



ANALYSIS

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1987, No. 22

An Act to make provision for the regulation and control of the importation and sale of pesticides

(4 December 1987)

BE IT ENACTED by the Parliament of the Cook Islands in Session assembled and by the authority of the same as follows:

1. Short Title and commencement - (1) This Act may be cited as the Pesticides Act 1987.

(2) This Act shall come into force on a date to be designated by the Minister by notice in the Gazette.

2. Interpretation - In this Act, unless the context otherwise requires,-

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- "Board" means the Pesticides Board established under section 5;
- "Container" includes anything in or by which pesticides may be cased, covered, enclosed, contained or packed;
- "Label" means any written, printed or graphic matter on, attached to, or with any pesticide or any container;
- "Minister" means the Minister of Agriculture;
- "Permit to Import" means a permit issued pursuant to section 14 or section 18;
- "Pest" means any form of plant or animal life or any pathogenic agent injurious or potentially injurious to plant or animal life, and includes any public health pest, but does not include any such living on or in humans;
- "Pesticide" means any substance or mixture of substances intended for preventing, destroying or controlling any pest, and any substance or mixture of substances intended for use as a plant growth regulator, defoliant or dessicant, and includes wetting agents, sticker spreaders, emulsifying agents, synergists to be used as an aid to the application of pesticides, or any substances or mixture of substances declared by the Minister under section 4 to be a pesticide;
- "Registered use pesticide" means a pesticide granted registration by the Board on condition that it be used only by a registered user;
- "Registered user" for the purposes of this Act means a person authorised by the Board to use a restricted use pesticide;
- "Registrar" means the person appointed under section 5(2)(c) of this Act.

3. Act to bind the Crown - This Act shall bind the Crown.

4. Power to declare substances to be pesticides - (1) The Minister may from time to time, on the recommendation of the Board by notice in the Gazette declare any substance or mixture of substances to be a pesticide for the purposes of this Act and, in the like manner, may revoke such notice.

(2) Any such notice may relate to any substance or mixture specified by its common name, or trade name, or to any class of substances or mixtures identified by a description of that class.

(3) Any such substance or mixture or class of substances or mixtures may be identified in the notice by reference to,-

- (a) Its registration under any enactment; or
- (b) Its toxicological action; or
- (c) Its use, or the purpose for which it is intended to be used.

5. Establishment of Pesticides Board - (1) For the purposes of this Act, there shall be constituted a Board to be called the Pesticide Board.

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- (2) The Board shall consist of,-
- (a) The Secretary of Agriculture, or such person as shall for the time being be acting in that behalf who shall be Chairman;
 - (b) An Officer of the Ministry of Health to be nominated by the Director-General of Health;
 - (c) The Director of Conservation appointed under the Conservation Act 1986-87 or such person as shall for the time being be acting in that behalf;
 - (d) One person who shall be an importer of Pesticides, to be appointed by the Minister;
 - (e) An Officer of the Ministry of Agriculture, to be nominated by the Minister, which officer shall be Registrar and Secretary to the Board.
- (3) The Board shall meet when required by the Minister, the Chairman, or by any two members, but in any event not less than twice a year.
- (4) Subject to this Act the Board may regulate its own procedure as it thinks fit.
- (5) Subject to subsection (6) of this section, appointed members of the Board shall hold office for a term of one year, but shall be eligible for re-appointment.
- (6) Any appointed member of the Board may resign by notice in writing to the Minister, or may be removed by the Minister for disability, or neglect of his duties as a member.

6. Functions and powers of Board - The functions and powers of the Board shall be

- (a) To assess and evaluate every application for registration of a pesticide;
- (b) To determine in its discretion the conditions of use of any pesticide;
- (c) To cancel in its discretion the registration of any pesticide;
- (d) To promote the efficient, prudent and safe use of pesticides.

7. Remuneration of Board Members - There may be paid to the members of the Board, such remuneration by way of fees and allowances as may be fixed by the Queen's Representative by Order in Executive Council.

8. Board to submit annual report - (1) The Board shall, not later than the 30th day of June in each year, prepare and submit to the Minister a report of its proceedings and operations for the year ending with the preceding 31st day of March.

(2) The Minister shall table a copy of the report before Parliament within 14 days after he has received it if Parliament is then in session, or, if Parliament is not then in session, within 14 days after the commencement of the next ensuing session.

9. Minister may grant exemptions - The Minister may from time to time, on the recommendation of the Board, by notice in the Gazette, exempt any pesticide from such of the provisions of this Act as are specified in the notice, and may in like manner revoke such exemption.

10. Pesticides not to be imported unless registration granted - No person shall import any pesticide into the Cook Islands unless it has been registered pursuant to the provisions of this Act.

11. Application for registration - (1) Every person who wishes to import a pesticide into the Cook Islands for the purposes of sale, supply or use, shall apply to the Board for registration of the pesticide in such form and manner as may be prescribed from time to time by the Board.

(2) Every person applying for registration of any pesticide shall provide such information as the Board may require.

12. Registration - (1) On receipt of an application for registration of a pesticide, the Board shall,-

(a) Register the pesticide with or without conditions, and shall issue a certificate of registration for a period not exceeding 5 years; or,

(b) Refuse to register the pesticide.

(2) Notwithstanding the provisions of subsection (1), the Board may at any time cancel or suspend the registration of any pesticide or register a pesticide previously refused registration.

(3) If the applicant fails to establish the need for use of the pesticide in the Cook Islands, or that the use of the pesticide would give rise to an unacceptable hazard to the Public or to the environment, the Board shall refuse to register the pesticide.

(4) If the Board refuses to register a pesticide, the Registrar shall inform the applicant in writing of the decision and the reasons for such refusal.

13. Restricted use pesticide - (1) The Board may for the purposes of this Act register any pesticide for restricted use only.

(2) Every pesticide registered under this section shall be used only under such conditions that the Board may impose, and by a registered user.

(3) Every person who imports any restricted pesticide shall not sell or give such pesticide to any person other than a person approved by the Board.

(4) Every person who imports a restricted use pesticide shall maintain a register of all restricted use pesticides imported by him and a register of persons to whom that pesticide was sold or given.

(5) Every pesticide registered under this section shall not be used for any purpose other than that approved by the Board.

(6) The Board may from time to time approve such persons as it thinks fit as registered users of restricted pesticides, and such approval may be on such terms and conditions and for such period as the Board thinks fit.

14. Importation - (1) On registration of a pesticide the Registrar may issue a permit to any person who wishes to

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import that pesticide authorising him to import that pesticide.

(2) Any person wishing to import any pesticide in respect of which registration has been granted shall,-

- (a) Apply to the Registrar for a permit to import the pesticide on an application form to be provided by the Board.
- (b) Provide such other information that the Registrar may require.

15. Register of pesticides - (1) The Registrar shall keep a Register of Pesticides in which he shall enter the name of every pesticide registered under this Act, and the date on which it was registered.

(2) The Registrar shall annotate the Register when any registration expires, is renewed or is cancelled.

16. Duty of Customs Officers - (1) It shall be the duty of every Customs Officer to assist in the enforcement of section 10, and to prevent the importation into the Cook Islands of any pesticide where such importation is contrary to the provisions of this Act, and for such purposes shall exercise all the powers conferred on Customs Officers by the Customs Act 1913 in the case of uncustomed or prohibited goods.

(2) Every pesticide imported into the Cook Islands shall remain under the control of Customs, unless a permit to import the pesticide has been issued by the Registrar in respect of that pesticide.

(3) The Registrar shall provide to the Collector of Customs the names of all pesticides for which a permit to import has been issued pursuant to the provisions of this Act.

17. Sale of pesticides - (1) No pesticide shall be sold in the Cook Islands unless it is packaged in a container that is first approved by the Board.

(2) No person shall sell any pesticide in a container or pack that does not have affixed to it a label approved by the Board.

18. Pesticides imported for scientific purposes - (1) Any pesticide imported by the Ministry of Agriculture or the Ministry of Health for scientific trials or evaluation purposes shall be exempt from the provisions of sections 10 and 12.

(2) Any pesticide imported pursuant to the provisions of this section shall not be imported except pursuant to a permit issued by the Board, and subject to such conditions as the Board may from time to time impose.

19. Transitional - Any pesticide being sold in the Cook Islands at the commencement of this Act, shall be exempt from the provisions of section 12 for a period of 12 months from the commencement of this Act.

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20. Fees and expenses - (1) All fees paid pursuant to the provisions of this Act or any regulations made hereunder shall be paid into the Public Account.

(2) Parliament may from time to time appropriate of the Public Account such moneys as may be required for the due administration of this Act.

21. Inspectors - (1) There shall be appointed by the Public Service Commissioner from time to time, from the members of the Ministries of Agriculture or Health, such Inspectors as are required for the purposes of this Act.

(2) The Registrar shall be deemed to be an Inspector for the purposes of this Act.

(3) An identity card shall be issued by the Secretary of Agriculture to every Inspector.

22. Powers of Inspectors - (1) An Inspector may at all reasonable times have the power to enter and inspect any land, vehicle, aircraft, ship, vessel, factory, commercial premise, dwelling house, store, shed document or other record for the purposes of this Act.

(2) Every Inspector exercising any power conferred by this section shall produce to any person on request his identity card issued under section 21, as evidence of his appointment.

(3) Every Inspector shall have the power to seize any pesticide imported or being sold contrary to the provisions of this Act, or in respect of which any offence under this Act has been committed.

23. Offences - Every person commits an offence against this Act who directly or indirectly by himself, his servant or agent, imports, sells, uses or supplies any pesticide contrary to this Act, or contrary to a condition imposed by the Board.

24. Penalties - Every person who commits any offence against this Act shall be liable on conviction to a fine not exceeding \$1000 or to 12 months imprisonment or to both such fine and imprisonment.

25. Regulations - (1) The Queen's Representative may from time to time, by Order in Executive Council, make such regulations as are necessary for giving full effect to the provisions of this Act and for the due administration thereof.

(2) Without limiting the generality of subsection (1), the Queen's Representative may make regulations fixing fees in respect of any application required to be made by any person pursuant to the provisions of this Act.
