New Zealand.

ANALYSIS.

1934, No. 5.

AN ACT to make Better Provision for controlling the Sale of Stock-remedies. [*24th August, 1934.* Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Stock-remedies Act, 1934, and shall come into force on the first day of June, nineteen hundred and thirty-five. Short Title and commencement.

2. In this Act, unless the context otherwise requires,— Interpretation.

"Analysis" includes the bacteriological examination of vaccines, sera, and other biological products; and "to analyse" has a corresponding meaning:

"Analyst" means an Analyst appointed under this Act:

"Board" means the Stock-remedies Registration Board constituted under this Act:

"Inspector" means an Inspector appointed under this Act:

"Label" includes any brand or writing on any stock-remedy, or on any receptacle containing any stock-remedy, or on any carton or cover for any such receptacle:

"Manufacture" includes packing in receptacles for sale, and also includes the process of mixing substances mechanically to form a stock-remedy of more than one ingredient; and "manufactured" and "manufacturer" have corresponding meanings:

"Proprietor", in respect of a stock-remedy manufactured in New Zealand, means the manufacturer thereof, and in respect of a stock-remedy not manufactured in New Zealand, means the importer thereof:

"Registrar" means the Registrar appointed under this Act:

"Sale" or "selling" includes barter, and also includes offering or attempting to sell, or receiving for sale, or having in possession for sale, or exposing for sale, or sending or delivering for sale, or causing or allowing to be sold, offered, advertised, or exposed for sale, whether wholesale or by retail; and "to sell" has a corresponding meaning:

"Stock" includes cattle, sheep, goats, and other ruminants, horses, dogs, swine, domestic fowls, ducks, geese, and turkeys, of any age or either sex:

"Stock-remedy" means any substance (including vaccines, sera, and other biological products) manufactured, advertised, or sold as a remedy for general use for the cure or prevention of disease in stock, or for the destruction or prevention of parasites of stock, or for the maintenance or improvement of the health or condition of stock, but does not include any substance which is used primarily as a food for stock:

"Vendor" means any person who, either on his own account or on behalf of any other person, sells in the ordinary course of his business any stock-remedy.

Stock-remedies Registration Board established.

3. (1) For the purposes of this Act there shall be appointed a Board to be called the Stock-remedies Registration Board.

(2) The Board shall consist of—

(*a*) The Registrar, who shall be appointed by the Governor-General from among the veterinary surgeons in the service of the Department of Agriculture:

(*b*) One person to be appointed on the recommendation of the incorporated society known as the New Zealand Veterinary Association (Incorporated):

(*c*) One person to be appointed on the recommendation of the Pharmacy Board of New Zealand.

(3) The members of the Board other than the Registrar, who shall hold office during pleasure, shall be appointed by the Governor-General for a period of three years, save that any such member may be reappointed, or may be at any time removed from office by the Governor-General for disability, insolvency, neglect of duty, or misconduct, or may at any time resign his office by writing addressed to the Registrar.

(4) If any member of the Board other than the Registrar dies, resigns, or otherwise vacates his office, the vacancy so created shall, within two months after the occurrence thereof, be filled in the manner in which the appointment to the vacant office was originally made. Every person so appointed shall hold office for the residue of the term for which his predecessor was appointed.

(5) The members of the Board, other than the Registrar, shall be paid such allowances as may be lawfully appointed and all travelling-expenses reasonably incurred by them in respect of attendance at meetings of the Board or in transacting the business of the Board.

(6) In the absence of the Registrar from any meeting of the Board any officer of the Department of Agriculture may be appointed by the Registrar to act as his deputy,

and while so acting shall for the purposes of this Act have all the powers of the Registrar.

Meetings of Board.

4. (1) The Registrar shall be the Chairman of the Board.

(2) Meetings of the Board shall be held at such times and places as the Board or the Chairman may appoint.

(3) The Board may regulate its procedure in such manner as it thinks fit.

Appointment of Analysts and Inspectors.

5. There may from time to time be appointed, as officers of the Public Service, such Analysts and Inspectors as are required for the purposes of this Act, who shall have the powers and shall perform the duties hereinafter set out, and such further powers and duties as are prescribed.

Registration of stock-remedies.

6. (1) Before any stock-remedy is sold, it must be registered in accordance with the provisions of this Act and of regulations thereunder.

(2) A stock-remedy may be registered by the Board for a period of three years, and may from time to time be re-registered for a similar period in the same manner and with the same consequences in all respects as in the case of the original registration.

(3) Application for the registration of a stock-remedy shall be made by the proprietor in writing in the prescribed form addressed to the Registrar, and containing or accompanied by the following particulars:—

(*a*) The name of the stock-remedy:

(*b*) The trade-mark or all the trade-marks (if any) to be used in respect of the stock-remedy:

(*c*) A description of the composition of the stock-remedy, showing in respect of each ingredient its name, the form in which it occurs, and the proportion of it present in the stock-remedy, or showing in the case of vaccines, sera, or other biological products the method of preparation:

Provided that it shall not be necessary to show the proportions of ingredients for which no specific efficacy is claimed and which are shown under the heading "adjuvants", "emulsifiers", or "inert ingredients", or any other appropriate heading, as the case may be:

(*d*) The preventive or remedial properties claimed in respect of the stock-remedy:

(*e*) A specimen copy of every label or advertisement to be used or published in respect of the stock-remedy.

(4) Every such application shall be verified by the statutory declaration of the applicant, and shall be accompanied by the prescribed fee.

(5) The proportion of any ingredient required to be shown by paragraph (*c*) of subsection three hereof shall be the minimum proportion, except in the case of ingredients which are poisons within the meaning of the Poisons Act, 1908, when the maximum as well as the minimum proportion shall be shown. Every such proportion shall be stated as a percentage by weight in the case of a solid stock-remedy, and as a number of grams per hundred cubic centimetres in the case of a liquid stock-remedy. For the purposes of this subsection a semi-fluid stock-remedy shall be deemed to be solid if recommended for use by weight (whether or not it is also recommended for use by volume) and in all other cases shall be deemed to be liquid.

(6) The applicant shall furnish such certificates of analysis, and such experimental evidence or other evidence whatsoever, as the Board may require in support of any statement contained in the application or in any specimen copy of a label or advertisement deposited under paragraph (*e*) of subsection three hereof, and the Board may refuse to register the stock-remedy if it is of opinion that any such statement is inaccurate, inadequate, or misleading, or otherwise not in compliance with the provisions of this Act, and cannot be conveniently omitted, altered, or amplified so as to comply therewith, or it may refuse to approve any such label or advertisement which in the opinion of the Board contains any such inaccurate, inadequate, or misleading statement or is otherwise not in compliance with this Act.

(7) The Board may refuse to register any stock-remedy which contains incompatible or volatile ingredients, or which is likely, in the opinion of the Board, to be injurious to stock.

Offences with respect to unregistered stock-remedies.

7. Every person commits an offence who, in the ordinary course of his business, sells any stock-remedy—

(*a*) Before he has received from the Registrar in the case of the proprietor a certificate of the registration of the stock-remedy, or in the

case of any other vendor a notification that the stock-remedy has been registered on the application of the proprietor; or

(*b*) After the period of registration specified in the last such certificate or notification received by him has expired.

Receptacles, labels, and advertisements.

8. (1) Every person commits an offence who, in the ordinary course of his business, sells any stock-remedy during the period of any registration thereof otherwise than in a receptacle which bears or has attached thereto a label of which a specimen copy has been deposited with the Registrar and approved by the Board for such period of registration, and which shows clearly and distinctly (with such other matter as the Board may approve) the following particulars:—

(*a*) The name and address of the proprietor of the stock-remedy:

(*b*) The name of the stock-remedy, and the trade-marks (if any) under which it is sold:

(*c*) In the case of a solid the minimum net weight, and in the case of a liquid the minimum net volume, of the contents of the receptacle:

(*d*) The preventive or remedial properties claimed in respect of the stock-remedy, and directions for its use.

(2) Every proprietor or vendor of a stock-remedy commits an offence who during the period of any registration of the stock-remedy uses or publishes, or permits or causes to be used or published, in respect of the stock-remedy any label or advertisement of which a specimen copy has not been deposited with the Registrar and approved by the Board for such period of registration:

Provided that nothing in this subsection shall be so construed as to make it an offence to use or publish in respect of any stock-remedy during the period of any registration thereof any advertisement that does not differ in any material respect, with regard to the preventive or remedial properties claimed in respect of the stock-remedy, from a specimen copy deposited as aforesaid and approved by the Board for such period of registration.

(3) A label or advertisement relating to any registered stock-remedy may, in accordance with the provisions of this Act and of regulations thereunder, be

approved by the Board for the period of the registration of the stock-remedy. An application for such approval may be combined with an application for the registration of the stock-remedy or may be made subsequently at any time during the period of registration. Every such application shall be made in writing in the prescribed form addressed to the Registrar, and shall be accompanied by the prescribed fee. The provisions of subsection six of section six hereof shall, so far as applicable, apply to every such application.

(4) No reference shall be made in any label or advertisement to the registration of a stock-remedy, except in the words "Registered pursuant to the Stock-remedies Act, 1934". No reference shall be made in any label or advertisement to the approval of such label or advertisement or of any stock-remedy by the Board, the Registrar, or the Department of Agriculture.

Selling under false label.

9. Every person is liable on summary conviction to a fine of fifty pounds who, in the ordinary course of his business, sells any stock-remedy in a receptacle which bears or has attached thereto a label containing any false or misleading statement purporting to indicate the nature, quality, preventive or remedial properties, strength, purity, composition, weight, volume, origin, age, or proportion of the substance contained in the receptacle or of any ingredient thereof.

Implied warranty by proprietor.

10. (1) In every sale or contract for the sale of any stock-remedy by the proprietor or a vendor there shall be implied a warranty by the proprietor of the stock-remedy (whether or not he is otherwise a party to the sale or contract) to the purchaser that the stock-remedy is reasonably fit for any purpose for which its use is expressly or impliedly suggested in any label or advertisement used or published in respect of the stock-remedy by or with the concurrence of the proprietor.

No warranty to be implied by Government or by Board.

(2) The fact that a stock-remedy is registered in accordance with this Act or that a label or advertisement has been approved in accordance with this Act shall not be deemed to imply a warranty by the Government or by the Board that the stock-remedy is reasonably fit for any purpose for which it is sold or that the statements contained in such label or advertisement are correct.

Power of Inspectors to take samples.

11. (1) An Inspector may at all reasonable times enter upon the premises of the proprietor or of any vendor of a stock-remedy, and may, without payment, take a sample of such stock-remedy.

(2) Every person who obstructs an Inspector in the exercise of his powers under this section is liable on summary conviction to a fine of ten pounds.

How sample to be taken.

12. (1) Every sample taken by an Inspector shall be taken in the presence of the proprietor or vendor if he is available, or if he is not available, then in the presence of some other witness.

(2) The Inspector, in the presence of the proprietor or vendor or such other witness, as the case may be, shall then divide each sample into three parts, and shall seal each part separately with an official seal.

(3) He shall leave with or deliver to the proprietor or vendor one part, and shall deliver a second part to an Analyst; the third part shall be retained by the Inspector, and shall be sealed by the proprietor or vendor if he is present and so desires.

(4) Delivery of a sample to an Analyst or to a proprietor or vendor may be effected personally by the Inspector, or by posting it by registered post to the usual address of the Analyst, proprietor, or vendor, as the case may be.

Analysis of sample and certificate of Analyst.

13. (1) The Analyst shall, on receiving the sample, divide it into two approximately equal portions, one of which he shall fasten up and seal in a suitable vessel for production, if required, in any proceedings that may thereafter be taken in the matter.

(2) He shall analyse the remaining portion, and shall set out the result in a certificate of analysis in the prescribed form.

(3) The result of the analysis shall be compared with the particulars in the application for the registration of the stock-remedy from which the sample is taken, and if there is a discrepancy in any respect between the result of the analysis and the aforesaid particulars the Analyst shall add to the certificate of analysis a statement as to whether or not in his opinion such discrepancy would be materially to the prejudice of a purchaser.

(4) Where on analysis and comparison a discrepancy materially prejudicial to a purchaser is found in any sample, a copy of the Analyst's certificate shall be

forwarded to the proprietor and also to the vendor (if he is not the proprietor) of the stock-remedy from which the sample is taken. In any other case the proprietor or the vendor may obtain a copy of the Analyst's certificate on paying the prescribed fee.

Analysis on request of buyer.

14. (1) Any person in possession of any stock-remedy that has been sold by the proprietor or by any vendor thereof may at any time notify an Inspector in writing that he desires him to take a sample of such stock-remedy.

(2) On payment of the prescribed fee the Inspector or some person authorized by him in writing shall attend at the place mentioned in the notice and take a sample of the stock-remedy and deal with the sample in the manner provided by subsections two and three of section twelve hereof.

(3) Not less than four clear days' notice shall be given to the vendor of the stock-remedy, and also to the proprietor thereof if he is not the vendor, by the Inspector of the time and place at which he intends to take such sample.

(4) The vendor and the proprietor or their respective agents shall be at liberty to attend at the time and place specified in such notice.

(5) The Inspector shall satisfy himself as far as possible that the receptacles containing the stock-remedy are in a sound condition, that they have been properly stored, and that they have not been opened or tampered with in any way.

(6) The Analyst shall analyse the sample and give a certificate as mentioned in section thirteen hereof to the Inspector. A copy of the Analyst's certificate shall be forwarded to the applicant for the analysis; and copies thereof shall also be forwarded to or be obtainable by the proprietor and the vendor as provided in subsection four of the said section thirteen.

(7) If the result of the analysis shows that the stock-remedy is not materially at variance with the particulars in the application for the registration of the stock-remedy from which the sample is taken, the vendor and the proprietor shall be entitled to any reasonable expenses to which they may respectively have been put in attending at the place at which the sample is taken, and may recover such expenses as a debt from the applicant for the analysis.

Analyst's certificate *prima facie* evidence.

15. (1) In any proceedings under this Act the production by the prosecutor of a certificate of analysis purporting to be signed by an Analyst shall, without proof of the signature of the Analyst, be sufficient evidence of the facts stated therein, unless the defendant requires that the Analyst be called as a witness, in which case he shall give notice thereof to the prosecutor not less than three clear days before the date of the hearing.

(2) In like manner the production by the defendant of a certificate of analysis purporting to be signed by an Analyst shall, without proof of the signature of the Analyst, be sufficient evidence of the facts stated therein, unless the prosecutor requires that the Analyst be called as a witness.

(3) A copy of such last-mentioned certificate shall be sent to the prosecutor at least three clear days before the date of the hearing, and if it is not so sent the Court may adjourn the hearing on such terms as it thinks proper.

Independent analysis.

16. In any proceedings under this Act the Court may order that the part of the sample retained by the Inspector under section twelve hereof be divided into two parts in the presence of the defendant or his agent and that each of such parts be submitted for report to an independent analyst, whether or not such person is an Analyst appointed under this Act.

Tampering with sample.

17. Every person is liable on summary conviction to a fine of fifty pounds who—

(*a*) Knowingly and fraudulently tampers with any stock-remedy so as to procure that a sample of it taken in pursuance of this Act is not a fair sample of the stock-remedy :

(*b*) Improperly breaks the seal of or tampers with any part of a sample taken in pursuance of this Act.

General penalty.

18. Every person who commits an offence against this Act for which no penalty is elsewhere prescribed is liable on summary conviction for the first offence to a fine of ten pounds, and for every subsequent offence to a fine of fifty pounds.

Publication of results of analyses and experiments.

19. (1) The Board may from time to time, in such manner as it thinks fit, publish the results of any experiments made with any stock-remedy or, with the approval of the Minister, may publish with respect to any stock-remedy the results of any analysis thereof made under this Act or any particulars relating to

such stock-remedy, if, in its opinion, based on the results of such analysis, the publication of such results or particulars is necessary for the protection of purchasers or otherwise in the public interest.

(2) No action shall lie against the Minister or any member of the Board or any other person in respect of the publication of any matter pursuant to this section.

Application of fees.

20. All fees and other moneys paid under this Act shall be paid into the Public Account, and shall form part of the Consolidated Fund, and all expenses incurred in respect of the administration of this Act shall be paid out of moneys to be from time to time appropriated by Parliament for the purpose.

Regulations.

21. (1) The Governor-General may from time to time, by Order in Council, make regulations—

(*a*) Governing the registration of stock-remedies and the approval of labels and advertisements under this Act:

(*b*) Prescribing the forms required under this Act:

(*c*) Prescribing the fees payable under this Act:

(*d*) Prescribing methods of taking samples and of conducting analyses and experiments in respect of stock-remedies:

(*e*) Prescribing limits of error allowable in setting out in applications for registration and in labels or advertisements the proportions of ingredients present in stock-remedies:

(*f*) Prescribing the powers and duties of Analysts and Inspectors:

(*g*) Prohibiting any person from acting as an itinerant vendor of any stock-remedy except in pursuance of a license, and prescribing the conditions (including the payment of fees) subject to which such licenses may be issued, renewed, and held:

(*h*) Prescribing fines, not exceeding twenty pounds in any case, for failure to comply with the provisions of any regulations under this Act or with any condition to which a vendor's license is subject:

(*i*) Prescribing any other matters for which regulations are contemplated or required by this Act, or which he deems necessary for the efficient administration thereof.

(2) All such regulations shall be published in the *Gazette*, and shall be laid before Parliament within ten days after publication or, if Parliament is not then sitting, then within ten days after the commencement of the next ensuing session.

Other Acts not affected.

See Reprint of Statutes, Vol. V, p. 725, Vol. III, p. 394, Vol. VI, pp. 644, 656

22. Nothing in this Act shall be construed to limit the provisions of the Poisons Act, 1908, or of the Dangerous Drugs Act, 1927, or of the Patents, Designs, and Trade-marks Act, 1908, or of the Patents, Designs, and Trade-marks Act, 1921–22, or of any other Act.