

**A BILL FOR**

**a**

**PESTICIDES ACT**

**ARRANGEMENT OF SECTIONS**

**SECTION**

1. Short title
2. Interpretation
3. Registrar of Pesticides
4. Pesticides Registration Committee
5. Functions of Committee
6. Registration of pesticides
7. Exemptions
8. Application for registration
9. Banned pesticides
10. Pesticides licence
11. Application for pesticides licence
12. Restricted use permit
13. Experimental use permit
14. Labeling of containers
15. Pesticide residues
16. Disposal or Destruction of Pesticide

“active ingredient” means the biologically active part of the pesticide present in a formulation;

“banned pesticide” means a pesticide for which all uses have been prohibited under this Act or for which all requests for registration under this Act have been denied, unless an experimental permit has been issued for the purposes for which it is to be used;

“brand” means the trade name applied to each kind of pesticide of any particular description by the manufacturer, distributor, importer or vendor;

“Committee” means the Pesticides Registration Committee established by this Act;

“concentration” means the ratio or percentage of active ingredient as compared to the other ingredients in the formulation;

“container” includes anything in which or by which pesticides may be encased, covered, enclosed, contained or packed;

“Director” means the Director of Agriculture and Forestry;

“formulation” means the combination of ingredients designed to render the product useful and effective for the purpose claimed;

“import” means to bring or cause to bring a pesticide into the Kingdom of Tonga from any place outside of the Kingdom of Tonga and includes transit;

“ingredient” means any material used in making a pesticide;

“Inspector” means the Director, any person appointed as an Inspector under this Act, any person appointed as an Inspector under the Plant Quarantine Act 1981, or any person authorized by or acting under the orders of an Inspector for the purposes of this Act;

“label” means the written, printed or graphic matter on, or attached to, the pesticide or the immediate container thereof and the outside contain

“pesticide” means any substance or mixture of substances used for preventing, destroying or controlling any pest, including vectors of human or animal disease, unwanted species of plants or animals causing harm during or otherwise interfering with the production, processing, storage, transport or marketing of food, agricultural commodities, wood and wood product, or animal feedstuffs, or which may be administered to animals for the control of insects, arachnids or other pests in or on their bodies. The term includes substances intended for use as a plant-growth regulator, defoliant, desiccant, or agent for thinning fruit or preventing the premature fall of fruit, and substances applied to crops either before or after harvest to protect the commodity from deterioration during storage and transport;

“Register” means the Register of Pesticides established under this Act;

“Registrar” means the Registrar of Pesticides appointed under this Act;

“restricted use pesticide” means a pesticide granted registration by the Registrar on condition that it be used only by the holder of a restricted use permit;

Survey and Natural Resources;

- (d) a representative of the retailers and importers of pesticides to be appointed by the Minister;
  - (e) a representative of the growers' community, to be appointed by the Minister;
  - (f) the Head of the Quarantine and Quality Management Division of the Ministry of Agriculture and Forestry; and
  - (g) the Registrar, who shall be the Secretary of the Committee.
- (3) Subject to subsections (4) and (5), appointed members of the Committee shall serve for a term of three years, and shall be eligible for re-appointment.
- (4) An appointed member of the Committee may resign at any time by notice in writing addressed to the Minister.
- (5) The Minister may remove an appointed member of the Committee for disability or neglect of duty as member of the Committee.

conditions to the Registrar;

- (d) issue guidelines for the storage, distribution, use and disposal of pesticides in the Kingdom of Tonga;
  - (e) consider and advise on proposals for regulations under this Act;
  - (f) promote the efficient, safe use, storage and disposal of pesticides; and
  - (g) have such other functions and duties as may be prescribed.
- (2) The Committee may delegate in writing such powers to the Registrar as it thinks fit to ensure the effective and efficient performance of pesticide registration.
6. Except with the prior written approval of the Registrar, no pesticide may be manufactured or imported or used, offered for sale, sold or distributed in the Kingdom unless such pesticide has been registered with the Registrar in accordance with this Act.
7. (1) Nothing in this Act shall apply to a pesticide which is -
- (a) formulated as an aerosol and intended for domestic use for the purposes of pest control;
  - (b) intended for domestic use for control of ectoparasites or endoparasites other than on ruminants, equines or swine;
  - (c) used in adhesive pastes, decorative paper or textiles;
  - (d) used in paints;

- (2) Notwithstanding sub-paragraph (1)(d) and (e) above, the provisions of this Act shall apply to paints used to prevent the fouling of the hulls of vessels or structure below the waterline, or applied to nets, floats or other apparatus used in the cultivation of fish.
8. (1) Every application for registration of a pesticide shall be made in the prescribed form to the Registrar and shall contain such information as may be prescribed and such additional information as may be required by the Registrar.
- (2) Subject to 5. (2), on receipt of an application for registration of a pesticide, the Registrar, after consultation with and acting in accordance with the advice of the Committee, may -
- (a) register the pesticide;
  - (b) register the pesticide as a restricted use pesticide; or
  - (c) refuse registration of the pesticide and shall, if requested, state the reasons for refusal.
- (3) The Registrar may attach such conditions to registration regarding the manufacture, sale, supply or importation of the pesticide as he may see fit and may, at any time, alter the existing conditions or impose additional conditions to the registration if he considers it necessary to do so.
- (4) Where a pesticide manufacturer alters the formulation of a registered pesticide, the Registrar shall withdraw such registration and the pesticide shall be considered to be unregistered until a new application for registration has been submitted to and approved by the Registrar.
- (5) The Registrar shall cause the brand name, identity of the active ingredients, the name and address of the manufacturer and the name and address of the importer of any pesticide registered under this Act to be published in the Gazette as soon as practicable after registration.
- (6) Every registration made under this Act shall remain in force until such time as the Registrar, acting in accordance with the advice of the Committee, shall direct that it be cancelled.
- (7) Where the registration of a pesticide has been cancelled, the Registrar shall cause notice of the cancellation to be published in the Gazette not less than three calendar months prior to the proposed date of cancellation unless, in the opinion of the Registrar, special circumstances exist to require earlier cancellation.
- (8) Where the registration of pesticide has been cancelled, the Registrar, acting in accordance with the advice of the Committee, may give such directions as to the disposal

of existing stocks of the pesticide as he shall consider appropriate.

9. (1) The Registrar, acting in accordance with the advice of the Committee, may list any pesticide as a banned pesticide.  
  
(2) Where a pesticide has been listed a banned pesticide, the Registrar, shall cause notice of the listing to be published in the Gazette as soon as practicable after listing.  
  
(3) No person shall import, sell, distribute, use or possess any banned pesticide except with the permission in writing of the Registrar for the purposes of scientific research or evaluation subject to such conditions as the Registrar, acting in accordance with the advice of the committee shall consider appropriate.
10. (1) No person shall manufacture, import, distribute or sell pesticides in Tonga unless he is the holder of a pesticides licence issued by the Registrar under this Act.  
  
(2) Any person who manufactures, imports, distributes or sells any pesticide except under the authority of a pesticides licence granted under this Act and in accordance with the terms and conditions of the licence commits an offence.
11. (1) Every application for a pesticides licence shall be made in the prescribed form to the Registrar and shall contain such information as may be prescribed and such additional information as may be required by the Registrar.  
  
(2) A separate application shall be made in respect of each premises into or from which it is proposed to import, store, sell, manufacture or distribute pesticides and each application form for a pesticides licence shall be accompanied by the fee as may be prescribed.  
  
(3) The Registrar, after consultation with and acting in accordance with the advice of the Committee, may issue a pesticide licence following submission of an application in the prescribed form and upon payment of such fees as may be prescribed.  
  
(4) Every pesticides licence granted under this section shall, unless previously cancelled under this Act, continue in force for a period of two years, or such other period as may be prescribed, from the date on which it is issued.  
  
(5) Every pesticides licence granted under this section shall be personal to the holder, shall not be transferable unless approved by the Registrar and shall be subject to such conditions as may be prescribed and such additional conditions as the Registrar, acting in accordance with the advice of the Committee, shall think fit to endorse thereon.  
  
(6) The holder of a pesticide licence shall keep such records relating to the importation, sale and distribution of pesticides as may be prescribed or as the Registrar may from time to time require.

12. (1) No person shall buy, obtain or use any restricted use pesticide unless he is the holder of a restricted use permit issued by the Registrar under this Act.
  - (2) Every application for restricted use permit shall be made in the prescribed form to the Registrar and shall contain such information as may be prescribed and such additional information as may be required by the Registrar acting in accordance with the advice of the Committee.
  - (3) The Registrar, acting in accordance with the advice of the Committee, may issue to any person a permit, in such form as may be prescribed, to use a restricted use pesticide for such period as the Registrar sees fit and subject to such conditions as the Registrar, acting in accordance with the advice of the Committee, shall think fit to endorse thereon.
13. (1) The Registrar may give approval, in the form of an experimental permit, to the importation of pesticides for the purposes of scientific research or to enable testing and development to be carried out.
  - (2) Such approval shall be granted for a stipulated period and shall specify the conditions as to, quantity, storage, supply, use and disposal of the pesticide.
14. (1) All containers containing pesticide imported into, sold or distributed to consumers  
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seized.

17. (1) No employer shall compel an employee to use any pesticide contrary to any manner required under this Act or any conditions imposed on a registration or permit.
- (2) Every employer shall provide employees who handle pesticides with all necessary protective clothing and such clothing as may be prescribed.
- (3) It shall be the duty of every employer to ensure that any person in his employment who may be required to sell, supply or store pesticides during the course of that employment is provided with such instruction and guidance as is necessary to enable that person to achieve the standard of competence and safety prescribed or otherwise required by the Registrar and otherwise to comply with the requirements in and under this Act and



any costs incurred in such disposal shall be payable by the convicted person.

22. The Minister may, with the consent of the Privy Council, make regulations to carry out the purposes of this Act and in particular to regulate -

- (a) the registration of pesticides;
- (b) the importation, handling, storage, distribution, use, sale and disposal of pesticides;
- (c) the issue of licences in respect of the importation, storage, distribution and sale of pesticides;
- (d) the issue of permits for the import and use of restricted pesticides and for pesticides intended for experimental use;
- (e) the handling and use of pesticides by pesticide users;
- (f) any fees to be charged under this Act; and