

FERTILIZERS (AMENDMENT) BILL 1992

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to amend the Fertilizers Act 1985 so as:

- (a) to regulate the supply of substances containing prescribed kinds of sewage sludge approved for the purpose of replacing, augmenting or improving soils (such a substance is referred to in this Note as “an approved sludge”); and
- (b) to provide for the payment of a fee by persons applying for a permit to be an analyst for the purposes of the Act; and
- (c) to increase the maximum penalties under the Act; and
- (d) to make minor, ancillary and consequential amendments.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will commence on a day or days to be appointed by proclamation.

Clause 3 gives effect to the Schedules of amendments.

SCHEDULE 1—AMENDMENTS RELATING TO SEWAGE SLUDGE

Schedule 1 (1) amends the long title to include reference to the regulation of the supply, and not only the sale, of soil improving agents.

Schedule 1 (2) inserts a definition of “supply” which includes sell or distribute, agree or offer to supply, keep in possession for supply, and send, deliver or receive for supply. The provision also inserts a definition of “sewage sludge” and amends the definition of “soil improving agent” to include a substance containing sewage sludge that is manufactured, represented, supplied or used as a means of replacing, augmenting or improving soils.

Schedule 1 (3) provides that a person may apply for registration of a brand name in relation to an approved sludge intended to be supplied for use as a soil improving agent.

Fertilizers (Amendment) 1992 [Act 1992 No. 8]

Schedule 1 (4) requires specified particulars to be entered into the register of brand names in relation to approved sludges.

Schedule 1 (5) allows the Director-General of the Department of Agriculture to cancel the registration of a brand name in relation to an approved sludge if satisfied that the registration is not in the public interest.

Schedule 1 (6) requires that the annual list of registered brand names include registered particulars relating to approved sludges.

Schedule 1 (7) makes a consequential amendment.

Schedule 1 (8):

- (a) prohibits the supply of an approved sludge otherwise than under a registered brand name; and
- (b) allows the Director-General to consent to such a supply and to the sale of other soil improving agents otherwise than under a registered brand name.

Schedule 1 (9):

- (a) prohibits the supply of an approved sludge under a registered business name unless in a parcel marked with specified particulars; and
- (b) allows the Director-General to consent to such a supply or to the sale of other soil improving agents otherwise than in marked parcels and provides for other exemptions.

Schedule 1 (10) prohibits the supply of an approved sludge under a registered brand name unless it conforms to the registered particulars of the brand name.

Schedule 1 (11):

- (a) prohibits the supply of an approved sludge unless it complies with the prescribed composition standards; and
- (b) allows the Director-General to consent to such a supply or to the sale of other soil improving agents that do not comply.

Schedule 1 (12) prohibits a supplier from falsely representing a substance containing sewage sludge to be a soil improving agent.

Schedule 1 (13) omits a provision relating to the sale of soil improving agents on prescription, which is now obsolete.

Schedule 1 (14) makes a consequential amendment.

Schedule 1 (15) allows the Governor to make regulations in respect of the regulation or prohibition of the supply of substances containing sewage sludge.

SCHEDULE 2—AMENDMENTS RELATING TO PENALTIES

Schedule 2 (1) increases the maximum penalty for the contravention of certain provisions from \$2,000 to 50 penalty units (currently \$5,000).

Schedule 2 (2) and **(3)** increase the maximum penalty for the contravention of other provisions from \$1,000 to 20 penalty units (currently \$2,000).

Schedule 2 (4) increases the maximum penalty that may be imposed for the contravention of a regulation from \$500 to 20 penalty units (currently \$2,000).

Fertilizers (Amendment) 1992 [Act 1992 No. 8]

SCHEDULE 3—MISCELLANEOUS AMENDMENTS

Schedule 3 (1) changes references in the Act from “fertilizer” to the modern form “fertiliser”.

Schedule 3 (2) amends the definition of “analyst” to include a person granted a permit under section 29 as substituted by Schedule 3 (6).

Schedule 3 (3) allows the Director-General to require more than one sample of a substance to be furnished in relation to the registration of a brand name under which the substance will be sold or supplied.

Schedule 3 (4) substitutes a reference to the repealed Public Service Act 1979 with a reference to the Public Sector Management Act 1988.

Schedule 3 (5) increases the amount of a substance (from 1 kilogram 3 kilograms) an inspector may take, without payment, to ascertain whether an offence has been committed.

Schedule 3 (6) substitutes section 29 (**Authority to carry out analyses**) and provides that a person who is not a member of the Public Service and who applies for a permit to be an analyst must pay a prescribed fee for the determination of the application.

Schedule 3 (7) omits a provision which waives the fee for an analysis if the applicant for analysis and the analyst are both members of the Public Service.

Schedule 3 (8) preserves the appointment of analysts appointed before the commencement of Schedule 3 (6).
