CHEMICAL FERTILISERS CONTROL ACT

Act 31/1978

Proclaimed by [Proclamation No. 2 of 1980] **w.e.f 1.3.1980**

I assent,

MAURICE RAULT

11th July 1978. Acting Governor-General

ARRANGEMENT OF SECTIONS

To provide for the regulation and control of the quality, storage and sale of chemical fertilisers

(11th July). ENACTED by the Parliament of Mauritius, as follows-

1. Short title

This Act may be cited as the **Chemical Fertilisers Control Act 1978**.

2. Interpretation

In this Act -

“basic element" means any element specified in the First Schedule;

“chemical fertiliser" means any substance containing one or more of the basic elements used as a fertiliser;

“deleterious ingredients", in relation to a chemical fertiliser, includes any soluble salts or any other substances likely to be injurious to plant growth;

“Government Analyst" means any chemist of the Ministry responsible for the subject of agriculture;

“licensee" means a person licensed under section 3;

“Minister" means the Minister to whom responsibility for the subject of agriculture is assigned;

“Permanent Secretary" means the Permanent of the Ministry;

“sampling officer" means an officer of the Ministry authorised to take samples;

“statutory description" means the description specified in the second column of the Second Schedule in respect of a chemical fertiliser set out in the first column of that Schedule.

3. Licences

(1) Any person wishing to sell chemical fertilisers shall make an application in the prescribed manner.

(2) Where the Minister is satisfied that chemical fertilisers may safely be sold on premises in respect of which the application is made, he may, on payment of the prescribed fee, grant to any person a licence for such period as he may determine.

(3) Subject to section 4, no person shall sell any chemical fertiliser except on premises in respect of which he holds a licence.

(4) A licence granted under subsection (2) –

(a) shall be subject to such terms and conditions as the Minister may determine at the time of the issue of the licence or at any time during the currency of the licence;

(b) may be renewed on payment of the prescribed fee; and

(c) may, where the licensee fails to comply with this Act or with any condition attached to the licence, be revoked.

4. Containers, labels and prohibitions.

(1) Subject to subsection (4), no chemical fertiliser shall be sold except in completely sealed containers.

(2) Every container shall bear from outside a conspicuous label or other device specifying-

(a) the name of the chemical fertiliser, its manufacturer and batch number and date;

(b) its composition, including its moisture percentage; and

(c) in the case of a chemical fertiliser specified in the first column of the Second Schedule, the particulars of the basic elements set out in the third column of that Schedule.

(3) No chemical fertiliser specified in the first column of the Second Schedule shall be sold under any brand or description unless its composition or the limits of variation comply with the specifications respectively set out in the third and fourth columns of the Second Schedule.

(4) Subsection (1) shall not apply to the sale of a chemical fertiliser in a quantity not exceeding 5 kilograms, where, for the purpose of the sale, the chemical fertiliser is removed from a container, which complies with subsection (2).

5. Powers of sampling officer

(1) For the purposes of this Act, a sampling officer may -

(a) at all reasonable times, enter any premises where chemical fertilisers are stored or sold; and

(b) subject to subsection (2), obtain or take samples of any chemical fertiliser in the manner specified in the Third Schedule.

(2) Where for the purposes of analysis a sampling officer requires a sample of a chemical fertiliser in the possession or under the control of any person, he shall-

(a) purchase the sample;

(b) inform the person of his intention to cause it to be analysed;

(c) divide the sample into 3 parts, which he shall mark, seal, sign and cause to be signed by the person;

(d) deliver the first part of the sample to the person;

(e) retain the second part for future comparison;

(f) submit the third part to a Government Analyst for analysis.

6. Certificate of analysis.

(1) A certificate of analysis emanating from a Government Analyst shall be -

(a) in the form set out in Part I of the Fourth Schedule;

(b) delivered free of charge to -

(i) the sampling officer;
(ii) the person from whom the sample was obtained.

(2) No certificate of analysis shall be receivable in evidence unless it is signed by -

(a) a Government Analyst; or
(b) a person holding the qualifications set out in Part II of the Fourth Schedule.

7. Sample to be produced in Court.

(1) Where in the course of any proceedings under this Act, the conclusions contained in a certificate of analysis signed by the Government Analyst are disputed, the sampling officer shall produce to the Court that part of the sample retained under section 5 (2) (e).

(2) The Court shall, on such terms as to costs as it thinks fit, order a joint analysis of the part of the sample produced under subsection (1) by the Government

Analyst and any analyst holding the qualifications set out in Part II of the Fourth Schedule designated by the person disputing the certificate of the Government Analyst.

8. Power to seize chemical fertiliser.

(1) Where the Permanent Secretary reasonably believes that a person has in his possession any chemical fertilizer -

(a) having a composition which exceeds the limits of variation specified in the fourth column of the Second Schedule; or

(b) in breach of this Act or any regulation made under it,

he may seize the chemical fertilizer.

(2) (a) The Permanent Secretary or his representative may enter into any premises where a licensee stores chemical fertilisers and take stock thereof.

(b) Where the Permanent Secretary or his representative reasonably believes that the licensee is withholding a stock of chemical fertilisers for the purpose of profiteering, he may seize the stock of chemical fertilisers.

(c) Any licensee who withholds a stock of chemical fertilisers for the purpose of profiteering shall commit an offence.

Amended by [Act No. 1 of 2020]

9. Offences

(1) Any person who -

(a) sells any chemical fertiliser containing deleterious ingredients;
(b) sells any chemical fertiliser having a composition which exceeds the limits of variation specified in the fourth column of the Second Schedule ;

(c) affixes any false or misleading label in relation to the particulars, description or composition of any chemical fertiliser;

(d) tampers with any sample taken or submitted for analysis;

(e) obstructs a sampling officer in the execution of his duties under this Act;

(f) fails to comply with an order of the Court under section 7 (2); or

(g) contravenes this Act, of any regulation made this Act or any condition attached to a licence,

shall commit an offence.

(2) Every person who commits an offence shall, on conviction, be liable to a fine not exceeding Rs 10,000 and to imprisonment for a term not exceeding 12 months.

(3) The Court before which a person is convicted of an offence may, in addition to any penalty imposed, order any chemical fertiliser in respect of which the offence was committed to be forfeited.

(4) No proceedings shall be taken, in respect of any misstatement as to the particulars to be furnished under section 4 (2) in relation to a chemical fertiliser, where the particulars do not exceed the limits of variation specified in the fourth column of the Second Schedule.

Amended by [Act No. 1 of 2020]

10. Regulations

The Minister may -

(a) make such regulations as he thinks fit for the purposes of this Act;

(b) by regulations, amend the Schedules.

11. Commencement

Proclaimed by [Proclamation No. 2 of 1980] **w.e.f 1.3.1980**

This Act shall come into operation on a day to be fixed by Proclamation.

G. D'ESPAIGNET
Clerk of the Legislative Assembly

……..

FIRST SCHEDULE

[Section 2]

BASIC ELEMENTS

Calcium
Magnesium
Nitrogen
Phosphorus (Phosphoric acid)
Potassium (Potash)
Silicon

……

SECOND SCHEDULE

[Section 2]

Name under which chemical fertiliser is sold	Statutory description	Particulars of basic elements*	Limits of variation
Ammonium nitrate	Ammonium nitrate for fertilizing purposes	Amount of nitrogen	Nitrogen $^{1}/_{20}$ of the amount stated
Basic slag	A by-product, containing phosphorous obtained in the manufacture of steel to which no addition has been made the time of leaving or after it has left furnance	Total amount of phosphoric acid amount of the material that will pass through a British Standard Text Sieve Mesh No. 100. Amount of phosphoric acid solution in 2% citric acid and amount of silicic acid soluble N/2 hydro-chloric acid	Total phosphoric acid 1 %; silicic acid soluble in N/2 hydrochloric acid. Amount that will pass through a 0.5 mm sieve, $^{1}/_{20}$ of the amount stated, limit of variation of soluble silica 1.5%; Phosphoric acid $^{1}/_{20}$
Bone phosphate precipitated; decalcium bone phosphate	An insoluble calcium phosphate prepared by treating commercially pure bone with acid and precipitation of phosphate from the solution	Amount of phosphoric acid soluble in citric acid	Phosphoric acid soluble in citric acid, 1%

Calcium metasilicate	A by-product containing soluble silicon, for fertilising purposes	Amount of silicic acid soluble in N/2 hydrochloric acid; amount of the article that will pass through a British Standard Test Sieve Mesh No. 100	Silicic acid soluble in N/2 hydrochloric acid; limit of variation of solution silica 1.5%
Compound fertiliser Mixed fertiliser	A product containing one or more of the basic elements specified in the First Schedule and obtained by mixing one or more of the articles specified in the first column of this Schedule with any other substance not harmful to vegetation	Total amount of nitrogen, phosphoric acid and potash respectively soluble in water and magnesium when present	(a) Nitrogen + Phosphoric acid + Potash + Magnesium ++ 0.6% where the amount stated does not exceed 8% (b) Nitrogen + Phosphoric acid + Potash ++ $^{1}/_{15}$ where the amount stated exceed 8% (c) Magnesium $^{1}/_{10}$ of the amount stated, where the amount stated exceed 8%: Provided that the variation from each amount stated shall not exceed 1.75% and, where the total

			of the amounts stated is 25% or over, the amount of all variations taken together after setting off deficiencies against excesses, shall not exceed $^{1}/_{20}$ of the aforesaid total
Muriate of potash	Potassium chloride for fertilising purposes and containing not less than 60% potash		
Nitrate of lime	Calcium Nitrate for fertilising purposes and containing not less than 13% nitrogen	Amount of nitrogen	Nitrogen 0.5%
Nitrate of potash	Potassium nitrate for fertilising purposes, and not containing not less than 13% nitrogen and 40% potash	Amount of nitrogen and potash respectively	Nitrogen 0.5%; potash 2%
Nitrate of soda	Sodium nitrate for fertilising purposes,	Amount of nitrogen	Nitrogen 0.5%

	and containing not less than 16% nitrogen		
Mineral rock phosphate	Phosphate rock from mineral calcium phosphate deposits to which no other matter has been added	Total amount of phosphoric acid; amount of phosphoric acid solution in 2% citric acid;	Total phosphoric acid $^{1}/_{20}$ and phosphoric soluble in 2% citric acid
Rock phosphate	Phosphate rock from organic origin, commonly phosphatic guano, ground and screened to pass through a specific sieve	Amount of the article that will pass through a specific sieve	Amount that will pass through the British Standard Test Sieve No. 100, $^{1}/_{20}$ of the amount stated
Phosphate of ammonium	Ammonium phosphate for fertilising purposes	Amount of nitrogen and phosphoric acid respectively	Nitrogen $^{1}/_{20}$ Phosphoric acid $^{1}/_{30}$
Potassium salts		Amount of potash	(a) 1% where the percentage of potash stated does not exceed 15; or (b) 2% where the percentage of potash stated exceeds 15

Quick lime	Commercial calcium oxide	Amount of calcium oxide	Calcium oxide $^{1}/_{10}$ of the amount stated
Slaked lime	The product obtained by slaking burnt lime	Amount of calcium oxide	Calcium oxide $^{1}/_{10}$ of the amount stated
Sulphate of ammonia	Ammonium sulphate for fertilising purposes and containing not less than 21%	Amount of nitrogen; amount of free acid, if any	Nitrogen 0.3%
Super Phosphate	Phosphate rock Which has been treated with sulphuric acid and containing not less than 18% phosphoric acid	Amount of phosphoric acid soluble in water	Phosphoric acid soluble in water $^{1}/_{20}$ of the amount stated
Sweepings	Fertilisers or mixture of ferrtilisers collected from damaged bags and sold either loose or rebagged	Total amount of nitrogen, phosphoric acid and potash respectively soluble in water	(a) Nitrogen + Phosphoric acid+ Potash ++ 1% where the amount stated does not exceed 8 % (b) Nitrogen + Phosphoric acid + Potash + $^{1}/_{10}$ of the amount stated, where

			the amount stated exceeds 8%
Triple superphosphate (or concentrated superphosphate)	Phosphate rock which has been treated with phosphoric acid only and containing not less than 42% phosphoric acid	Amount of phosphoric acid soluble in water	Phosphoric acid soluble in water 1/20
Urea	Urea for fertilising purposes and containing not more than 1.5% biuret	Amount of nitrogen	Nitrogen 0.3%

In the particulars –

(a) Nitrogen is to be stated in terms of nitrogen (N).

(b) Phosphoric acid is to be stated in terms of phosphoric anhydride (P_2O_5).

(c) Potash is to be stated in terms of potassium oxide (K_2O). Free acid is to be stated in terms of sulphuric acid (H_2SO_4).

(d) Calcium oxide is to be stated in terms of calcium oxide (CaO).

(e) Magnesium is to be stated in terms of magnesium oxide (MgO).

(f) The amount in each case is to be stated as a definite percentage of the weight of the material and not as a range of percentages.

THIRD SCHEDULE

[Section 5]

Samples shall be taken and dealt with as follows-

1. Where the weight of the whole quantity does not exceed 50 kilograms or where the whole quantity is in one container, the sample may consist of such portion of the quantity as if fairly representative of the whole and shall not be less than 1.5 pounds in weight.

2. Where the chemical fertiliser is in packages, only unopened packages shall be selected.

3. Where the chemical fertiliser is in a state of fine division -

(a) In packages -

Where the chemical fertiliser is in packages and the quantity exceeds 50 kilograms, a number of packages shall be selected as follows -

		Quantity to be taken	But not fewer packages than
(i)	Where the quantity -		
	(A) exceeds one package but does not exceed 20 packages……	20	2
	(B) exceeds 20 packages but does not exceed 50 packages ……	10	4
	(C) exceeds 50 packages but does not exceed 200 packages …….	7	6
	(D) exceeds 200 packages but does not exceed 500 packages……..	5	15
	(E) exceeds 500 packages but does not exceed 1000 packages……	4	25
	(F) exceeds 1000 packages …….	3	42

(ii) (A) the selected packages shall be emptied separately on a clean dry surface and worked up with a shovel and one shovelful taken from each. The shovelfuls shall be thoroughly mixed together and any lumps broken up; or

(B) where the material is of a suitable nature, a portion shall be taken from each selected package by means of a sampling spear. The separate portions taken shall be thoroughly mixed together;

(iii) From the mixture obtained, if the sample is more than one kilogram in weight, it shall be drawn as follows -

(A) the mixture shall be heaped to form a cone;

(B) the cone shall be flattened and quartered;

(C) the 2 diagonally opposite quarters shall be rejected;

(iv) the remainder mixed; and

(v) the quartering and rejecting shall be continued until the remainder is about $^{3}/_{4}$ to 1 kilogram in weight;

(b) in bulk -

Where the chemical fertiliser is in bulk, a number of portions shall be taken with a shovel or a sampling spear as follows -

			No. of portions
(i)	where the quantity		
	(A)	exceeds 50 kilograms but does not exceed one ton…..	4
	(B)	exceeds one ton but does not exceed 2 tons……..	6
	(C)	exceeds 2 tons but does not exceed 5 tons…….	10
	(D)	exceeds 5 tons but does not exceed 10 tons…….	15
	(E)	exceeds 10 tons but does not exceed 25 tons …….	25
	(F)	exceeds 25 tons but does not exceed 50 tons …….	40
	(G)	exceeds 50 tons but does not exceed 100 tons……	60
	(F)	exceeds 100 tons for each additional 10 tons or part thereof……	2

(ii) The portions taken shall be treated and the sample drawn in the manner specified in subparagraphs (a (ii) and (iii).

4. Where the chemical fertiliser is in a coarse or lump condition -

(a) in packages-

the packages selected according to the appropriate scale specified in paragraph 3 (a)(i) shall be crushed to pass through a sieve with meshes l¼ inch square before the final sample of about 1 to $1^1/_2$ kilograms in weight is drawn in the manner specified in paragraphs 3 (a)(ii) and (iii);

(b) In bulk -

Shovelfuls shall be taken according to the appropriate scale specified in paragraph 3 (b) (i) and shall be treated and a sample drawn in the manner specified in paragraphs 3 (a)(ii) and (iii).

5. Where the chemical fertiliser is in a fluid condition –

(a) in bottles or containers containing not more than one litre the number of bottles or containers shall be selected in accordance with the appropriate scale specified in paragraph 3(a)(i). The contents of the selected bottles shall be emptied into a clean dry glass or glazed earthenware vessel and well mixed by stirring or shaking. From the mixture a sample of about 1 ½ litres shall be drawn, the mixture being stirred or shaken until immediately before the sample is drawn;

(b) in containers each containing more than one litre the number of containers shall be selected in accordance with the appropriate scale specified in paragraph 3 (a)(i). The selected containers shall be well shaken or the contents agitated or otherwise treated to ensure uniformity. An approximately equal proportion of the fluid shall then be taken immediately from each of the selected containers emptied into a clean dry glass or glazed earthenware vessel and treated as specified in subparagraph (a).

FOURTH SCHEDULE

[Section 6]

PART I- CERTIFICATE DELIVERED UNDER THE CHEMICAL FERTILISERS CONTROL ACT

To, (1) …….

I, ... Analyst, certify that on the ..... day of ..... 20 ..... a sample marked ..... and weighing/measuring (2) ..... (3) ..... was submitted to me by (1) …..... as a sample of ..... for analysis.

I further certify that the sample was analysed by me/or under my direction(2) and as a result of analysis, I am of opinion that (4) .....

Date ..... Signed .....

Analyst

(1) Insert the name and address of the person who submitted the sample for analysis.

(2) Delete the inappropriate words.

(3) This may be left unanswered if the sample cannot be conveniently weighed or measured or the weight or measurement is not material to the result of the analysis.

(4) Here the Analyst should specify the result of the analysis in the light of the Chemical Fertilisers Control Act.

The Analyst may -

(a) insert his opinion -

(i) whether the analysis indicates any addition, abstraction or deficiency or the presence of foreign matter or other defect and whether the nature, substance or quality is thereby affected;

(ii) on any physical, chemical or other properties bearing on the nature, substance or quality of the fertiliser;

(iii) whether the fertiliser is injurious to the soil and to the plant; and

(b) add any observation he considers relevant.

PART II - QUALIFICATION OF ANALYST AUTHORISED TO ISSUE CERTIFICATE UNDER THE CHEMICAL FERTILISERS CONTROL ACT

The Analyst shall -

(a) be a registered agricultural chemist under the Agricultural Chemists Act, or have professional qualifications in chemistry which are in the opinion of the Minister equivalent; or

(c) have successfully completed a course of studies in the science and analysis of chemical fertilisers in an institution recognised for this purpose by the Minister.
