

I assent.

(L.S.)

GUIDO DE MARCO
President

23rd March, 2001

ACT No. XI of 2001

AN ACT to provide for the control of pesticides, and for other purposes connected therewith or incidental thereto.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:-

Short title and
commencement.

1. The short title of this Act is the Pesticides Control Act, 2001.

(2) This Act shall come into force on such date as the Minister responsible for Agriculture may by notice in the Gazette appoint, and different dates may be so appointed for different purposes and for different provisions of this Act.

Interpretation.

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

"active substances" means chemical substances or micro-organisms including viruses, which have a general or specific action against harmful organisms or on plants or plant products;

"advertising" means the promotion of the sale and, or, use of any pesticide by print, audio or visual media, signs, displays, gifts, demonstration or word of mouth;

"antidote" means the specific therapeutic treatment used in cases of poisoning;

"authorisation" means an administrative act by which the Director may permit, following a submitted application, the placing on the market of a pesticide;

"biocidal products" means the active substances and preparations containing one or more active substances, in the form in which they are supplied to the user, intended to destroy, deter, render harmless, prevent the action of, or otherwise exert a controlling effect on any harmful organism by chemical or biological means;

"Board" means the Pesticides Control Board established under article 10;

"brand" refers to the name under which the pesticide is labelled, registered and provided by the manufacturer or supplier and which, if protected under existing legislation, can be used exclusively by the manufacturer or supplier to distinguish the product from other pesticides;

"C.A.S. Number" means the Chemical Abstract Service number as used by International Standard Authorities;

"chemical" means a substance obtained by or used in chemical processes;

"common name" means the name assigned to the active substance of a pesticide by the International Standards Organisation (ISO) or, in the absence of such assigned name, the name commonly accepted as the generic and non-propriety name for that particular active substance;

"Department" means the Department responsible for plant health;

"Director" means the Director of the Department and includes, to the extent of the authority given, any officer authorised by him, in writing, to act in that behalf for any of the purposes of this Act;

"employer" means any person having in his employment or under his direction, supervision or control, one or more persons engaged in the handling or application of pesticides;

"environment" includes water, air, land, wild species of fauna and flora, and any inter-relationship between them, as well as any relationship with living organisms;

"formulation" means the final composition of a pesticide as provided to the user consisting in the combination of active and other

substances, and the proportion thereof, in such pesticide, designed to render the product effective for the purpose claimed;

"fungi" means all non-chlorophyll bearing thallophytes and includes rusts, smuts, yeasts, mildews, moulds and bacteria, other than those forms in or on the bodies of living humans or animals;

"growth regulator" means any substance or mixture of substances intended, through physiological action, to alter the rate of growth or the rate of maturation, or otherwise to alter the behaviour of a plant or the produce thereof; but does not include substances to the extent that they are intended as plant nutrients, plant inoculants or soil amendments;

"harmful organisms" means plants, animals, viruses, bacteria and other pathogens which have an unwanted presence or a detrimental effect for humans, their activities or the products they use or produce, or for animals, plants and the environment;

"insect" means any invertebrate belonging to the class Insecta, and any other allied arthropod forms, including spiders, mites, ticks, centipedes and woodlice, other than those forms on or in the bodies of living humans or animals;

"integrated control" means the rational application of a combination of biological, biotechnological, chemical, cultural or plant-breeding measures whereby the use of chemical pesticides is limited to the strict minimum necessary to maintain the pest population at levels below those causing economically unacceptable damage or loss;

"label" means the written, graphic or printed matter, on or attached to, the pesticide or the immediate container thereof and the outside container or wrapper of the retail package of the pesticide;

"manufacture" includes all of any of the stages of production of a pesticide from raw materials to the final product as supplied to the user;

"Malta" has the same meaning as is assigned to it in article 124 of the Constitution of Malta;

"Minister" means the Minister responsible for Agriculture, in consultation with the Minister or Ministers responsible for Health and the Environment;

"molluscicides" means substances employed to kill snails, slugs and species of the same family;

"nematode" means invertebrate animals of the class Nematoda inhabiting soil, water, plants or plant parts other than those forms on or in the bodies of living humans or animals, and "nematodes" shall be construed accordingly;

"owner" includes any person who may dispose of, or is entrusted in any capacity with the disposal of, any consumable produce or pesticide;

"packing" means the transfer or re-packing of pesticides from any package into any other container;

"person" includes any commercial partnership or association of persons or any other legal entity;

"pest" means such form of plant or animal life, viruses or other pathogens considered to have a net negative effect on man and his activities, other than those forms on or in the bodies of living humans or animals;

"pesticide" includes all plant protection and biocidal products;

"placing on the market" means any importation or supply of a pesticide, followed by consignment or disposal, whether in return for payment or free of charge, other than for storage;

"plant products" means products derived from plants, which are in an unprocessed state or have undergone a simple, preliminary processing;

"plant protection products" means active substances and preparations containing one or more active substances, in the form in which they are supplied to the user, intended to -

- (a) protect plants or plant products against all harmful organisms or prevent the action of such organisms, in so far as such substances or preparations are not otherwise defined below;

- (b) influence the life processes of plants, other than as a nutrient;

- (c) preserve plant products, in so far as such substances or products are not subject to special provisions on preservatives;

- (d) destroy undesired plants; or

(e) destroy parts of plants, check or prevent undesired growth of plants;

"plants" means live plants and parts of live plants, including fruit and seeds;

"preparations" means mixtures or solutions composed of two or more substances of which at least one is an active substance, intended for use as pesticides;

"registration" means the process whereby the Director approves the placing on the market and use of a pesticide following the evaluation of comprehensive scientific data, demonstrating that the product is effective for the purpose intended and is not unduly hazardous to human or animal health or the environment;

"residues" means one or more substances present in or on plants or products of plant origin, edible animal products or elsewhere in the environment and resulting from the use of a pesticide, including their metabolites and products resulting from their degradation or reaction;

"rodenticides" means substances employed to kill rodents;

"rodents" means all rats and mice belonging to the genera *Rattus* and *Mus*;

"substances" means chemical elements and their compounds, as they occur naturally or by manufacture, including any impurity inevitably resulting from the manufacturing process;

"vendor" means any person who sells or otherwise disposes of any pesticide;

"worker" means any person actually engaged in the handling or application of pesticides, whether on his own account or under the direction or employment of another person.

Duties of
Director.

3. It shall be the duty of the Director, acting on the advice of the Board, to process applications for authorisation to place products on the market, to keep a register for the registration of pesticides, and to implement the provisions of this Act and of any regulations made thereunder; the Director shall also, on the advice of the Board, be responsible for the drawing up and execution of an annual monitoring programme for the testing of pesticides' residues on plant produce.

Authorisation.

4. (1) The Minister may by regulations prescribe the manner in which authorised pesticides are to be registered, and the time-limit for the expiry of such registration; at the expiration of such

time-limit, the applicant is to re-submit the relevant application, together with the then current toxological data for the pesticide in question.

(2) The Director, acting on the advice of the Board, shall ensure that authorisation for registration shall not be granted to any pesticide unless -

(a) it is sufficiently effective; and

(b) it has no harmful effects on human and animal health and has no unacceptable negative effect on the environment.

5. (1) The Minister may make regulations to impose conditions for the control of the importation, exportation, manufacture, sale or use of any pesticide, including:

Power to make regulations.

(a) the restriction of the importation, manufacture, sale, distribution and use of any active substance or pesticide product and the keeping of a pesticide register;

(b) the keeping of a pesticide register;

(c) the establishment of conditions and requirements for the authorisation for the importation, manufacture, sale, distribution and use of any pesticide including those employed in integrated control management;

(d) the establishment of conditions and requirements regarding labelling and advertising of any pesticide;

(e) the establishment of requirements for, and duties of, employers, workers and vendors in connection with the sale and use of pesticides including those employed in integrated control management;

(f) the establishing of the conditions for the disposal of pesticides' waste and pesticides' containers;

(g) the imposition of conditions to control or prohibit the importation, manufacture, packing, advertising, sale or use of the active substance found in any pesticide;

(h) the establishing of the maximum residue levels, and the establishing of methods of sampling and analysis and methods for the carrying out of any scientific tests on any seeds, seedlings, plant produce or plant products; and

(i) for any other matters which may be regulated under this Act.

(2) The regulations referred to in subarticle (1)(h) may empower the Director to recover the expenses incurred in conducting the sampling, testing and analysis therein referred to.

(3) Any regulation made under this Act shall specify the common name and the C.A.S. Number, where applicable, of the pesticides concerned.

Notice by
Director.

6. (1) Where the Director, on the advice of the Board, has reasonable cause to believe that any produce, whether grown or bred in, or imported into, Malta contains any residue of any pesticide in excess of the prescribed maximum levels, he may by notice in writing served on the owner of such produce, require him to ensure that no part of such produce be harvested, gathered or otherwise disposed of, to enable a sample or samples thereof to be taken and analysed.

(2) Where the Director, on the advice of the Board, has reason to believe that any brand of any pesticide is not in conformity with any of the regulations made under this Act in respect of its formulation, he may, by notice in writing served on the owner of such brand of pesticide, require him to ensure that no part of his stocks of such brand of pesticide be disposed of or used, to enable a sample or samples thereof to be taken and analysed.

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(3) Any notice served under the provisions of subarticles (1) and (2) shall expire on the termination of ten working days from the service thereof, unless within the same period criminal proceedings under this Act or any regulations made thereunder have been taken in respect of such produce or pesticide, and the owner has been informed in writing by the Director that such proceedings have been taken, in which case, saving the provisions of article 24 of the Criminal Code, the notice shall continue in force until such proceedings are finally determined.

(4) Where the Director issues a notice under subarticle (1) or (2) he may, in issuing such notice or whilst such notice is in force, take such measures, which may include the seizure of any produce or pesticide or the imposition of restrictions on access to any place, as he may deem appropriate for the purpose of securing compliance with any such notice.

(5) The taking of any measures under subarticle (4) shall not exonerate any person, in respect of whom any notice issued under subarticle (1) or (2) is in force, from the duty to comply with any such notice.

7. Any public officer duly authorised by the Director for that purpose shall have power at all times to enter on and inspect any land, site or building, or any means of transport to ascertain that the provisions of this Act, or of any regulations made thereunder, have been or are being complied with and such officer may take samples of any pesticide or of any produce treated or suspected of being treated with a pesticide. This provision shall also apply to any article which may have been in contact with a pesticide.

Provisions as to entry, inspections and taking of samples.

8. If, following analysis of any sample of produce or pesticide taken and analysed under the provisions of this Act, the Director deems that such produce presents a hazard to consumers of such produce or anyone coming in contact with that produce or that such brand of pesticide is not in conformity with any of the regulations made under this Act in respect of its composition, including the nature and amounts of its substances, he may, without prejudice to any criminal liability to which the offender may be liable, take such measures as he may deem necessary to ensure that such produce is withheld from consumption or use or that such brand of pesticide is withheld from importation, manufacture, packing, sale or use.

Power to take necessary measures on results of analysis.

9. (1) Any person who contravenes or fails to comply with any of the provisions of this Act or of any regulation or order made or given thereunder or who obstructs any public officer in the execution of his powers or duties under this Act or any regulation made thereunder shall be guilty of an offence and shall, on conviction, be liable, in the case of a first conviction, to a fine (*multa*) not exceeding five hundred liri or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment, and, in the case of a second or subsequent conviction, to a fine (*multa*) not exceeding one thousand liri or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

Penalties.

(2) Any person who, except as provided for or allowed under this Act or for the purposes thereof, communicates or attempts to communicate to any other person any matter or thing coming to his notice or being in his possession in the performance of his duties as a member of the Board shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) of not less than two hundred liri and not more than two thousand liri or to imprisonment for a period not exceeding one year, or to both such fine and imprisonment.

10. (1) There shall be set up a Pesticides Control Board to be appointed by the Minister which shall be responsible for -

Pesticides Control Board.

(a) advising the Director on any matter relating to the

registration, restriction, importation, manufacture, sale or use of pesticides including those employed in integrated control management;

(b) reporting to the Director on any matter relating to the regulating, enforcing and monitoring of all legislation relating to pesticides or on any matter regarding pesticides;

(c) advising on measures to be taken on any matter arising from the application of any regulations made under this Act;

(d) reviewing and making proposals for revision of existing legislation relating to pesticides; and

(e) such other function in connection with pesticides as the Minister may prescribe.

(2) The Pesticides Board shall consist of:

(a) a Chairman to be appointed by the Minister;

(b) four members, to be appointed by the Minister, at least one of whom shall be a farmers' representative;

(c) the Director, or his representative; and

(d) a representative from the educational sector, and a representative from each of the Public Health Department, the Department of Environment, the Malta Standards Authority, the Occupational Health and Safety Authority and the Water Services Corporation.

(3) The members nominated by the Minister shall hold office in accordance with such terms as established in their letter of appointment. Where rules of procedure are not prescribed by the Minister, the Board shall regulate its own procedure.

(4) Every member of the Board shall regard and deal with all documents and information relating to matters contemplated by or pursuant to the provisions of this Act as secret and confidential and shall make and subscribe before a Commissioner for Oaths a declaration on oath to this effect in the form prescribed which shall be deposited with the Attorney General.

Use of pesticide
for scientific
research.

11. Notwithstanding the provisions of any regulation made under this Act restricting the use of any active substance, the Director may, on the advice of the Board, allow the use of any type of active

substance found in a pesticide for restricted scientific research, experimentation and development and for general use when these active substances are contained in negligible quantities in products and have no harmful effect on humans, animals or the environment; the Director may also permit the use of any pesticide in exceptional circumstances, which may make the use of such pesticides necessary.

12. (1) Saving the provisions of subarticle (2), the Pesticides (Control of Importation, Sale and Use) Act is hereby repealed.

Repeal of
Pesticides
(Control of
Importation,
Sale and Use)
Act,
Cap. 192.

(2) The Importation, Sale and Use of Pesticides Regulations, 1967 made under the Pesticides (Control of Importation, Sale and Use) Act shall continue in force as if made under the provisions of this Act, and may be amended and revoked accordingly.

Passed by the House of Representatives at Sitting No. 516 of the 20th March, 2001.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives