

Control of Pesticides Act, No. 33 of 1980

(Certified on 5th September, 1980)

L.D-O.13/79

**AN ACT TO PROVIDE FOR THE LICENSING OF PESTICIDES;
TO REGULATE THE IMPORT, PACKING, LABELLING,
STORAGE, FORMULATION, TRANSPORT, SALE AND USE
THEREOF; FOR THE APPOINTMENT OF A LICENSING
AUTHORITY FOR PESTICIDES; FOR THE ESTABLISHMENT
OF A PESTICIDE FORMULARY COMMITTEE AND FOR
MATTERS CONNECTED THEREWITH OR INCIDENTAL
THERE TO;**

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:-

1. This Act may be cited as the Control of Pesticides Act No. 33 of 1980. Short title

2. This Act shall apply to- Application of the Act
 - (a) active ingredients and pesticide formulations with included adjutants; and

 - (b) adjuvants other than those included in pesticide formulation if sold for addition at the point of use to the spray tank or other container of pesticide formulations.

3. (1) There shall be appointed a Registrar of Pesticides who shall be the licensing authority for pesticides. Licensing Authority for pesticides

(2) The Registrar of Pesticides shall be a person with knowledge of toxicology and biological subjects associated with pest control and shall be responsible to the Director of Agriculture.

4. (1) There shall be a Pesticide Formulary Committee (hereinafter referred to as the "Committee")

(2) The Committee shall consist of -
 - (a) the following *ex officio* members namely-

- (i) the person holding office for the time being as the Director of Agriculture (hereinafter referred to as the "Director"), and
 - (ii) the person holding office for the time being as the Registrar of Pesticides (hereinafter referred to as the "Registrar"); and
- (b) not more than eight persons who are experienced in the use of pesticide or in pest control and related scientific disciplines who shall be appointed by the Minister.

Provided, however, that no person having a commercial interest in the manufacture, import, marketing, formulation, storage, transport or sale of pesticides shall be so appointed.

(3) The Director shall if present preside at all meetings of the Committee. In the absence of the Director from any such meeting, the members present shall elect one of the members to preside at such meeting.

(4) Every member, other than the ex officio members shall, unless he vacates office earlier by death, resignation or removal by the Minister, hold office for a period of three years from the date of the appointment to such office.

Provided that a member appointed in place of a members who dies, resigns or otherwise vacates office, shall unless he earlier vacates office, hold office for the unexpired part of the term of office of the member whom he succeeds.

(5) The Minister may, by Order published in the *Gazette* remove any member, other than the ex-officio members, from office, without assigning any reason therefore and such removal shall not be called in question in any Court.

(6) Any member other than the ex-officio members vacating office by the effluxion of time shall be eligible for reappointment.

(7) If any member, is temporarily unable to perform the duties of his office during any period due to ill health or absence from Sri Lanka or for any other cause, the Minister may appoint some other person to act in his place during such period in like manner as such member was appointed in accordance with the provisions of subsection (1).

(8) The Minister may, determine the remuneration of such members and the manner of such payment in consultation with the Minister in charge of the subject of Finance.

5. (1) The functions of the Committee shall be to advise the Registrar on any important matter relating to the registration of pesticides, approval of containers and the storage, formulation, import, sale and use of pesticides and such other matters relating thereto as may be prescribed by regulations made under this Act.

Functions of
the
Committee

(2) (a) The Committee may make rules in respect of all or any of the following matters:-

(i) the procedure to be followed at its meetings;

(ii) the conduct of its business; and

(iii) all matters connected with or incidental to the carrying on of its business.

(b) Such rules shall be made at a meeting of all members of the Committee.

(c) No rule made by the Committee shall have effect unless it is approved by the Minister and published in the *Gazette*.

6. (1) Every person desirous of licensing any pesticide shall make an application to the Registrar in that behalf.

Application
for licence

(2) An application under sub-section (1) shall contain the following particulars:-

(a) the name and address of the applicant;

(b) the name and address of the manufacturer or producer of the pesticide in respect of which such application made;

(c) the proposed trade name under which such pesticide shall be marketed or sold;

(d) a copy of the draft label which shall be affixed on any container in which such pesticide shall be sold;

- (e) samples of the container in which such pesticide shall be distributed or sold;
- (f) a statement of the claim made by the manufacturer or producer of such pesticide as to its uses, potency shelf-life and effect;
- (g) a statement of the composition of such pesticide, its chemical identity, net weight, its stability in storage, methods of use and date of expiry for usage;
- (h) adequate toxicological data concerning such pesticide including information on antidote;
- (i) methods of analysis of the formulated compound;
- (j) methods for the determination of the residue of such pesticide;
- (k) report of official or other experimental stations or laboratory or biological tests concerning the efficacy of such pesticide;
- (l) such other information relating to the efficacy or safety of the pesticide as may be required by the Registrar.

(3) Where the information contained in an application made under subsection (1) is given by the applicant in confidence, it shall be treated as confidential by the Registrar:

Provided that the preceding provisions of the sub-section shall not apply where it is necessary to divulge such information if so required by a court of law.

7. (1) The Registrar shall on receipt of an application under subsection (1) of section 6-

- (a) register the pesticide and issue a licence; or
- (b) register the pesticide and, pending the issue of licence, issue a provisional permit for limited marketing and use of the pesticide in accordance with conditions stipulated in the permit; or

Consideration
of application

- (c) reject the application and state the reasons for such rejection.

(2) The issue of a licence or a permit shall be effective for the period stated in the licence or permit, and shall be renewable on application made in that behalf. Such renewal shall be conditional upon a review by the Registrar of the date of the pesticide in question,

8. (1) The Registrar shall not issue a licence under paragraph (a) of subsection (1) of section 7 unless the copy of the draft label submitted with the application contains in the Sinhala, Tamil and English languages the following particulars:-

Issue of
licence

- (a) the trade name under which the pesticide shall be sold;
- (b) the common names of the active ingredients of the pesticide, in characters not smaller in size than half the size of those used for the trade name of the pesticide, and in a position placed directly below the trade name;
- (c) a statement of the composition of the pesticide with the chemical identity of the active ingredients expressed on a weight by weight percentage basis, together with the percentage of other materials present, to give one hundred per cent, and in the case of liquid formulations, the active ingredient expressed as grams per litre;
- (d) the name and address of the holder of the licence;
- (e) adequate directions concerning the manner in which the pesticide is to be used, including information as to the period of time which should elapse between the last application of the pesticide and harvest the crop to which it is applied and where the Registrar deems appropriate, the shelf life of the pesticide;
- (f) adequate warning and precautionary symbols and statements including first aid and antidote information;
- (g) the statement "Registered under the control of Pesticides Act, 1980" which shall be an official symbol indicating that the pesticide has been licensed under this Act and the licence number assigned to it by the Registrar;

- (h) any other particulars as may be prescribed by regulations under this Act.
- (2) Where licensing of a pesticide has been effected under subsection (1) of section 7 no change in respect of any matters set out in paragraphs (a) to (h) of subsection (1) of this section shall be made without the prior approval of the Registrar.
9. (1) Where the Registrar issues a licence under subsection (1) of section 7, he shall declare that pesticide to be an approved pesticide. Approved pesticide
- (2) Every declaration made under subsection (1) shall be approved by the Minister and published in the *Gazette*.
10. The Registrar shall, when he approved a pesticide, also approve the container or package containing such pesticide, if he is satisfied, having regard to the conditions required for safe and effective storage and handling of such pesticide, that such container or package is satisfactory. Approved container or package
11. (1) Where any person contravenes any provision of this Act or any regulation or Order made thereunder, or where the Registrar considers it the conduct of its business necessary in the interest of the public to do so, he may, on the advice of the Committee cancel, suspend or modify the licence issued in respect of such pesticide or withdraw, suspend or modify the provisional permit issued to such person. Cancellation of licence
- (2) Where the Registrar cancels, suspends or modified the licence or withdraws, suspends or modifies the provisional permit issued in respect of a pesticide under subsection (1) he shall state the reasons for such cancellation, suspension modification or withdrawal as the case may be.
- (3) Where any cancellation or suspension takes place in respect of a pesticide under subsection (1) such pesticide shall cease to be an approved pesticide.
- (4) Every cancellation or suspension under subsection (1) shall be by Order published in the *Gazette*.
12. No alteration in the package, label or composition of a pesticide shall be made by the holder of a licence issued in respect of a pesticide unless an application is made in that behalf and approval obtained from the Registrar in respect of such intended alteration. Alteration of package or composition
13. (1) Any person aggrieved by the rejection of an application under section 7 or the cancellation, suspension, or modification of Appeals

a licence or the withdrawal, suspension or modification of a provisional permit under section 11, may prefer an appeal in writing to the Secretary to the Ministry of the Minister in charge of the subject of Agricultural Development and Research (hereinafter referred to as the “Secretary”) against such rejection or cancellation, suspension, withdrawal or modification within sixty days after such decision is communicated to such person and the Secretary may, in dealing with any appeal preferred to him, affirm, vary or annul the order against which the appeal has been preferred.

(2) The decision of the Secretary upon an appeal shall be final and conclusive for all purposes whatsoever, and shall not be called in question in any Court.

14. No person shall manufacture, formulate, pack or distribute sell, offer for sale or deliver within the country any pesticide unless-

(a) Such pesticide is registered and a valid licence or a provisional permit is obtained from the Registrar; and

(b) Such pesticide is contained in an approved container or package and an approved label is conspicuously fixed thereon:

Provided, however, that the foregoing provisions of this section shall not apply where any approved research organization imports with the written consent of the Registrar any specified quantity of pesticides or pesticide components for the purposes of research.

15. No person shall manufacture, pack, distribute, sell or offer for sale or deliver within the country any pesticide, which is adulterated or which has decomposed or deteriorated so as to be ineffective or dangerous or which is packed in containers which have deteriorated or have been damaged as to be dangerous in storage or use.

Adulterated,
composed or
deteriorated
pesticides

16. No person shall store, transport, sell or offer for sale any pesticide in close juxtaposition with foodstuffs or in any such manner as would result in the contamination of such food stuffs.

Storage, transport
and sale of
pesticides in close
juxtaposition with
foodstuffs

17. No person shall import any pesticide except with the written approval of the Registrar granted on the advice of the Committee.

Prohibition of
import of
pesticides except
upon approval

18. (1) Any written, printed or graphic material relating to an accompanying a pesticide when stored, transported, distributed, sold, offered for sale or delivered within the country shall include the substance of the particulars referred to in section 8.

Advertisement of pesticides

(2) It shall be unlawful to advertise any pesticide in a manner that is false, misleading or deceptive, and not justified by the conditions of its registration.

(3) Any claim for a pesticide contained in any advertisement or device shall be in accordance with the label statements referred to in section 8, and not be contrary to the requirements of subsection (2) of this section.

19. (1) No person shall store pesticides in bulk other than in a special store kept for that purpose. The store shall be kept locked when loading or unloading is not in progress.

Storage of pesticides in bulk

(2) A notice shall be displayed in a conspicuous position outside the store indicating the hazardous nature of its contents.

20. No person shall harvest, or offer for sale any food crops, in which pesticides have been used unless a time limit as may be prescribed by regulations has elapsed between such use and harvest, or if the food crops shall contain pesticide residue in excess of levels as may be prescribed.

Harvesting of crops

21. (1) The Director shall nominate such number of officers of his department as may be necessary to carry out the purposes of this Act, who shall be known as “authorized officers”.

Authorized officers and their powers and functions

(2) An authorized officer may-

(a) Ascertain whether any person has contravened any provision of this Act or any regulation or Order made thereunder;

(b) Obtain samples of pesticides for the purpose of determining whether any deterioration, adulteration or decomposition thereof has occurred; and

- (c) do all other acts or things which are connected with or are in furtherance of the exercise, performance and discharge of the powers, duties and functions under this Act.
- (3) Any authorized officer may enter any premises, after sufficient notice at all reasonable hours of the day in the discharge of his functions under this Act. Such authorized officer shall not be liable on account of such entry or on account of anything done bona fide in such premises which is necessary in the exercise, performance and discharge of the powers, duties and functions under this Act.

22. (1) An authorized officer on obtaining a sample of a pesticide shall forthwith inform the seller or his agent of his intention to have the same analyzed by an authorized analyst and shall forthwith divide the sample into three equal parts and cause each part to be marked and sealed in such manner as its nature will permit and shall deliver one part each to the seller or his agent, the authorized analyst and the registrar

Analysis of samples

(2) In the event of a dispute in respect of the result of an analysis the Registrar shall forward such part of the sample as in his custody to a referee analyst nominated by him.

(3) In any proceedings under this Act the production of a certificate signed by an authorized analyst or a referee analyst with regard to any sample procured for analysis under this section shall be prima facie evidence of the facts stated therein.

23. (1) (a) Every application for the licensing of a pesticide under section 6, and

Fees

(b) Every appeal against any rejection, cancellation, suspension, withdrawal or modification under section 13.

shall be accompanied by such fee as may be prescribed by regulations made under this Act.

(2) In addition to such fee payable under subsection (1), a levy on the importer, manufacturer, formulator or packer of a pesticide may be prescribed by regulations made under this Act for the general purpose of making proper financial provision for the effective implementation of this Act and of the regulations made thereunder.

24. (1) Every person who contravenes or fails to comply with any provision of this Act or any regulation made thereunder shall be guilty of

Penalty for contravention of this Act

an offence under this Act and shall on conviction by a Magistrate be sentenced to imprisonment of either description for a period of two years.

(2) Where an offence under this Act is committed by a body of persons, then -

(a) if that body of persons is a body corporate, every director, manager, secretary or officer of that body corporate; or

(b) if that body of persons is a firm, every partner of that firm,

shall be deemed to be guilty of that offence:

Provided, however, that no such person shall be deemed to be guilty of an offence if he proves that such offence was committed without his knowledge or that he exercised due diligence to prevent the commission of the offence.

25. The Court which convicts any person of an offence under this Act, may impose any of the penalties herein before prescribed, and may, if it thinks fit, in addition order that all or any article or articles in respect of which the offence was committed be seized and forfeited to the State.

Forfeiture

26. (1) The Minister may make regulations in respect of matters required by this Act to be prescribed or in respect of which regulations are authorized to be made and in particular in respect of all or any of the following matters:-

Regulations

(i) setting forth the position, size and colouring of the label as well as the system or systems of weight or measures to be stated in the label;

(ii) setting forth special provisions with regard to the substances or operations which presents a high or unusual degree of hazard; such special provisions may in particular-

(a) provide for the field evaluation of certain substances;

(b) regulate the marketing or distribution of certain substances as may be necessary to safeguard third parties, the environment and wildlife resources other than such noxious plants and animals whose control is desired;

- (iii) Fixing the dates on which the marketing and sale of pesticides for which licences are issued under this Act shall cease and the disposal of such pesticides;
- (iv) establishing standards or technical competence and equipment used by any person or body of persons engaged in the manufacture, formulation and packing of pesticides;
- (v) the designation of any product as a pesticide formulation; and
- (vi) the mode and manner of use of pesticides.

(2) Every regulation made by the Minister shall be published in the *Gazette* and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(3) Every regulation made by the Minister shall, as soon as convenient after publication in the *Gazette* be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval, but without prejudice to anything previously done thereunder.

(4) Notification of the date on which any regulation shall be deemed to be so rescinded shall be published in the *Gazette*.

27. In this Act, unless the context otherwise requires-

Interpretation

"active ingredient" means any substance which gives a formulated product its pesticide properties;

"adjuvant" means any substance used as an aid to the efficacy of a Pesticide;

"Authorized analyst" means the Government Analyst, the Additional Government Analyst, a Deputy Government Analyst, a Senior Assistant Government Analyst, an Assistant Government Analyst and any other person authorized by the Minister by notification in the *Gazette* to act as such;

"pest" means any insect, rodent, bird, fish, mollusc, nematode, fungus weed, micro-organism, virus or other kind of plant or animal life which is injurious, troublesome or undesirable to crops, stored products, processed foods,

wood, clothes, fabrics or inanimate objects or which are objectionable from the view point of public health and hygiene, and shall also include ectoparasites and endoparasites of man and domestic animals other than any pest which may be Specifically included or excluded by regulations made under this Act.

"pesticide: means nay substance intended for use or used for controlling a pest and shall include active ingredients, adjuvant and pesticide formulations;

"Pesticide formulations" means any mixed or unmixed products sold supplied, imported for use, or used for one or more of the following purposes, namely, for destroying or repelling any pest within the meaning of this Act or for preventing its growth or mitigating its effects, as a plant regulator defoliant or desiccant or as an adjuvant and includes any similar product so designated by regulations made under this Act.