

# **FERTILIZERS (AMENDMENT) ACT 1992 No. 8**

NEW SOUTH WALES



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**FERTILIZERS (AMENDMENT) ACT 1992 No. 8**

NEW SOUTH WALES



**Act No. 8, 1992**

An Act to amend the Fertilizers Act 1985 so as to regulate the supply of soil improving agents containing sewage sludge; and for other purposes.  
[Assented to 17 March 1992]

**The Legislature of New South Wales enacts:**

**Short title**

1. This Act may be cited as the Fertilizers (Amendment) Act 1992.

**Commencement**

2. This Act commences on a day or days to be appointed by proclamation.

**Amendment of Fertilizers Act 1985 No, 5**

3. The Fertilizers Act 1985 is amended as set out in Schedules 1–3.
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**SCHEDULE 1—AMENDMENTS RELATING TO SEWAGE  
SLUDGE**

(Sec. 3)

(1) Long title:

From the long title, omit “fertilizers and liming materials; to regulate the sale of fertilizers, liming materials”, insert instead “soil improving agents; to regulate the sale or supply of soil improving agents”.

(2) Section 3 (**Definitions**):

- (a) From the definition of “brand name” in section 3 (1), omit “soil improving agent is, or is intended to be, sold”, insert instead “fertiliser or a liming material is, or is intended to be, sold, or a soil improving agent containing sewage sludge is, or is intended to be, supplied”.
- (b) After “night-soil,” in the definition of “fertiliser” in section 3 (1), insert “sewage sludge,”.
- (c) From the definition of “liming material” in section 3 (1), omit “grown;”, insert instead:  
**grown,**  
but does not include sewage sludge;

**SCHEDULE 1—AMENDMENTS RELATING TO SEWAGE  
SLUDGE—*continued***

- (d) At the end of paragraph (b) of the definition of “registered particulars” in section 3 (1), insert:

and

- (c) in respect of a brand name relating to a soil improving agent containing sewage sludge—~~the~~ particulars for the time being entered in the register in relation to the brand name under section 7 (3) (e);

- (e) After the definition of “sell” in section 3 (1), insert:

**“sewage sludge”** means sludge, grease or solid matter produced by the treatment of sewage, being a substance of a kind prescribed by the regulations;

- (f) At the end of paragraph (b) of the definition of “soil improving agent” in section 3 (1), insert:

or

- (c) a substance containing sewage sludge and manufactured, represented, supplied or used as a means of replacing, augmenting or improving soils;

- (g) After the definition of “soil improving agent” in section 3 (1), insert:

**“supply”** includes:

- (a) sell or distribute; and  
(b) agree or offer to supply; and  
(c) keep or have in possession for supply; and  
(d) send, deliver or receive for supply; and  
(e) authorise, direct, cause, allow or attempt to do any such act or thing,

but does not include any act or thing prescribed by the regulations;

- (3) **Section 6 (Applications for registration):**

After “sold” wherever occurring in section 6 (1) and (3) (a), insert “or, in the case of a substance containing sewage sludge, sold or otherwise supplied”.

**SCHEDULE 1—AMENDMENT RELATING TO SEWAGE  
SLUDGE—*continued*****(4) Section 7 (Registration):**

- (a) From section 7 (3) (c) (iii), omit “and”.
- (b) At the end of section 7 (3) (d) (iii), insert:  
; and
- (e) in the case of a brand name relating to a soil improving agent containing sewage sludge:
  - (i) the proportion in which any nitrogen, phosphorus, potassium, calcium, magnesium or sulphur occurs in the soil improving agent; and
  - (ii) the proportion in which any prescribed form of nitrogen, phosphorus, potassium, calcium, magnesium or sulphur occurs in the soil improving agent; and
  - (iii) such other particulars (if any) as are prescribed in relation to soil improving agents containing sewage sludge.

**(5) Section 11 (Cancellation of registration):**

- (a) From section 11 (1) (c), omit “or” where secondly occurring.
- (b) At the end of section 11 (1) (d), insert:  
; or
- (e) if the brand name relates to a soil improving agent containing sewage sludge and the Director-General is satisfied that the continued registration of the brand name is not in the public interest.

**(6) Section 13 (Annual list of registered brand names):**

- (a) From section 13 (2) (c), omit “and”.
- (b) After section 13 (2) (c), insert:
  - (c) in the case of a brand name relating to a soil improving agent containing sewage sludge—the particulars for the time being entered in the register in relation to the brand name under section 7 (3) (e); and

SCHEDULE 1—AMENDMENTS RELATING TO SEWAGE  
SLUDGE—*continued*

- (7) Part 3, heading:  
From the heading to Part 3, omit “SALES BY DEALERS”,  
insert instead “SALE OR SUPPLY”.
- (8) Section 15 (**Soil improving agents to be sold or supplied under registered brand names**):
- (a) From section 15 (1), omit “otherwise than under a registered brand name”, insert instead “, being a fertiliser or a liming material, otherwise than under a registered brand name or in accordance with the consent in writing of the Director-General”.
- (b) Omit section 15 (2), insert instead:  
(2) A person shall not supply a soil improving agent containing sewage sludge otherwise than under a registered brand name or in accordance with the consent in writing of the Director-General.  
Maximum penalty: 50 penalty units.
- (9) Section 16 (**Soil improving agents to be sold or supplied in marked parcels**):
- (a) After “agent” where firstly occurring in section 16 (1), insert “, being a fertiliser or a liming material,”.
- (b) From section 16 (2) (b) (ii), omit “or” where secondly occurring.
- (c) After section 16 (2) (c), insert:  
or  
(d) in accordance with the consent in writing of the Director-General.
- (d) After section 16 (2), insert:  
(3) A person shall not supply a soil improving agent containing sewage sludge under a registered brand name unless the soil improving agent is contained in a parcel which is marked with the following particulars:  
(a) the brand name under which the soil improving agent is supplied;

SCHEDULE 1—AMENDMENTS RELATING TO SEWAGE  
SLUDGE— *continued*

- (b) the registered particulars in respect of the brand name under which the soil improving agent is supplied;
- (c) the quantity of soil improving agent contained in the parcel; and
- (d) such other particulars (if any) as are prescribed.

Maximum penalty: 20 penalty units.

(4) Subsection (3) does not apply to the supply of a soil improving agent containing sewage sludge:

- (a) to a manufacturer of soil improving agents;
- (b) if the soil improving agent comprised in the supply consists of a bulk lot of 90 kilograms or more and the supplier concerned furnishes the recipient, at or before the time the soil improving agent is delivered to the recipient, with an invoice or delivery document containing the particulars referred to in subsection (3);
- (c) if the soil improving agent is obtained, in the presence of the recipient, from a parcel which is marked with the particulars referred to in subsection (3); or
- (d) if the soil improving agent is supplied in accordance with the consent in writing of the Director-General.

(10) **Section 17 (Soil improving agents to conform to registered particulars):**

- (a) After ““agent” where firstly occurring in section 17, insert “, being a fertiliser or a liming material,”.
- (b) At the end of section 17, insert:

(2) A person shall not supply a soil improving agent containing sewage sludge under a registered brand name unless the soil improving agent conforms to the registered particulars in respect of the brand name.

Maximum penalty: 50 penalty units.

(11) **Section 18 (Soil improving agents to comply with composition standards):**

- (a) From section 18 (1), omit “unless the soil improving agent complies with the prescribed composition standards”, insert instead “, being a fertiliser or a liming material, unless the soil improving agent complies with the prescribed

SCHEDULE 1—AMENDMENTS RELATING TO SEWAGE  
SLUDGE—*continued*

composition standards or is sold in accordance with the consent in writing of the Director-General”.

(b) Omit section 18 (2), insert instead:

(2) A person shall not supply a soil improving agent containing sewage sludge unless the soil improving agent complies with the prescribed composition standards or is supplied in accordance with the consent in writing of the Director-General.

Maximum penalty: 50 penalty units.

(12) Section 19 (**Substances not to be falsely represented as soil improving agents**):

(a) Omit “soil improving agent”, insert instead “fertiliser or a liming material”.

(b) At the end of section 19, insert:

(2) A supplier shall not falsely represent a substance containing sewage sludge to be a soil improving agent.

Maximum penalty: 50 penalty units.

(13) Section 20 (**Information concerning soil improving agents sold on prescription**):

Omit the section.

(14) Section 39 (**Defences**):

(a) From section 39, omit “dealer” wherever occurring, insert instead “person”.

(b) After “sale” wherever occurring in section 39, insert “or supply”.

(15) Section 42 (**Regulations**):

(a) After “products)” in section 42 (1) (i), insert “, or of the supply of substances containing sewage sludge,”.

(b) After “sold” in section 42 (1) (i), insert “, supplied”.

SCHEDULE 2—AMENDMENTS RELATING TO PENALTIES

(Sec. 3)

(1) From sections 15 (1), 17, 18 (1), 19, 22, 25 (5), 27, 28, 31, 33 and 34, omit “Penalty: \$2,000” wherever occurring, insert instead “Maximum penalty: 50 penalty units”.



SCHEDULE 2—AMENDMENTS RELATING TO PENALTIES-  
*continued*

- (2) From sections 16 (1) and 21 (1), omit “Penalty: \$1,000” wherever occurring, insert instead “Maximum penalty: 20 penalty units”.
- (3) From section 26 (2), omit “Penalty (Subsection (2)): \$1,000”, insert instead “Maximum Penalty (Subsection (2)): 20 penalty units”.
- (4) From section 42 (3), omit “\$500”, insert instead “20 penalty units”.

SCHEDULE 3—MISCELLANEOUS AMENDMENTS

(Sec. 3)

- (1) Parts 1 and 2:
  - (a) From section 1, omit “Fertilizers”, insert instead “Fertilisers”.
  - (b) From the definitions of “fertilizer”, “registered particulars” and “soil improving agent” in section 3 (1), omit “fertilizer” wherever occurring, insert instead “fertiliser”.
  - (c) From sections 7 (3) (c) and 13 (2) (b), omit “fertilizer” wherever occurring, insert instead “fertiliser”.
- (2) Section 3 (**Definitions**):
 

From the definition of “analyst” in section 3 (1), omit “section 29 (1)”, insert instead “section 29 OF holding a permit under that section”.
- (3) Section 6 (**Applications for registration**):
 

From section 6 (3) (a), omit “a sample”, insert instead “one or more samples”.
- (4) Section 23 (**Appointment of inspectors**):
 

From section 23 (1), omit “Public Service Act, 1979”, insert instead “Part 2 of the Public Sector Management Act 1988”.
- (5) Section 25 (**Powers of inspectors in relation to premises**):
 

From section 25 (1) (d), omit “1 kilogram”, insert instead “3 kilograms”.

SCHEDULE 3—MISCELLANEOUS AMENDMENTS—*continued*

## (6) Section 29:

Omit the section, insert instead:

**Authority to carry out analyses**

29. (1) The Director-General may, by instrument in writing, appoint members of the Public Service as analysts for the purposes of this Act.

(2) A person who is not a member of the Public Service may apply to the Director-General for a permit to carry out analyses for the purposes of this Act.

(3) An application for a permit is to be accompanied by the prescribed fee.

(4) The regulations may provide for the issue and cancellation of permits.

(5) An analyst has and may exercise such functions as are conferred or imposed on the analyst by or under this Act.

(7) Section 30 (**Analysis of soil improving agents etc.**):

Omit section 30 (3).

(8) Schedule 2 (**Savings and transitional provisions**):

(a) Before clause 1, insert:

**PART 1—PROVISIONS CONSEQUENT ON THE  
ENACTMENT OF THIS ACT**

(b) From clause 1, omit “Schedule”, insert instead “Part”.

(c) After clause 7, insert:

**PART 2—PROVISIONS CONSEQUENT ON THE  
ENACTMENT OF THE FERTILIZERS  
(AMENDMENT) ACT 1992**

**Analysts**

8. A person who was an analyst immediately before the substitution of section 29 by the Fertilizers (Amendment) Act 1992 is taken to be an analyst appointed under section 29 as so substituted.

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*[Minister's second reading speech made in—  
Legislative Assembly on 26 February 1992  
Legislative Council on 4 March 1992]*