

Uganda

Control of Agricultural Chemicals Act Chapter 29

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Control of Agricultural Chemicals Act

Chapter 29

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[Repealed by Agricultural Chemicals (Control) Act, 2007 (Act 1 of 2007) on 5 April 2007]

An Act to control and regulate the manufacture, storage, distribution and trade in, use, importation and exportation of, agricultural chemicals and for other purposes connected therewith.

1. Interpretation

In this Act, unless the context otherwise requires—

- (a) "**agricultural chemicals**" includes a pesticide, chemical fungicide, insecticide, nematocide, herbicide, acaricide, bactericide, rodenticide, molluscicide, avicide, fertiliser, growth regulator or any other chemical or material used for agricultural purposes;
- (b) "**board**" means the Agricultural Chemicals Board established under section 4;
- (c) "**health approval**" means a statement made in writing by the director of medical services or an officer appointed by him or her for the purpose, verifying that the undertaking, application, use or distribution of specified agricultural chemicals is safe and that no life is in danger as a result of the undertaking, application or use of the chemical;
- (d) "**inspector**" means a person appointed under section 8;
- (e) "**Minister**" means the Minister responsible for agriculture;
- (f) "**pest**" includes all organisms causing damage to a person, his or her animals, his or her possessions or his or her environment;
- (g) "**pesticide**" means a chemical which by virtue of its poisonous properties is used to kill pest organisms;
- (h) "**protective clothing**" means all wear stipulated on the label on the container that is required to protect the user or dealer of the chemical or pesticide;
- (i) "**registered fumigator**" means a person or operator who has the qualification in pesticide application and is registered as a fumigator or operator; and
- (j) "**safety**" refers to human beings, livestock, game birds, fish and other organisms and the ground, water, air and general environment.

2. Control of manufacture, etc. of agricultural chemicals

- (1) No person shall manufacture, package, store, display, distribute, knowingly transport, be in possession of, use or advertise any agricultural chemical except in accordance with regulations made under this Act.

- (2) No person shall pack, label or advertise any agricultural chemical in a manner that is false, misleading or deceptive or is likely to create an erroneous impression regarding its character, value, quality, composition, merit or safety.

3. Import, export, etc. of agricultural chemicals

- (1) No person shall import into or sell in Uganda any agricultural chemical unless that chemical has been registered, packed and labelled in accordance with regulations made under this Act and conforms to the standards specified in the regulations.
- (2) No person shall export or reexport out of Uganda an agricultural chemical unless he or she has complied with the requirements specified in the regulations made under this Act.

4. Establishment and constitution of the board

- (1) There is established a board to be known as the Agricultural Chemicals Board.
- (2) The board shall consist of the following—
 - (a) the commissioner responsible for agriculture, who shall be the chairperson;
 - (b) the head of agricultural research, who shall be the secretary;
 - (c) the dean of the faculty of agriculture and forestry, Makerere University;
 - (d) the chairperson of the agricultural chemicals technical committee;
 - (e) an advocate of at least five years' standing being a public officer appointed by the Minister;
 - (f) one person appointed by the Minister, being a person with knowledge and experience in agricultural chemicals, to represent the chemical industry;
 - (g) one person appointed by the Minister, being a person engaged in farming, to represent the interests of farmers;
 - (h) the Government chemist;
 - (i) the commissioner for veterinary services;
 - (j) the chief forest officer;
 - (k) the director of medical services;
 - (l) one public officer appointed by the Minister responsible for matters relating to the environment;
 - (m) one public officer being a person responsible for the National Bureau of Standards, appointed by the Minister responsible for commerce.
- (3) The board may appoint to serve on it for such period as it may think fit such persons whose assistance or advice it may require, but a person so appointed shall not be entitled to vote at a meeting of the board or to be counted as a member for the purposes of forming a quorum.
- (4) The members of the board, other than *ex officio* members, shall hold office for a period of three years but shall be eligible for reappointment.

5. Functions of the board

The functions of the board shall be—

- (a) to ensure that agricultural chemicals are duly registered and that those agricultural chemicals are used in a manner consistent with the labelling and in conformity with the regulations made under this Act;

- (b) to regulate the quality and importation of agricultural chemicals into the country and their distribution;
- (c) to consider applications for registration of agricultural chemicals, certified commercial applicators and fumigators, to issue licences, and to make recommendations thereon to the Minister; for the purposes of this paragraph, the Minister may on the advice of the board by statutory instrument appoint registrars to carry out the registration and issuing of licences under this Act and any regulations made under it;
- (d) to suspend, cancel or revoke a certificate of registration or licence issued under this Act or any regulations made under it;
- (e) to advise the Minister on all matters relating to and connected with the enforcement of this Act and any regulations made under it.

6. Procedure of the board

- (1) The board shall meet at least four times in each year.
- (2) Notwithstanding subsection (1), the board may meet at such times and places as it deems necessary for the transaction of its business.
- (3) The chairperson shall preside at all meetings of the board; and in his or her absence, the board shall elect one of its members to act as chairperson.
- (4) The person presiding at a meeting of the board shall have a casting vote in addition to his or her deliberative vote.
- (5) The quorum of the board shall be five.
- (6) The secretary shall cause details of all business transacted at meetings of the board to be entered into a minute book kept for that purpose, and the minutes of the proceedings of the meetings shall be submitted for confirmation at a subsequent meeting of the board and if passed correct shall be confirmed by the signatures of the chairperson and secretary and when so confirmed shall be *prima facie* evidence in all courts as an accurate record of the proceedings so recorded.
- (7) A member of the board other than an *ex officio* member shall cease to be a member of the board and the office of that member shall be declared vacant by the Minister if the member—
 - (a) resigns by writing under his or her hand addressed to the chairperson;
 - (b) is certified to be insane or otherwise adjudged to be of unsound mind under any written law;
 - (c) in the opinion of the board, he or she becomes physically or otherwise incapable of discharging his or her duties as a member and remains so for ninety consecutive days;
 - (d) is absent, without reasonable cause, from three consecutive meetings of the board;
 - (e) is adjudged or otherwise declared bankrupt under any written law;
 - (f) is sentenced to imprisonment for a term of six months or more for an offence involving moral turpitude.

7. Establishment of the agricultural chemicals technical committee

- (1) There shall be an agricultural chemicals technical committee to be appointed by the board for purposes of advising the board on the technicalities of agricultural chemicals for the purposes of this Act and any regulations made under it.
- (2) The committee shall consist of the following—
 - (a) a chemist;

- (b) an agronomist;
 - (c) an entomologist;
 - (d) a pathologist;
 - (e) an assistant commissioner for agriculture responsible for extension;
 - (f) a forest officer;
 - (g) a commissioner for veterinary services or his or her representative responsible for extension;
and
 - (h) an ecologist.
- (3) The chairperson of the committee shall be appointed by the board from among the persons mentioned in subsection (2).
- (4) An appointed member of the committee—
- (a) shall hold office for five years but shall be eligible for reappointment;
 - (b) may resign by writing under his or her hand addressed to the board or may be removed from office by the board for inability to perform the functions of his or her office.
- (5) The committee—
- (a) shall regulate its own procedure;
 - (b) shall be responsible for all technical analysis and verification of agricultural chemicals;
 - (c) may appoint to serve on it for such period as it may think fit such persons whose specific expertise is required regarding any of the proceedings of the committee;
 - (d) shall advise the board on all technicalities of agricultural chemicals for purposes of this Act and any regulations made under it.

8. Appointment of inspectors and analysts of agricultural chemicals

- (1) The Minister shall, by notice in the *Gazette*, appoint suitably qualified public officers to act as inspectors and analysts of agricultural chemicals for purposes of this Act and any regulations made under it.
- (2) A person appointed under subsection (1) shall not, while being so appointed, engage in any business connected with the manufacture, sale, importation or distribution of agricultural chemicals.

9. Powers of inspectors

- (1) An inspector may at all reasonable times—
- (a) enter any place, premises, vehicle or vessel, for the purpose of performing any of his or her functions under this Act or regulations made under this Act—
 - (i) in which he or she reasonably believes an agricultural chemical to which this Act applies is stored, sold or used;
 - (ii) in which he or she believes there is material, a person, an animal, or crop contaminated by an agricultural chemical;
 - (iii) which is or are used or capable of being used in the manufacture of an agricultural chemical; or

- (iv) which he or she reasonably suspects is being or is about to be used in the commission of an offence under this Act or any regulations made under it;
 - (b) examine any article or agricultural chemical found in any place, premises, vehicle or vessel or open any package found therein that he or she has reason to believe contains any agricultural chemical and take samples of the article or agricultural chemical;
 - (c) require any person to produce for inspection or for obtaining copies of or excerpts from them, any books, shipping bills, bills of lading, documents containing instructions or other documents or papers concerning any matter relevant to the administration of this Act or any regulations made under it.
- (2) An inspector shall be furnished with a certificate of his or her appointment as an inspector and on entering any place, premises, vehicle or vessel referred to in subsection (1) shall, if so required, produce the certificate to the person in charge of the place, premises, vehicle or vessel.
- (3) The owner or the person in charge of any place or premises referred to in subsection (1) and everyone found in that place or those premises shall give the inspector all reasonable assistance to enable him or her to carry out his or her duties and functions under this Act and any regulations made under it and shall furnish him or her with such information with respect to the administration of this Act and any regulations made under it as he or she may require.
- (4) Any person who refuses entry to an inspector acting under this section or obstructs him or her in making entry or making an inspection or who without reasonable excuse fails to produce an agricultural chemical or material for examination, or any document the production of which is required of him or her under this section commits an offence.

10. Seizure and disposal of agricultural chemicals

- (1) Where an inspector believes on reasonable grounds that this Act or any regulations made under it has or have been contravened, he or she may seize and detain the agricultural chemicals by means of or in relation to which he or she believes the contravention was committed.
- (2) Any agricultural chemical seized and detained under subsection (1) shall not be detained after—
- (a) such time not exceeding fourteen days as in the opinion of the inspector the provisions of this Act and the regulations made under it have been complied with; or
 - (b) the expiration of six months from the date of seizure, or such longer period as may be prescribed with respect to any agricultural chemical.
- (3) A court convicting any person for an offence under this Act or any regulations made under it may make such order as the court shall deem proper as to—
- (a) the forfeiture or disposal of an agricultural chemical;
 - (b) the payment by the defendant of all or any fees and other expenses incidental to the examination of an agricultural chemical, in respect of which conviction is obtained.
- (4) Where no offence is found to have been committed, the court may order that a reasonable payment be tendered to the owner in respect of so much of the agricultural chemical that is not returned to him or her in good condition.
- (5) Where an inspector has seized an agricultural chemical and the owner of the agricultural chemical or the person in whose possession the agricultural chemical was at the time of seizure consents in writing to its disposal, the agricultural chemical shall thereupon be forfeited to the Government and shall be disposed of in such a manner as the Minister may direct and at the expense of the person consenting to the disposal.
- (6) Any person who hinders or obstructs an inspector acting in the exercise of his or her powers under this section commits an offence.

11. Secrecy of information

Any person who is or has been engaged in the enforcement of this Act or any regulations made under it who discloses, except for the purpose of the exercise of his or her functions or when required to do so by a court or under any written law, any information acquired by him or her in the exercise or purported exercise of his or her functions under this Act to any other person commits an offence.

12. Offences and penalties

- (1) Any person who contravenes sections 2 and 3 commits an offence and is liable on conviction to imprisonment for a term not exceeding five years.
- (2) A person convicted of an offence under this Act or any regulations made under it other than the offences referred to in subsection (1) is liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.
- (3) In any prosecution for an offence under this Act or any regulations made under it, it shall be sufficient proof of the offence to establish that it was committed by an employee or agent of the accused whether or not the employee or agent is identified or has been prosecuted for the offence, unless the accused establishes that the offence was committed without his or her knowledge or consent and that he or she exercised all due diligence to prevent its commission.
- (4) Any act or omission which if done by an individual under this Act or any regulations made under it shall if done by a company be deemed to be an offence committed by every director, secretary and manager unless he or she can prove that the offence was committed without his or her consent or connivance and that he or she exercised all due diligence to prevent the commission of the offence.
- (5) Any act or omission which if done by a partner in a firm would constitute an offence under this Act or any regulations made under it shall be deemed to be an offence committed by every person who at the time of commission was a partner in that firm or was purporting to act in that office, unless he or she proves that the offence was committed without his or her consent and that he or she exercised all due diligence to prevent the commission of the offence.
- (6) In addition to the penalties in this section, the court may suspend, cancel or revoke a certificate of registration or licence issued under this Act or any regulations made under it.

13. Trial of offences by the Director of Public Prosecutions

No proceedings shall be instituted for the prosecution of an offence under this Act or any regulations made under it without the consent of the Director of Public Prosecutions.

14. Certificate of an analyst

- (1) Subject to this section, a certificate of an analyst stating that he or she has examined a sample submitted to him or her by an inspector and stating the result of his or her examination shall be admissible in evidence in proceedings under this Act or any regulations made under it and shall be *prima facie* evidence of the facts contained in the certificate.
- (2) The party against whom a certificate of an analyst is produced under subsection (1) may, with leave of the court, require the attendance of the analyst for the purposes of cross-examination.
- (3) No certificate shall be received in evidence under subsection (1) unless the party intending to produce it has before the trial given to the party against whom it is intended to be produced reasonable notice of that intention together with a copy of the certificate.

15. Regulations

The Minister may in consultation with the board make regulations by statutory instrument prescribing—

- (a) for the purposes of this Act, the nomenclature, classes and kinds of pests, and agricultural chemicals;
- (b) forms in which applications for registration shall be made and the information to be furnished with the applications;
- (c) the format for the licences, permits, notices of appointment or other documents in relation to the licences or permits under this Act or any regulations made under it;
- (d) the registration of agricultural chemicals, certified commercial applicators, fumigators and places or premises in which agricultural chemicals are handled by manufacturers or dealers, prescribing fees for the registration and respecting the procedures to be followed for the review of cases involving the refusal, suspension or cancellation of the registration of any such agricultural chemical, fumigator, place or premises;
- (e) the form, composition and all other standards relating to the safe manufacture, storage, distribution, advertisement and use of agricultural chemicals including toxic residue effects;
- (f) the manufacture or treatment of any agricultural chemical to facilitate its recognition by change in colouration or other means;
- (g) the standards of efficacy and safety of any agricultural chemical;
- (h) the packing, labelling, distribution and advertising of agricultural chemicals;
- (i) the taking of samples and making of examinations of agricultural chemicals for purposes and provisions of this Act;
- (j) the information to be supplied and the format for such information in respect of any agricultural chemical that is to be imported into Uganda;
- (k) the types and standards of protective clothing which shall be worn and any other precautionary measures which shall be taken during the manufacture, sale, use, application or handling of agricultural chemicals;
- (l) circumstances and conditions under which agricultural chemicals that have met the requirements of the Pharmacy and Drugs Act, may be deemed to be registered as prescribed under this Act;
- (m) anything that needs to be prescribed for better carrying out the purposes and provisions of this Act.

16. Disapplication of certain laws

- (1) The Control of Pesticides Act of the Community shall cease to have the force of law in Uganda.
- (2) The Pharmacy and Drugs Act shall cease to apply to agricultural chemicals.