



ANNO DECIMO TERTIO

GEORGI V REGIS.

A.D. 1922.

No. 1511.

An Act to make further and better provision for preventing the Adulteration of Chaff, and for regulating the Sale of Chaff and Hay, and for other purposes.

[*Assented to, November 8th, 1922.*]

BE it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. This Act may be cited as the "Chaff and Hay Act, 1922." Short title.
2. The Sale of Chaff and Hay Act, 1908, and the Sale of Chaff and Hay Act Amendment Act, 1913, are hereby repealed. Repeal of Acts
Nos. 964 of 1908 and
1125 of 1913.
3. In this Act, unless some other meaning is clearly intended— Interpretation.
Cf. Act 964, 1908,
s. 2.
 - "Analyst" means the Government Analyst or any analyst appointed under this Act:
 - "Bag" includes sack or other container of any kind:
 - "Chaff" means chaff of any kind, whether hay chaff or straw chaff:
 - "Dealer" means any person who carries on the business of dealing in, or of buying and selling, chaff or hay, or of selling chaff, but does not include any farmer who buys and sells chaff or hay or sells chaff wholly in the course of his business as a farmer and not by way of retail trading, whether or not such person carries on any other business:

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“ Hay chaff ” means the chaffed stalks, leaves, and heads of any one or more of the following plants, namely :—Wheat, oat, barley, rye, lucerne, clover, pea, and any other plants the chaffed stalks, leaves, and heads of which the Governor, by proclamation, declares to be hay chaff for the purposes of this Act, but the term does not include—

(a) the chaff of any cereal or plant from which the natural grain or seed has been removed from any cause whatever, or

(b) the chaff of any wheat, oat, barley, or rye plant which, when chaffed, had not grown to the flowering or seeding stage :

“ Inspector ” means an Inspector of Chaff appointed under this Act, and includes the Chief Inspector of Chaff :

“ Straw chaff ” means any chaff other than hay chaff :

The verb to sell, in whatever person, number, tense, mood, or voice it is used, includes—

- I. to barter or exchange ;
- II. to agree to sell, barter, or exchange ;
- III. to offer, expose, store, have in possession, send, or deliver for or on sale ;
- IV. to receive for sale ;
- V. to cause or suffer to be sold, bartered, or exchanged, or to be agreed to be sold, bartered, or exchanged ;
- VI. to cause or suffer to be offered, exposed, stored, had in possession, sent, or delivered for or on sale ;
- VII. to cause or suffer to be received for sale ; and
- VIII. to attempt to do any of such acts or things ;

and all participles of the verb to sell, and the noun “ sale,” have corresponding connotations :

The verb to buy, in whatever person, number, tense, mood, or voice it is used, includes to receive or accept under a sale or agreement to sell, and to offer to receive or accept, or cause or suffer to be received or accepted, under a sale or agreement to sell ; and all participles of the verb to buy have corresponding connotations.

Inspectors.
Ibid., s. 13.

4. (1) The Governor may, for the purposes of this Act, appoint a Chief Inspector of Chaff and such other Inspectors of Chaff and other officers as may be necessary, and persons having competent chemical knowledge to be Analysts.

(2) Any person appointed to be an Inspector under any Act hereby repealed shall be deemed to be an Inspector of Chaff appointed under this Act.

5. Any

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5. Any Inspector may at any time during the day time enter upon any land or into any warehouse, store, shop, building, or other place where chaff is or may reasonably be supposed to be cut, bagged, kept, stored, or sold, and may—

Powers of Inspector.
Ibid., s. 14.

- (a) examine any chaff there found, and on payment of the ordinary market price therefor (if demanded) take any quantity of any such chaff as a sample for analysis; and
- (b) do any act or thing required or permitted by regulation to be done in connection with or for the purpose of anything authorised by this section, or the analysis of samples taken under this section.

6. When an Inspector takes a sample for analysis under section 5 he shall—

Procedure on taking sample.
Cf. 1355, 1918, s. 6.

- (a) thoroughly mix such sample and divide it into three approximately equal parts;
- (b) place each such part in a separate tin or jar, and seal or fasten each such tin or jar;
- (c) place on each such tin or jar a label stating the name, so far as known to him, of the occupier of the premises, or of the person apparently having possession, custody, or control of the lot from which such sample was taken, and the time and place of taking;
- (d) deliver one of such parts to the person in charge, or apparently in charge, of the premises; and
- (e) retain one of such parts for future comparison.

The other of such parts may be utilised for analysis.

7. Any person who obstructs or interferes with any Inspector or Analyst in the discharge of any of his duties or in the exercise of any of his powers under this Act shall be guilty of an offence against this Act.

Obstructing Inspectors or Analysts.

8. (1) Every dealer shall, within thirty days after the date of the passing of this Act, or within thirty days after the date of his commencing in business as a dealer (whichever is the later date), give notice in writing to the Chief Inspector of Chaff, at the office of the Minister of Agriculture, in Adelaide, specifying—

Notice by dealers.
Cf. *ibid.*, s. 4.

- (a) his Christian names and surname;
- (b) the premises where he is carrying on business;
- (c) whether or not his business includes that of cutting chaff; and
- (d) any other matter prescribed.

(2) Any dealer who fails to give such notice shall be liable to a penalty of not more than Five Shillings for every day during which such failure exists: Provided that any notification of the place or places of business given by a dealer to any Inspector appointed under

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under any Act hereby repealed before the date of the passing of this Act with respect to any place of business where such dealer carried on the business of a dealer at the date of such passing shall be a sufficient notice for the purposes of this section.

Provision against adulteration or deterioration of chaff.

964, 1908, s. 3.

9. (1) No dealer or any other person shall sell, and no dealer shall, on any premises where he carries on the business of a dealer, suffer to be—

(a) any chaff other than hay chaff, unless each bag containing such chaff has branded thereon in a conspicuous position the words "Straw Chaff" in letters not less than one and one-half inches in height;

(b) any chaff which contains noxious weeds or any foreign ingredient other than such as is permitted by regulation, or which contains such weeds or ingredient in excess of the proportion or amount so permitted;

(c) any chaff contained in bags, if such chaff contains moisture in excess of twelve and one-half per centum by weight;

(d) any chaff which is decomposing through the action of mould fungi; or

1125, 1913, s. 6.

(e) any chaff which is contained in any bag which has contained bonedust or any fertiliser within the meaning of the Fertilisers Act, 1918.

No. 1355 of 1918.

(2) Any person who contravenes any provision of this section shall be guilty of an offence against this Act.

All chaff to be sold by weight, including weight of bag.
New.

10. All chaff shall be sold by weight, and such weight shall include, unless otherwise expressly agreed upon, the weight of the bag or bags (if any) in which such chaff is contained.

Ton of chaff to be 2,240lbs.
Cf. Act 964, 1908, s. 8.

11. When chaff is sold by the ton or any proportionate part of a ton, the word "ton" shall be deemed to mean a ton of two thousand two hundred and forty pounds avoirdupois weight, and such weight shall include, unless otherwise expressly agreed upon, the weight of the bags (if any) in which such chaff is contained.

Weight note to be given on every sale.
New.

12. (1) Any dealer who sells any chaff or hay shall, on or before the actual delivery of such chaff or hay or any part thereof, give to the purchaser a weight note stating the full weight of chaff or hay delivered, and, in the case of chaff, the number of bags in which such chaff is contained.

(2) Any dealer who sells any chaff or hay shall be guilty of an offence against this Act—

(a) if he fails to give to the purchaser thereof such a weight note as provided by subsection (1) hereof; or

(b) if he gives to such purchaser a weight note which is false in any material particular.

(3) No

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(3) No person shall be bound to accept delivery on sale of any chaff or hay, unless the provisions of subsection (1) hereof are complied with.

13. In any contract for the sale and purchase of hay by weight, there shall be an implied condition that the vendor shall be entitled at his own cost to have such hay weighed on a licensed weighbridge, and that the purchaser shall accept such weight as correct.

Vendor of hay
entitled to weigh.
Act 964, 1908, s. 9.

14. Any person selling any chaff shall be deemed to have warranted that the same is hay chaff unless it is branded "Straw Chaff" in the manner mentioned in subdivision (a) of subsection (1) of section 9.

Warranty of class
of chaff.
Ibid., s. 5.

15. (1) At the hearing of any civil or criminal proceedings with regard to any sample or part thereof which has been analysed by an Analyst, or the lot from which such sample was taken, or with regard to the contents of any bag of chaff which have been so analysed, the production of a certificate in the prescribed form, purporting to be signed by an Analyst, shall, without proof of the signature of the person appearing to have signed the same, or that he is an Analyst, be sufficient evidence—

Certificate of
Analyst to be
evidence.
Cf. 1355, 1918, s. 23.

I. of the identity of the thing analysed ;

II. of the result of the analysis ; and

III. of the matters stated in such certificate,

unless the defendant, by at least three clear days' (exclusive of Sundays and public holidays) notice in writing delivered to the informant and by a like three clear days' (exclusive as aforesaid) notice delivered, with a witness fee of One Guinea, to the Analyst, requires that such Analyst shall attend as a witness.

(2) In any case where the attendance of an Analyst is required as mentioned in this section, the Court or Special Magistrate or Justices may, in addition to any other order which may be made as to costs, make such order as it, he, or they deem proper as to the witness fee to be paid to the Analyst, and as to the expenses of and remuneration to be paid for the analysis.

Analyst's witness
fee.

(3) If any person is convicted of any offence in proof whereof evidence of the result of any analysis has been admitted, the Court or the Special Magistrate or Justices may order the costs of and incidental to the obtaining of such analysis to be paid by the defendant, and in such case such costs shall be added to the penalty and be recoverable in the same manner as the penalty.

Costs of analysis.

16. Any sample which may be taken shall be drawn from at least ten per centum of the bags of the total quantity of the chaff to be sampled, and at once be thoroughly mixed and divided as provided in section 6.

Unit for sampling.
Cf. *ibid.*, s. 26.

17. When,

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Offence as to sample deemed offence as to whole lot.

Cf. *ibid.*, s. 27.

17. When, in any proceedings in respect of an offence against this Act, a contravention of any of the provisions of this Act is proved with regard to any sample of chaff, such contravention shall be deemed to have been proved with regard to the total quantity sampled, or all the chaff bought at the same time as such sample.

Tampering with samples.

Cf. *ibid.*, s. 28.

18. If any person knowingly and fraudulently—

(a) tampers with any bag of chaff so as to procure that any sample of it taken under this Act does not correctly represent the contents of the bag; or

(b) tampers with any sample taken under this Act,

he shall be guilty of an offence against this Act.

Who may prosecute.

Cf. *ibid.*, s. 32.

19. A prosecution for an offence against this Act may be instituted either by the person aggrieved, by the Chief Inspector of Chaff, or by any person authorised in that behalf by the Minister.

Evidence.

Cf. *ibid.*, s. 34 (1).

20. In any proceedings with respect to any offence against this Act—

(a) parol evidence that any person is an Analyst or an Inspector or other officer under this Act shall be deemed sufficient, unless the defendant proves the contrary;

(b) authority to do any act or take any proceeding shall be presumed until the contrary is proved; and

(c) the allegation that any chaff was sold shall be sufficient evidence of the fact which constitutes a sale as herein defined, until the contrary is proved, and the onus of proof that any chaff was not for sale shall lie upon the defendant.

Exemption of employer from penalty on conviction of actual offender.

Cf. *ibid.*, s. 35.

21. (1) Where any dealer is charged with an offence against any of the provisions of this Act he shall be entitled, upon information duly laid by him, to have any other person whom he charges as the actual offender brought before the Court at the hearing of the charge, and if, after the commission of the offence has been proved, the person in the first instance informed against proves to the satisfaction of the Court—

(a) that he had used due diligence to enforce the execution of this Act; and

(b) that the said other person had committed the offence in question without his knowledge, consent, or connivance

the said other person shall be summarily convicted of such offence and the said dealer shall be exempt from any penalty. The person so convicted shall, in the discretion of the Court, be also liable to pay any costs incidental to the proceedings.

(2) Where

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(2) Where it is made to appear to the satisfaction of any Analyst, Inspector, or officer appointed under this Act, or any member of the Police Force, at the time of discovering an offence—

- (a) that the dealer has used all due diligence to enforce the execution of this Act ; and
- (b) by what person the offence has been committed ; and
- (c) that it has been committed without the knowledge, consent, or connivance of the said dealer, and in contravention of his orders,

the said Analyst, Inspector, officer, or member of the Police Force shall proceed against the person whom he believes to be the actual offender, without first proceeding against the said dealer.

22. The Governor may make regulations not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which may be necessary or convenient to be prescribed for giving effect to this Act, and any such regulation may prescribe a penalty for the breach of the same or any other regulation, not exceeding in any case the sum of Ten Pounds. Regulations.

23. (1) Any contravention of this Act, whether by act or omission, shall be an offence against this Act. Penalty for offences

(2) Any person guilty of an offence against this Act shall be liable to a penalty for the first offence of not more than Ten Pounds, and for any subsequent offence of not less than Five Pounds nor more than Fifty Pounds.

24. No Inspector or other officer shall be liable, except in respect of wilful misconduct or neglect, to any legal proceedings for anything done or omitted in the exercise or execution of any of his powers or duties under this Act. Protection to officers.

25. All proceedings in respect of offences against this Act shall be disposed of summarily. Summary proceedings for offences.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

G. J. R. MURRAY, Lieutenant-Governor.