspected to be any farming requisite or any sterilizing plant;

(b) inspect any farming requisites or any sterilizing plant or other machinery utilized in connection with the manufacture of any farming requisite, or any book, record or document found in or upon such premises, place or vehicle;

(c) seize any such farming requisites or any books, records or documents found in or upon such premises, place or vehicle which appear to afford evidence of a contravention of any provision of this Act;

(d) take as many samples or such quantities of any such farming requisites as he may consider necessary for the purpose of examination or analysis in terms of the provisions of this Act:

Provided that any officer specially authorized by the Minister in terms of this subsection shall on request produce his authority to enter upon any such premises, place or vehicle.

(2) The inspector or the officer specially authorized in terms of subsection (1) shall give a receipt to the person from whose custody any farming requisites or any books, records or documents have been taken in terms of paragraph (c) of subsection (1). Such farming requisites or books, records or documents shall be returned to the person from whose custody they were taken immediately after it has been decided that no prosecution will be instituted or the trial of the relevant person has been concluded, as the case may be:

Provided that such farming requisites shall not be returned at the conclusion of such trial if such farming requisites have been declared forfeited to the State under subsection (2) of section seventeen.

(3) Any sample taken in terms of paragraph (d) of subsection (1) shall be taken in

accordance with the methods prescribed and in the presence of the person who is in charge of such farming requisites 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 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 or officer. The second part together with a copy of the aforesaid certificate shall be handed or forwarded under registered cover to the person who may, as a result of the analysing or testing of the sample, be prosecuted for an offence or his agent. The third part shall be retained by the inspector or officer aforesaid.

(4) The analyst to whom one part of a sample has been transmitted in terms of subsection (3) shall with all convenient speed analyse 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.

(5) The owner of the farming requisite from which the sample was taken may claim from the Minister an amount equal to the market value of the sample.

15 Detention and sampling of imported fertilizers, farm feeds and remedies

(1) Any officer of the Department of Customs and Excise authorized in writing thereto by the Director of Customs and Excise may detain any quantity of any farming requisites at any port of entry in Zimbabwe.

(2) If such customs officer detains any farming requisites he shall, as soon as possible, notify an inspector who may take samples in accordance with subsection (3) of section fourteen.

(3) Subject to subsection (4), no person shall move or cause to be moved from the port of entry the farming requisites so detained except with the written permission of such customs officer.

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

(a) order such farming requisites—

(i) to be destroyed without compensation; or

(ii) at the option of the importer to be removed from Zimbabwe within a specified period;

or

(b) permit the removal thereof from the port of entry subject to such conditions as he may impose.

(5) Any person who fails to comply with any order made or conditions imposed under this section shall be guilty of an offence.

16 Preservation of secrecy

(1) Any person who discloses, except to the Minister or to any other person for the purpose of the performance of his functions under this Act or when required to do so by any court or under any law, any information acquired by him in the exercise of any function under this Act, in relation to the business or affairs of any other person, shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[amended by Act 22 of 2001, with effect from the 10th September, 2002]

(2) Any person who, for personal gain, makes use of any information which he has acquired in the exercise of any function under this Act and which relates to the business or affairs of any other person shall be guilty of an offence and liable to a fine not exceeding level ten or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

[inserted by Act 22 of 2001, with effect from the 10th September, 2002]

17 Offences and penalties

(1) Any person who—

(a)

(b)

[repealed by Act 22 of 2001, with effect from the 20th May, 2002]

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

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

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

(i) in an application for the registration thereof; or

(ii) in any invoice issued in terms of section ten; or

(iii) in any advertisement thereof; or

(iv) in the course of the sale thereof;

or

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

(g) 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;

shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year month or to both such fine and such imprisonment.

[amended by Act 22 of 2001, with effect from the 10th September, 2002]

(i)

(ii)

[repealed by Act 22 of 2001, with effect from the 20th May, 2002]

(1a) Any person who obstructs or hinders any inspector, analyst or other officer in the performance of his functions under this Act shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[inserted by Act 22 of 2001, with effect from the 10th September, 2002]

(2) The court convicting any person of an offence under this Act may, upon the application of the prosecutor, declare any farming requisite in respect of which the offence has been committed, and all farming requisites 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 State.

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

18 Procedure and evidence

(1) In any criminal proceedings under this Act—

(a) any quantity of a farming requisite in or upon any premises, place or vehicle at the time a sample thereof is taken under this Act shall, unless the contrary is 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;

(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 under

subsection (4) 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:

Provided that at the request of the accused made not less than ten days before the trial such analyst shall be summoned to give oral evidence;

(d) any statement or entry contained in any book or document kept by any manufacturer, importer or owner of a farming requisite 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:

Provided that no such statement or entry shall be tendered in evidence unless such person has been given not less than ten days' written notice of the intention to produce such statement or entry and an opportunity to inspect the same and make a copy thereof.

(2) No prosecution shall be instituted as a result of any analysis or test performed in terms of section fourteen or fifteen unless a copy of the analyst's certificate has been transmitted at least twenty-one days before the institution of such prosecution to the person who is to be the accused.

19 Special defences in case of prosecutions

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

(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

(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

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

20 Acts or omissions by manager, agent or employee

(1) Whenever any manager, agent or employee of any manufacturer, importer or owner of a farming requisite 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—

(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

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

(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;

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.

(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 convicted and sentenced in respect thereof as if he were the manufacturer, importer or owner.

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

21 Regulations

(1) The Minister may make regulations—

(a) prescribing the manner in which fertilizers, farm feeds, remedies and sterilizing plants may be registered, the fees which may be charged for registration and the forms to be used for and the information to be furnished with any application for registration;

(b) defining the description under which any substance may be registered, or sold as a fertilizer, farm feed or remedy and prescribing the conditions under which any such substance may be registered, or sold under any particular name or brand;

(c) prohibiting the importation of any fertilizer, farm feed or remedy except with the consent of the registering officer or except upon such other conditions as may be specified;

(d) prescribing the manner in which and the time within which an appeal under section seven must be noted and prosecuted;

(e) prescribing the particulars to be set forth in any invoice to be furnished under section ten;

(f) 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 or remedy, as the case may be;

(g) prescribing the proportion in which any preservative, antiseptic or other constituent may be present in any fertilizer, farm feed or remedy;

(h) prescribing requirements as to the containers in which fertilizers, farm feeds 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;

(i) prescribing the process 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;

(j) for preventing the adulteration of fertilizers, farm feeds or remedies or the tampering with containers thereof;

(k) 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;

(l) for preventing the use of false or misleading statements in advertisements of fertilizers, farm feeds or remedies;

(m) requiring any person who has in his possession or under his control any fertilizers, farm feeds 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;

(n) prohibiting the disposal, acquisition or use of any farm feed as a fertilizer;

(o) in respect of any other matter under this Act which is to be prescribed; and generally for the efficient carrying out of the objects and purposes of this Act.

(2) Any regulations made under this section may prescribe penalties for any contravention thereof, but no such penalty shall exceed a fine of level four or imprisonment for a period of three months or both such fine and such imprisonment.
[amended by Act 22 of 2001, with effect from the 10th September, 2002]

22 Publication of returns

The Minister may from time to time cause to be 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 other particulars as the Minister may consider necessary.

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