

PESTICIDE SAFETY ACT 2009



BERMUDA

2009 : 3

PESTICIDE SAFETY ACT 2009

[Date of Assent: 23 February 2009]

[Operative Date: Notice in Gazette]

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Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

PART 1 PRELIMINARY

Short title

1 This Act may be cited as the Pesticide Safety Act 2009.

Purpose

2 The purpose of this Act is to protect human health and safety and the environment by regulating the importation, sale, use, transportation, handling, storage and disposal of pesticides.

Definitions

3 In this Act —

“approved list” means a list of pesticides that have, under section 8, been approved by the Environment Minister for importation by a person.

“compliance officer” means—

- (a) a public officer designated under section 19,
- (b) an officer of the Customs Department, or
- (c) a member of the Bermuda Police Service;

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"Environment Minister" means the Minister responsible for the environment;

"general use pesticide" means a pesticide that is not a prohibited pesticide or a restricted use pesticide;

"Minister of Health" means the Minister responsible for health;

"pest control business" means a business that provides a service for the control of pests through the use of pesticides;

"pesticide" means an organism or substance, including an organism or a substance derived through biotechnology, that is manufactured, represented, distributed or used as a means for directly or indirectly controlling, destroying, attracting or repelling any organism or disease agent that is injurious, noxious or troublesome to animal or plant life.

"pesticide applicator" means a person who applies a pesticide;

"prescribed" means prescribed by regulations;

"prohibited pesticide" means a pesticide that is prescribed as a prohibited pesticide;

"regulations" means regulations made under this Act;

"restricted use pesticide" means a pesticide that is prescribed as a restricted use pesticide;

"sell" includes offer for sale, expose for sale and advertise for sale, whether wholesale or at retail.

Binding on Crown

4 This Act is binding on the Crown.

Responsibility for Act

5 Except as otherwise provided in this Act, the Environment Minister is responsible for the administration of this Act so far as it relates to the importation of pesticides and their impact on the environment, and the Minister of Health is responsible for the administration of this Act so far as it relates to pesticides and human health or safety.

General prohibitions

6 (1) No person shall import, sell, use, keep or dispose of any prohibited pesticide, except as provided for in Part 7.

(2) No person shall use, keep or dispose of a general use pesticide or a restricted use pesticide in a manner that endangers human health or safety or the environment.

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(3) No person shall knowingly provide false or misleading information in connection with an application for an approval or a licence under this Act.

PART 2 IMPORTATION OF PESTICIDES

Prohibition

7 No person shall import any restricted use pesticide or general use pesticide unless it is on the approved list for that person.

Approved list of pesticides

8 (1) A person who wishes to import a restricted use pesticide or a general use pesticide shall make an application to the Environment Minister to have the pesticide included on that person's approved list.

(2) An application shall be in a form determined by the Minister and shall be accompanied by the relevant fee set out in the Government Fees Regulations 1976.

(3) The Minister may require the applicant to provide further information and documentation in order for the Minister to consider the application.

(4) After considering the application, the Minister may—

(a) refuse the application on any grounds relating to health or safety or the environment that the Minister considers appropriate; or

(b) grant the application, in whole or in part, subject to any conditions that the Minister considers appropriate, including conditions specifying—

(i) the kind of container in which a pesticide shall be imported;

(ii) the manner of labelling the container and the contents of any label; and

(iii) the manner in which a pesticide shall be transported, handled, stored, used or disposed of.

(5) Every person who is subject to conditions referred to in subsection (4) shall comply with them.

(6) The Minister may remove a pesticide from a person's approved list if—

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- (a) the Minister has reasonable grounds to believe that conditions referred to in subsection (4) in respect of the pesticide have not been, or will not be, complied with;
- (b) the Minister becomes aware of additional information about the health or safety risks, or the environmental risks, of the pesticide; or
- (c) the person who imports the pesticide fails to comply with section 9 in respect of its importation.

(7) The Minister shall provide reasons for a decision to refuse an application to include a pesticide on a person's approved list or to remove a pesticide from a person's approved list. The reasons shall be provided to the applicant or person affected, as the case may be.

Documentation for importation

9 (1) Every person who imports a general use pesticide or a restricted use pesticide (in this section referred to as an "importer") shall, at the time of importation, present to an officer of the Department of Environmental Protection a copy of the customs declaration, and a copy of the invoice, in respect of the pesticide.

(2) If the pesticide to be imported is on the importer's approved list, an officer of the Department of Environmental Protection shall affix to the customs declaration a stamp approving the importation of the pesticide.

(3) The importer shall produce to a customs officer, at the time of importation, the stamped customs declaration in respect of the importation of the pesticide.

(4) If the stamped customs declaration in respect of the pesticide is not produced as required by subsection (3), the pesticide shall be liable to forfeiture.

(5) A forfeiture under subsection (4) shall, for the purposes of the Revenue Act 1898, be deemed to be a forfeiture under that Act.

(6) For greater certainty, this section applies in addition to the provisions of the Revenue Act 1898.

PART 3 SALE OF RESTRICTED USE PESTICIDES

Prohibition

10 No person shall sell any restricted use pesticide without a licence issued under section 11 and except in accordance with that licence.

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Pesticide sale licence

11 (1) A person who wishes to obtain a licence to sell restricted use pesticides (a “pesticide sale licence”) shall make an application to the Minister of Health.

- (2) An application for a licence shall—
 - (a) be in a form determined by the Minister;
 - (b) be accompanied by the relevant fee set out in the Government Fees Regulations 1976; and
 - (c) indicate the premises where the pesticides are to be sold and the name of the person who is to be in charge of the premises.
- (3) For the purpose of considering the application, the Minister may—
 - (a) require the applicant to provide further information and documentation; and
 - (b) conduct an inspection of the premises where the pesticides are to be sold.
- (4) After considering the application, the Minister may—
 - (a) refuse to issue a licence on any grounds relating to health or safety or the environment that the Minister considers appropriate; or
 - (b) issue a licence in a form to be determined by the Minister and subject to any conditions that the Minister considers appropriate, including conditions—
 - (i) specifying the premises where the pesticides are to be sold and the person who is to be in charge of the premises,
 - (ii) specifying requirements for training of the licensee’s staff,
 - (iii) requiring pesticides to be sold only in their original packaging with undamaged labels,
 - (iv) requiring the licensee to maintain records of sales of pesticides, and
 - (v) specifying any measures to be taken by the licensee in the interest of public safety.
- (5) Every person who is subject to conditions in a licence shall comply with them.

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(6) The holder of a licence shall inform the Minister if there is a change of premises where the pesticides are to be sold or a change of person in charge of the premises.

(7) The Minister may amend, suspend or cancel a licence if—

(a) the Minister has reasonable grounds to believe that the conditions in the licence have not been, or will not be, complied with;

(b) the Minister becomes aware of additional information about the health or safety risks, or the environmental risks, of the pesticide in respect of which the licence has been issued; or

(c) there is a change of premises where the pesticides are to be sold or a change of person in charge of the premises.

(8) A licence is valid for a period of one year from the date that it is issued and it may be renewed upon further application in accordance with this section.

(9) The Minister shall provide an applicant or licensee with reasons for a decision to refuse to issue a licence or for a decision to amend, suspend or cancel a licence.

PART 4 APPLICATION OF PESTICIDES

Prohibitions

12 (1) No person shall apply a general use pesticide or a restricted use pesticide except in accordance with the instructions on the label for the pesticide or in accordance with instructions of the manufacturer of the pesticide.

(2) No person shall apply a restricted use pesticide without a pesticide applicator's licence issued under section 13 and except in accordance with that licence.

(3) No person shall apply a general use pesticide for government purposes or for commercial purposes without a pesticide applicator's licence issued under section 13 and in accordance with that licence.

(4) In subsection (3)—

(a) “for government purposes” includes application of pesticides by or on behalf of the Bermuda Government or any of its agencies and application by or on behalf of

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the Corporation of Hamilton or the Corporation of St. George's; and

- (b) “for commercial purposes” includes application of pesticides in connection with the operation of—
- (i) a pest control business;
 - (ii) an agriculture business, where the agricultural product is for sale or distribution to the public;
 - (iii) a landscaping business;
 - (iv) a horticultural business;
 - (v) a business for maintaining golf courses or recreational facilities; and
 - (vi) any other business that may be prescribed.

Pesticide applicator's licence

13 (1) A person who wishes to be licensed as a pesticide applicator shall make an application to the Minister of Health for a licence (a “pesticide applicator's licence”).

(2) An application for a licence shall be in a form determined by the Minister and shall be accompanied by the relevant fee set out in the Government Fees Regulations 1976.

(3) An applicant shall provide proof that they meet any requirements that are prescribed as to training, qualifications and experience in the use of pesticides.

(4) The Minister may require the applicant to provide further information and documentation for the purpose of considering the application.

(5) After considering the application, the Minister may—

- (a) refuse to issue a licence on any grounds relating to health or safety or the environment that the Minister considers appropriate; or
- (b) issue a licence in a form to be determined by the Minister and subject to any conditions that the Minister considers appropriate, including conditions that—
 - (i) specify the pesticides that a licensee may apply,
 - (ii) specify the purposes for which the licensee may apply pesticides,
 - (iii) specify where the pesticides may be applied,

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- (iv) require the licensee to undergo continuing education or training in the use and disposal of pesticides,
 - (v) require the licensee to comply with the directions or warnings on the labels of containers of pesticides as to the use and disposal of the pesticides, and
 - (vi) require the licensee to keep records of the use and disposal of pesticides that are applied by them.
- (6) Every person who is subject to conditions in a licence shall comply with them.
- (7) The Minister may amend, suspend or cancel a licence if—
 - (a) the Minister has reasonable grounds to believe that the conditions in the licence have not been, or will not be, complied with;
 - (b) the Minister becomes aware of additional information about the health or safety risks, or the environmental risks, of pesticides that are applied by the licensee; or
 - (c) the licensee no longer meets the prescribed standards as to qualifications and experience in the use of pesticides.
- (8) A licence is valid for a period of one year from the date that it is issued and it may be renewed upon further application in accordance with this section.
- (9) The Minister shall provide an applicant or licensee with reasons for a decision to refuse to issue a licence or for a decision to amend, suspend or cancel a licence.

PART 5 PEST CONTROL BUSINESS

Prohibition

14 No person shall operate a pest control business without a licence issued under section 15 and except in accordance with that licence.

Pest control business licence

15 (1) A person who wishes to obtain a licence to operate a pest control business (a “pest control business licence”) shall make an application to the Minister of Health.

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- (2) An application for a licence shall—
 - (a) be in a form determined by the Minister;
 - (b) be accompanied by the relevant fee set out in the Government Fees Regulations 1976; and
 - (c) indicate the name of the person who is to be in charge of the business.
- (3) The Minister may require the applicant to provide further information and documentation in order for the Minister to consider the application.
- (4) After considering the application, the Minister may—
 - (a) refuse to issue a licence on any grounds relating to health or safety or the environment that the Minister considers appropriate; or
 - (b) issue a licence in a form determined by the Minister and subject to any conditions that the Minister considers appropriate, including a condition specifying the person who is to be in charge of the business.
- (5) Every person who is subject to conditions in a licence shall comply with them.
- (6) The Minister may amend, suspend or cancel a licence if—
 - (a) the Minister has reasonable grounds to believe that the conditions in the licence have not been, or will not be, complied with;
 - (b) the Minister becomes aware of additional information about the health or safety risks, or the environmental risks, of pesticides that are used by the pest control business licensee; or
 - (c) there is a change of person in charge of the business.
- (7) A licence is valid for a period of one year from the date that it is issued and it may be renewed upon further application in accordance with this section.
- (8) The Minister shall provide an applicant or licensee with reasons for a decision to refuse to issue a licence or for a decision to amend, suspend or cancel a licence.

PART 6
TRANSPORTATION, HANDLING, STORAGE AND DISPOSAL OF
PESTICIDES

Transportation, handling and storage

16 Every person who transports, handles or stores a general use pesticide or a restricted use pesticide shall do so in accordance with the instructions on the label for the pesticide, or in accordance with instructions of the manufacturer of the pesticide, and in accordance with prescribed conditions, in a manner that prevents the pesticide from—

- (a) coming into direct or indirect contact with, or contaminating, food or drink of humans, animals or plants; and
- (b) coming into direct or indirect contact with human, animal or plant life in a manner that may be injurious to that life.

Pesticide containers

17 (1) No person shall store or keep a general use pesticide or a restricted use pesticide in a container other than—

- (a) the container in which the pesticide was originally stored for sale or offered for sale after manufacture; or
- (b) a container that is of a type customarily used or approved by manufacturers for storing or keeping pesticides.

(2) Subsection (1) does not apply to the storing or keeping of pesticides in tanks or machines that are used for the mixing, holding or applying of pesticides.

Disposal of pesticides

18 (1) No person shall dispose of a general use pesticide or a restricted use pesticide, pesticide residue or pesticide container except—

- (a) in accordance with the instructions on the label for the pesticide or in accordance with instructions of the manufacturer of the pesticide;
- (b) at a site prescribed by regulations or approved by the Minister of Health or the Environment Minister; and
- (c) in a manner prescribed by regulations or approved by the Minister of Health or the Environment Minister.

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(2) Persons who use or apply pesticides shall ensure the safe disposal of pesticides, pesticide residues and pesticide containers in accordance with subsection (1).

PART 7 ENFORCEMENT

Designation of compliance officers

19 (1) The Minister of Health and the Environment Minister may each designate public officers of their departments as compliance officers for the purpose of enforcing this Act.

(2) The Minister who designates a person as a compliance officer shall provide the officer with a certificate in a form determined by the Minister certifying their designation as a compliance officer and, on entering a place under section 20 or 21, the compliance officer shall show the certificate to the person in charge of the place if the person requests proof of the officer's designation.

Powers of compliance officers

20 (1) For the purpose of ensuring compliance with this Act, a compliance officer may—

- (a) subject to section 21, at any reasonable time enter and inspect any place, or stop any means of transport, in which the officer believes on reasonable grounds there is any pesticide or pesticide container;
- (b) open and examine any receptacle, package or other thing that the officer believes on reasonable grounds contains a pesticide and take samples from it;
- (c) require any person to present any pesticide or other thing for inspection in any manner and under any conditions that the officer considers necessary to conduct an inspection;
- (d) require any person to produce for inspection or copying, in whole or in part, any record or other document that the officer believes on reasonable grounds contains information relevant to the administration of this Act or the regulations; and
- (e) conduct any tests or analyses or take any measurements.

(2) In conducting an inspection at a place, an inspector may—

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- (a) use or cause to be used any data processing system at the place to examine any data contained in or available to the system;
- (b) reproduce any record or cause it to be reproduced from the data in the form of a print-out or other intelligible output and take the print-out or other output for examination or copying; and
- (c) use or cause to be used any copying equipment at the place to make copies of any record or other document.

(3) A sample taken under this Act may be disposed as directed by a compliance officer and in accordance with Part 6.

Warrant to enter dwelling-place

21 (1) A compliance officer may not enter a dwelling-place except with the consent of its occupant or under the authority of a warrant.

(2) A magistrate may at any time sign and issue a warrant authorizing the compliance officer named in it to enter and inspect a dwelling-place, subject to any conditions that may be specified in the warrant, if on ex parte application the magistrate is satisfied by information on oath that—

- (a) the conditions for entry described in section 20 exist in relation to a dwelling-place;
- (b) entry to the dwelling-place is necessary for a purpose relating to the administration of this Act or the regulations; and
- (c) entry to the dwelling-place has been refused or there are reasonable grounds to believe that entry will be refused,

(3) A compliance officer who executes a warrant shall not use force unless the officer is accompanied by a police officer and the use of force is specifically authorized in the warrant.

Assistance to officers

22 The owner or the person in charge of a place entered by a compliance officer under section 20 or 21 and any person found in the place shall—

- (a) give the officer all reasonable assistance in their power to enable the officer to perform their duties and functions under this Act or the regulations; and
- (b) provide the officer with any information relevant to the administration of this Act or the regulations that the officer may reasonably require.

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Obstruction of officers

23 No person shall resist or wilfully obstruct a compliance officer or knowingly provide false or misleading information to a compliance officer who is carrying out duties or functions under this Act.

Seizure

24 (1) A compliance officer who conducts an inspection under section 20 or 21 may seize and detain any pesticide or other thing if they have reasonable grounds to believe that—

- (a) it was involved in a contravention of this Act or the regulations; or
- (b) it will afford evidence in respect of a contravention of this Act or the regulations.

(2) After seizing a pesticide or other thing, the compliance officer shall, as soon as practicable, take any measures that are necessary in the circumstances to advise the owner or the person in whose possession, care or control the pesticide or thing was at the time of the seizure, or the owner or person responsible for the place where it was seized, of the reason for the seizure and the place where the pesticide or thing is being stored.

(3) A seized pesticide or other thing may be—

- (a) detained pending the payment of any fine or penalty imposed on its owner or the person who had the possession, care or control of it at the time of seizure; or
- (b) sold in satisfaction of the fine or penalty.

(4) Part 6 applies with respect to the detention of a pesticide under this section.

Storage and removal

25 (1) A compliance officer may—

- (a) store a seized pesticide or other thing at the place where it was seized, or remove it to another place for storage; or
- (b) require the owner of the pesticide or other thing in whose possession, care or control it was at the time of the seizure, or the owner or person responsible for the place where it was seized, to remove it to another place for storage.

(2) A requirement under subsection (1)(b) shall be communicated by delivering a written notice to the owner or person and the notice—

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(a) shall include a statement of the reasons for the requirement; and

(b) may specify the period within which, and the manner in which, the pesticide or other thing is to be removed and stored.

(3) Part 6 applies with respect to the storage or removal of a pesticide under this section.

Forfeiture

26 (1) If a person is convicted of an offence under this Act, the court may, in addition to imposing a penalty or punishment, order that a pesticide or other thing that was involved in the offence be forfeited to the Crown, unless the pesticide or thing has been returned to its owner or another person.

(2) A pesticide or other thing that is forfeited under this section shall be disposed of as the Minister of Health or the Environment Minister directs.

(3) If a seized pesticide or other thing is not forfeited to the Crown, it shall be returned to its owner, or the person who had the possession, care or control of it at the time of its seizure, at the final conclusion of proceedings in respect of an offence under this Act.

Requirements by compliance officers

27 (1) A compliance officer who has reasonable grounds to believe that a person has contravened this Act or the regulations may require the person to take any measures that the officer considers necessary to prevent further contravention, including stopping or shutting down any activity or thing involved in the contravention.

(2) A requirement under subsection (1) shall be communicated by delivering a written notice to the person who is believed to have committed the contravention, or to the owner or person who has the possession, care or control of the pesticide, activity or thing that was involved in the contravention. The notice shall be accompanied by a statement of the reasons for the requirement.

(3) A requirement under subsection (1) may apply for a specified period or until the compliance officer is satisfied that no further contravention is likely to take place.

(4) A requirement under subsection (1) may be imposed whether or not the person has been charged with an offence relating to the contravention, but if the person is charged, the requirement may be confirmed, varied or rescinded by the court that tries the offence.

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Measures by compliance officers to control risks

28 (1) A compliance officer may take any measures described in subsection (2) if the officer has reasonable grounds to believe that there has been a contravention of this Act and that a pesticide, or any other thing that has been treated or contaminated by a pesticide, poses a risk to human health or safety or to the environment.

(2) The compliance officer may—

- (a) require an owner or a person who has the possession, care or control of the pesticide or other thing to dispose of it in accordance with this Act or do anything else that the officer considers necessary to reduce or eliminate the risks it poses; or
- (b) confiscate or dispose of the pesticide or other thing in accordance with this Act or do anything else that the officer considers necessary to reduce or eliminate the risks it poses.

(3) A requirement under subsection (2)(a) shall be communicated by delivering a written notice to the owner or person who has the possession, care or control of the pesticide or thing and the notice—

- (a) shall include a statement of the reasons for the requirement; and
- (b) may specify the period within which, and the manner in which, the required action shall be taken.

Review by Ministers

29 (1) Subject to this section, a requirement in respect of which notice has been delivered under section 25(2), 27(2) or 28(3) shall be reviewed on the written request of the person to whom the notice was delivered.

(2) The request shall state the grounds for requesting a review and indicate the remedy that is requested.

(3) The request shall be delivered to the Minister of Health and to the Environment Minister within 10 days after the date on which the notice was delivered to the person who made the request.

(4) A review may be refused if the request does not comply with subsection (2) or (3).

(5) If the reasons in a notice referred to in subsection (1) include the existence of an emergency concerning risks to human health or safety or the environment, the Ministers may refuse to undertake the

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review until they are satisfied that there has been sufficient compliance with the requirement in the notice to address the emergency.

(6) The review shall be conducted by the Minister of Health and the Environment Minister jointly and each Minister may delegate this function to an officer in their department who is senior to the compliance officer who delivered notice of the requirement in respect of which the review has been requested.

(7) On completion of a review, the Ministers or officers who conduct the review shall make a decision to confirm, amend, terminate or cancel the requirement.

(8) Written notice of the decision, with reasons, shall be delivered to the person who made the request.

Application for court order

30 (1) If a person fails to comply with a requirement in respect of which a notice has been delivered under section 25(2), 27(2) or 28(3), the Minister of Health or the Environment Minister may apply to the Supreme Court for an order requiring that person to comply with the notice or an order authorizing the Minister to take any measures the Court considers necessary to ensure compliance with the notice.

(2) The costs incurred by a Minister in taking measures that are authorized under subsection (1) shall be paid on demand by the person to whom the notice referred to in that subsection was delivered, and the costs are recoverable by the Minister as a debt due to the Crown.

(3) An application may not be made under subsection (1) in relation to a requirement referred to in that subsection unless—

- (a) the 10-day period referred to in section 29(3) has expired without a review of the requirement having been requested under section 29(1);
- (b) a request for a review of the requirement has been refused under section 29(4) or (5); or
- (c) a decision in respect of the review of the requirement has been made under section 29(7) and notice of that decision has been delivered under section 29(8).

Offences and penalties

31 (1) Every person who contravenes, or fails to comply with, any of the following commits an offence—

- (a) section 6, 7, 8(5), 9(1), 10, 11(5), 11(6), 12, 13(6), 14, 15(5), 16, 17, 18, 23, 32 or 33;
- (b) a provision in the regulations that creates an offence;

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- (c) a condition in an approval or a licence that has been issued to them under this Act; or
 - (d) a requirement in a notice delivered to them under section 25(2), 27(2) or 28(3).
- (2) A person who commits an offence is liable to the following penalties—
 - (a) in the case of a first conviction for such offence: imprisonment for 6 months or a fine of \$5,000 or both such imprisonment and fine and, in the case of a continuing offence, a further fine of \$1,000 for each day during which the offence continues; and
 - (b) in the case of a second or subsequent conviction for such offence: imprisonment for 1 year or a fine of \$10,000 or both such imprisonment and fine and, in the case of a continuing offence, a further fine of \$2,000 for each day during which the offence continues.
- (3) If an offence is committed by a corporation, any director, officer or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence and is liable on conviction to the punishment provided for the offence, whether or not the corporation has been prosecuted or convicted.
- (4) In a prosecution for an offence, it is 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 has been prosecuted for the offence, unless the accused establishes that—
 - (a) the offence was committed without the knowledge or consent of the accused; and
 - (b) the accused exercised all due diligence to prevent commission of the offence.
- (5) A person may not be prosecuted for an offence of failing to comply with a requirement referred to in subsection (1)(d) unless—
 - (a) the 10-day period referred to in section 29(3) has expired without a review of the requirement having been requested under section 29(1);
 - (b) a request for a review of the requirement has been refused under section 29(4) or (5); or
 - (c) a decision in respect of the review of the requirement has been made under section 29(7) and notice of that decision has been delivered under section 29(8).

PART 8
MISCELLANEOUS

Reporting of accidents involving pesticides

32 (1) Every person who is involved in the use, transportation, handling, storage or disposal of pesticides shall immediately notify the Minister of Health or the Environment Minister of any accident involving pesticides, including a spill of pesticides, that they become aware of and that could endanger human health or safety or the environment.

(2) The Minister of Health or the Environment Minister may give written notice to a person referred to in subsection (1) requiring that person to complete a report on the accident.

(3) A report shall be delivered to the Minister who required it within 7 days of the date of the notice requiring it.

(4) A report shall be in a form to be determined by the Minister who required it and shall contain any prescribed information in addition to information on—

- (a) the cause of the accident;
- (b) measures being taken to alleviate the effects of the accident; and
- (c) action to be taken to prevent a recurrence of such an accident.

Keeping of records

33 (1) Every person to whom an approval or licence is issued under this Act shall keep a record of the pesticides that they import, sell or apply pursuant to the approval or licence, for a period going back at least five years.

(2) Every person who operates a business that consist in whole or in part of the transportation, handling, storage or disposal of pesticides shall keep a record of the pesticides that they transport, handle, store or dispose of, for a period going back at least five years.

Register of pesticides

34 The Minister of Health, in consultation with the Environment Minister, may establish a register of pesticides, in which shall be recorded any information in respect of pesticides that may be prescribed.

Training

35 (1) The Minister of Health, in consultation with the Environment Minister may—

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- (a) approve programs at recognized institutions for the training of persons in the safe use of pesticides and in the techniques of integrated pest management;
- (b) establish standards for the qualifications and experience required by applicants for a pesticide applicator's licence; and
- (c) make provision for the examination and certification of persons wishing to apply for a pesticide applicator's licence.

(2) For the purposes of this section "integrated pest management" means a sustainable approach to managing pests by combining biological, cultural, physical and chemical tools in a way that minimizes economic risks, health and safety risks and environmental risks.

Notices

36 (1) Notices that are required to be delivered under this Act may be delivered personally, by registered mail or by any other method that provides proof of delivery.

(2) For greater certainty, notices that are delivered under this Act are not statutory instruments for the purposes of the Statutory Instruments Act 1977.

Regulations

37 (1) The Minister of Health and the Environment Minister may jointly make regulations—

- (a) prescribing anything that is required or authorized to be prescribed under this Act;
- (b) prescribing additional requirements in respect of the transportation, handling, storage, use or disposal of pesticides;
- (c) concerning the conduct of a review under section 29;
- (d) creating offences for the purposes of section 31(1)(b);
- (e) prescribing the form in which records referred to in section 33 shall be kept and the information that is to be contained in the records;
- (f) concerning the establishment and operation of a register of pesticides referred to in section 34, including provisions for the public to inspect and obtain copies of information in the register;
- (g) concerning any matters referred to in section 35; and

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(h) generally for carrying out the purpose of this Act.

(2) Regulations made under this section may be of general application or may apply to particular categories or groups of persons.

(3) Regulations made under this section may be made in respect of pesticides generally, in respect of particular pesticides or categories of pesticides, or in respect of particular uses or categories of uses of pesticides.

(4) The negative resolution procedure applies to regulations made under this section.

Consequential amendment

38 The Schedule to the Government Fees Regulations 1976 is amended by inserting the following next after Head 40A—

“Head 40B Pesticide Safety Act 2008

(1) Fee for application to include a pesticide on an approved list under section 8:

- | | |
|--|-------|
| (a) where pesticide is not on any person's approved list | \$100 |
| (b) where pesticide is already on another person's approved list | \$25 |

(2) Fee for issuing or renewing a pesticide sale licence under section 11

\$125

(3) Fee for issuing or renewing a pesticide applicator's licence under section 13

\$125

(4) Fee for issuing or renewing a pest control business licence under section 15

\$250

Repeal

39 Sections 47A and 47B of the Agriculture Act 1930 are repealed.

Transitional provisions

40 (1) Where, on the coming into operation of section 8, a person has authority under section 47A of the Agriculture Act 1930 to import any pesticides, those pesticides shall be deemed to constitute that person's approved list for the purposes of this Act until such time as it is replaced by an approved list in accordance with section 8.

(2) Where a provision of this Act makes it an offence to carry on an activity without a licence, a person who, immediately before the

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coming into operation of the provision, was otherwise carrying on such activity lawfully—

- (a) shall have a period of six months after the coming into operation of the provision in which to apply for a licence to carry on the activity; and
- (b) if, during that period, that person applies for a licence to carry on such activity, no charge may be brought against that person for carrying on such activity during any period before the application is disposed of.

Commencement

41 (1) This Act comes into operation on a day to be appointed by the Minister of Health and the Environment Minister jointly, by notice published in the Gazette.

(2) The Ministers may appoint different days for different provisions of the Act.