
Fourth Session First Parliament Republic of Trinidad
and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 42 of 1979

AN ACT to regulate the importation, storage, manufacture, sale, use and transportation of pesticides and toxic chemicals and to provide for the establishment of the Pesticides and Toxic Chemicals Control Board and for matters incidental thereto.

[Assented to 17th December, 1979]

ENACTED by the Parliament of Trinidad and Tobago as Enactment follows—

1. This Act may be cited as the **Pesticides and Toxic short title Chemicals Act, 1979.**

Interpretation

2. In this Act—

“advertisement” includes any representation by any means whatever for the purpose of promoting directly or indirectly the sale, disposal or use of any controlled product;

“agriculture” means the production and storage of any produce which is grown for consumption or any other purpose and includes the use of land for grazing, forestry and woodland, fish culture, bee culture, market gardening, horticulture and nurseries and animal husbandry;

“analyst” means any person so designated under section 6;

“antiseptic” means any substance or mixture of substances sold or represented principally for its germicidal or anti-microbial use on the skin of man or animal;

“article” includes—

(a) any controlled product or any produce to which a pesticide is believed to have been applied, or anything that may have been contaminated with a controlled product;

(b) anything used for the manufacture, packaging, storage, application or use of a controlled product; and

(c) any labelling, packaging or advertising material used for, or relating to, a controlled product;

“Board” means the Pesticides and Toxic Chemicals Control Board established under section 3;

“carcinogen” means any controlled product that is known to cause or is suspected of causing cancer;

“controlled product” means any pesticide or toxic chemical;

“disinfectant” means any substance or mixture of substances sold or represented principally for its germicidal or antimicrobial action on inanimate objects;

“drug” includes any substance or mixture of substances manufactured, sold or represented for use in—

(a) the diagnosis, treatment mitigation or prevention of a disease, disorder, abnormal physical state, or the symptoms thereof, in man or animal; or

(b) restoring, correcting or modifying organic functions in man or animal;

“employer” means any person who employs a worker;

“extermination” means the use of a pesticide for the destruction or control of pests in any land or premises or in a vehicle, whether on land or any other place;

“food” has the same meaning as in the Food and Drugs Ordinance, 1960;

No. 8 of 1960

“formulating” means the act of preparing or compounding a pesticide in a form in which it is sold or distributed to persons using the pesticide for an extermination;

“importer” in relation to any imported article, includes any person who, whether as owner, consignee, agent or broker is in possession of the article or in any way entitled to the custody or control of it;

“inspector” means any person so designated under section 6;

“label” means any legend, word or mark, symbol or design applied or attached to, included in, belonging to, or accompanying any controlled product or a package thereof;

“manufacture” includes the synthesizing, formulating and packaging of any controlled product;

- “manufacturer” means a person who manufactures a controlled product for his own use or for sale;
- “medical examiner” means any person so designated under section 6;
- “Minister” means the member of the Cabinet for the time being charged with the administration of the subject of Health;
- “package” includes anything in which a controlled product is wholly or partly contained, placed or packed;
- “pest” means any insect, bird, rodent, fish, mollusc, nematode, fungus, weed, alga, micro-organism or virus, and any other kind of plant or animal life that is injurious, troublesome, or undesirable to any crop, stored produce, food, feed, wood, clothes, textiles or other fabrics, and any other inanimate objects, or which are objectionable from the point of view of public health or hygiene, and includes any ectoparasites of man, and ectoparasites and endoparasites of animals, except that by regulations any pest may be specifically exempted or excluded;
- “pesticide” means any substance which by itself, or in combination with other substances, is proposed, represented, or used for destroying or controlling pests but does not include any antiseptic, disinfectant, drug or preservative;
- “pest control operator” means any person who, by himself or his employees, assistants, workers or agents applies pesticides or carries out an extermination for a remuneration;
- “preservative” has the same meaning as in the Food and Drugs Regulations, 1965;
- “produce” means any crop grown for consumption or other use after severance from the soil, and includes anything ordinarily used, or that may be used in

the composition of food for man or feed for domestic and farm animals, but does not include growing crops;

“Registrar” means any person designated to be Registrar of Pesticides and Toxic Chemicals under section 5;

“regulations” means regulations made by the Minister under section 12;

“sell” includes offer for sale, expose for sale, have in possession for sale, and distribute;

“toxic chemical” means any disinfectant, and any other substance known to be poisonous, corrosive, irritating, sensitizing or harmful to man or animal that is used in agriculture, the arts, commerce or industry, or for any domestic or other purpose but does not include an antiseptic, drug, pesticide or preservative;

“vehicle” includes any vessel, aircraft or container;

“vessel” means anything constructed or used for the carriage on, through or under water of persons or property and includes aircushioned and amphibious vehicles, hydrofoil craft and hovercraft;

“worker” means a person employed under a contract of service or apprenticeship, whether such contract is expressed or implied, or oral or in writing, in any work involving the using or handling of or exposure to any controlled product.

3. (1) There is hereby established for the purposes ^{Establishment} of this Act a Board to be known as the Pesticides and ^{of Board} Toxic Chemicals Control Board.

(2) The Board shall consist of the following members:—

- (a) the Chief Medical Officer;
- (b) the Chief Technical Officer, Ministry of Agriculture;
- (c) the Chief Chemist and Director of Food and Drugs;

- (d) the Director of the Bureau of Standards;
- (e) the Industrial Inspection Supervisor;
- (f) not more than four other persons whom the Minister may from time to time appoint as members, of whom—
 - (i) one shall be a representative of an organisation of workers;
 - (ii) one shall be a representative of an organisation of employers;
 - (iii) one shall be a person with specialized knowledge of occupational medicine or industrial hygiene; and
 - (iv) one shall be a person with specialized knowledge of a branch of agriculture involving the use or effects of pesticides.

(3) In respect of each member of the Board referred to in subsection (2)(a) to (e), the Minister may appoint an officer from the respective Ministry or the Bureau of Standards, as the case may be, as an alternate member, who may act instead of the respective member at any meeting of the Board.

(4) The appointment under subsection (2)(f) or subsection (3) of any person as a member or alternate member of the Board, as the case may be, shall be for such period not exceeding three years as the Minister shall specify at the time of the appointment, but any such member or alternate member shall be eligible for re-appointment.

(5) The Chief Medical Officer and the Chief Technical Officer, Ministry of Agriculture, shall be the Chairman and Deputy Chairman respectively, of the Board.

(6) The Chairman, or in his absence, the Deputy Chairman shall preside at meetings of the Board and where both the Chairman and Deputy Chairman are for any reason unable to preside over a meeting, the members present may appoint a member to preside over that meeting.

(7) The Chairman, or in his absence, the Deputy Chairman or where both the Chairman and the Deputy Chairman are absent, the member appointed under subsection (6) to preside over a meeting, and three other members shall form a quorum.

(8) The decisions of the Board shall be by a majority of votes of members present and in addition to an original vote, in any case in which the voting is equal, the Chairman or Deputy Chairman or the person appointed under subsection (6) to preside over a meeting, as the case may be, shall have a casting vote.

(9) The President may in his discretion direct that such remuneration as he may determine shall be paid to members of the Board.

(10) A member of the Board appointed under subsection (2)(f), may resign his office at any time by giving notice to the Minister through the Chairman.

(11) The Board may regulate its own procedures.

4. (1) The functions of the Board shall be—

Functions of the
Board

(a) to advise the Minister on matters relevant to the making of regulations under this Act;

(b) to advise on and monitor the implementation of those regulations; and

(c) to furnish such returns as the Minister may from time to time require.

(2) A member of the Board who is a public officer shall have and may exercise in like manner all the powers conferred upon an inspector by this Act.

(3) In the performance of its functions under this Act, the Board shall be subject to such general or special directions as the Minister may give from time to time.

5. (1) The Minister shall designate an officer in the Food and Drugs Division to be the Registrar of Pesticides and Toxic Chemicals.

Registrar of
Pesticides and
Toxic Chemicals

(2) The Registrar shall be the Secretary of the Board.

entry to be given to the occupier or other person in charge of such dwelling house.

(4) An inspector shall have power to do all or any of the following things for the purpose of the execution of this Act or the regulations, that is to say—

- (a) if he considers it necessary, take with him when entering any vehicle, land or premises mentioned in subsection (1), a police officer, a medical practitioner, a public health inspector and any person who possesses expert knowledge of the use or effects of controlled products or any class thereof;
- (b) to require the production of, or to seize, inspect and examine, and to copy registers, records, or other documents kept for the purpose of, or require to be kept by the regulations;
- (c) to make such examinations, inspections, investigations and inquiries as may be necessary to ascertain whether this Act and the regulations are being complied with;
- (d) to require any person whom he finds in such vehicle or on such land or premises as are mentioned in subsection (1) to give such information as it is in his power to give as to who is the occupier thereof or the employer of workers employed to work thereon;
- (e) to examine, either alone or in the presence of any other person as the inspector thinks fit, with respect to the observance of the provisions of this Act or the regulations, any person whom he finds in such vehicle or on such land or premises as are mentioned in subsection (1), or whom he has reasonable cause to believe to be, or to have been within the preceding two months, employed thereon, and to require any such person to be so examined and to sign a declaration of the truth of the matters respecting which he is so examined; so, however, that no person

- shall be required under this provision to answer any question or to give evidence tending to incriminate himself;
- (f) to open and examine any package that on reasonable grounds he believes to contain any controlled product;
 - (g) to seize and detain for such time as may be necessary any article by means of which, or in relation to which he reasonably believes any provision of this Act or the regulations has been contravened;
 - (h) to take, without payment, samples of any article where such article is being sold, used or transported or is in storage, and submit them to an analyst for analysis or examination; and
 - (i) to take, without payment, but with the approval of the Comptroller of Customs and Excise, samples of any article when imported into Trinidad and Tobago but not delivered to the importer out of the charge of Customs, and submit them to an analyst for analysis or examination.

9. (1) Where an inspector submits to an analyst any sample obtained in accordance with section 8(4)(h) and (i) the analyst shall make an analysis or examination and issue to the inspector a certificate or report setting forth the results of his analysis or examination.

(2) In this section and in section 18(1), a reference to an inspector shall be construed so as to include a reference to a member of the Board referred to in section 4(2) and to a medical examiner.

10. (1) A medical examiner shall have and may exercise in like manner all the powers conferred upon an inspector by this Act.

(2) A medical examiner may, with the oral or written consent of any person who he reasonably believes has been harmed by any controlled product or is exposed to any risk or harm by any controlled product, carry out a medical examination of that person and take samples of blood, urine, or any biological material from that person.

(3) A medical examiner may request any medical practitioner to assist him in dealing with poisoning suspected to have been caused by a controlled product.

Detention and
forfeiture of
articles seized

11. (1) Any article seized by an inspector under this Act may, at the option of the inspector be kept or stored in the building or place where it is seized or be removed to any proper place.

(2) Where an article is seized under this Act, the inspector shall give to the owner or the person in whose possession the article was at the time of the seizure, written notice of the grounds upon which the article was seized and, where appropriate, specify in such notice what might reasonably be done to comply with the provisions of this Act and the regulations.

(3) Subject to subsection (4)—

(a) an inspector shall release any article seized by him under this Act when all the provisions of this Act and the regulations with respect thereto have been complied with;

(b) where an inspector seizes an article under this Act and the owner thereof or the person in whose possession the article was at the time of the seizure consents in writing to the destruction thereof the article shall thereupon be forfeited to the State and may be destroyed or otherwise disposed of as the Minister may direct on the advice of the Board or as prescribed by the regulations.

(4) Where proceedings have been instituted in respect of a contravention of this Act or the regulations the article seized shall not be released or destroyed before the proceedings are finally concluded.

Regulations

12. (1) The Minister may make regulations for carrying into effect the provisions of this Act and, in particular, may make regulations—

(a) prohibiting the manufacture, importation, sale, advertisement and use of any controlled product or any class of controlled products;

- (b) for controlling the manufacture, importation, method of packaging, labelling, transportation, advertisement, sale, and use of any controlled product or any class of controlled products;
- (c) for controlling the use of pesticides in agriculture generally, or in particular crops or pests, and for controlling the use of toxic chemicals in agriculture, the arts, commerce, industry, or for any domestic or other purposes;
- (d) for controlling the use of pesticides on produce during its storage or transportation;
- (e) for controlling the conditions under which controlled products are stored;
- (f) for protecting workers against the risk of poisoning by controlled products when working in connection with the use of controlled products or when working on land or in any premises on or in which controlled products have been, or are being used, stored or manufactured;
- (g) for protecting the interest of owners, occupiers, or users of land or premises adjacent to land or premises on or in which controlled products are used, stored, or manufactured;
- (h) prescribing the maximum permissible levels of any controlled product in any particular kind of produce at the time of marketing or sale, which in the case of food, shall not be inconsistent with any provision of the Food and Drugs Ordinance, 1960 or any regulations made thereunder;
- (i) respecting the quantities of controlled products which may be imported or manufactured, the types of packages in which controlled products may be imported, transported or sold, and as to the disposal of such packages after use, and as to the disposal of unwanted stocks of

- controlled products and of waste materials containing controlled products;
- (j) requiring the keeping of records by specified persons, the inspection of records, and the furnishing of returns by specified persons of the sales, stocks, and use or disposal of controlled products and other relevant information;
 - (k) imposing restrictions on specified persons or conditions as to the purpose for which, the circumstances in which, or the methods by means of which any controlled product or any class of controlled products may be used, including restrictions or conditions involving a prohibition of the use thereof in particular circumstances;
 - (l) prescribing the procedure for granting licences to operate as pest control operators and imposing restrictions and obligations on pest control operators and their employees;
 - (m) imposing obligations on employers of workers employed to work as described in paragraph (f), and on such workers themselves and on other persons using or causing to be used any controlled product;
 - (n) requiring the provision by employers, manufacturers, or workers, and the keeping in good order, and the production when required by an inspector, of protective clothing and equipment, of facilities for washing and cleaning, and of other things needed for protecting persons, clothing, equipment and appliances from contamination by controlled products, or for removing sources of contamination therefrom;
 - (o) requiring the observance of precautions against poisoning by controlled products, including the use of things provided in accordance with the regulations, and the

- abstention from eating and drinking, and the use of tobacco in circumstances involving the risk of poisoning;
- (p) for securing intervals between or limitations of periods of exposure of workers to controlled products to minimize risks of poisoning;
 - (q) requiring the observance of special precautions in the case of persons who by reason of their state of health, age, or other circumstances are subject to particular risks of poisoning by controlled products, or imposing in the case of persons so subject prohibitions whether temporary or permanent, or restrictions on employment for working as described in paragraph (f);
 - (r) prescribing measures for investigating or detecting cases in which poisoning by controlled products has occurred or may reasonably be thought to have occurred, including the collection of samples, the making of analyses, and the carrying out of medical examinations, and of blood tests;
 - (s) requiring the provision and keeping in good order and use of facilities for preventative and first aid treatment for poisoning by controlled products;
 - (t) requiring the provision of, and submission to instruction and training in the use of things provided in pursuance of the regulations and in the observance of precautions;
 - (u) prescribing standards not inconsistent with any compulsory standard declared under the Standards Act, 1972 for the composition, or any other property or method of analysis or test of controlled products, and setting limits as to the amount of controlled products that may be present in the air of premises where controlled products are used, manufactured, or stored, or in water or in waste material coming from such premises;

- (v) prescribing the manner and content of any advertisement of a controlled product;
 - (w) prescribing the procedure for seeking registration of any controlled product, and the granting of licences by the Board for the importation or manufacture of any controlled product;
 - (x) regarding the powers and duties of analysts, inspectors and medical examiners and the sampling, seizure, detention and confiscation of articles and the disposal of articles that have been seized or confiscated;
 - (y) requiring the keeping by employers of records of the exposure of workers to controlled products and the keeping of records of medical examinations of workers handling or exposed to controlled products and providing for the availability of such records to workers whether or not still employed by the employer;
 - (z) requiring employers and medical practitioners to report to the Board cases of death, poisoning, injury, incapacity or illness caused by any controlled product;
 - (aa) requiring employers to warn workers orally and by printed notices of the hazards involved in handling controlled products and of the precautions to be taken;
 - (bb) prescribing forms for the purposes of this Act and the regulations;
 - (cc) prescribing the fees to be paid on application for the grant or renewal of a licence or for the registration of a controlled product;
 - (dd) prescribing anything authorised or required to be prescribed under this Act.
- (2) Regulations made under this section may—
- (a) where they relate to the control of the manufacturing, importation, packaging,

labelling, transportation, advertisement, sale and use of any controlled product or any class of controlled product, provide for the establishment of licensing procedure;

- (b) make different provisions to meet different circumstances, and in particular differences in composition, method of manufacture or use of controlled products dealt with and their poisonous effects under different conditions and on different classes of persons; and
- (c) provide for the exemption of persons or institutions concerned with scientific education or research in the field of pesticides and toxic chemicals, from the operation of all or any of the regulation where the controlled product is required for the purpose of education or research.

(3) Regulations made under this section shall be subject to negative resolution of Parliament.

(4) Except as provided in section 13, a person who contravenes the provisions of the regulations is guilty of an offence and is liable on summary conviction to a fine of two hundred and fifty dollars and, if the offence in respect of which he was convicted is continued after the conviction, he is guilty of a further offence and liable in respect thereof to a fine of twenty-five dollars for each day on which the offence is so continued.

13. (1) A person is guilty of an offence who—

- (a) manufactures, imports or sells or uses a controlled product in contravention of the regulations, or in breach of any condition subject to which a controlled product was registered, or a licence was granted to him under the regulations;
- (b) operates as a pest control operator in contravention of the regulations, or in breach of any condition subject to which a licence was granted to him under the regulations;

Offences and
penalties

- (c) assaults, resists, intimidates or obstructs an inspector in the execution of his duties under this Act or the regulations;
- (d) by any gratuity, bribe, promise or other inducement prevents or attempts to prevent an inspector from carrying out his duties under this Act or the regulations;
- (e) fails to comply with any requirement imposed by an inspector under section 8;
- (f) conceals or prevents any person from appearing before or being examined by an inspector under section 8;
- (g) knowingly or recklessly makes any false or misleading statement either orally or in writing to any inspector engaged in exercising his powers under this Act or the regulations;
- (h) fails to keep any record which he is required to keep by the regulations;
- (i) wilfully makes a false entry in a register, record, return, or other document kept or furnished in pursuance of the regulations, or wilfully makes use of such false entry; or
- (j) removes, alters or interferes in any way with any article seized under this Act without the authority of the inspector.

(2) In subsection (1), a reference to an inspector shall be construed so as to include a reference to a member of the Board referred to in section 4(2) and to a medical examiner.

(3) A person guilty of an offence under this section is liable—

- (a) on summary conviction for a first offence to a fine of five hundred dollars or to imprisonment for six months or to both such fine and imprisonment, and for a subsequent offence to a fine of one thousand dollars or to imprisonment for twelve months or to both such fine and imprisonment;

(b) on conviction upon indictment to a fine of five thousand dollars or to imprisonment for three years, or to both such fine and imprisonment.

(4) A person convicted of an offence under this section may, in addition to any other penalty imposed, be disqualified for such period as the court or magistrate thinks fit, from obtaining a licence in respect of any activity relating to controlled products.

(5) No proceedings by way of indictment for an offence against this Act shall be commenced without the written consent of the Director of Public Prosecutions.

14. Where an offence against this Act is committed by a body corporate, any person who at the time of the commission of the offence was a director, manager, secretary or other officer thereof, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence, unless he proves that the contravention took place without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances. Offence by corporation

15. (1) A prosecution under this Act may be instituted, heard, tried, or determined in the court in the district in which the offence was committed or the subject matter of the prosecution arose or in any place where the accused was apprehended or happens to be. Jurisdiction

(2) Where a person is found guilty of an offence against this Act the court or magistrate may, before proceeding to conviction, adjourn the proceedings to afford that person an opportunity to modify any article by means of or in relation to which the offence was committed, within such time as the court or magistrate may specify, to bring it into conformity with this Act and the regulations.

(3) Where a person is convicted of an offence against this Act the court or magistrate may order that any article by means of or in relation to which the offence was committed or any article of a similar nature belonging to or in the possession of the defendant or

found with such article, which the court or magistrate reasonably believes to be in contravention of this Act or the regulations, be forfeited and upon such order being made, such article shall be forfeited to the State and may be destroyed or otherwise disposed of as the Minister may direct on the advice of the Board or as prescribed by regulations.

Inspector may
prosecute

16. An inspector may prosecute and conduct before a court of summary jurisdiction any information, complaint or other proceeding for an offence against this Act.

Time limit on
prosecution

17. A prosecution for a contravention of this Act or the regulations may be instituted at any time within twelve months from the time when the subject-matter of the prosecution arose.

Evidence and
sufficiency of
proof

18. (1) Subject to this section—

- (a) a certificate of an analyst stating that he has analysed or examined an article or a sample submitted to him by an inspector and stating the results thereof; and/or
- (b) a certificate or report of a medical examiner

shall be admissible evidence in a prosecution for a contravention of this Act or the regulations and shall be *prima facie* of the statements contained in the certificate.

(2) 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 fourteen days' notice of such intention and a copy of the certificate.

(3) The party against whom a certificate of an analyst is produced under subsection (1), may, with leave of the court or magistrate, require the attendance of the analyst for the purpose of cross-examination.

(4) The court or magistrate may, where a request is made by a party to the proceedings, cause the part of any sample retained as prescribed by the regulations for future comparison to be analysed or examined by an analyst, other than the analyst whose certificate is then before the court or magistrate.

19. (1) The expenses incurred in carrying this Act into operation shall be paid out of funds provided by Parliament for the purpose. ^{Financial provisions}

(2) Any sums received under or by virtue of this Act by the Comptroller of Accounts shall be paid into the general revenue and shall form part of the Consolidated Fund.

20. This Act binds the State.

Application to the State

21. This Act shall come into operation on a date appointed by the President by Proclamation published in the *Gazette*.

Commencement

Passed in the House of Representatives this 19th day of November, 1979.

R. L. GRIFFITH
Acting Clerk of the House

Passed in the Senate this 27th day of November, 1979.

E. WILLIAMS
Acting Clerk of the Senate