

FIRST PRINT

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

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

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 to 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).

FIRST PRINT

FERTILIZERS (AMENDMENT) BILL 1992

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Fertilizers Act 1985 No. 5

SCHEDULE 1—AMENDMENTS RELATING TO SEWAGE SLUDGE
SCHEDULE 2—AMENDMENTS RELATING TO PENALTIES
SCHEDULE 3—MISCELLANEOUS AMENDMENTS

FERTILIZERS (AMENDMENT) BILL 1992

NEW SOUTH WALES



No. , 1992

A BILL FOR

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.

Fertilizers (Amendment) 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;

Fertilizers (Amendment) 1992

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”.

Fertilizers (Amendment) 1992

SCHEDULE 1—AMENDMENTS 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:
 - (c1) 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

Fertilizers (Amendment) 1992

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;

Fertilizers (Amendment) 1992

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

Fertilizers (Amendment) 1992

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) (j), insert “, or of the supply of substances containing sewage sludge,”.

(b) After “sold” in section 42 (1) (j), 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”.

Fertilizers (Amendment) 1992

 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 or 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”.

Fertilizers (Amendment) 1992

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.

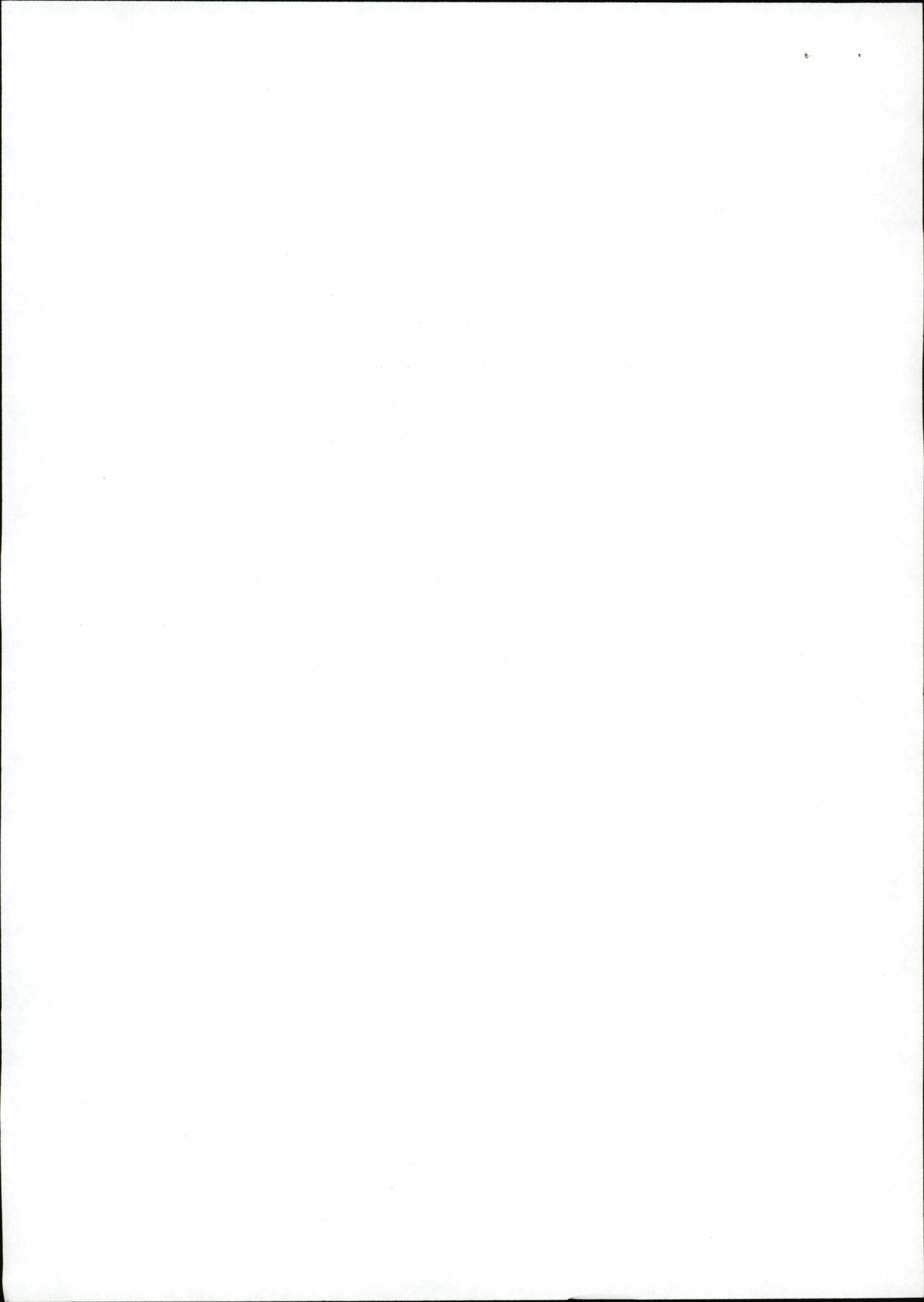
MR PRESIDENT

I MOVE THAT THIS BILL BE READ A SECOND TIME.

THIS BILL PROVIDES FOR THE EXTENSION OF OPERATION OF THE FERTILIZERS ACT 1985 TO COVER THE SUPPLY OF CERTAIN GRADES OF SEWAGE SLUDGE AS SOIL IMPROVING AGENTS. IT FORMS PART OF A WIDER RANGING PROGRAMME AIMED AT MAKING EFFECTIVE USE OF SLUDGE WHICH IS NOW BEING WASTED.

"SEWAGE SLUDGE" IN THIS CONTEXT MEANS THE SLUDGE, GREASE AND OTHER SOLID MATTER PRODUCED BY THE TREATMENT OF DOMESTIC AND MUNICIPAL SEWAGE, AND INCLUDES THE SOLID MATTER PRODUCED IN SEPTIC TANKS. HONORABLE MEMBERS WILL BE AWARE THAT THE DISPOSAL OF SEWAGE SLUDGE HAS BEEN A PROBLEM FOR SOME TIME. THIS IS PARTICULARLY SO IN THE SYDNEY REGION, BUT IT IS EQUALLY A PROBLEM FOR EVERY COMMUNITY IN THE STATE WHICH HAS A SEWAGE TREATMENT WORKS ASSOCIATED WITH IT. AT PRESENT, SOME 3,000 TONNES OF WET SLUDGE ARE PRODUCED DAILY IN NEW SOUTH WALES, WHICH GIVES AN INDICATION OF THE MAGNITUDE OF THE PROBLEM.

SINCE 1984, OFFICERS OF THE DEPARTMENT OF AGRICULTURE HAVE BEEN WORKING WITH OFFICERS OF THE SYDNEY WATER BOARD TO DEVELOP VARIOUS PROCESSES FOR THE USE OF SEWAGE SLUDGE WHICH ARE BOTH BENEFICIAL TO AGRICULTURE AND ENVIRONMENTALLY ACCEPTABLE. THIS HAS INVOLVED VARIOUS EXPERIMENTS WITH THE USE OF SLUDGE AS A SOIL IMPROVING AGENT, AND THE DEVELOPMENT OF A SET OF GUIDELINES TO ASSIST IN THAT PROCESS.



THE RESEARCH WHICH HAS BEEN CONDUCTED AS PART OF THIS PROGRAMME CONFIRMS THAT, WITH PROPER TREATMENT AND CONTROLS AS TO CONTAMINANT LEVELS, CERTAIN GRADES OF SLUDGE ARE QUITE SUITABLE FOR UNRESTRICTED RELEASE ON THE OPEN MARKET FOR USE AS SOIL IMPROVING AGENTS, AND THAT OTHER GRADES ARE SUITABLE FOR RELEASE ON THE BASIS THAT THEY ARE USED IN FORESTRY AND OTHER APPLICATIONS NOT INVOLVING THE PRODUCTION OF FOOD FOR HUMAN CONSUMPTION. THE BILL PROVIDES THE LEGAL FRAMEWORK IN WHICH THIS MAY HAPPEN, AND LEGISLATIVE SUPPORT FOR THE GUIDELINES.

THE MAJOR PROBLEMS ASSOCIATED WITH THE RE-USE OF SEWAGE SLUDGE ARE THE LEVEL OF CONTAMINATION OF THE SLUDGE WITH TOXIC CHEMICALS, HEAVY METALS AND THE LIKE, AND THE POTENTIAL FOR THE SPREAD OF DISEASE THROUGH PATHOGENS IN THE SLUDGE. BOTH THESE PROBLEMS WILL BE ADDRESSED IN THE BILL. ONLY THOSE SLUDGES WHICH MEET THE STRICTEST STANDARDS AS TO CONTAMINANT LEVELS WILL BE PERMITTED REGISTRATION UNDER THE BILL. THOSE STANDARDS WILL BE SET OUT IN DETAIL IN THE REGULATION UNDER THE ACT. SLUDGES WHICH DO NOT COMPLY WITH THOSE STANDARDS ARE TO BE DEALT WITH THROUGH A CHEMICAL CONTROL ORDER MADE UNDER THE ENVIRONMENTALLY HAZARDOUS CHEMICALS ACT, WHICH IS ADMINISTERED BY THE MINISTER FOR THE ENVIRONMENT.

IN ADDITION TO THE INVOLVEMENT OF THE WATER BOARD SINCE THE BEGINNING OF THE PROGRAMME, THERE HAS BEEN EXTENSIVE CONSULTATION WITH THE STATE POLLUTION CONTROL COMMISSION AND AFFECTED INDUSTRY GROUPS. THE BILL HAS SUBSTANTIAL SUPPORT IN

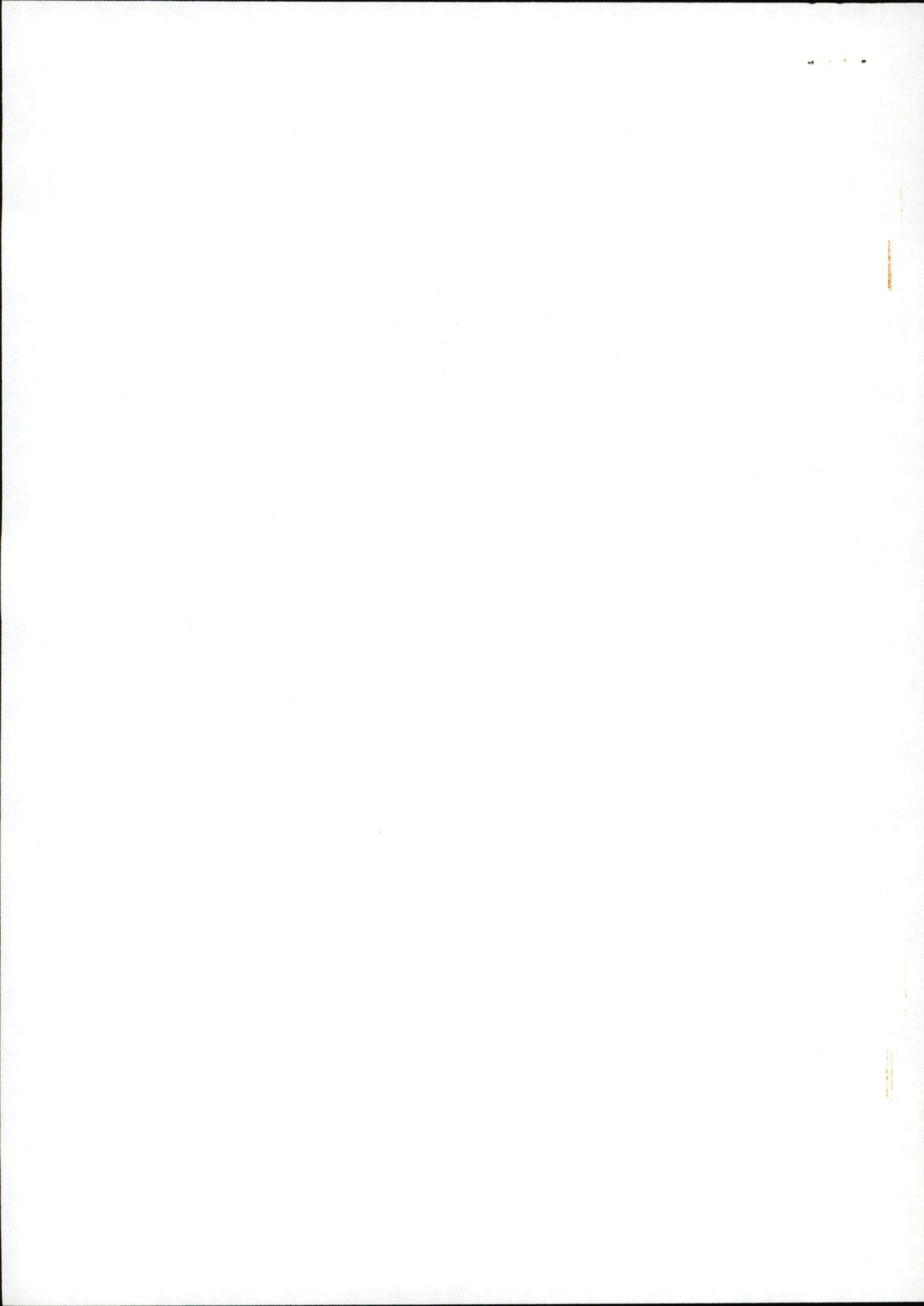
THOSE AREAS.

THE BILL EXTENDS THE PROVISIONS OF THE FERTILIZERS ACT AS THEY PRESENTLY EXIST TO INCLUDE THE SUPPLY AS WELL AS THE SALE OF SOIL IMPROVING AGENTS CONTAINING SEWAGE SLUDGE. THIS WILL ENSURE THAT ANY DEALING WITH PRODUCTS CONTAINING SEWAGE SLUDGE IS CAUGHT UP BY THE BILL. ESSENTIALLY, THE BILL OTHERWISE REPEATS EXISTING PROVISIONS OF THE ACT RELATING TO REGISTRATION AND USE OF BRAND NAMES, THE SUPPLY OF PARTICULARS, AND THE SETTING OF COMPOSITION STANDARDS.

HONOURABLE MEMBERS MAY BE ASSURED THAT THE OPERATION OF THIS LEGISLATION WILL BE CLOSELY MONITORED BY OFFICERS OF THE DEPARTMENT OF AGRICULTURE AFTER ITS INTRODUCTION. REGISTRATION WILL BE DENIED TO ANY PRODUCT WHICH DOES NOT MEET THE STANDARDS WHICH ARE SET, AND PRODUCTS WHICH ARE FOUND AFTER REGISTRATION TO HAVE FALLEN BELOW THOSE STANDARDS WILL HAVE THEIR REGISTRATION CANCELLED. THIS WILL MEAN THAT THOSE PRODUCTS CANNOT BE OFFERED IN THE MARKET PLACE. I AM WELL AWARE THAT SLUDGE-BASED PRODUCTS CANNOT BE PERMITTED TO COMPROMISE THE HEALTH AND SAFETY OF THE COMMUNITY IN ANY WAY. THERE IS CERTAINLY NO POINT, WHEN TRYING TO SOLVE ONE PROBLEM, IN CREATING A LARGER ONE.

MR PRESIDENT, THIS BILL IS THE FIRST OF ITS KIND IN AUSTRALIA. IT PROVIDES, AS I HAVE SAID, A PROCESS FOR ADDRESSING AT LEAST PART OF THE PROBLEM WHICH SEWAGE SLUDGE CREATES FOR COMMUNITIES AUSTRALIA-WIDE, AND NOT MERELY IN NEW SOUTH WALES, IN A MANNER WHICH IS BOTH ENVIRONMENTALLY AND ECONOMICALLY SOUND. ONCE AGAIN, NEW SOUTH WALES CAN BE SEEN TO BE TAKING A LEAD IN AN AREA OF GREAT IMPORTANCE FOR THE WHOLE OF AUSTRALIA.

I COMMEND THIS BILL TO THE HOUSE.



FERTILIZERS (AMENDMENT) ACT 1992 No. 8

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title .
2. Commencement
3. Amendment of Fertilizers Act 1985 No. 5

SCHEDULE 1—AMENDMENTS RELATING TO SEWAGE SLUDGE

SCHEDULE 2—AMENDMENTS RELATING TO PENALTIES

SCHEDULE 3—MISCELLANEOUS AMENDMENTS

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]

Fertilizers (Amendment) Act 1992 No. 8

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.

**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;

Fertilizers (Amendment) Act 1992 No. 8

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”.

Fertilizers (Amendment) Act 1992 No. 8

SCHEDULE 1—AMENDMENTS 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:
 - (c1) 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

Fertilizers (Amendment) Act 1992 No. 8

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

Fertilizers (Amendment) Act 1992 No. 8

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) (j), insert “, or of the supply of substances containing sewage sludge,”.

(b) After “sold” in section 42 (1) (j), 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”.

Fertilizers (Amendment) Act 1992 No. 8

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 or 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”.

Fertilizers (Amendment) Act 1992 No. 8

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.

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