

PESTICIDES CONTROL AND MANAGEMENT ACT, 1996 (ACT 528)

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REPUBLIC OF GHANA

**THE FIVE HUNDRED AND TWENTY-EIGHTH
ACT
OF THE PARLIAMENT OF THE REPUBLIC OF GHANA
ENTITLED**

THE PESTICIDES CONTROL AND MANAGEMENT ACT, 1996

AN ACT to provide for the control, management and regulation of pesticides in Ghana and to provide for related matters.

DATE OF ASSENT: 23rd December, 1996

BE IT ENACTED by Parliament as follows—

PART I—REGISTRATION OF PESTICIDES

Section 1—Requirement for Registration of Pesticides.

No person shall import, export, manufacture, distribute, advertise, sell or use any pesticide in Ghana unless the pesticide has been registered by the Environmental Protection Agency in accordance with this Act.

Section 2—Exceptions to Section 1.

(1) Notwithstanding section 1 of this Act, the Agency may authorise the importation of unregistered pesticide—

(a) if the pesticide is—

(i) imported for experimental or research purposes and not for distribution; or

(ii) imported in the event of national emergency; or

(iii) in direct transit through Ghana and the Agency is satisfied that the pesticide is permitted to enter the country of destination; or

(b) if the Minister by legislative instrument so prescribes.

(2) The Agency may authorise the manufacture of unregistered pesticide for export if the pesticide is—

- (a) manufactured in accordance with specifications provided by the importer; and
- (b) the specifications satisfy the requirements applicable for the purpose in the country to which it is to be exported.

Section 3—Application for Registration of Pesticides.

A person seeking to register any pesticide shall submit to the Agency an application for registration which shall be in such form and be accompanied with such fee, information, samples and such other material as the Agency may determine.

Section 4—Classification of Pesticides.

(1) In registering a pesticide, the Agency shall classify it as being—

- (a) for general use;
- (b) for restricted use;
- (c) suspended; or
- (d) a banned pesticide.

(2) Pesticides classified under subsection (1) as restricted, suspended or banned shall be subject to the Prior Informed Consent Procedure defined in section 41 of this Act.

Section 5—Pesticides for General Use.

The Agency may classify a pesticide for general use if, having regard to the provisions in section 7 of this Act, it considers that the pesticide when applied for the use for which it is registered will not have an unreasonable adverse effect on the environment.

Section 6—Restricted and Suspended Pesticides.

The Agency shall classify a pesticide as restricted or suspended if it considers that its use in accordance with widespread commonly recognised practice in the absence of additional regulatory restrictions may cause unreasonable adverse effect on people, animals, crops or on the environment.

Section 7—Matters to be Considered in Registration and Classification of Pesticides.

In determining whether or not to approve the registration of a pesticide and what classification to give a registered pesticide, the Agency shall consider relevant matters including—

- (a) the characteristics of the pesticide formulation, such as the acute dermal, oral or inhalation toxicity;
- (b) the persistence, mobility and susceptibility to biological concentration of the pesticide;
- (c) the experience gained from the use of the pesticide, such as the likelihood of its misuse and any good safety record which is contrary to available laboratory toxicological information;
- (d) the relative hazards of its patterns of use, such as granular soil applications, ultra low volume or dust aerial applications or air blast sprayer applications;
- (e) the extent of the intended use; and

(f) the supporting data and other technical information that the Agency may request from the applicant or from any public institution.

Section 8—Approval.

The Agency may approve and register a pesticide subject to such other conditions as it may determine and may only register a pesticide if it is satisfied that the pesticide is safe and effective for the use for which it is intended and that the pesticide has been tested for efficacy and safety under local conditions.

Section 9—Provisional Clearance.

(1) Where in respect of an application for registration of a pesticide, the Agency is satisfied that—

(a) most information required for its registration has been provided to the Agency; and

(b) the pesticide does not present a toxicological risk to people, animals, crops or the environment,

it may clear the pesticide for use without the registration, and this clearance shall be known as provisional clearance and shall be temporary pending the registration by the Agency of the pesticide.

(2) Provisional clearance shall be given subject to such other conditions as the Agency shall determine.

(3) The Agency shall cancel the provisional clearance if the application for the registration of the pesticide is refused.

Section 10—Duration and Renewal of Provisional Clearance.

(1) A provisional clearance for any pesticide shall be valid for such period as the Agency may determine but shall not exceed 1 year.

(2) The Agency may require—

(a) the submission of such information; and

(b) the analysis of such samples as appear to it to be necessary to determine whether and under what conditions the provisional clearance shall be granted.

Section 11—Refusal to Register Pesticide.

Where the Agency refuses to register any pesticide it shall inform the applicant in writing of the refusal and the grounds for the refusal within 14 days of the decision.

Section 12—Duration of Registration and Renewal of Registration.

(1) A pesticide registration shall remain valid for a period not exceeding 3 years from the date of registration.

(2) The Agency may, where it is satisfied that a registered pesticide remains safe and effective for use in Ghana, renew the registration for further periods of 3 years at a time.

(3) The renewal of any pesticide registration shall be subject to—

- (a) submission of such information, analysis or samples as the Agency may require; and
- (b) such other conditions as the Agency shall determine.

Section 13—Non-Disclosure of Confidential Information.

Information furnished by an applicant in respect of registration of a pesticide or its renewal which is agreed to by the Agency and the applicant as confidential shall not be disclosed by the Agency unless authorised by law.

Section 14—Power of Agency to Amend, Ban or Suspend Pesticides.

The Agency, if satisfied that a registered pesticide under the existing conditions of its registration or provisional clearance—

- (a) is not effective; or
- (b) may cause hazard to people, animals, crops or the environment, may by publication in the Gazette amend the classification, suspend or ban the pesticide or cancel the registration or provisional clearance at any time after the registration or during the period of provisional clearance.

Section 15—Register of Pesticides.

(1) There shall be kept by the Agency a register to be known as the Register of Pesticides in which the Agency shall record the names and particulars of registered and provisionally cleared pesticides.

(2) The contents of the Register of Pesticides shall be reviewed periodically by the Agency.

Section 16—Gazette Publication.

The Agency shall cause to be published in the Gazette annually—

- (a) registered pesticides and their classification;
- (b) provisionally cleared pesticides;
- (c) suspended or banned pesticides; and
- (d) amendments made to the classification of pesticides.

PART II—LICENSING OF PESTICIDES DEALERS

Section 17—Requirement for Licence to Deal in Pesticides.

(1) No person shall import, export, manufacture, distribute, advertise or sell any pesticide except in accordance with a licence issued under this Act.

(2) Any licence issued under this Act shall be subject to such conditions as may be specified in relation to it and to any other conditions as the Agency may from time to time prescribe for the licence.

Section 18—Exemptions.

The Agency may by legislative instrument exempt from the requirement of a licence under section 17 such pesticides as shall be specified in the instrument.

Section 19—Application for Dealers Licence.

An application to import, export, manufacture, distribute, advertise or sell pesticides shall be made to the Agency in a form determined by the Agency and shall be accompanied with such fee and information as the Agency shall determine.

Section 20—Issue of Dealer’s Licence.

The Agency may issue a licence authorising the applicant to import, export, manufacture, distribute, advertise or sell pesticides if it has reasonable grounds to believe that the applicant will comply with the conditions required under the licence.

Section 21—Safeguards for Use of Pesticides.

(1) No person shall use or require an employee to use a pesticide in any manner that is inconsistent with the provisions of this Act or regulations made under this Act.

(2) Any person concerned with the use of a pesticide shall inform any other person who uses a pesticide of the dangers involved in the misuse of pesticides.

(3) Where regulations under this Act require that a pesticide be applied by or under supervision of a person authorised in that behalf by the Agency, no person shall apply that pesticide unless he is so authorised or supervised.

(4) No person shall require or permit an employee to handle or use pesticides in the course of his employment without providing and requiring the employee to use such protective facilities and clothing as will permit safe handling of the pesticide.

(5) Where protective facilities and clothing are required as a condition for a licence, every employer whose employees use or handle pesticides to which the licence relates shall provide and require the use of the facilities and clothing.

(6) No person shall knowingly harvest or offer for sale any foodstuff on which pesticides have been used except in compliance with practices including the interval between the application of pesticides and harvest as may be prescribed.

Section 22—Suspension, Cancellation of Licence.

The Agency may suspend or cancel a licence if—

(a) it has reasonable grounds to believe that the licensee has failed or refused to comply with this Act, regulations made under it or any other conditions for the licence; or

(b) it considers that the action appears necessary to prevent or remove a hazard to people, crops, animals or the environment.

Section 23—Appeal.

(1) A person aggrieved by any suspension or cancellation of his licence who desires to appeal against it, shall appeal in the first instance to the Minister.

(2) The Minister shall determine the matter within a period of thirty days after the receipt of written notification of the grievance.

(3) If the grievance is not determined within the period by the Minister or if the person is dissatisfied with the decision of the Minister he may appeal to the High Court.

Section 24—General Regulatory Power.

The Agency may restrict or prohibit the use of a registered pesticide in designated areas during specified periods of time.

Section 25—Conformity to Registered Pesticides.

(1) No person shall alter any pesticide so as to change its formulation, composition or usage or alter it in any other manner.

(2) No person shall sell a registered or provisionally cleared pesticide or an unregistered pesticide imported under section 2 (1) (b) of this Act if because of—

(a) fault in manufacture;

(b) deterioration;

(c) accident or any other cause;

the pesticide fails to meet the conditions of the registration or of the provisional clearance or the conditions of the authorisation.

Section 26—Advertising of Registered Pesticides.

No person shall advertise any registered or provisionally cleared pesticide in a manner which—

(a) is false;

(b) is misleading or inconsistent with the information supplied to the Agency at the time of the application; or

(c) omits warnings prescribed by the Agency.

Section 27—Containers and Packaging of Pesticides.

(1) The Agency may prescribe the containers, labels and the manner for packaging of pesticides at the wholesale and retail levels.

(2) Where any container, label or packaging has been prescribed by the Agency for a registered pesticide, no person shall—

(a) manufacture, import, export, distribute, advertise or sell any registered pesticide otherwise than in a package or container prescribed for the pesticide; or

(b) alter the label of any pesticide so as to misrepresent the nature of the pesticide.

Section 28—Records and Reporting.

Every person who imports, exports, manufactures, distributes or sells a pesticide shall make a record of the quantities of pesticides imported, exported, manufactured, distributed or sold by him and the record shall be—

(a) maintained for 10 years from the time it is made; and

(b) made available to the Agency at its request at such time and in such manner as the Agency may require.

Section 29—Exercise of Function by The Board.

(1) The powers and functions conferred on the Agency under this Act shall be exercised by the Board.

(2) The Board may delegate any of its powers and functions under this Act to a committee of the Board, a member of the Board or any other person.

Section 30—Pesticides Technical Committee, its Composition and Functions.

(1) For the purposes of enabling the Board perform its functions under this Act, there is hereby established at the Agency a committee to be known as the Pesticides Technical Committee which shall be a committee of the Board.

(2) The Pesticides Technical Committee shall be composed of the following members—

(a) a Chairman appointed by the Board;

(b) the Head of the Chemistry Department of the National Nuclear Research Institute of the Ghana Atomic Energy Commission;

(c) a representative from the Cocoa Services Division of the Ghana Cocoa Board not below the rank of an executive director who shall have expertise in pesticides;

(d) the Director of the Plant Protection and Regulatory Services of the Ministry of Food and Agriculture;

(e) the Director of the Veterinary Services Department of the Ministry of Food and Agriculture;

(f) a representative from the Ministry of Health;

(g) a representative of the Ghana Standards Board not below the rank of a Senior Scientific Officer;

(h) a representative from the laboratory of the Customs, Excise and Preventive Service not below the rank of Principal Collector;

(i) a representative from the Association of Ghana Industries;

(j) a representative of the Ghana National Association of Farmers and Fishermen;

(k) a representative from the Ministry of Lands and Forestry;

(l) one representative from the Environmental Protection Agency not below the rank of a Senior Programme Officer who shall be the Secretary to the Committee; and

(m) a representative of the Ministry responsible for the Environment.

(3) The Pesticides Technical Committee shall perform such functions under this Act relating to the control and management of pesticides as the Board may assign to it.

(4) The quorum for a meeting of the Committee shall be seven members.

(5) The Committee shall regulate its own procedure.

PART III—ENFORCEMENT AND PENALTIES

Section 31—Power of Inspector.

(1) A member of the relevant sub-committee of a District Assembly so authorised or an inspector appointed under section 15 of the Environmental Protection Agency Act, 1994 (Act 490) may—

- (a) inspect any equipment used or to be used in applying pesticides;
- (b) inspect any storage or disposal facilities or areas used for the storage or disposal of pesticides;
- (c) inspect any land actually, or reported to be, exposed to pesticides;
- (d) investigate complaints of injury to human beings and animals, or damage to land and pollution of water bodies resulting from the use of pesticides;
- (e) take samples of pesticides applied or to be applied;
- (f) monitor the sale and use of pesticides;
- (g) examine and take copies of a licence or other documents required by this Act or any regulations made under this Act.

(2) An inspector or a person authorised under subsection (1) may, if he has reasonable cause to believe that an offence has been committed under this Act or against any regulations made under this Act without warrant—

- (a) enter and search premises, other than premises used exclusively as a place of residence, in which he believes on reasonable grounds that the offence has been committed or that a pesticide which has been illegally used is being stored;
- (b) stop and search any vehicle which he believes is being used in the commission of the offence under this Act;
- (c) seize any equipment, pesticide or appliance which he believes on reasonable grounds is being used in the commission of the offence;
- (d) arrest any person who he believes on reasonable grounds has committed the offence.

(2) A written receipt shall, where reasonably practicable, be given for an article or thing seized pursuant to subsection (1) of this section, and the reasons for the seizure shall be stated in the receipt.

(3) A person arrested under subsection (1) of this section shall be taken before a court within 48 hours.

(4) An inspector or a person authorised under subsection (1) of this section shall declare his office and produce evidence of his authority before he enters and searches any premises and in any other case produce it on request.

Section 32—Analysis and Certificate.

(1) Any sample of pesticide taken for the purpose of analysis shall be submitted to and analysed by an analyst appointed by the Agency.

(2) In any proceedings under this Act, the production of a certificate signed by an analyst appointed by the Agency shall be prima facie evidence of the facts stated in it.

Section 33—Obstruction of Inspectors.

Any person who—

(a) wilfully obstructs an inspector or an authorised person in the exercise of any power conferred on him under this Act or regulations made under this Act; or

(b) fails to comply with a lawful enquiry or requirement made by an inspector or an authorised person in accordance with section 31 of this Act,

commits an offence and is liable on conviction to a fine not exceeding €500,000 or to imprisonment for a term not exceeding 6 months or to both.

Section 34—Other Offences and Penalties.

(1) Any person who—

(a) except as provided in section 2 or otherwise exempted, imports, exports, manufactures, distributes, advertises, sells or uses any pesticide which has not been registered contrary to section 1 of this Act; or

(b) imports, exports, manufactures, distributes, advertises or sells any pesticide without a licence contrary to section 17 (1) of this Act; or

(c) uses a pesticide or requires an employee to use a pesticide contrary to any provision in section 21 of this Act; or

(d) alters any pesticide so as to change its formulation, composition or usage in any manner contrary to section 25 (1); or

(e) sells a registered or provisionally cleared pesticide which by reason of fault of manufacture, deterioration, accident or any other reason fails to meet the conditions required by this Act contrary to section 25 (2); or

(f) contravenes any requirements for the presentation of pesticides provided under section 27 (2) (a) or (b) commits an offence and is liable on conviction to a fine not exceeding €5 million or to a term of imprisonment not exceeding 2 years or to both.

(2) In the case of a continuing offence, there shall be an additional fine not exceeding €500,000 in respect of each day on which the offence continues.

(3) Any person who—

(a) advertises a pesticide in a manner which is false, misleading or inconsistent with the information supplied to the Agency at the time of registration; or

(b) includes on the label or accompanying instructions of any pesticide misleading or fictitious claim,

contrary to section 26 of this Act commits an offence and is liable on conviction to a fine not exceeding €2 million or to a term of imprisonment not exceeding 1 year and in the case of a continuing offence to an additional fine not exceeding €200,000 in respect of each day on which the offence continues.

(4) Any person who—

(a) fails or refuses to maintain or submit the contents of records to be maintained; or

(b) deliberately or negligently makes false records; or

(c) submits false or misleading statements commits an offence and is liable on conviction to a fine not exceeding €1 million or 6 months imprisonment; and in the case of a continuing offence, to an additional fine not exceeding €200,000 in respect of each day on which the offence continues.

(5) Any person who knowingly discloses, otherwise than as provided by this Act, any proprietary information acquired by him in the exercise of any duty under this Act commits an offence and is liable on conviction to a fine not exceeding €1 million or to a term of imprisonment not exceeding 6 months or to both:

Section 35—Sale of Pesticides.

It shall not be a defence for any person charged with the sale of a pesticide contrary to section 1 to plead that he had no reason to believe at the time of sale that the pesticide was not registered or differed in anyway from the purported contents of the container or that the pesticide otherwise failed to meet the requirements of this Act.

Section 36—Offences by Body of Persons.

(1) Where an offence is committed by a body of persons—

(a) in the case of a body corporate other than a partnership every director or officer of the body shall also be deemed guilty of the offence;

(b) in the case of a partnership every partner or officer of that body shall also be deemed to be guilty of that offence.

(2) No person shall be guilty of an offence by virtue of subsection (1) if—

(a) he proves that the offence was committed without his knowledge or connivance; and

(b) that he exercised due care and diligence to prevent the commission of the offence having regard to all the circumstances.

Section 37—Forfeiture.

Where a person is convicted of an offence under this Act or any regulations made under this Act, the court may in addition to any other penalty imposed, order that any equipment, pesticide or appliance used in the commission of the offence shall be forfeited to the State and that a licence issued under this Act shall be suspended for such period as the court may direct or be cancelled.

PART IV—GENERAL PROVISIONS

Section 38—Customs Officer.

(1) Every customs officer shall—

(a) assist in the enforcement of the provisions of this Act; and
(b) prevent the importation into Ghana of any pesticide where the importation is contrary to this Act.

(2) The Agency shall provide the Commissioner of Customs with a list of licensed importers and a list of registered and banned pesticides.

(3) The Commissioner of Customs shall keep records of imported pesticides and, shall at such regular periods as the Agency may direct, submit copies to the Agency.

Section 39—Power to Make Regulations.

(1) The Minister responsible for Environment on the recommendation of the Board and in consultation with the Minister responsible for Food and Agriculture, may by legislative instrument make such regulations as may be necessary for the purpose of giving full effect to the provisions of this Act.

(2) Without prejudice to subsection (1) of this section, regulations may be made prescribing matters relating to—

(a) the manufacture, importation, exportation, distribution and sale of pesticides;

(b) the reporting of significant pesticide accidents or incidents to a designated person or office and the procedure for such reporting;

(c) procedure for the storage, transportation and disposal of any pesticide or pesticide container which is considered likely to cause injury to human beings, vegetables, crops, livestock, wildlife or beneficial insects or which is likely to pollute the environment;

(d) the form and contents of pesticide labels;

(e) method of packaging of registered pesticides;

(f) pesticide containers and their disposal;

(g) the advertising of pesticides;

(h) the purpose for which any pesticides may be used and the manner in which it may be used;

(i) the licensing of premises where pesticides are used or dealt in;

(j) practices, including pre-harvest intervals, for the harvest of crops and the slaughter and milking of animals following exposure to pesticides;

(k) the application of pesticides that are to be made under the supervision of an authorised person and the provision for such authorizations;

(l) the analyses of pesticides;

(m) facilities and clothing to be used or worn while handling pesticides;

(n) the disposal of pesticides;

(o) records to be maintained by persons importing manufacturing, formulating, distributing or selling pesticides;

(p) aerial application of pesticides;

(q) pesticide applicators;

(r) the exemption of the importation of certain specified categories and quantities of pesticides from the requirement of a licence.

(3) Regulations made under this section may prescribe in relation to any contravention of any provision in it, penalties not exceeding a fine of ₪2 million or a term of imprisonment not exceeding 1 year or both and for additional penalties not exceeding ₪200,000 for each day in respect of continuing offences.

Section 40—Fees.

The Agency may for the registration of pesticides and licensing of dealers, charge such fees as the Board shall determine.

Section 41—Interpretation.

In this Act unless the context otherwise requires—

"advertising" means the promotion of the sale and use of pesticides by print or electronic media, signs, displays, gifts, demonstration or word of mouth;

"Agency" means the Environmental Protection Agency;

"banned pesticide" means a pesticide for which registered use has been prohibited by the Agency or for which registration has not been granted by the Agency for health and environmental reasons;

"Board" means the Environmental Protection Agency Board established under section 4 of the Environmental Protection Agency Act, 1994 (Act 490);

"Committee" means the Pesticides Technical Committee provided for under section 30;

"dealer" means any person who imports, exports, manufactures, distributes, advertises or sells pesticide;

"defoliant" means a substance or mixture of substances which when applied to a plant causes the leaves or foliage to drop from the plant with or without abscission;

"District Assembly" includes Municipal and Metropolitan Assembly;

"desiccant" means a substance or mixture of substances which when applied to a plant, accelerates the drying of the tissue of the plant;

"distribute" means to supply commercially, to transport, store or sell;

"formulation" means the combination of various ingredients designed to render the product useful and effective for the purpose claimed, or the form of pesticide as purchased by users;

"Inspector" means Environmental Protection Inspector appointed under section 15 of the Environmental Protection Agency Act, 1994 (Act 490) or person of the relevant sub-committee of a District Assembly authorised under section 31 (1) of this Act;

"label" includes any writing, printing or illustration made on, attached to, included in, belonging to or accompanying a pesticide or its container;

"manufacture" in relation to a pesticide means to do any of the following—prepare, compound, make the active or other ingredients, to add substances, mix, formulate, package or re-package, label or otherwise treat the active ingredient with a view to its sale, but does not include the carrying on of bona fide research or experiment relating to a pesticide or doing of an act or thing that forms part of or is incidental to such research or experiment;

"Minister" means the Minister responsible for the Environment;

"pest" means any insect, rodent, bird, fish, mollusc, nematode, fungus, weed micro-organism, virus or any other kind of plant or animal life that is injurious to human or animal health, crops, stored produce, processed foods, wood, cloths, fabrics or other inanimate objects;

"pesticide" means—

(a) a substance or mixture of substances intended for preventing, destroying, repelling or reducing the destructive effects of any pest; or

(b) a substance or mixture of substances intended for use as a plant regulator, defoliant, desiccant or wood preservative;

"plant regulator" means a substance or mixture of substances which, when applied to ornamental or crop plants or to their produce, causes, through physiological action, the acceleration or retardation of the rate of growth or otherwise alters the behaviour of those plants or their produce, but does not include substances intended for use as plant nutrients, trace elements, nutritional chemicals, plant inoculants or soil amelioration;

"prescribed" means prescribed by legislative instrument;

"Prior Informed Consent Procedure" means the international operation procedure for exchanging, receiving and handling notification information by the Agency on restricted, suspended and banned pesticides for reasons of health and the environment;

"sell" includes to offer for sale and to provide pesticide as part of a service of pest control notwithstanding that the pesticide is described as free or included in the service.

"unreasonable adverse effect on the environment" means any effect which is injurious to human, animal or plant life or which renders the environment unsafe for human, animal or plant life;

Section 42—Transitional Provision.

After 6 months from the coming into force of this Act, pesticides shall be registered in compliance with this Act and licences for dealing in pesticides shall be issued in compliance with this Act.

Date of Gazette Notification: 31st December, 1996.