



PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA

REGULATION OF FERTILIZER
ACT, No. 68 OF 1988

[Certified on 17th December, 1988]

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Regulation of Fertilizer Act, No. 68 of 1988

[Certified on 17th December, 1988]

L.D.—O. 31/86

AN ACT TO REGULATE THE IMPORTATION, MANUFACTURE, FORMULATION AND DISTRIBUTION OF FERTILIZER AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:—

1. This Act may be cited as the Regulation of Fertilizer Act, No. 68 of 1988, and shall come into operation on such date (hereinafter referred to as the “appointed date”) as the Minister may appoint by Order published in the *Gazette*.

Short title
and date of
operation.

2. (1) No person shall, after the expiration of three months from the appointed date, import, manufacture or formulate fertilizer except under the authority and otherwise than in accordance with the terms and conditions of a licence issued under this Act by the Director of the National Fertilizer Secretariat (hereinafter referred to as the “Director”).

Importation,
manufacture
and formula-
tion of
fertilizer
to be
licensed.

(2) Every licence issued under this Act shall be subject to the respective terms and conditions set out in the Schedule to this Act.

3. (1) There shall be a Fertilizer Advisory Committee appointed by the Minister.

Fertilizer
Advisory
Committee.

(2) It shall be the duty of the Fertilizer Advisory Committee to advise the Director on such matters relating to the administration of the Act as may from time to time be referred to it by the Secretary to the Ministry of the Minister.

4. There may be appointed by name or by office such number of officers and servants as may be deemed necessary in the administration of this Act.

Appointment
of officers
and servants.

5. (1) The Director may delegate to any officer or servant appointed under section 4 any of his powers under this Act.

Delegation
of powers
of the
Director.

(2) The officer or servant to whom any of the powers of the Director have been delegated under subsection (1) shall exercise such powers so delegated subject to the general or special directions of the Director.

6. (1) Every application for a licence to import, manufacture or formulate fertilizer shall be made to the Director in the prescribed form and be accompanied by the prescribed fee.

Application
for licence.

(2) On receipt of an application under subsection (1), the Director shall either grant a licence or for reasons to be recorded by him refuse to grant such applicant a licence.

Form and
duration of
licence.

7. Every licence issued under this Act shall—

(a) be in the prescribed form; and

(b) unless it is cancelled earlier, be in force for a period of twelve months from the date of its issue.

Renewal of
licence.

8. A licence may be renewed by the Director for a period or periods not exceeding one year at a time on application made to the Director not less than thirty days before the expiry of the licence, if—

(a) the Director is satisfied that the licensee has observed the provisions of this Act and any regulations made thereunder and has not been convicted of any offence under this Act or any regulations made thereunder; and

(b) the licensee pays the prescribed fee for the renewal of the licence.

Cancellation
of licence.

9. (1) The Director may cancel a licence issued under this Act, if he is satisfied that the licensee—

(i) has contravened any of the provisions of this Act or of any regulations made thereunder or of any conditions or terms attached to such licence; or

(ii) has been convicted of an offence under this Act.

(2) The cancellation of a licence under subsection (1) shall not take effect until the time for appealing against the decision of the Director has expired or if an appeal has been made within time, unless and until the appeal is disallowed.

Director shall
communicate
his decision
to applicant
or licensee
together
with his
reasons
therefor.

10. (1) Where the Director decides to refuse the grant or the renewal of a licence or to cancel a licence, the Director shall communicate to the applicant or the licensee, as the case may be, his decision with the reasons therefor, by registered post.

(2) Any decision required to be communicated under the preceding provisions of this section to any applicant or licensee shall be deemed to have been communicated to him after the expiry of a period of two days reckoned from

the date of despatch of such communication by registered post to the usual place of business or residence of such applicant or licensee.

11. (1) The applicant or licensee, as the case may be, who is aggrieved by a decision of the Director under section 10— Appeals.

(a) refusing the grant or renewal of a licence ; or

(b) cancelling his licence,

may appeal against the decision to the Secretary to the Ministry of the Minister within thirty days of the date on which the decision is communicated to him.

(2) The Secretary to the Ministry of the Minister may on an appeal under subsection (1)—

(a) allow the appeal and direct the Director to grant or renew a licence ; or

(b) disallow the appeal.

(3) The Director shall comply with any direction issued to him under subsection (2) by the Secretary to the Ministry of the Minister.

(4) Where an application for a licence or the renewal of a licence is refused under any of the preceding provisions of this Act, the Director shall refund to the applicant or the licensee, as the case may be, the fee accompanying such application.

12. (1) The Director shall have the power—

(a) at any reasonable time, to enter any place where he believes fertilizers are manufactured, formulated, stored or distributed and inspect any equipment, storage facilities, raw-materials and finished products found therein ;

(b) to stop and board any vehicle and to make such investigations thereon as may be necessary to ascertain whether the provisions of this Act are being complied with ;

(c) on his own motion or on receipt of any complaint or request in writing by any person, to take samples for analysis from any variety of fertilizer found in

Powers of
the Director.

any place of manufacture, formulation, storage or distribution or on board any vehicle and cause such samples to be analysed in the prescribed manner at a laboratory approved by the Director, by an officer authorized in writing by the Director, for analysis of fertilizer for the purposes of this Act ;

(d) to seize and detain any adulterated fertilizer found in contravention of the provisions of section 15 (1) ; and

(e) to require any importer, manufacturer, formulator or distributor of fertilizer by notice in writing, to furnish him, within such period as shall be specified, in such notice, with all such information as may be necessary for the discharge of his functions under this Act.

(2) For the purpose of paragraph (c) of subsection (1) the method of taking samples for analysis would be the method for sampling fertilizer given in Sri Lanka Standard 559 of 1982, UDC 631.8 : 620.113 and determined by the Sri Lanka Standards Institution established by the Sri Lanka Standards Institution Act, No. 6 of 1984.

(3) It shall be the duty of any person who is required to furnish any information by a notice under paragraph (e) of subsection (1) to comply with such requirement within such time as shall be specified in the notice, except where such person is precluded from divulging such information under the provisions of any other law.

Distribu-
tion of
fertilizer.

13. No person shall distribute or offer for distribution any fertilizer or fertilizer mixture—

(a) except in or from such package or container as would—

(i) withstand reasonable handling without tearing, bursting or falling apart ;

(ii) prevent physical deterioration of the contents of such package or container ;

(b) unless such package or container shall have affixed to it or printed on it a label containing the following particulars :—

(i) brand name and/or name of manufacturer or formulator ;

- (ii) the net weight of the contents of such package or container ;
- (iii) such information regarding the component elements and the nutrient percentages in such fertilizer ;
- (c) unless the contents conform with the information given on the label affixed to the package or container ;
- (d) unless he is aware of the address of the manufacturer or formulator and is in a position to make available such information to officers authorized by the Director in writing in that behalf ;
- (e) unless he indicates the type and price of such fertilizer on the label affixed to the package or container ; and
- (f) unless the fertilizer is in good physical condition.

14. (1) No distributor of fertilizer who has in his possession any fertilizer shall refuse to distribute such fertilizer.

Refusal to distribute fertilizer.

(2) In any prosecution for an offence under subsection (1), it shall be a sufficient defence for the accused to prove—

- (a) that on the occasion in question he supplied a reasonable quantity of the fertilizer or had not sufficient quantity of fertilizer in his possession to supply the quantity demanded ; or
- (b) that the distribution of the fertilizer on the occasion in question would have been contrary to the provisions of this Act or any other law.

(3) In determining for the purpose of paragraph (a) of subsection (2), what a sufficient quantity is, regard shall be had to the quantity of such fertilizer required for the use of the agricultural undertaking of the distributor or members of his household.

15. (1) (a) No distributor of fertilizer shall, distribute or offer for distribution any fertilizer which is adulterated.

Prohibition of distribution of adulterated fertilizer.

(b) No transporter shall with his connivance or knowledge transport adulterated fertilizer.

(2) For the purpose of this section, fertilizer shall be deemed to be adulterated—

(a) if it contains any deleterious ingredients in sufficient amounts harmful to any crop for which it is intended to be applied; or

(b) if its composition falls below or differs from that which it is purported to possess by the label affixed to the package or container containing the fertilizer.

(3) In a prosecution for an offence under this section a certificate issued under the hand of an officer authorized by the Director in writing to analyse fertilizer for the purpose of this Act, stating the ingredients or the composition of the fertilizer in relation to which the offence is alleged to have been committed, shall be prima facie proof of the statements made therein.

Seizure and
detention of
adulterated
fertilizer.

16. (1) Any officer or servant to whom the Director has delegated his powers under section 5 may seize and detain for such time as may be necessary any adulterated fertilizer by means of or in relation to which he believes the provisions of section 15 (1) have been contravened.

(2) Any fertilizer seized under subsection (1) may at the option of such officer or servant be kept or stored in the building or place where it was seized or may at his discretion be removed to any other place.

(3) Any such officer or servant shall forthwith inform the Director of any seizure made under this Act.

Analysis.

17. (1) The officer or servant who seized the fertilizer under section 16 shall submit the fertilizer so seized by him or any portion thereof or any sample taken by him to an Approved Analyst for analysis or examination.

(2) Where an Approved Analyst has made an analysis or examination of the fertilizer submitted to him under subsection (1), he shall issue a certificate or report to the Director setting out in such certificate or report the results of his analysis or examination.

(3) For the purposes of this section the Approved Analyst shall be an officer authorized by the Director in writing to carry out the analysis or examination referred to in subsection (1).

18. No person other than an importer, manufacturer, formulator or distributor of fertilizer shall have in his possession any quantity of fertilizer in excess of the requirements of such person for application for one year on lands owned or cultivated by him or on his behalf.

Prohibition on possession of fertilizer in excess of requirements by persons other than importers, manufacturers, formulators or distributors.

19. Every person engaged in the formulation of fertilizer shall obtain the approval of the Director in writing for the composition of such mixture.

Formulation of fertilizer.

20. In the analysis of fertilizer under this Act, the standards to be applied shall be the standards determined by the Sri Lanka Standards Institution established by the Sri Lanka Standards Institution Act, No. 6 of 1984 and in the absence of such standards the corresponding standards adopted in the United Kingdom shall apply.

Standards to be applied in the analysis of fertilizer.

21. Any person—

Offences.

- (a) who imports, manufactures or formulates any fertilizer in contravention of the provisions of section 2;
- (b) who hinders or obstructs the Director in the exercise of his powers under paragraphs (a), (b), (c) and (d) of subsection (1) of section 12;
- (c) who furnishes when required to do so under paragraph (e) of subsection (1) of section 12, any information, knowing such information to be false;
- (d) who fails, without reasonable cause, to comply with the provisions of subsection (3) of section 12;
- (e) who distributes or offers for distribution any fertilizer in contravention of the provisions of section 13;
- (f) who being a distributor of fertilizer refuses to distribute any fertilizer in his possession in contravention of the provisions of section 14;
- (g) who distributes or offers for distribution any fertilizer which is adulterated in contravention of the provisions of paragraph (a) of subsection (1) of section 15;

- (h) who transports fertilizer which is adulterated in contravention of the provisions of paragraph (b) of subsection (1) of section 15 ;
- (i) who hinders or obstructs any officer or servant in the exercise of his powers under section 16 ;
- (j) who not being an importer, manufacturer, formulator or distributor of fertilizer has in his possession any quantity of fertilizer in excess of his requirements in contravention of the provisions of section 18 ;
- (k) who formulates any fertilizer without obtaining the approval referred to in section 19 ; or
- (l) who fails to comply with any regulation made under this Act,

shall be guilty of an offence under this Act.

Penalties.

22. Every person guilty of an offence under this Act shall on conviction after summary trial before a Magistrate be liable to a fine of not less than two thousand five hundred rupees and not more than five thousand rupees or to imprisonment of either description for a term not exceeding six months ; and in the case of a second or subsequent offence be liable to a fine of not less than five thousand rupees and not more than ten thousand rupees or to imprisonment of either description for a term not exceeding twelve months.

Power of court to order forfeiture.

23. The court which convicts any person of an offence under paragraph (g) or paragraph (h) of section 21 may, in addition to any punishment that may be imposed under section 22, order the forfeiture of the adulterated fertilizer in respect of which the offence was committed.

Disposal of forfeited fertilizer.

24. (1) Any adulterated fertilizer forfeited under section 23 shall upon forfeiture vest absolutely in the State. Such vesting shall take effect—

- (a) after the expiration of the period within which an appeal may be preferred to the Court of Appeal against the order of forfeiture ; or
- (b) where an appeal has been preferred to the Court of Appeal against the order of forfeiture upon the determination of such appeal, confirming or upholding the order of forfeiture.

(2) The Director shall take possession of any adulterated fertilizer vested in the State under subsection (1) and may dispose of such fertilizer as he may think fit.

25. A prosecution for an offence under this Act or any regulations made thereunder shall not be instituted except by or with the written sanction of the Director.

Institution of proceedings.

26. Where any offence under this Act or any regulations made thereunder is committed by a body of persons then—

Offences committed by a body of persons.

(a) if that body of persons is a body corporate, every person who at the time of commission of the offence was a Director or officer of that body corporate ; or

(b) if that body of persons is a body other than a body corporate, every person who at the time of commission of the offence was a member of that body,

shall be deemed to be guilty of that offence :

Provided however that, such Director, officer or member shall not be deemed to be guilty of that offence if he proves that the offence was committed without his knowledge or that he exercised all such diligence to prevent the commission of such offence as he ought to have exercised in the circumstances having regard to the nature of his functions.

27. No suit, prosecution or other legal proceeding shall be instituted against any person for any act which is done or purported to be done by him in good faith under this Act or any regulations made hereunder.

Protection for action taken in good faith.

28. (1) The Minister may make regulations in respect of all matters required by this Act to be prescribed or in respect of which regulations are required or authorized to be made under this Act.

Regulations.

(2) Every regulation made by the Minister shall be published in the *Gazette* and shall come into operation on the date of publication or on such later date as may be specified therein.

(3) Every regulation made by the Minister, shall as soon as convenient after its publication in the *Gazette*, be brought before Parliament for approval. Every regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval but without prejudice to anything previously done thereunder.

(4) The date on which any regulation shall be deemed to be so rescinded shall be published in the *Gazette*.

Interpreta-
tion.

29. In this Act unless the context otherwise requires—

“distribute” includes sell and its grammatical variations and cognate expressions shall be construed accordingly ;

“fertilizer” means any substance containing one or more recognized plant nutrients which is used for its plant nutrient and which is designed for use, or claimed to have value, in promoting plant growth but does not include unmanipulated animal and vegetable manures ;

“formulate” in relation to fertilizer means any blending or mixing of different ingredients of fertilizers ; and

“formulator” means any person engaged in formulating fertilizer.

SCHEDULE

[Section 2(2)]

TERMS AND CONDITIONS OF LICENCE FOR THE IMPORTATION
OF FERTILIZER

1. The licence shall not be transferable to any other person and shall not be used for the benefit of any person other than the person to whom it was issued.

2. Every licensee shall exhibit the licence issued to him under this Act in a conspicuous position in his place of business.

3. The licensee shall furnish proof of sufficient warehousing and storage space.

4. The licensee shall not, without the prior approval of the Director, sell, transfer or otherwise dispose of any interest in the business covered by the licence, or enter into any agreement with regard to that business with any other person whereby such other person acquires a proprietary interest in such business.

5. In the event of loss of licence, a certified copy thereof shall be issued by the Director on submission of an affidavit by the licensee, attested by a Justice of the Peace, confirming the loss and on payment of half the prescribed licence fee.

6. Every licensee who ceases to carry on business for which the licence has been issued or who changes his place of business shall forthwith notify the Director of that fact.

7. The licence issued to an individual shall lapse on the death of the licensee.

8. The licence issued to a body corporate shall lapse on the dissolution of that body.

9. All notices relating to this licence shall be deemed to have been duly served on the licensee if such notices are sent by post or are delivered to the person for the time being in charge of the place of business or are affixed to the door or the gate thereof.

10. The licence shall be liable for cancellation if information given in the application for licence is found to be false or incorrect.

TERMS AND CONDITIONS OF LICENCE FOR THE MANUFACTURE
OF FERTILIZER

1. The licence shall not be transferable to any other person and shall not be used for the benefit of any person other than the person to whom it was issued.

2. Every licensee shall exhibit the licence issued to him under this Act, in a conspicuous position in his place of business.

3. The licensee shall not, without the prior approval of the Director, sell, transfer or otherwise dispose of any interest in the business covered by this licence, or enter into any agreement with regard to that business with any other person whereby such other person acquires a proprietary interest in such business.

4. In the event of loss of licence, a certified copy thereof shall be issued by the Director on submission of an affidavit by the licensee, attested by a Justice of the Peace, confirming the loss and on payment of half the prescribed licence fee.

5. Every licensee who ceases to carry on business for which the licence has been issued or who changes his place of business shall forthwith notify the Director of that fact.

6. A licence issued to an individual shall lapse on the death of the licensee.

7. A licence issued to a body corporate shall lapse on the dissolution of that body.

8. Details of the premises on which fertilizer is to be manufactured shall be furnished by the licensee.

9. The licensee shall carry out manufacturing activities only at the premises mentioned in the licence.

10. All notices relating to this licence shall be deemed to have been duly served on the licensee if such notices are sent by post or are delivered to the person for the time being in charge of the place of business or are affixed to the door or the gate thereof.

11. The licence shall be liable for cancellation if information given in the application for licence is found to be false or incorrect.

TERMS AND CONDITIONS OF LICENCE FOR THE FORMULATION
OF FERTILIZER

1. The licence shall not be transferable to any other person and shall not be used for the benefit of any person other than the person to whom it was issued.
2. Every licensee shall exhibit the licence issued to him under this Act, in a conspicuous position in his place of business.
3. The licensee shall not, without the prior approval of the Director, sell, transfer or otherwise dispose of any interest in the business covered by this licence, or enter into any agreement with regard to that business with any other person whereby such other person acquires a proprietary interest in such business.
4. In the event of loss of licence, a certified copy thereof shall be issued by the Director on submission of an affidavit by the licensee, attested by a Justice of the Peace, confirming the loss and on payment of half the prescribed licence fee.
5. Every licensee who ceases to carry on business for which the licence has been issued or who changes his place of business shall forthwith notify the Director of that fact.
6. A licence issued to an individual shall lapse on the death of the licensee.
7. A licence issued to a body corporate shall lapse on the dissolution of that body.
8. Details of the premises on which fertilizer is to be formulated shall be furnished by the licensee.
9. The licensee shall carry out formulation of fertilizer only at the premises mentioned in the licence.
10. All notices relating to this licence shall be deemed to have been duly served on the licensee if such notices are sent by post or are delivered to the person for the time being in charge of the place of business or are affixed to the door or the gate thereof.
11. The licence shall be liable for cancellation if information given in the application for licence is found to be false or incorrect.

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