

[Act 1999 No 62]



New South Wales

Fertilisers Amendment Bill 1999

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Fertilisers Act 1985* so as to implement the findings of a review of the Act carried out to meet the New South Wales Government's commitments in relation to the National Competition Policy. The amendments made by this Bill:

- (a) provide for the Minister for Agriculture to make orders declaring substances to be included in or excluded from the definition of *fertiliser*, and
 - (b) discontinue the registration of brand names for soil improving agents, and
 - (c) provide for the Minister to make orders declaring the particulars that must be marked on parcels of soil improving agents or trace element products, and
 - (d) provide for the Minister to make orders setting composition standards for soil improving agents or trace element products, and
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- (e) create offences relating to failure to mark parcels of soil improving agents or trace element products and to the selling of parcels of soil improving agents or trace element products that do not comply with marked particulars or with composition standards, and
- (f) remove obsolete provisions, including provisions relating to the appointment of analysts, and
- (g) make other changes of a minor or consequential nature.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Fertilisers Act 1985* set out in Schedule 1.

Clause 4 is a formal provision giving effect to the amendments to the *Fertilizers (Amendment) Act 1992* in Schedule 2.

Schedule 1 Amendment of Fertilisers Act 1985

Definition of “fertiliser”

Schedule 1 [4] and **[5]** restate the definition of *fertiliser* so that the Minister for Agriculture may make an order including specified substances within the definition (and therefore within the scope of the *Fertilisers Act 1985*) or excluding specified substances from the definition. An order of this type will be subject to Parliamentary review in the same way as a statutory rule.

Discontinuation of registration of brand names

Schedule 1 [7] repeals those provisions of the Act that provide for the registration of brand names in relation to substances intended to be sold as soil improving agents.

Schedule 1 [1] makes a consequential amendment to the long title of the Act.

Schedule 1 [8] repeals a provision that creates an offence of sale otherwise than under a registered brand name. (That provision will be redundant when the system of registration is discontinued.)

Schedule 1 [6] sets out the object of the amended Act, which no longer includes the registration of brand names.

Regulation of sale by dealers

Schedule 1 [9] and **[13]** provide for the Minister to make orders regarding the particulars required to be marked on parcels containing soil improving agents and trace element products. (Such particulars are presently set out in the Act and the regulations.) Ministerial orders will be subject to Parliamentary review in the same way as statutory rules.

Schedule 1 [10] restates the offence of selling soil improving agents that do not comply with the particulars marked on the parcel in which they are sold.

Schedule 1 [14] creates a new, analogous, offence in relation to trace element products (see proposed section 22A).

Schedule 1 [11] and **[14]** provide for the Minister to make orders setting composition standards for soil improving agents and trace element products, being the maximum concentration or proportion of anything that a soil improving agent or trace element product may contain. (Such composition standards presently apply only to soil improving agents, and are set out in the regulations.) Ministerial orders will be subject to Parliamentary review in the same way as statutory rules.

Schedule 1 [12] omits a provision dealing with the information required to be provided when soil improving agents are sold on prescription.

Provisions relating to analysts

Schedule 1 [16] omits provisions relating to the appointment of public servants as analysts for the purposes of the Act and to the procedure for analyses conducted by such analysts.

Schedule 1 [15] makes a consequential amendment.

Schedule 1 [17] restates a provision dealing with evidentiary certificates that purport to have been signed by inspectors or analysts. The revised provision applies only to inspectors.

Other amendments

Schedule 1 [2], [18] and [19] omit definitions, regulation-making powers and savings provisions that will be redundant as a consequence of the proposed amendments.

Schedule 1 [3] updates references to offices.

Schedule 2 Amendments to Fertilizers (Amendment) Act 1992

The *Fertilizers (Amendment) Act 1992* contains uncommenced amendments to provisions of the *Fertilisers Act 1985* that are proposed to be amended or repealed by Schedule 1 to the proposed Act.

Schedule 2 amends the 1992 Act as a consequence of those proposed changes.