



ANNO VICESIMO QUINTO
GEORGII V REGIS.

A.D. 1934.

No. 2175.

An Act to amend the Insecticides Act, 1919, and for other purposes.

[*Assented to, November 22nd, 1934.*]

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

1. (1) This Act may be cited as the "Pest Destroyers Act, 1934". Short title.
- (2) The Act No. 1377 of 1919 (hereinafter referred to as "the principal Act"), and this Act may be cited together as the "Pest Destroyers Acts, 1919 and 1934". No. 1377 of 1919.
2. Section 1 of the principal Act is amended by striking out the word "Insecticides" and by inserting in lieu thereof the words "Pest Destroyers". Amendment of principal Act, s. 1—
Short title.
3. Section 3 of the principal Act is amended as follows :— Amendment of principal Act, s. 3—
Interpretation.
 1. The following definition is inserted in the said section before the definition of "Analyst" therein—

"Active constituent" means any constituent of any pest destroyer which is effective for the destruction or the prevention of any fungi, parasitic plants, bacteria, insects, pests which attack plants or fruit or animals, rabbits, vermin, rodents, other noxious animals or noxious birds :

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- II. The definition of "Chief Inspector" is amended by striking out the words "Insecticides and Fungicides" therein and by inserting in lieu thereof the words "Pest Destroyers":
- III. The definition of "Dealer" is amended—
- (i.) by striking out the words "manufacturer, importer, or" therein; and
- (ii.) by striking out the words "insecticides or fungicides" therein and by inserting in lieu thereof the words "any pest destroyer,":
- IV. The definition of "Fungicide" is amended by striking out the words "and includes" therein:
- V. The definition of "Insecticide" is amended by striking out the words "and includes" in the first line thereof, by striking out the word "or" last occurring in paragraph (b) hereof, and by striking out paragraph (c) thereof:
- VI. The definition of "Package" is amended by striking out the words "insecticide or fungicide" therein and by inserting in lieu thereof the words "pest destroyer":
- VII. The following definitions are inserted therein after the definition of "Package":—
- "Pest destroyer" means any fungicide, insecticide, or vermin destroyer:
- "Vermin destroyer" means any substance used for the purpose of destroying rabbits, vermin, rodents, or other noxious animals or noxious birds:
- "Wholesale dealer" means any person who, whether a manufacturer, importer, or wholesale seller, is primarily responsible for placing any pest destroyer on the market in South Australia:
- VIII. The following subsections are added to the said section 3, the preceding part of the said section being read as subsection (1) thereof:—
- (2) The Governor may by proclamation declare any substance to be a fungicide, insecticide, or vermin destroyer, and may by proclamation revoke or vary any such proclamation. Any such substance so proclaimed shall, without limiting the

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definition of the said terms, during such time as the proclamation remains in force, be deemed to be a fungicide, insecticide, or vermin destroyer, as the case may be.

- (3) The Governor may by proclamation declare that this Act shall not apply to any substance either generally or when sold in any specified circumstances or quantities or part of the State, and may by proclamation revoke or vary any such proclamation. During the time any such proclamation remains in operation any such substance shall to the extent provided for in the proclamation be deemed not to be a pest destroyer.

4. Section 4 and section 5 of the principal Act are repealed, and the following sections are enacted in lieu thereof :—

Repeal of
principal Act,
ss. 4 and 5—

4. (1) Every wholesale dealer shall, within thirty days after the passing of the Pest Destroyers Act, 1934, or within thirty days after the date of his commencing in business or trade as a wholesale dealer (whichever is the later date), and thereafter in each year on or before the thirtieth day of June of that year, give notice in writing in the prescribed form to the chief inspector at the office of the Minister of Agriculture, in Adelaide, of—

Notice by
dealers.

- (a) his name and place of business ; and
- (b) the distinctive name of every pest destroyer which he then sells and of every pest destroyer which he proposes to sell during the current year ; and
- (c) the places where the same can be purchased or acquired from him.

If during the currency of any year a wholesale dealer proposes to sell any pest destroyer in addition to those of which he has given the notice as hereinbefore prescribed, he shall, before commencing to sell or deal in any such additional pest destroyer give, with respect to the same, the like notice as hereinbefore provided.

If during the currency of a year a wholesale dealer alters any active constituent of any pest destroyer already registered under this section he shall, before commencing to sell or deal in any such pest destroyer as so altered, give, with respect to the same, the like notice as hereinbefore provided.

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(2) Subject to subsection (3) of section 5, every notice given under subsection (1) of this section shall be accompanied by a fee of five shillings in respect of each pest destroyer mentioned in the notice, for the registration of each of them, and each of them shall be registered accordingly by the chief inspector: Provided that with respect to a pest destroyer already registered for the current year, the active constituents whereof have been altered as above mentioned, the fee payable shall be two shillings and sixpence and no more: Provided also that the total sum payable by any wholesale dealer by way of fees under this subsection shall not exceed two pounds in and for any year.

(3) Every dealer (not being a wholesale dealer) shall, within thirty days after the passing of the Pest Destroyers Act, 1934, or within thirty days after the date of his commencing in business or trade as a dealer (whichever is the later date) and thereafter in each year on or before the thirtieth day of June of that year, give notice in writing in the prescribed form to the chief inspector at the office of the Minister of Agriculture, in Adelaide, of his name and place of business.

Requirements
of notice.

5. (1) Save as hereinafter provided, every notice given under subsection (1) of section 4 shall be accompanied by—

- (a) the fees prescribed;
- (b) the name and address of the person primarily responsible for placing the pest destroyer on the market in South Australia;
- (c) a statutory declaration made by the wholesale dealer, or in the case of a corporate body, by the manager thereof, stating—
 - (i.) the distinctive name of each pest destroyer; and
 - (ii.) the constituents of each pest destroyer which are claimed to be active constituents; and
 - (iii.) the percentage in which each such active constituent is contained therein and what percentage of each such active constituent is contained in that part of the pest destroyer which is soluble in cold water; and
 - (iv.) when the pest destroyer consists of dry powder prepared for application in dust form, the degree of fineness of the particles stated in terms of the meshes to the lineal inch through which it will pass; and

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- (d) a specimen copy of the label which will be affixed to every package of pest destroyer to which it has reference ; and
- (e) such other matters as may be prescribed.
- (2) Every such label as aforesaid shall set forth—
- (a) the distinctive name of the pest destroyer ;
- (b) the net weight or measure which will be contained in the package to which it is to be affixed ;
- (c) a statement of the active constituents of the pest destroyer, or a statement that the active constituents of the pest destroyer are those stated in the declaration supplied pursuant to this section ;
- (d) all directions, if any, for the use of the pest destroyer ; and
- (e) such other matters as may be prescribed.

(3) If a wholesale dealer in any pest destroyer has complied with all the foregoing provisions of this section and of section 4 relating to the registration of the same, and the pest destroyer has been duly registered, any other wholesale dealer or dealer may sell the pest destroyer without payment of any fee and without complying with the requirements of subsection (1) of this section, but he shall nevertheless be bound to comply with all other provisions of this Act relating to the sale of pest destroyers.

(4) If the wholesale dealer in any pest destroyer is not resident in the State, the requirements of this section may be complied with by a duly authorised agent of the wholesale dealer who is resident in the State, and the agent shall, for the purposes of this Act, be deemed to be the wholesale dealer.

5. Sections 6 and 7 of the principal Act are repealed and the following sections are enacted in lieu thereof :—

Repeal of
principal Act,
ss. 6 and 7—

6. (1) Every wholesale dealer who sells any pest destroyer shall, in manner prescribed, on or before delivery thereof to the buyer, affix to or upon every package containing any of the pest destroyer, a label, which shall conform in all respects with the specimen label supplied pursuant to section 5 relating to the pest destroyer.

Duty of
wholesale
dealers upon
a sale.

The burden of proof that the provisions of this subsection have been complied with shall be on the wholesale dealer.

(2) Every other dealer who purchases any pest destroyer from any wholesale dealer and who sells any such pest destroyer in the package in which he bought

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the same, shall be bound to see that on delivery thereof to the buyer the label as hereinbefore mentioned (whether the original label or one provided by himself) is affixed thereto or thereupon.

Every other dealer who purchases any pest destroyer from any wholesale dealer, and who sells any such pest destroyer in any package other than a package so labelled as aforesaid by the wholesale dealer, shall, before delivery thereof to the buyer, durably affix thereto or thereupon the said label.

The burden of proof that the provisions of this subsection have been complied with shall be on the dealer.

(3) In any case where any package containing any pest destroyer which has been labelled in manner hereinbefore provided is wholly or partly emptied, no dealer shall place in that package any pest destroyer other than a pest destroyer of the same name as that originally contained in the package, and to which the label affixed thereto or thereupon refers.

The burden of proof that the provisions of this subsection have been complied with shall be on the dealer.

(4) Any dealer who fails to comply with the requirements of this section shall be guilty of an offence against this Act.

7. The label affixed to or on any package containing any pest destroyer shall, notwithstanding any agreement to the contrary, be deemed to be a warranty by the dealer or wholesale dealer by whom it is sold:—

Effect of label
as warranty.

- (a) that the active constituents of the pest destroyer so sold accurately correspond with the active constituents stated in the statutory declaration forwarded to the chief inspector as hereinbefore provided with respect to the pest destroyer of the same name; and
- (b) that the percentage in which each active constituent is contained in the pest destroyer is not less than the percentage stated in the said declaration; and
- (c) that the percentage of each such active constituent which is soluble in cold water is not less than the percentage stated in the said declaration; and
- (d) that the degree of fineness of the pest destroyer (if for application in dust form) is of the degree of fineness stated in the said declaration or is of a greater degree of fineness.

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6. Section 8 of the principal Act is amended :—
- (a) by inserting after the word “dealer” in the first line thereof the words “and any wholesale dealer”:
- (b) by striking out paragraph (a) of subsection (1), and by inserting in lieu thereof the following paragraph :—
- (a) sells any pest destroyer which fails, or any constituent of which fails, to conform to the standard, if any, prescribed for the pest destroyer or the constituent :
- (c) by striking out paragraph (c) of subsection (1) :
- (d) by striking out subsection (2).
7. Section 14 of the principal Act is repealed.
8. Section 16 of the principal Act is amended by inserting after the word “dealer” in the third line thereof the words “or wholesale dealer”.
9. Section 22 of the principal Act is amended by adding at the end of paragraph (c) thereof the words “or noxious birds,”.
10. Section 23 of the principal Act is amended by inserting after the word “dealer” wherever it occurs in every case the words “or wholesale dealer”.
11. Section 24 of the principal Act is amended :—
- (a) by adding at the end of paragraph VI. thereof the words “and constituents of pest destroyers”; and
- (b) by inserting after paragraph VIII. thereof the following new paragraph :—
- VIIIA. Prescribing methods of analysis for determining the constituents of any pest destroyer or for determining the standard of fineness of any pest destroyer which is prepared for application in dust form :
12. Sections 27 and 28 of the principal Act are repealed.
13. The principal Act is amended in the manner shown in the Schedule.

Amendment of principal Act, s. 8—

Offences by sellers.

Repeal of principal Act, s. 14.

Amendment of principal Act, s. 16—
Publication of analysis.

Amendment of principal Act, s. 22—
Evidence.

Amendment of principal Act, s. 23—
Exemptions.

Amendment of principal Act, s. 24—
Regulations.

Repeal of principal Act, ss. 27 and 28.

Amendment of principal Act.

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

W. DUGAN, Governor.

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THE SCHEDULE.

AMENDMENTS TO ACT No. 1377 OF 1919.

Section, Subsection, or Paragraph Amended.	How Amended.
Section 8	Strike out "insecticide or fungicide" wherever occurring and insert in every case "pest destroyer".
Section 9	Strike out "insecticide or fungicide" wherever occurring and insert in every case "pest destroyer".
Section 10	Line 2, strike out "Insecticides and Fungicides" and insert "Pest Destroyers". At the end of section 10 add— "The person holding the office of Chief Inspector of Insecticides and Fungicides at the time of the passing of the Pest Destroyers Act, 1934, shall, without any further appointment be the Chief Inspector of Pest Destroyers under this Act."
Section 12	Strike out "insecticide or fungicide" wherever occurring and insert in every case "pest destroyer".
Section 13	Strike out "insecticide or fungicide" wherever occurring and insert in every case "pest destroyer".
Section 15	Strike out "insecticide or fungicide" wherever occurring and insert in every case "pest destroyer".
Section 16	Strike out "insecticide or fungicide" wherever occurring and insert in every case "pest destroyer".
Section 17	Strike out "insecticide or fungicide" wherever occurring and insert in every case "pest destroyer".
Section 18	Lines 2 and 3, strike out "of Insecticides".
Section 19	Strike out "insecticide or fungicide" wherever occurring and insert in every case "pest destroyer".
Section 20	Strike out "insecticide or fungicide" wherever occurring and insert in every case "pest destroyer".
Section 24, Paragraph i.	Lines 1 and 2, strike out "an insecticide or fungicide" and insert "a pest destroyer".
Section 24, Paragraph ii.	Lines 2 and 3, strike out "insecticide or fungicide" and insert "pest destroyer".
Section 24, Paragraph vi.	Strike out "insecticides or fungicides" and insert "pest destroyers".
Section 24, Paragraph vii.	Strike out "insecticides or fungicides" and insert "any pest destroyers".
Section 24, Paragraph vii.	Strike out "insecticide or fungicide" and insert "pest destroyer".