

CHAPTER 395

PESTICIDES CONTROL

ARRANGEMENT OF SECTIONS

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SCHEDULE

CHAPTER 395

PESTICIDES CONTROL

An Act to provide for the control of the importation, sale, storage and use of pesticides. 1973-36.
1982-30.

[25th June, 1974] Commence-
ment.
S.I. 1974
No. 151.

1. This Act may be cited as the *Pesticides Control Act*.

Short title.

2. For the purposes of this Act

Interpreta-
tion.

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

“agriculture” means the production and storage of any produce for consumption or any other purpose, and includes the use of land for grazing, forestry and woodland, fish culture, bee culture, market gardening, horticulture and nurseries, or animal husbandry;

“approved analyst” means the Government Analyst or any other analyst approved by the Minister;

“article” or “article to which the Act and regulations apply” means
(a) a pesticide or any produce to which a pesticide is believed to have been applied;

(b) anything used for the manufacture, packaging, storage, application or use of a pesticide; or

(c) any labelling, packaging or advertising material which relates to a pesticide;

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

“container” means anything in which a pesticide is wholly or partly contained or packed;

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- “extermination” means the use of pesticides for the destruction or control of pests on any land or premises, or in a vehicle, ship or aircraft, whether on land or any other place;
- “label” means any legend, word or mark attached to, included in, belonging to or accompanying a container;
- “manufacture” means the formulation, compounding or synthesizing of a pesticide;
- “Minister” means the Minister responsible for Agriculture;
- “owner” means the owner of an article, his servant or agent, the person in whose possession an article is found, the owner of a vehicle or land or premises in which or on which an article is found, or the employer of a worker;
- “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, ectoparasites of man, ectoparasites or endoparasites of animals and any other kind of plant or animal life which is injurious, troublesome or undesirable to growing crops, produce, processed food, wood, clothes, fabrics, or other inanimate objects, and includes anything which is undesirable under any enactment relating to pest control;
- “pest control operator” means a person who, by himself or his employees, assistants or agents, carries out an extermination for a remuneration;
- “pesticide” means a product intended to be used for controlling a pest;
- “produce” means a crop grown for consumption or other use after it is severed from the land, and includes anything ordinarily used or which 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 in the use and handling of pesticides.

3. (1) There is hereby established a Board, to be called the Pesticides Control Board, and the provisions of the Schedule shall

have effect in relation to the constitution of the Board and otherwise in relation thereto.

(2) The functions of the Board shall be

- (a) to advise the Minister on matters relevant to the making of regulations under this Act; and
- (b) to carry out the provisions of the Act and the regulations.

(3) The Minister may assign such public officers as he thinks fit to be inspectors for the purpose of assisting the Board in the performance of its functions under this Act.

(4) The Board shall, for the purposes of paragraph (b) of subsection (2), have all powers which are necessary and incidental to its proper carrying out of the provisions of this Act and the regulations, and in pursuance thereof the powers exercisable by inspectors under this Act and the regulations are deemed to have been conferred on them by the Board.

4. (1) An inspector may, in the performance of his functions under this Act or the regulations, at any reasonable hour enter on land or premises to which this section applies. Authorisation of entry.

(2) An inspector shall

- (a) before entering on any land or premises under this section, produce on request an instrument signed by the Chairman of the Board authorising him to enter; and
- (b) if it is necessary for him to enter a dwelling house, other than a dwelling house in which he reasonably believes there are washing facilities or other things provided under this Act or the regulations for the use of persons not living in that dwelling house, before entering that dwelling house give 24 hours notice of his intention to the occupier of the dwelling house.

(3) This section applies to any land or premises

- (a) on which a pesticide is being, 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 pesticides;

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- (c) on which apparatus and facilities required to be kept by the regulations are kept; or
- (d) which an inspector has reasonable cause to believe to be land or premises mentioned in paragraphs (a) to (c).

Powers of inspectors.

- 5. (1) An inspector may
 - (a) require the production of, inspect, examine and copy registers, records or other documents required to be kept by the regulations;
 - (b) make examinations and enquiries to discover whether this Act and the regulations are complied with;
 - (c) require any person he finds on land or premises mentioned in section 4 (3) to give information to the best of his knowledge as to who is the occupier of that land and who is the employer of workers employed to work thereon;
 - (d) interview, either alone or in the presence of any other person, with respect to the observance of this Act or the regulations, any person whom he finds on land or premises mentioned in section 4(3) or whom he has reasonable cause to believe to be, or to have been within the preceding 2 months, employed to work thereon; but a person so interviewed may not be required to answer any question or make any statement tending to incriminate himself;
 - (e) carry out medical examinations of persons suffering or believe to be suffering from toxic effects produced by pesticides if the inspector is a registered medical practitioner;
 - (f) take samples under section 8;
 - (g) seize and detain for such time as may be necessary any article by means of which or in relation to which he reasonably believes any provision of this Act or the regulations to have been contravened;
 - (h) exercise such other powers as may be necessary for carrying into effect this Act and the regulations.
- (2) An inspector shall release an article seized under subsection (1) when he is satisfied that all the provisions of the Act and the regulations have been complied with.

(3) Any article seized under paragraph (g) of subsection (1) may at the option of an inspector be kept or stored in the building or place where it is seized or may at the direction of an inspector be removed to another place.

(4) Where an inspector seizes an article under paragraph (g) of subsection (1) and the owner then consents to its destruction, the article shall thereupon be forfeited to the Crown and may be destroyed or otherwise disposed of as the Board directs.

6. (1) The Minister may, subject to negative resolution, make regulations for carrying into effect the provisions of this Act and in particular for Regulations.

- (a) prohibiting the manufacture, packaging, importation, advertisement, sale and use of particular pesticides or classes of pesticides;
 - (b) controlling the manufacture, packaging, importation, transportation, advertisement and sale or other distribution of particular pesticides or classes of pesticides;
 - (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) setting out the conditions under which pesticides are to be stored;
 - (f) protecting workers against the risk of poisoning or other injury by pesticides;
 - (g) prescribing the permissible level of any pesticide in any particular kind of produce at the time of marketing.
- (2) Regulations made under subsection (1) may
- (a) control the quantities of pesticides which may be imported or manufactured and the types of containers in which such substances may be imported, transported, offered for sale or otherwise distributed;
 - (b) control the labelling of containers, their subsequent disposal and the disposal of unwanted stocks of pesticides;

- (c) require the keeping and inspection of records and the furnishing of returns and other information with respect to pesticides;
- (d) restrict or prohibit the use of particular pesticides or classes of pesticides;
- (e) impose restrictions and obligations on pest control operators;
- (f) impose duties on employers of workers, on the workers themselves and on others;
- (g) require the provision and keeping in good order of
 - (i) protective clothing,
 - (ii) proper equipment,
 - (iii) facilities for washing and cleaning,
 - (iv) other things needed for protecting persons, clothing, equipment and appliances from contamination by pesticides or for removing sources of contamination therefrom,and the production thereof on the request of an inspector;
- (h) require the use of devices by employers
 - (i) to warn against poisoning by pesticides,
 - (ii) to ensure proper use of the apparatus and facilities provided in pursuance of the regulations, and
 - (iii) and to warn against eating, drinking and smoking where there may be a risk of poisoning by pesticides or the possibility of an explosion;
- (i) prescribe limits to periods of exposure of workers to risk of poisoning by pesticides and the length of the intervals between periods of exposure;
- (j) require special precautions to be taken by employers in the case of workers who because of their state of health, age or other circumstances are subject to particular risks of poisoning by pesticides;

- (k) impose prohibitions and restrictions, whether temporary or permanent, regarding employment of the class of workers mentioned in paragraph (j);
- (l) prescribe measures for investigating and detecting cases in which poisoning of workers by pesticides has occurred or may reasonably be thought to have occurred, including medical examinations, the collection of samples, and the making of blood tests and analyses;
- (m) require employers to provide proper facilities for first aid treatment and the safety of workers;
- (n) require employers to provide, and the necessity for workers to submit to, instruction and training in the use of apparatus and facilities provided in pursuance of the regulations;
- (o) prescribe standards for the composition of pesticides;
- (p) make it necessary to obtain a licence to manufacture, import, package, sell or otherwise distribute or use any pesticide;
- (q) prescribe the manner for the application for and grant of licences necessary under paragraph (p);
- (r) make different provisions to meet different circumstances, and provide for differences in the composition of specific pesticides, having regard to their poisonous effects under different conditions and on different classes of workers; and
- (s) provide for the exemption of particular cases or of particular workers from the operation of part or all of the regulations.

7. (1) Any person who

Offences.

- (a) assaults, resists, obstructs or intimidates an inspector in the execution of his duty;
- (b) uses indecent, abusive, or insulting language to an inspector in the execution of his duty;
- (c) interferes with or hinders an inspector in the execution of his duty;
- (d) by any gratuity, bribe, promise or other inducement prevents or attempts to prevent an inspector from carrying out his duty;

(e) without the authority of an inspector removes, alters or interferes in any way with an article seized under paragraph (g) of section 5 (1);

(f) contravenes any provision of this Act or the regulations, is guilty of an offence and liable on summary conviction to a fine not exceeding \$250 and in the case of a continuing offence to a fine not exceeding \$50 for each day or part thereof during which the offence continues.

(2) The Court may, in addition to any other penalty it may impose, order that

- (a) the article in respect of which the offence was committed be forfeited;
- (b) stocks held in other parts of Barbados by the accused be forfeited;
- (c) after forfeiture, the articles in question be destroyed or modified to bring them into conformity with this Act and the regulations;
- (d) the accused be disqualified from holding or obtaining a licence to import, sell or use pesticides under this Act or the regulations.

Taking
of samples
without
compensa-
tion.

8. (1) An inspector may take samples of articles to which this Act and the regulations apply without paying compensation to the owner

- (a) where those articles are being used, are exposed for sale, are in storage or are being transported; or
- (b) with the approval of the Comptroller of Customs, where the articles are imported and are still within the control of the Comptroller of Customs.

(2) An inspector taking a sample under subsection (1) with the intention of having it analysed shall, if practicable

- (a) forthwith after taking it give notice of his intention to the owner of the article;
- (b) immediately divide the sample into two parts and mark, seal and fasten each part in such manner as its nature will permit, and

- (i) on the request of an owner deliver one part to him,
- (ii) retain one part for future comparison, and
- (iii) if the inspector thinks it fit to have an analysis made, submit one part to an approved analyst.

(3) Where it is not practicable for an inspector to give notice under subsection (2), he shall, if he intends to have the sample analysed and can ascertain the name and address of the owner, forward 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) Notwithstanding subsections (2) and (3)

- (a) where the inspector is of the opinion that division of a sample would affect the accuracy of the analysis, the inspector may, subject to paragraph (c), submit the entire sample for examination;
- (b) where an entire sample is submitted under paragraph (a), the analyst shall, before making the analysis, divide the sample into two parts and retain one part for future comparison;
- (c) where the owner objects to the procedure set out in paragraph (a) and at his own expense supplies a quantity of the same article which in the opinion of the inspector is sufficient for a division under subsection (2) to be made, the inspector shall follow the procedure set out in subsection (2).

(5) A document purporting to be a certificate by an approved 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.

(6) If in any proceedings under this Act the informant intends to rely on evidence relating to a sample taken under this section

- (a) a copy of the analyst's certificate shall be served with the summons; and
- (b) the part of the sample retained by the inspector for future comparison may be produced at the hearing.

(7) The court before which proceedings are taken under this Act may, on the application of a party to the proceedings, cause the part of any sample produced to be sent to an approved analyst, other than the analyst whose certificate is then before the court, who shall make an analysis and transmit to the court a certificate of the result thereof, and the court may, after determination of the case, make an order for recovery of the costs incurred in respect of the analysis.

Expenses. 9. All expenses incurred in the administration of this Act shall be defrayed out of moneys voted for the purpose by Parliament.

Act to bind Crown. 10. This Act and the regulations shall bind the Crown, subject to any modifications provided for in the regulations.

SCHEDULE

s.3.

Constitution of the Pesticides Control Board

Cap. 1. 1. (1) The Pesticides Control Board, to which section 20 (1) of the *Interpretation Act* shall apply, shall consist of

- 1982-30. (a) a Deputy Chief Agricultural Officer assigned by the Minister, to be the Chairman;
- (b) the Chief Medical Officer or his nominee;
- (c) the Government Analyst; and
- (d) 2 other persons one of whom may be a public officer.

(2) The Minister may appoint any person to act temporarily in the place of any member of the Board in case of the absence or inability to act of such member.

(3) A member of the Board shall hold office for a term of 3 years unless he dies, resigns or is removed from office by the Minister for cause before the end of that term, but

- (a) a member who is appointed to fill a vacancy created by the death or resignation of a former member or by the removal from office of such a member for cause shall hold office only for the unexpired portion of the term of that former member; and
- (b) every member is eligible for re-appointment for a further term.

(4) The Minister may grant leave of absence to a member of the Board and may appoint a person to act in the place of that member.

(5) A member of the Board, other than a public officer, may resign his office by instrument in writing addressed to the Minister, transmitted through the Chairman, and from the date of the receipt of such instrument by the Minister such member shall cease to be a member of the Board.

2. (1) 3 members of the Board shall form a quorum.

(2) Decisions of the Board shall be by a majority of votes, and where the voting is equal the Chairman shall have a casting vote.

3. The Board shall meet at such times as may be necessary or expedient for the transaction of business, and such meetings shall be held at such places and times and on days as the Board determines.

4. The Chairman shall preside at the meetings of the Board, and where the Chairman is absent from any meeting the members present may elect one of their number to act as Chairman for that meeting.

5. Subject to this Schedule, the Board may regulate its own proceedings.

6. The Minister may assign a public officer to perform the functions of secretary to the Board.

7. All documents made by, and all decisions of, the Board may be signified under the hand of the Chairman or any member of the Board authorised to act in that behalf or by the secretary of the Board.