



Tuvalu

PESTICIDES ACT

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Tuvalu

PESTICIDES ACT

AN ACT TO CONTROL THE IMPORTATION AND USE OF PESTICIDES; AND FOR CONNECTED PURPOSES¹

Commencement [1 January 1991]²

PART 1 - PRELIMINARY

1 Short title

This Act may be cited as the Pesticides Act.

2 Interpretation

In this Act unless the context otherwise requires —

“**Agricultural Officer**” means the Agricultural Officer for Tuvalu or the holder of such other office as the Minister may from time to time by notice designate;

“**pest**” means any form of plant or animal life or any pathogenic agent including insects, nematode, snail, fungus, bacteria, virus, weeds or any agent causative of a plant disease which is or may be injurious to man, plants, plant materials or animals;

“**pesticide**” means any substance or mixture of substances used or intended for use:

- (a) to prevent, control or destroy any pest; or
- (b) to regulate plant growth, or as a defoliant or desiccant or as an agent for thinning or preventing the premature fall of fruit; or

(c) by application before or after harvest, to preserve crops from deterioration in their condition during storage or transport; or

any such substance or mixture of substances declared by the Minister under section 7(3) to be a pesticide;

“**Minister**” means the Minister for the time being having responsibility for agriculture in Tuvalu;

“**Register**” means the register of pesticides registered under this Act;

“**Registrar**” means the person for the time being holding the position of registrar of pesticides which is a public office;

“**import permit**” means a permit to import issued under this Act and is subject to such conditions as the Committee may have determined on registration;

“**label**” means the written, printed or graphic material as prescribed on or attached to a pesticide or its container and any external container;

“**container**” means any article within which or by which a pesticide may be encased, covered, enclosed, contained, packed or packaged.

3 Crown to be bound

This Act binds the Crown.

PART 2 - ADMINISTRATION

4 Registrar of Pesticides

- (1) There is established the office of Registrar of Pesticides.
- (2) The Registrar shall be the Agricultural Officer for the time being.
- (3) The duties of the Registrar shall be the administration of the Pesticides Committee, the maintenance of the Register of Pesticides and the regulation of the import of pesticides.

5 Pesticides Committee

There is established a Pesticides Committee which shall comprise:

- (a) the Agricultural Officer who shall be Chairman of the Committee;
- (b) the Public Health Officer or such other office-holder in the public service as the Senior Medical Officer may appoint;

- (c) a representative of pesticide importers, suppliers and users appointed by the Minister.

6 Inspectors

- (1) The Minister may appoint inspectors for the purposes of enforcing the provisions of this Act or any regulations or conditions made under it.
- (2) For these purposes, any inspector so appointed shall have the power at all reasonable times in Tuvalu:
 - (a) to enter upon any land, premises or other property owned or occupied by an importer, seller, supplier or user of pesticides and to inspect any books, papers, records or writings, or pesticides or any such substance stored, offered for sale or used by such importer, seller, supplier or user;
 - (b) to enter upon any land, premises or other property on or in which he has reasonable cause to suspect that a breach of this Act, or regulations or conditions made under it, has been or is being committed, and to make such examination and inquiry and to do such other things (including the taking of samples) as may be necessary for the purpose of ascertaining whether these laws are being complied with; and
 - (c) to seize for preservation as evidence any pesticide imported, sold, offered for sale, supplied or used contrary to this Act or regulations or conditions made under it.

PART 3 - REGISTRATION OF PESTICIDES

7 Prohibitions on import and use

- (1) No person shall supply, sell, offer for sale or use any pesticide in Tuvalu which is not registered under this Act.
- (2) No person shall import any pesticide unless it is registered under the Act and he holds an import permit.
- (3) The Minister may from time to time on the advice of the Committee by order declare that any substance or mixture of substances or class of substances or mixtures named therein shall be deemed a pesticide which may be referred to:
 - (a) by the common name or trade name of such substance or mixture; or
 - (b) by a description of that class; or
 - (c) by its toxicological action, its use or intended purpose,and may in like manner revoke such declaration.

- (4) Any person contravening this Act, regulations made under it or conditions made under the Act or the regulations or who causes or permits such contravention commits an offence and shall be liable on conviction to a fine of up to \$200 or up to 3 months imprisonment; in the case of a continuing offence, subsequent to the day on which he is convicted, an offender shall be liable to a further fine of \$20 for each day during which the offence continues.

8 Applications for Registration

- (1) On the application to the Registrar in the prescribed form of any person for registration of a pesticide the Committee may —
 - (a) direct that the pesticide be registered for such period not exceeding five years and on such conditions as to import, transport, storage, distribution, sale, supply, use and disposal as the Committee shall determine; or
 - (b) defer consideration of the application pending sufficient particulars from the applicant or otherwise to decide the application; or
 - (c) decline the application, informing the applicant of the reasons.
- (2) Where the committee considers that:
 - (a) there is no need in Tuvalu for the use of a pesticide; or
 - (b) the continued use of a registered pesticide is ineffective; or
 - (c) the use of a pesticide gives rise or is likely to give rise to an unacceptable hazard to the people or environment of Tuvalu,the committee shall decline the application, or in the case of a registered pesticide, cancel or suspend its registration.
- (3) Where the Committee directs that a pesticide be registered it shall be a condition of registration that the pesticide in Tuvalu be kept in a container approved by the Committee and that affixed to the container be kept an approved label.
- (4) The committee shall promote the efficient, prudent and safe use of pesticides in Tuvalu and advise the Minister accordingly and with his approval issue guidelines to the public.
- (5) Subject to this Act and any regulation made under it the Committee may regulate its own procedure.

9 Register of Pesticides

- (1) The Registrar shall keep a Register of Pesticides in the prescribed form into which he shall enter the prescribed particulars of every pesticide directed by the committee to be registered.

- (2) On the registration of a pesticide or on the expiry, renewal, cancellation or suspension of a registration, the Registrar shall amend the Register as prescribed and shall issue a notice thereof for publication.
- (3) Against each registered pesticide, the Registrar shall maintain a record of import permits.

PART 4 - IMPORT OF PESTICIDES

10 Import permit

- (1) Any person desiring to import a registered pesticide may apply in the prescribed form to the Registrar for an import permit.
- (2) Provided that the application is valid, the Registrar shall issue to the applicant an import permit subject to the conditions of registration, for a specified period and for a specified quantity of pesticide.
- (3) An import permit shall cease to be valid:
 - (a) on its expiry or fulfilment of its quantity; or
 - (b) on expiry without renewal, cancellation or suspension of the registration of the pesticide; or
 - (c) on the failure of the holder of the import permit by 31 March of each year to submit in the prescribed form to the Registrar details of the quantities of pesticide imported by him in the preceding year.
- (4) The Registrar shall notify the Customs Officer of every import permit issued.

11 Application of Customs Act

Substances or mixtures of substances the importation of which is prohibited by this Act, and to the extent to which their importation is prohibited, substances or mixtures of substances the importation of which is restricted by this Act, shall be deemed to be goods the importation of which is prohibited under the Customs Act,³ and subject to the provisions of this Act, the customs Act and any Act amending it shall apply to such substances or mixture of substances:

Provided that any pesticide imported on the authority of the Committee for scientific trial or controlled evaluation may be imported subject to an import permit on such conditions as the Committee may impose but shall during such trial or evaluation be exempt from the requirement of registration.

PART 5 - MISCELLANEOUS

12 Regulations

The Minister may make regulations for the purpose of carrying out the provisions of this Act including but not confined to regulating the transport, storage, distribution, sale, supply, use and disposal of pesticides.

13 Exemption

The Minister may on the advice of the Committee exempt by notice any pesticide from all or any of the provisions of this Act and may in like manner revoke such exemption.

14 Immunity

No legal proceedings shall lie for any loss or damage that may result from anything lawfully done under the provisions of this Act or any regulations or conditions made under it.

ENDNOTES

¹ 1990 Revised Edition, Cap. 39A – Act 4 of 1990

² LN 16/1990

³ Cap. 26.04