

LAWS OF SAINT VINCENT AND THE GRENADINES

REVISED EDITION 1990

CHAPTER 42

PESTICIDES CONTROL ACT

Act 23 of 1973
amended by
Act 28 of 1976
*S.R.O. 38 of 1980
*Act 20 of 1987
*S.R.O. 9 of 1991

Numbering of sections

<i>Original number</i>	<i>Comment</i>	<i>Present number</i>
1	—	1
2	a 28/76	2
3	—	10
4	—	3
5	a 28/76	4
6-10	—	5-9
11	amalgamated	10

Index of subsidiary legislation

Nil

CHAPTER 42**PESTICIDES CONTROL ACT**

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AN ACT to provide for the control of the importation, sale, storage and use of pesticides.

Commencement: 13th November 1973

1. This Act may be cited as the Pesticides Control Act. Short title.

2. (1) In this Act—

“advertisement” includes any representation, by any means whatsoever, for the purpose of promoting, directly or indirectly, the sale or other distribution of any pesticide; Interpretation.

“agriculture” includes dairy farming, the production and storage of any produce which is grown for consumption or other use for the purpose of a trade or business or any other undertaking, whether carried out for profit or not, and the use of land for grazing, meadow and pasture land or woodland or for market gardens or nursery grounds;

“Board” means the Pesticides Control Board established under section 3;

“container” includes anything in which a pesticide is wholly or partly contained, placed or packed;

“extermination” means the use of pesticides for the destruction or control of pests in a building, vehicle, ship, aircraft, whether on land or any other environment;

“inspector” means an inspector appointed for the purpose of this Act under section 3 (7);

“label” includes any legend, word or mark attached to, included in, belonging to or accompanying any pesticide;

“manufacture” includes formulation, compounding or synthesis;

“packaging” means the activity of putting pesticides in containers for sale or distribution;

“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, produce, processed foods, wood, clothes, fabrics or other inanimate objects or which is objectionable from the viewpoint of public health and hygiene. It also includes ectoparasites of man, or ectoparasites or endoparasites of animals except that, by regulations, any pest may be specifically included or excluded;

“pest control operator” means any person who, by himself or his employees, assistants or agents, carries out an extermination;

“pesticide” means any product proposed or used for controlling a pest;

“produce” means any articles grown for consumption or for other use after severance from the land on which it was grown, and includes such articles after severance, and also any articles ordinarily used, or that may be used, in the composition of food for human beings and domestic and farm animals, but does not include growing crops;

“worker” means a person employed whose employment includes the use and handling of pesticides.

(2) Any reference in this Act to a contravention of any provision shall include a reference to a failure to comply with that provision.

3. (1) There is hereby established a Board called the Pesticides Control Board.

(2) The Board shall consist of the Chief Agricultural Officer, the Chief Medical Officer, one other technical officer and three

other persons appointed by the Governor-General and who shall hold office at the pleasure of the Governor-General.

(3) The chairman of the Board shall be the Chief Agricultural Officer or, in his absence, the Chief Medical Officer.

(4) The quorum of the Board shall be three.

(5) The Board shall appoint an officer of the Ministry of Agriculture to be secretary to the Board.

(6) The functions of the Board shall be to advise the Governor-General in making regulations under this Act and to put into effect the provisions of this Act and the regulations.

(7) Inspectors, who shall be selected from among public officers, may be appointed by the Board for the purposes of section 5 and shall perform their functions under the directions of the Board. The Board shall furnish each inspector with a certificate of appointment and publish such appointments in the Gazette.

(8) The expenses of the Board shall be defrayed out of such sums as may be generally or specially provided for the purpose by the House of Assembly.

4. (1) The Board may, for the purpose of the execution of this Act or regulations made hereunder, authorise, either generally or specially in writing, any inspector to enter at all reasonable times between the hours of 6 a.m. and 6 p.m., but subject to the provisions of subsection (2), any land or premises to which this section applies.

Authorisation of entry.

(2) A person so authorised shall, before entering any land or premises to which this section applies, produce, if so required, the instrument authorising him to enter, and shall before entering any dwelling house other than a dwelling house in which there are, or are reasonably believed by him to be, washing facilities or other things provided in pursuance of the provisions of this Act and regulations made hereunder for the use of persons not living in such dwelling house, cause twentyfour hours notice of the intended entry to be given to the occupier of such dwelling house.

(3) This section applies to any land or premises—

(a) on which a pesticide is being, or has recently been or is about to be, used, manufactured, sold, packaged or stored;

(b) which is being used, or has recently been used, or is about to be used, for a purpose connected with the use, manufacture, sale, packaging or storage of a pesticide;

- (c) on which things required by the regulations to be provided or done, are provided or done; or
- (d) which the person authorised by the Board to enter has reasonable cause to believe to be land or premises falling within paragraphs (a), (b) or (c).

Powers of
inspectors.

5. (1) An inspector may do all or any of the following things for the purpose of the execution of this Act or of regulations made hereunder, that is to say—

- (a) require the production of, and inspect, examine and copy registers, records or other documents kept for the purpose of, or required to be kept by, the regulations;
- (b) make such examinations and enquiries as may be necessary to ascertain whether the provisions of this Act and of Regulations made hereunder are complied with;
- (c) require any person whom he finds on such land or premises as are mentioned in section 4 (3) to give such information as it is in his power to give as to who is the occupier thereof or the employer of workers employed to work thereon;
- (d) interview in the presence of another person, with respect to the observance of the provisions of this Act or of the regulations made hereunder, any person whom he finds on such land or premises as are mentioned in section 4 (3) or whom he has reasonable cause to believe is, or has been within the preceding months, employed to work thereon, and to require any such person to be so examined and to sign a declaration of the truth of the matters respecting which he is so interviewed:

Provided that no one shall be required under this provision to answer any questions, or to give evidence, tending to incriminate himself;

- (e) in the case of an inspector who is a duly qualified medical practitioner, carry out medical examinations;
- (f) take samples as detailed in section 8;
- (g) seize, and detain for such time as may be necessary, any article by means of, or in relation to which he reasonably believed, any provision of this Act or of regulations made hereunder have been violated;
- (h) exercise such other powers as may be necessary for carrying into effect this Act and the regulations.

(2) A person shall be deemed to obstruct an inspector in the execution of his power under this Act if he wilfully delays an inspector in the exercise of any power under this section, or fails to comply with any requirements of an inspector made in pursuance of this section, or conceals or prevents, or attempts to conceal or prevent, any person from appearing before or being examined by an inspector under this section.

(3) Subject to the provisions of section 3 (7) and section 8, an inspector shall release an article seized by him under this Act when he is satisfied that all the provisions of this Act and of the regulations have been complied with.

(4) Any article seized under this Act may, at the option of an inspector, be kept or stored in the building or place where it was seized or may, at the direction of an inspector, be moved to any other proper place.

(5) Where an inspector has seized an article under this Act and the owner thereof, or the person in whose possession the article was at the time of the seizure, consents to the destruction thereof the article shall thereupon be forfeited to Her Majesty and may be destroyed or otherwise disposed of as the Board may direct.

6. (1) Any person who—

Offences.

- (a) contravenes any provision of the regulations;
- (b) obstructs an inspector in the execution of his powers and duties under this Act or regulations made hereunder;
- (c) removes, alters or interferes in any way with any article seized under this Act without the authority of an inspector;
- (d) wilfully makes a false entry in a register, record, return or other document kept or furnished in pursuance of any regulations, or wilfully makes use of such false entry, or wilfully makes or signs, as being a declaration required by an inspector in pursuance of this Act, a declaration which is false,

is guilty of an offence.

(2) Any person guilty of an offence under this Act is liable—

- (a) to be disqualified for such period as the magistrate may deem necessary from holding or obtaining any licence to import, sell or use pesticides for which provision may be made in this Act or in the regulations; and
- (b) to a fine of seven hundred and fifty dollars.

(3) If a contravention of a provision of this Act or of any regulation in respect of which a person has been convicted is continued by him after his conviction, he is guilty of a further offence and liable to a fine of one hundred and fifty dollars for each day on which the contravention is so continued.

(4) Where a contravention of a provision of any regulations consists in a failure to do anything at or within a time specified in the regulations, and the regulations provide that this subsection shall apply to a failure so to do it, the contravention shall be deemed to continue until that thing is done.

(5) The court, may without prejudice to other applicable penalties, order:

- (a) that the articles in respect of which an offence has been committed be confiscated at the place where they have been found;
- (b) where the court considers that such confiscation be also made in different parts of Saint Vincent and the Grenadines where stocks are held;
- (c) that after confiscation, the articles in question should either be modified to bring them into conformity with the existing provisions or else be destroyed.

(6) Where an offence against this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(7) In subsection (6), the expression "director" in relation to any body corporate which is established by or under any written law for the purpose of carrying on under public ownership any industry or undertaking and whose affairs are managed by the members thereof, means a member of that body.

Defence available in certain circumstances to persons charged where some other person is responsible.

7. (1) A person against whom proceedings are brought under this Act shall, upon information duly laid by him and on giving to the prosecution not less than three clear days' notice of his intention, be entitled to have brought before the court in the proceedings any person to whose act or default he alleges that the contravention was due, and, if after the contravention has been proved, the original defendant proves that the contravention was due to the act or default of that other person, that

other person may be convicted of the offence, and, if the original defendant further proves—

- (a) that he has used all due diligence to secure that the provision in question was complied with; and
- (b) that the said other person's act or default was without his consent, connivance or wilful default,

he shall be acquitted of the offence.

(2) Where a defendant seeks to avail himself of provisions of subsection (1)—

- (a) the prosecution, as well as the person whom the defendant charges with the offence, shall have the right to cross-examine the defendant, if he gives evidence, and any witness called by him in support of his pleas, and to call re-butting evidence;
- (b) the court may make such order it thinks fit for the payment of costs by any party to the proceedings to any other party thereto.

(3) Where it appears to the Director of Public Prosecutions that an offence has been committed in respect of which proceedings might be taken under this Act against some person, and the Director of Public Prosecutions is reasonably satisfied that the offence of which the complaint is made was due to an act or default of some other person and that the first named person could establish a defence under subsection (1), he may cause proceedings to be taken against that other person without first causing proceedings to be taken against the first mentioned person. In any such proceedings the defendant may be charged with, and, on proof the contravention was due to his act or default, be convicted of the offence with which the first-mentioned person might have been charged.

8. (1) An inspector may—

- (a) take samples, without payment, from seized articles, or purchase or take samples of any articles to which this Act or any regulations made hereunder apply when in use, or when exposed for sale, or in storage or transport, and submit them to an analyst for analysis;
- (b) take samples, without payment, for any articles to which this Act or any regulations made hereunder apply when imported into Saint Vincent and the Grenadines but not delivered to the importer out of the charge of customs, and submit them to an analyst for analysis.

Provisions as to samples.

(2) An inspector taking a sample under the provisions of subsection (1) with the intention of having it analysed shall, if practicable, forthwith after taking it give information of his intention to the owner and shall then and there divide the sample into parts each part to be marked and sealed or fastened up in such manner as its nature will permit, and shall—

- (a) if required to do so by the owner so informed, deliver one part to him;
- (b) retain one part for future comparison; and
- (c) if the inspector think fit to have an analysis made, submit one part to an analyst.

(3) Where it is not practicable for an inspector to give information of his intention so mentioned in subsection (2) to the owner, the inspector shall, if he intends to have the samples analysed, forward to his last known address one part of the sample to him by registered post or otherwise, together with a notice informing him that he intends to have the sample analysed.

(4) (a) Notwithstanding subsections (2) and (3), where in the opinion of the inspector division of the procured quantity of a sample would interfere with analysis or examination, the inspector may, subject to paragraph (b), seal and submit the entire sample for analysis or examination. In such a case the analyst shall, on opening the sealed sample prior to analysis, divide it into two parts and keep one part for future comparison;

(b) where the owner objects to the procedure provided for in paragraph (a) at the time the sample was obtained, and supplies at his own expense a sufficient quantity of the article, the inspector shall follow the procedure described in subsection (2).

(5) For the purposes of this section the expressions “article” or “article to which this Act and any regulations apply” include—

- (a) any pesticide, or produce to which a pesticide may have been applied;
- (b) anything used for the manufacture, packaging, storage, application or use thereof;
- (c) any labelling, packaging or advertising material which relates to a pesticide.

(6) For the purposes of subsections (2), (3) and (4), the expressions “owner” shall include any of the following—

- (a) the owner of the article, or his servant or employee;
- (b) the person in whose possession the article was found;

- (c) the owner or occupier of any land or premises or vehicle in which, or in transit to or from which, the article was found;
- (d) the employer of any worker to work in connection with the use of pesticides on such land or premises.

(7) A document purporting to be a certificate by an analyst as to the result of an analysis of a sample shall in proceedings under this Act be admissible as evidence of the matters stated therein, but either party may require the person by whom the analysis was made to be called as a witness.

(8) In any proceedings under this Act in which the prosecutor intends to rely on evidence relating to a sample taken under this section, the summons shall not be made returnable less than fourteen days from the day on which it was served, and a copy of any certificate of analysis obtained on behalf of the prosecutor shall be served with the summons.

(9) The court before which any proceedings are taken under this Act may, if it thinks fit having regard to any request made by a party to the proceedings, cause the part of any sample retained for future comparison as specified in subsections (2) and (4) (a) to be sent to an analyst, other than the analyst whose certificate is then before the court, who shall make an analysis and shall transmit to the court a certificate of the result thereof, and the court shall, upon the determination of the proceedings, make such order as it thinks fit as to the cost incurred in respect of such analysis.

(10) If, in a case where an appeal is brought, no action has been taken under the preceding provisions of this section those provisions shall apply also in relation to the court by which the appeal is heard.

(11) In this section "analyst" means an analyst approved by the Governor-General for the purpose of this Act.

9. This Act and all regulations made hereunder shall bind the Crown, but regulations may provide for modifications or exceptions in the application of this Act or such regulations to, or in relation to, the Crown.

Application
to the
Crown.

10. (1) The Governor-General may make regulations for carrying into effect the provisions of this Act and in particular, may make regulations—

Regulations.

- (a) prohibiting the manufacture, packaging, importation, advertisement, sale and use of particular pesticides or classes thereof;

- (b) controlling the manufacture, packing, importation, transportation within Saint Vincent and the Grenadines advertisement and sale or other distribution of particular pesticides or classes thereof;
 - (c) controlling the use of pesticides in agriculture generally, or on particular crops or pests;
 - (d) controlling the use of pesticides on produce during its storage and transportation;
 - (e) controlling the conditions under which pesticides are stored;
 - (f) protecting workers against the risk of poisoning or other injury by pesticides through their employment on land on which pesticides are being or have been used, or in any premises in which pesticides are or have been used, stored, manufactured or packaged;
 - (g) protecting the interests of owners, occupiers or users of land or premises adjacent to land or premises on, or in which, pesticides are used, stored, manufactured or packaged;
 - (h) prescribing the permissible level of any pesticide in any particular kind of produce at the time of marketing.
- (2) Without prejudice to the generality of the provisions of subsection (1), such regulations may make provisions:
- (a) as to the quantities and kinds of pesticides which may be imported or manufactured, the types of container in which such substances may be imported and transported within Saint Vincent and the Grenadines, and offered for sale or otherwise distributed, and as to the labelling of such containers and their subsequent disposal, and as to the disposal of surplus or unwanted stocks of pesticides;
 - (b) requiring the keeping and inspection of records and the furnishing of returns and other information about the stocks, sale and use or disposal of pesticides;
 - (c) imposing restrictions or conditions as to the purposes for which, the circumstances in which, or the methods by means of which, particular pesticides or classes thereof may be used, including restrictions or conditions involving a prohibition of the use thereof in particular circumstances;
 - (d) imposing restrictions or obligations on pest control operators;
 - (e) imposing obligations on employers of workers

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- employed to work as described in subsection (1) (f) on such workers themselves, and on other persons;
- (f) requiring the provision by employers, manufacturers or workers, and the keeping in good order and the production when required by an inspector or a person authorised by the Board under section 4, of protective clothing and equipment, of facilities for washing and cleaning, and of other things needed for protecting persons, clothing, equipment, and appliances from contamination by pesticides, or for removing sources of contamination therefrom;
 - (g) requiring the observance of precautions against poisoning by pesticides including the use of things provided in accordance with the regulations and including abstention from eating, drinking and smoking in circumstances involving risk of poisoning by pesticides;
 - (h) securing intervals between, or limitations of, periods of exposure to risks of poisoning by pesticides;
 - (i) requiring the observances of special precautions in the case of persons who, by reason of their state of health, age or other circumstances, are subject to particular risks of poisoning by pesticides, or imposing in the case of persons so subject prohibitions, whether temporary or permanent, or restrictions, on employment for working as detailed in subsection (1) (f);
 - (j) prescribing measures for investigating and detecting cases in which poisoning by pesticides have occurred, or may reasonably be thought to have occurred, including the collection of samples, analyses and medical examinations;
 - (k) requiring the provision, and keeping in good order and use, of facilities for preventative and first aid treatment;
 - (l) requiring the provision of, and submission to, instruction and training in the use of things provided in pursuance of the regulations, and in the observance of precautions;
 - (m) prescribing standards for the composition or any other property or method of analysis or test of pesticides;
 - (n) prescribing the manner of applying for licences, and the granting of licences, by the Board for the

importation sale or other distribution, and use of any pesticide before its importation, sale and use in Saint Vincent and the Grenadines for any purpose dealt with in the Act or any regulations made hereunder;

- (3) Regulations under this section may:
- (a) make different provisions to meet different circumstances and in particular differences in composition of the substances dealt with and their poisonous effects under different conditions and on different classes of persons; and
 - (b) provide for the exemption of particular cases, or of particular persons, from the operation of part or all of the regulations.
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