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SINDH ACT NO. XXV OF 1994

THE SINDH FERTILIZER (CONTROL) ACT, 1994

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[4* October, 1994]

AN ACT to regulate the sale, distribution and use of fertilizer and fertilizer material.

WHEREAS it is expedient to regulate the sale, distribution and use of fertilizer and fertilizer material, in the manner hereinafter appearing;

It is hereby enacted as follows :—

1. (1) This Act may be called the Sindh Fertilizer (Control)

Act, 1994.

(2)

It shall come into force at once.

2. In this Act, unless there is anything repugnant in the subject or context—

(i)

(ii)

(ii)

(iv)

(v)

(vi)

(vii)

“adulterated” when used with reference to a fertilizer means fertilizer the nutritional strength or purity of which falls below the professed standard or quality mentioned on its label or under which it is sold or a fertilizer any ingredient of which has been wholly or partly extracted;

“advertise” means to make known by publication or distribution of any advertisement, circular or other notice, through any media including radio or television;

“Committee” means the _ fertilizer Control Committee constituted under this Act;

“Controller” means the controller Fertilizer appointed under this Act and includes any officer authorized by Government to exercise the powers of the Controller;

“fertilizer” means any substance or mixture of substances used or represented as a means for promoting or stimulating the growth of plants or increasing the productiveness of or improving soil to maximize crop output and achieve optimum yield;

“Government” means the Government of Sindh;

“Inspector” means an Inspector appointed under this Act;

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Definitions.

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(viii) "label" means the written, printed or graphic matter on, or attached to, a fertilizer or the immediate container thereof, and the outside container or wrapper of the retail package, if any, of the fertilizers;

(ix) "prescribed" means prescribed by rules;

(x) "rules" means rules made under this Act.

CHAPTER-II
SALE, DISTRIBUTION AND USE OF FERTILIZERS

3. No person shall sell, offer, expose for sale, hold in stock for sale, advertise or use fertilizer or fertilizer material, save in accordance with this Act and rules.

4. No person shall sell, offer, expose for sale, hold in stock for sale or advertise any fertilizer or fertilizer material unless each package containing fertilizer or fertilizer material, and every tag or label durably attached thereto, is marked in printed characters in such form and in such manner as may be prescribed.

CHAPTER-III
THE FERTILIZER CONTROL COMMITTEE

5. As soon as may be after the commencement of this Act Government shall appoint a committee, to be called the Fertilizer Control Committee, to advise Government on all matters arising out of administration of this Act and to perform any other functions assigned to it by or under this Act.

6. (1) The Committee shall consist of the Controller who shall be the Chairman and other members, being the Managing Director of the Sindh Agricultural Supplies Organization, who shall also act as Secretary and Director General Agriculture (Research) and persons representing trade and industry engaged in fertilizer business and formers as may be appointed by Government.

(2) The names of the Chairman and the members of the Committee shall be published in the Official Gazette.

(3) The non-official members of the Committee shall hold office for a term of three years at the pleasure of Government and shall be eligible for re-appointment.

Prohibition of sale
etc. of Fertilizer
and fertilizer
material.

Labelling of

packages.

Appointment of
Control
Committee.

Constitution of the
Central
Committee.

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(4) A non-official member of the Committee may, at any time, resign his office by writing under his hand addressed to the Controller but the seat of such member shall not be deemed to have fallen vacant unless the resignation has been accepted by the Controller with the previous approval of Government.

(5) A person appointed to fill a vacancy created by resignation, removal or death of a member, shall hold office for the residue of the term of his predecessor.

(6) The functions of the Committee may be exercised not-with-standing any vacancy in the membership thereof.

(7) The Committee may appoint sub-committee (s) consisting of specialists for the consideration of particular matters for such period, not exceeding three years, as it may consider necessary;

(8) The Committee shall have the power to regulate, and prescribe the procedure for the conduct of its business.

7. (1) As soon as may be after the commencement of this Act, Government shall set up a Fertilizer Testing Laboratory suitably equipped to carry out the functions entrusted to it by or under this Act.

(2) The functions of the Laboratory and the mode of submission of samples for analysis or test to it shall be such as may be prescribed.

8. Government may, by notification in the official Gazette, appoint such persons as deemed fit, having prescribed qualifications, to be Government Analysts for fertilizer or Fertilizer material and, where more than one person is appointed as Government Analysts the local limits within which each one of them shall perform the functions of Government Analyst shall be specified in that notification.

9. (1) Government may, by notification in the official Gazette, appoint such persons as it thinks fit, having the prescribed qualifications for the purpose of this Act, within such local limits as it may be specified in the notification.

(2) An Inspector may, within the local limits for which he is appointed, enter upon and premises where fertilizer or fertilizer material are kept or stored, whether in bag or in bulk or in any other packing or container by or on behalf of the owner, including premises belonging to bailee such as the railways, a shipping Company or any other carrier and may take samples therefrom for examination.

Government;
Analyst.

Inspectors.

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(3) No compensation shall be payable for a reasonable quantity taken as a sample.

10. (1) Where an Inspector takes a sample of a fertilizer or fertilizer material for the purpose of test or analysis, he shall intimate such purpose in writing in the prescribed form to the person from whose possession it is taken.

(2) The Inspector shall in the presence of such person if he chooses to be present, divide the sample into three portions and effectively seal and suitably mark the same and permit such person to add his own seal and mark, to all or any of the portions so sealed and marked.

(3) The Inspector shall restore one portion of the sample so divided to the person concerned, send the second portion to the Government Analyst for test or analysis to ascertain whether it is adulterated and forward the third portion to the Controller.

11. (1) The Government Analyst to whom a sample of any fertilizer or fertilizer material has been forwarded by an Inspector shall deliver to the Inspector, in triplicate, in the prescribed form, a signed report of the result of the test or analysis conducted by him.

(2) The Inspector shall deliver one copy of the report to the person concerned and shall send another copy to the Controller.

(3) Any documents purporting to be a report signed by the Government Analyst or a test or analysis conducted by him shall be conclusive evidence of the particulars stated therein unless the person concerned disputes the correctness of the test or analysis and, within thirty days of the delivery of the report to him, places before the Controller evidence which in his opinion controverts the correctness of such test or analysis.

(4) Where the evidence placed before the Controller under sub-section (3) is such as would, in his opinion, justify a further investigation, he may cause a second portion of the same sample to be analysed at another laboratory which shall record the result of its analysis in the form of a certificate and forward the same to the Controller.

(5) Such certificate shall be conclusive manner as it may deem fit therein.

(6) Government may publish in such manner as it may deem fit the result of the test or analysis of the fertilizer or fertilizer material made by the Government Analyst or the laboratory

Samples.

Report of
Government
Analyst.

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together with such other information relating thereto, if any, as it may consider necessary.

12. (1) Any person who has purchased a fertilizer or fertilizer material may apply to a Government Analyst to conduct a test or analysis of the fertilizer or fertilizer material to ascertain whether it is adulterated.

(2) An application under sub-section (1) shall be made in such form and manner and be accompanied by such information or fee as may be prescribed.

(3) The Government Analyst, to whom any application is made under sub-section (2) shall conduct the test or analysis and issue to the applicant, under intimation to the Controller, a report of the test or analysis signed by him.

CHAPTER-IV
MISCELLANEOUS

13. Any person who—

(a) sells, offers or exposes for sale, holds in stock for sale or advertises fertilizer or fertilizer material which is not of the nature, substance or quality or effectiveness which it is represented to be by the mark on the package containing it or, as the case may be, on the tag or label attached thereto or is otherwise is adulterated; or

(b) falsely represents a fertilizer or fertilizer material in an advertisement or in any other manner which leads the consumer to believe that such fertilizer or fertilizer material is useful and effective for the purpose it professes to promote; or

(c) contravenes any of the provisions of this Act or the rules for the contravention of which no other penalty is provided in this Act shall be punishable for the first offence, with fine which may extend to ten thousand rupees and for every subsequent offence with fine which shall not be less than twenty thousand rupees or more than _ fifty thousand rupees and in default of payment of any such fine with imprisonment for a term which may extend to two years.

Test on Private
request.

Offences and
penalties

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14. (1) Whoever gives false warranty in respect of fertilizer or fertilizer material that it complies in all respects with the provisions of this Act and rules shall, unless he proves that when he gave the warranty, he had good reasons to believe the same to be true, be punishable with fine which may extend to ten thousand rupees or simple imprisonment for one month.

15. Any person who—

(a) obstructs an Inspector in exercise of any power conferred upon him by or under this Act or disobeys the lawful authority of any Inspector;

(6b) unlawfully alters the composition of a fertilizer or fertilizer material by mixing any other substance therewith after the said fertilizer or fertilizer material has been placed on the market by the vendor;

shall be punishable with fine which shall not be less than ten thousand rupees or more than fifty thousand rupees or with imprisonment for a term which may extend to two years or with both.

16. (1) If an Inspector has reasons to believe that an offence punishable under this Act or the rules made thereunder has been, is being or is about to be committed at any time or place, he may enter upon and search such place and seize any fertilizer or fertilizer material, article or thing to which the offence relates, are found therein.

(2) Any fertilizer or fertilizer material article or thing seized under sub-section (1) shall be disposed of in accordance with the decision of the court before which the offender is prosecuted for a contravention of any of the provisions of this Act or the rules.

17. If any person is convicted of an offence punishable under this Act committed by him in respect of any fertilizer or fertilizer material article or thing, the Court convicting him, may further direct that the fertilizer or fertilizer material, article or thing shall be forfeited to Government.

18. | No Court inferior to that of a Magistrate of the firstclass shall try an offence punishable under this Act.

(2) Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for any Magistrate of the first class to pass any sentence authorized by this Act even if such sentence exceeds his power under the said section.

Hinderence; in the

exercise of power
by Inspector.

Powers of
Inspector.

Oore feiture Ff
property

Trial by the court.

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19. Any Magistrate of the first class or any bench of Magistrate invested with the powers of Magistrate of the First Class empowered for the time being to try in a summary way the offence specified in sub-section (1) of section 260 of the Code of Criminal Procedure, 1898, may on application in this behalf being made by the prosecution, try in accordance with the provisions contained in section 262 to 265 of that Code, any offence punishable under section 16 of this Act.

20. No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act or the rules.

21. Government may, by notification in the official Gazette, direct that all or any of its powers under such conditions, if any, as may be specified in the direction, be exercised by any officer or authority subordinate to it.

22. (1) Government may, in consultation with the Committee and after previous publication in the official Gazette, make rules for carrying the provisions of this act into effect.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(a)the terms and conditions of sale, distribution, stocking, advertisement or quality control of fertilizer or fertilizer material;

(b)the language of the bags or labels or marking on the bags and packages containing fertilizer and fertilizer material and the character and location of the printing to be marked on such tags, lables, containers, bags and packages;

(c)the functions of the Government Analyst and laboratory and the procedure to be followed by it in the performance of such functions, including;

(i) collection of samples of fertilizer or fertilizer material for test or analysis; and

(ii) the form in which reports of tests or analysis shall be written;

(d)the methods of analysis or test to be followed, and the limits of variability to be allowed, as between the information marked on the packages as on a label attached thereto or supplied to the purchaser when sold in bulk and the results of

Power to try
offences
Summarily.

Indemnity.

Delegation of
power.

Power to make
rules

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analysis or tests;

(e) the qualifications and duties of the Government

Analysts and Inspector;

(f) the form in which intimation of the purpose for

which a sample is taken by an Inspector shall be given by him to the person from whose possession the sample is taken, the instruments to be employed, and the quantities to be taken be an Inspector while taking samples for analysis or test and the manner in which they should be preserved and sent to the Controller and the Government Analyst.

(g) the form in which an application shall be made by

the purchaser of a fertilizer or fertilizer material for test analysis or the manner in which a purchaser may send a fertilizer or fertilizer material for analysis or test to the Controller, the information that shall be furnished with such application and the fee shall accompany it;

(h) the requirements for the safe storage of fertilizer or fertilizer material.