

The State Peace and Development Council

The Fertilizer Law

(The State Peace and Development Council Law No. 7/2002)

The 10th Waning Day of Tawthalin, 1364 M.E.

(1st October, 2002)

The State Peace and Development Council hereby enacts the following Law: -

Chapter I

Title and Definition

1. This Law shall be called the Fertilizer Law.
2. The following expressions contained in this Law shall have the meanings given hereunder:
 - (a) Fertilizer means chemical fertilizer, bio-fertilizer or natural fertilizer which consists of the material that can assist to cause chemical change in the soil or by other means for plant nutrition for the growth of fruits, flowers, crops and plants. The said expression does not include any natural fertilizer made by any grower for use in his own farm;
 - (b) Chemical fertilizer means the fertilizer prepared with chemicals by using any means and not being naturally made or composed. The said expression also includes mineral fertilizer or organic and inorganic chemical fertilizer produced by a factory;
 - (c) Bio-fertilizer means the fertilizer produced by multiplying beneficial organisms such as bacteria, fungi etc. for the growth of plants;
 - (d) Natural fertilizer means the remains, wastes or by-products of fauna and flora, obtained and prepared by decomposing thereof;
 - (e) Specifications mean prescribed standards by the Fertilizer Committee in plant nutrients ratio or quality of other necessary materials to be included in fertilizer;

- (f) Toxic substance means any chemical which is hazardous or poisonous to living animal or plant;
- (g) Quality assurance means the warranty of the fertilizer producer for consistency with specifications and warranty of importer or exporter for consistency with specifications contained in agreement executed with foreign counterpart;
- (h) Label means printed mark which is affixed or attached to the package or bag of the fertilizer;
- (i) Fertilizer business means the business of producing, compounding, mixing, repackaging, storing, distributing, importing and exporting of fertilizer for commercial purpose;
- (j) Storage means storing the fertilizer to carry out the business of distribution and sale;
- (k) Distribution and sale means the distribution and sale in excess of the weight and volume of fertilizer prescribed by the Fertilizer Committee to obtain the licence;
- (l) Registration certificate means a permit issued under this Law for permitting fertilizer production, importing or exporting for commercial purpose;
- (m) Licence means a permit issued under this Law permitting compounding, mixing, repackaging, storing or distribution and sale of fertilizer for commercial purpose;
- (n) Manager means person in charge of the Myanmar Agriculture Service serving at the different States, Divisions, Districts and Townships;
- (o) Inspector means a person assigned duty by Myanmar Agriculture Service as an inspector under section 22 of this Law
- (p) Minister means Minister for the Ministry of Agriculture and Irrigation;
- (q) Ministry means the Ministry of Agriculture and Irrigation.

Chapter II

Objectives

3. The objectives of this Law are as follows:
 - (a) to enable supporting the development of agricultural sector which is the basic economy of the State;
 - (b) to enable supervision and control the fertilizer business systematically;
 - (c) to enable growers to use fertilizer of quality in conformity with the specifications;
 - (d) to support the conservation of soil and environment by utilizing suitable fertilizer;
 - (e) to enable carrying out of educative and research works extensively for the systematic utilization of fertilizer by the agriculturalist;
 - (f) to cooperate with government departments and organizations, international organizations and local and foreign non-governmental organizations regarding fertilizer business.

Chapter III

Formation of the Fertilizer Committee

4. The Ministry, with the approval of the Government:
 - (a) shall form the Fertilizer Committee comprising Deputy Minister for the Ministry of Agriculture and Irrigation as Chairman, Managing Director of Myanmar Agriculture Service as Secretary, heads of the relevant government departments and organizations and experts as members;
 - (b) may reorganize from time to time the Fertilizer Committee formed under sub-section (a).

Chapter IV

Functions and the Duties of the Fertilizer Committee

5. The functions and duties of the Fertilizer Committee are as follows
 - (a) laying down the policy and giving guidance relating to the fertilizer business;
 - (b) stipulating the specifications of the fertilizer;
 - (c) stipulating weight and volume of fertilizer required to obtain a licence for distribution and sale;
 - (d) issuing necessary directives to prevent environmental pollution and hazard to human beings and animals in respect of fertilizer business;
 - (e) granting or refusing to issue the registration certificate after scrutinizing according to the stipulations the application to obtain the registration certificate;
 - (f) suspending subject to a time limit or canceling and renewal of the registration certificate;
 - (g) stipulating the tenure of registration certificate
 - (h) causing research work relating to fertilizer to be conducted;
 - (i) carrying out educative works for the systematic utilization of fertilizer by growers;
 - (j) cooperating with the government departments and organizations, international organizations, local and foreign non-governmental organizations regarding fertilizer business.

6. The Fertilizer Committee shall, for enabling to carry out its functions and duties effectively:
 - (a) form a Fertilizer Technical Body with suitable experts and the Secretary of the Fertilizer Committee as the leader of the Body and determine the duties thereof;

- (b) form the sub-committees relating to work with suitable persons, and determine the duties of the said sub-committees.

Chapter V

Registration Certificate

7. A person desirous of carrying out production, import or export of fertilizer for commercial purpose shall apply to the Fertilizer Committee in accordance with the stipulations in order to obtain the registration certificate.
8. The Fertilizer Committee:
 - (a) shall cause the Fertilizer Technical Body to examine the application made under section 7 as to whether or not it is in accordance with the stipulations and submit thereof;
 - (b) may grant or refuse to issue certificate after scrutinizing the submission made under sub-section (a). If granted, the registration certificate shall be issued to the applicant after prescribing conditions.
9. The registration certificate holder shall :
 - (a) abide by this Law and the rules, procedures, notifications, orders and directives issued hereunder;
 - (b) abide by the conditions contained in the registration certificate;
 - (c) shall perform in accordance with the stipulations the quality assurance, label, and specifications
 - (d) shall submit to the inspection of the relevant manager and inspectors when they come for inspection.
10. The registration certificate holder shall, if desirous of continuing the business, apply for its renewal to the Fertilizer Committee in accordance with the stipulations at least 30 days prior to the expiry of the tenure.
11. The Fertilizer Committee:

- (a) may, after scrutiny of the application made under section 10 permit or refuse the renewal;
- (b) shall, if permitted under sub-section (a), renew the registration certificate.

12. The registration certificate holder shall subscribe the registration fees, renewal fees for registration certificate and laboratory analysis fees to the Myanmar Agriculture Service in the prescribed manner.

Chapter VI

Licence

13. (a) A person desirous of doing the compounding, mixing, repackaging or storing business of fertilizer for commercial purpose shall, in accordance with the stipulations, apply to the Myanmar Agriculture Service to obtain the business licence.
- (b) The Myanmar Agriculture Service may, after scrutiny of the application made under sub-section (a), grant or refuse to issue the licence. If granted, the licence shall be issued to the applicant after prescribing conditions.
14. (a) A person desirous of distribution and sale of fertilizer in excess of the weight and volume of fertilizer prescribed by the Fertilizer Committee shall, in accordance with the stipulations, apply to the State and Divisional Manager to obtain the business licence.
- (b) The State and Divisional Manager may, after scrutiny of the application made under sub-section (a), grant or refuse to issue the licence. If granted, licence shall be issued to the applicant after prescribing conditions.
15. A licence holder shall :
- (a) abide by this Law and the rules, procedures, notifications, orders and directives issued hereunder;
 - (b) abide by the conditions contained in the licence;

- (c) shall submit to the inspection of the relevant manager and inspectors when they come for inspection.
16. A person holding the business licence of compounding, mixing or repackaging of fertilizer shall mention the following particulars on the package or bag of the fertilizer:
- (a) label,
 - (b) net weight of the fertilizer,
 - (c) quality assurance,
 - (d) percentage of plant nutrient contained in the fertilizer,
 - (e) ingredients and ratio of ingredients compounded or mixed in the fertilizer,
 - (f) prescription for use.
17. A business licence holder for storage or distribution and sale of fertilizer shall store or distribute and sell only the fertilizer on which the particulars contained in section 16 are mentioned.
18. The Myanmar Agriculture Service shall stipulate the tenure of the licences authorized to be issued by itself and the licence by the State and Divisional Manager.
19. (a) If a business licence holder for compounding, mixing, repackaging or storing of fertilizer is desirous of continuing the business, application shall be submitted to the Myanmar Agriculture Service in accordance with the stipulations for renewal of licence at least 30 days prior to the expiry of the tenure.
- (b) The Myanmar Agriculture Service may, after scrutiny of the application made under sub-section (a), permit or refuse the renewal of the licence.
20. (a) If a business licence holder for distribution and sale of fertilizer is desirous of continuing the business, application shall be submitted to the relevant State and Divisional Manager in accordance with the stipulations for the renewal of the licence at least 30 days prior to the expiry of the tenure.

- (b) The relevant State and Divisional Manager may, after scrutiny of the application made under sub-section (a), permit or refuse the renewal of the licence.

21. A fertilizer business licence holder shall subscribe the licence fees, renewal licence fees and laboratory analysis fees to the Myanmar Agriculture Service or relevant State and Divisional Office in the prescribed manner.

Chapter VII

Assignment of Duty as the Inspector

22. The Myanmar Agriculture Service may assign duty to any suitable officer as inspector.

23. The duties of the Inspector are as follows

- (a) inspecting the fertilizer business in the area to which he has been assigned;
- (b) obtaining the sample of the fertilizer to test as to whether or not the fertilizer conforms to the specifications, making laboratory analysis thereof, and submitting the result of its findings to the Myanmar Agriculture Service;
- (c) inspecting as to whether or not the fertilizer is used only in agriculture;
- (d) if it is found that any prohibition contained in this Law has been violated, submitting to the Myanmar Agriculture Service in the prescribed manner;
- (e) performing other duties as are assigned by the Myanmar Agriculture Service.

Chapter VIII

Taking Action by Administrative Means

24. The penalties of administrative action are as follows

- (a) temporary suspension of the fertilizer business that has been granted;

- (b) permitting to continue the fertilizer business after causing payment of fine and requirement to be made;
- (c) suspending of registration certificate or licence subject to a time limit;
- (d) cancellation of the registration certificate or licence.

25. The Fertilizer Committee shall impose the administrative penalty contained in section 24 on the registration certificate holder who fails to comply with any duty contained in section 9. In doing so, one or more of the administrative penalties may be imposed.

26. The Myanmar Agriculture Service shall, on finding out any of the following facts during inspection. Impose the administrative penalty contained in section 24 on the relevant business licence holder. In doing so, one or more of the administrative penalties may be imposed

- (a) failing to comply with any duty contained in section 15 by the licence holder of compounding, mixing, repackaging or storing business of fertilizer;
- (b) failing to comply with any duty contained in section 16 the licence holder of compounding, mixing or repackaging business of fertilizer;
- (c) failing to comply with any provisions contained in section 17 by the licence holder of storage business of fertilizer.

27. The relevant State and Divisional Manager shall impose the administrative penalty contained in section 24 on the licence holder of distribution and sale business of fertilizer who fails to comply with any duty contained in sections 15 and 17. In doing so, one or more of the administrative penalties may be imposed.

Chapter IX

Appeals

28. (a) A person dissatisfied with the order or decision made by the relevant State and Divisional Manager in respect of the distribution and sale of fertilizer business licence may appeal, in accordance with the stipulations, to the

Myanmar Agriculture Service within 30 days from the date of the receipt of such order or decision;

- (b) Myanmar Agriculture Service may confirm, cancel or revise the order or decision made by the relevant State and Divisional Manager in respect of the appeal made under sub-section (a);
 - (c) The decision of the Myanmar Agriculture Service under sub-section (b) shall be final and conclusive.
29. (a) A person dissatisfied with the order or decision made by the Myanmar Agriculture Service in respect of the business licence of compounding, mixing, repackaging or storing of fertilizer may appeal, in accordance with the stipulations, to the Fertilizer Committee within 30 days from the date of receipt of such order or decision;
- (b) The Fertilizer Committee may confirm, cancel or revise the order or decision made by the Myanmar Agriculture Service in respect of the appeal made under sub-section (a);
 - (c) The decision of the Fertilizer Committee under sub-section (b) shall be final and conclusive.
30. (a) A person dissatisfied with the order or decision made by the Fertilizer Committee in respect of the registration certificate may appeal, in accordance with the stipulations, to the Minister within 30 days from the date of the receipt of such order or decision.
- (b) The Minister may confirm, cancel or revise the order or decision made by the Fertilizer Committee in respect of the appeal made under subsection (a);
 - (c) The decision of the Minister under sub-section (b) shall be final and conclusive.

Chapter X

Prohibitions

31. No one shall, without the registration certificate, produce, import or export fertilizer for commercial purpose.
32. No one shall, without licence, do compounding, mixing, repackaging or storing of fertilizer for commercial purpose.
33. No one shall produce, store or distribute and sell fake fertilizer or fertilizer not in conformity with original specifications.
34. No one shall produce, store or distribute and sell of fertilizer mixed with toxic substances.
35. No one shall use the fertilizer in purposes other than agriculture.

Chapter XI

Offences and Penalties

36. Whoever violates any prohibition contained in sections 31, 32, 33 or 34 shall, on conviction, be punished with imprisonment for a term which may extend to 3 years or with fine which may extend to kyats 150,000 or with both. In addition, order shall be passed to confiscate the exhibits involved in the offence.
37. Whoever violates the prohibition contained in section 35 shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine which may extend to kyats 50,000 or with both. In addition, order shall be passed to confiscate the exhibits involved in the offence.
38. The Court shall transfer for disposal the fertilizer which is confiscated to Myanmar Agriculture Service.

Chapter XII

Miscellaneous

39. If a person doing any fertilizer business on the date of promulgation of this Law is desirous of continuing the said business, he shall apply in accordance with the

stipulations within 90 days from the date of promulgation of this Law to obtain the necessary registration certificate or licence.

40. The Ministry shall prescribe the registration fees, the licence fees, the renewal fees and the laboratory analysis fees.

41. The Ministry may exempt any government department or organization in respect of the application of registration certificate, application of licence and subscription of fees for the use of fertilizer or any fertilizer business.

42. The Myanmar Agriculture Services shall assign duty to any relevant Manager to recover the said fine and fees from the person who fails to subscribe the same as if they were arrears of land revenue.

43. A person whose registration certificate or licence has been suspended subject to a time limit or cancelled, shall comply with the directives of the Fertilizer Committee or the Myanmar Agriculture Service in respect of the fertilizer in his possession.

44. If application is made to issue permit or licence to import or export fertilizer, the government department or organization authorized to issue such permit or licence may issue the permit or licence only to the person who submits the recommendation of the Myanmar Agriculture Service attached to the application.

45. With regard to fertilizer in the offences prosecuted under this Law, the report of the findings of the laboratory analysis conducted by the Myanmar Agriculture Service shall be final and conclusive evidence for the said offence.

46. The offence prosecuted under section 37 of this Law is prescribed as the cognizable offence by Myanmar Police Force.

47. If an exhibit involved in any offence prosecuted under this Law is not easily produce able before the court, such exhibit need not be produced before the Court. However, a report or other relevant documentary evidence as to the manner of custody of the same may be submitted. Such submission shall be deemed as if it were a submission of the exhibit before the Court and the relevant Court may dispose of the same in accordance with law.

48. In implementing the provisions contained in this Law -

- (a) The Ministry may, with the approval of the Government issue such rules and procedures as may be necessary.
- (b) The Ministry, the Fertilizer Committee and the Myanmar Agriculture Service may issue such notification orders and directives, as may be necessary.

(Sd)

Than Shwe

Senior General

Chairman

State Peace and Development Council