



MONTSERRAT

CHAPTER 14.06

PESTICIDES CONTROL ACT

Revised Edition

showing the law as at 1 January 2013

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act

This edition contains a consolidation of the following laws—

PESTICIDES CONTROL ACT

Act 4 of 1975 .. in force 21 April 1975 (S.R.O. 11/1975)

Amended by Act 9 of 2011 .. in force 27 September 2011 (S.R.O. 40/2011)

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PESTICIDES CONTROL ACT

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CHAPTER 14.06

PESTICIDES CONTROL ACT

(Acts 4 of 1975 and 9 of 2011)

AN ACT TO PROVIDE FOR THE CONTROL OF THE IMPORTATION, SALE, STORAGE AND USE OF PESTICIDES.

Commencement

[21 April 1975]

Short title

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

Interpretation

2. In this Act, unless the context otherwise requires—

“**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; or
- (b) anything used for the manufacturing, 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 4;

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

“extermination” means the use of pesticides for the destruction or control of pests in a building, 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 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 in which or on which an article is found, or the employer of a worker;

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

“pest” means any insect, rodent, bird, fish, mollusc, nematode, fungus, weed, microorganism, 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.

Regulations

3. (1) The Governor acting on the advice of Cabinet may make regulations for carrying into effect the provisions of this Act and in particular for—

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

(Amended by Act 9 of 2011)

(2) Regulations made under subsection (1), may contain provisions—

- (a) controlling the quantities of pesticides which may be imported or manufactured, the types of containers in which such substances may be imported, transported, offered for sale or otherwise distributed;
- (b) controlling the labelling of containers, their subsequent disposal and the disposal of unwanted stocks of pesticides;
- (c) requiring the keeping and inspection of records and the furnishing of returns and other information with respect to pesticides;
- (d) restricting or prohibiting the use of particular pesticides or classes of pesticides;
- (e) imposing restrictions and obligations on pest control operators;
- (f) imposing duties on employers of workers, on the workers themselves and on others;
- (g) requiring 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) requiring 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) to warn against eating, drinking and smoking where there may be a risk of poisoning by pesticides;
- (i) prescribing limits to periods of exposure of workers to risks of poisoning by pesticides and the length of the intervals between periods of exposure;
- (j) requiring special precautions to be taken by employers in the cases of workers who because of their state of health, age or other circumstances are subject to particular risks of poisoning by pesticides;
- (k) imposing prohibitions and restrictions whether temporary or permanent regarding employment of the class of workers mentioned in paragraph (j);
- (l) prescribing 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) requiring employers to provide proper facilities for first aid treatment and the safety of workers;
- (n) requiring 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) prescribing standards for the composition of pesticides;
- (p) making it necessary to obtain a licence to manufacture, import, package, sell or otherwise distribute or use any pesticide;
- (q) prescribing the manner for the application and grant of licences necessary under paragraph (p).
- (3) Regulations under this section may—
- (a) 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

- (b) provide for the exemption of particular cases or of particular workers from the operation of part or all of the Regulations.

Creation of Control Board and appointment of officers

4. (1) There is hereby established a Board to be called the Pesticides Control Board whose duties shall be—

- (a) to advise the Governor acting on the advice of Cabinet on matters relevant to the making of Regulations under this Act; and
- (b) to carry out the provisions of the Act and the Regulations.

(Amended by Act 9 of 2011)

(2) The Board shall comprise the Chief Medical Officer, Director of Agriculture and two other persons appointed by the Ministry at least one of whom is not employed in the Government Service.

(3) The Minister may assign inspectors from amongst suitably qualified persons to assist the Board in carrying out its duties under subsection (1)(b).

(4) All expenses incurred in the administration of this Act shall be defrayed out of the moneys provided for the purpose by the Legislative Assembly. *(Amended by Act 9 of 2011)*

Authorisation of entry

5. (1) An inspector may, when he is performing his duties under this Act or the Regulations, at any reasonable hour enter land or premises to which this section applies.

(2) An inspector shall—

- (a) before entering on any land or premises under this section produce on request an instrument (signed by the Director of Agriculture) authorising him to enter; and
- (b) if it is necessary for him to enter 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 twenty four 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

6. (1) An inspector may—

- (a) require the production of and 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 5(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 he finds on any land or premises mentioned in section 5(3) or whom he has reasonable cause to believe to be, or to have been within the preceding two 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 believed 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 maybe necessary any article by means of which or in relation to which he reasonably believes any provision of this Act or the Regulations has been violated;
- (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 subsection (1)(g) 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 subsection (1)(g) 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 may direct.

Offences and penalties

7. (1) Any person who—

- (a) assaults, resists, obstructs or intimidates any inspector in the execution of his duty;
- (b) uses indecent, abusive, or insulting language to any inspector in the execution of his duty;
- (c) interferes with or hinders any inspector in the execution of his duty;
- (d) by any gratuity, bribe, promise or other inducement prevents or attempts to prevent any 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 section 6(1)(g);
- (f) contravenes any provision of this Act or the Regulations,

is guilty of an offence and liable on summary conviction to a fine of \$250 and in the case of a continuing offence to a fine of \$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 articles in respect of which the offence was committed be forfeited;
- (b) stocks held in other parts of the island 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 samples without compensation

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 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 at that party's expense.

(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.

Crown

9. This Act and the Regulations shall bind the Crown subject to any modifications provided for in the Regulations.
