

Nitrogenous Fertilizers Subsidy

No. 79 of 1969

An Act to amend the *Nitrogenous Fertilizers Subsidy Act* 1966.

[Assented to 26 September 1969]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

Short title
and citation.

1.—(1.) This Act may be cited as the *Nitrogenous Fertilizers Subsidy Act* 1969.

(2.) The *Nitrogenous Fertilizers Subsidy Act* 1966[†] is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Nitrogenous Fertilizers Subsidy Act* 1966–1969.

Commence-
ment.

2. This Act shall be deemed to have come into operation on the fourteenth day of August, One thousand nine hundred and sixty-nine.

Interpretation.

3. Section 3 of the Principal Act is amended—

- (a) by adding at the end of the definition of “Collector” in sub-section (1.) the words “or Territory of the Commonwealth”; and
- (b) by omitting from sub-section (2.) the word “sixty-nine” and inserting in its stead the word “seventy-two”.

^{*} Act No. 155, 1968.
[†] Act No. 78, 1966.

4. Section 5 of the Principal Act is amended by omitting sub-section (2.) and inserting in its stead the following sub-section:—

Subsidy in respect of goods sold for use as fertilizer.

“(2.) Subject to this Act, where goods consisting of a manufactured nitrogenous substance, natural sodium nitrate, or a mixture that contains a manufactured nitrogenous substance or natural sodium nitrate, have been imported into Australia after the commencement of this sub-section and, during the period to which this Act applies, sold for use, or used by the importer, in Australia as a fertilizer, and—

(a) at the date of importation of those goods, like or directly competitive goods—

- (i) were not produced in Australia; or
- (ii) were not produced in Australia in quantities sufficient to satisfy the demand in Australia at that date for the last-mentioned goods; or

(b) the Minister is satisfied, having regard to all the circumstances—

- (i) where the goods were sold for use in Australia as a fertilizer—that the terms on which the goods were so sold were more favourable to the person to whom the goods were sold than the terms on which any Australian producer was, at the date of the importation of the goods, prepared to sell like or directly competitive goods to that person for use in Australia as a fertilizer; or
- (ii) where the goods were used by the importer in Australia as a fertilizer—that the terms on which the importer obtained the goods were more favourable to the importer than the terms on which any Australian producer was, at the date of the importation of the goods, prepared to sell like or directly competitive goods to the importer for use in Australia as a fertilizer,

subsidy is payable in respect of the importation into Australia of the first-mentioned goods.”.

5. Section 6 of the Principal Act is repealed and the following section inserted in its stead:—

“6.—(1.) Subsidy is not payable under sub-section (2.) of the last preceding section in respect of the importation of goods referred to in paragraph (b) of that sub-section if the Minister is satisfied—

Subsidy not payable in respect of certain imported goods.

- (a) that the export price of those goods is less than the normal value of those goods; or
- (b) that, by reason of any circumstance, including the granting of rebates, refunds or other allowances, those goods have been carried from the country of export to Australia freight free, or the amount or the net amount of freight, expressed in Australian currency, paid or payable in respect of the carriage of the goods is less than the amount of freight that would have been payable in

respect of the carriage of the goods from the country of export to Australia if the rate of freight applicable to that carriage were a rate determined by the Minister to be the appropriate rate, in Australian currency, in respect of that carriage having regard to the ruling rates of freight (if any), at the date of exportation of the goods, in respect of the carriage of similar goods by general cargo vessels trading regularly with Australia, and to any other matter that the Minister considers relevant.

“(2.) In this section, in relation to goods referred to in the last preceding sub-section—

‘delivery charges in the country of export’ means charges or costs in respect of the handling (including the placing in outside packages), transporting or loading of the goods in the country of export with a view to exporting the goods from that country;

‘export price’ means an amount, expressed in Australian currency, equal to—

(a) where the goods have been sold by the exporter, on or before the date of exportation, to the person who imports them into Australia—the sum of—

(i) the price paid or to be paid for the goods by the importer, but not including any part of that price that represents a charge in respect of transport or insurance of the goods after they have been exported or in respect of any other matter arising after that time, or represents a charge in respect of the cost of supplying outside packages for the goods; and

(ii) any delivery charges in the country of export that have been incurred by the importer in relation to the goods and are not included in that price; or

(b) in any other case—the amount that, in the opinion of the Minister, would have been the export price of the goods in accordance with the last preceding paragraph if the export of the goods to Australia had been the result of a sale of the goods by the exporter to a person in Australia;

‘exporter’ includes a person who placed the goods on board the ship, aircraft or vehicle in which the goods left the country of export;

‘the normal value’ means whichever of the following amounts, as ascertained by the Minister, expressed in Australian currency, is determined by the Minister to be the normal value of those goods:—

(a) an amount equal to the fair market value of like goods sold in the country of export for home consumption in the ordinary course of trade plus delivery charges in the country of export in relation to the goods, but not including any

duties or other taxes paid or payable in that country in respect of the goods, being duties or taxes that are remitted or refunded on export;

- (b) an amount equal to the highest comparable price paid for like goods sold in the country of export for export to a third country in the ordinary course of trade plus delivery charges in the country of export in relation to the goods, but not including any duties or other taxes paid or payable in the country of export in respect of the goods, being duties or taxes that are remitted or refunded on export;
- (c) an amount equal to the fair market value of like goods produced or manufactured, and sold, in a third country selected by the Minister, being a country in which, in the opinion of the Minister, the costs of production or manufacture are similar to those in the country of export, in the ordinary course of trade for home consumption in that third country plus delivery charges in the country of export in relation to the goods, but not including any duties or other taxes paid or payable in the third country in respect of the goods, being duties or taxes that are remitted or refunded on export; or
- (d) an amount equal to the sum of—
 - (i) the cost of production or manufacture of the goods or, if the Minister is of opinion that adequate information as to the cost of production or manufacture of the goods cannot be obtained, such amount as is estimated by the Minister to be the cost of production or manufacture of the goods;
 - (ii) delivery charges in the country of export in relation to the goods; and
 - (iii) such additional amount in respect of selling costs and profit as is determined by the Minister.

“(3.) Where the Minister is of opinion that there are reasonable grounds for believing that, in relation to any goods, the amount of the price referred to in sub-paragraph (i) of paragraph (a) of the definition of ‘export price’ in the last preceding sub-section, or the amount of any charge referred to in sub-paragraph (ii) of that paragraph, was fixed with a view to avoiding the application of sub-section (1.) of this section in respect of the importation of the goods, the Minister may determine an amount to be the export price of the goods for the purposes of this Act, being the amount that, in the opinion of the Minister, would have been the export price of the goods in accordance with the definition of ‘export price’ in the last preceding sub-section if the amount of the first-mentioned price or charge had not been fixed with that view.

“(4.) In forming an opinion in relation to goods for the purposes of paragraph (b) of the definition of ‘export price’ in sub-section (2.) of this section or for the purposes of the last preceding sub-section, the Minister may have regard to any matter that he considers relevant and, in particular, may have regard to—

- (a) any dealing in, or any action taken with a view to dealing in, the goods, whether before or after the importation of the goods into Australia;
- (b) any use of the goods after importation into Australia and any value attributed to the goods in connexion with any such use; or
- (c) any dealing in, or any action taken with a view to dealing in, other goods in the production of which the first-mentioned goods have been used or in which the first-mentioned goods have been incorporated.”.

To whom
subsidy payable.

6. Section 8 of the Principal Act is amended—

- (a) by omitting from paragraph (a) the words “or under sub-section (1.) of section 6 of this Act”; and
- (b) by omitting from paragraph (b) the words “or under sub-section (2.) of section 6 of this Act”.

Benefit of
subsidy to
be passed on
to purchasers.

7. Section 11 of the Principal Act is amended by omitting sub-section (2.).

Periods during
which imports
may be
subsidized.

8. Section 12 of the Principal Act is repealed.