

GOVERNMENT OF PAKISTAN
MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS
(Law Division)



THE AGRICULTURAL PESTICIDES ORDINANCE,
1971

(II of 1971)

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ORDINANCE NO. II OF 1971

[25th January, 1971]

An Ordinance to regulate the import, manufacture, formulation, sale, distribution and use of pesticides.

WHEREAS it is expedient to regulate the import, manufacture, formulation, sale, distribution and use of pesticides and for matters ancillary thereto ;

AND WHEREAS the national interest of Pakistan in relation to the achievement of uniformity requires Central legislation in the matter ;

NOW, THEREFORE, in pursuance of the Proclamation of the 25th day of March, 1969, read with the Provisional Constitution Order, and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

CHAPTER I

INTRODUCTORY

1.—(1) This Ordinance may be called the **Agricultural Pesticides Ordinance, 1971.**

Short title,
extent and
commence-
ment.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2 The provisions of this Ordinance shall be in addition to, Application
XII of and not in derogation of, the provisions of the Poisons Act, 1919, of other
1919. and any other law for the time being in force. laws not
barred.

3. In this Ordinance, unless there is anything repugnant in Definitions.
the subject or context, the expression—

(a) "adulterated" when used with reference to a pesticide, means any pesticide the strength or purity of which falls below the professed standard or quality which is expressed on its label or under which it is sold or a pesticide any valuable ingredient of which has been wholly or partially extracted ;

(b) "advertise" means to make known by publication or distribution of any advertisement, circular or other notice ;

(c) "brand" means the trade name applied by an importer, manufacturer, formulator or vendor to the goods imported, manufactured or sold by him ;

(d) "Committee" means the Agriculture Pesticide Technical Advisory Committee constituted under this Ordinance ;

- (e) "formulation" means the process by which a pesticide is converted, by mixing with other substances, into a form in which it is ready to be used ;
- (f) "fungi" means all rusts, smuts, mildews, moulds, yeasts, and similar forms of plant life prescribed in this behalf and includes bacteria affecting plant life ;
- (g) "Government Analyst" means a Government Analyst appointed under this Ordinance ;
- (h) "guarantee" means the statement indicating the strength, effectiveness and other qualities of a brand of a pesticide which an importer, manufacturer, formulator, vendor or person holding stock for sale of a brand of a pesticide is required to submit under the rules at the time of applying for the registration of the brand ;
- (i) "Inspector" means an Inspector appointed under this Ordinance ;
- (j) "ingredient" means any material used in making a pesticide ;
- (k) "insect" means any of the small invertebrate animals commonly known as insects and includes such forms of animal life as may be prescribed ;
- (l) "label" means the written, printed or graphic matter on, or attached to, a pesticide or the immediate container thereof, and the outside container or wrapper of the retail package, if any, of the pesticide ;
- (m) "package" includes every container ;
- (n) "pesticide" means any substance or mixture of substances used or represented as a means for preventing, destroying, repelling, mitigating or controlling, directly or indirectly, any insect, fungus, bacterial organism, nematodes, virus, weed, rodent, or other plant or animal pest ; but does not include a substance which is a 'drug' within the meaning of the Drugs Act, 1940 ;
- (o) "prescribed" means prescribed by rules made under this Ordinance ;
- (p) "registered" means registered under this Ordinance ;
- (q) "registration number" means a specific number assigned by the Central Government to each registered brand of pesticide ;
- (r) "rules" means rules made under this Ordinance ; and
- (s) "weed" means any plant which grows where not wanted.

CHAPTER II

IMPORT, MANUFACTURE, FORMULATION, SALE, DISTRIBUTION, AND USE OF PESTICIDES.

4. No person shall import, manufacture, formulate, sell, offer for sale, hold in stock for sale or in any manner advertise any brand of pesticide which has not been registered in the manner hereinafter provided. Pesticides to be registered.

5.—(1) Any person intending to import, manufacture, formulate, sell, offer for sale, hold in stock for sale or advertise any brand of a pesticide may apply to the Central Government for the registration of the brand under such name as he may indicate in the application. Application for registration of pesticide.

(2) An application under sub-section (1) shall be in such form, be accompanied by such fee and contain such statements and information as may be prescribed.

(3) Where the person making an application under sub-section (1) is not domiciled in Pakistan, the application shall, besides such person, be signed by his agent or representative in Pakistan.

(4) Upon the receipt of an application under sub-section (1), the Central Government may register a brand of a pesticide by the name indicated in the application, if it is satisfied that—

- (a) the brand is not such as would tend to deceive or mislead the purchaser with respect to the guarantee relating to the pesticide or its ingredients or the method of its preparation ; or
- (b) the guarantee relating to the pesticide or its ingredients is not the same as that of another registered brand or is not so similar thereto as to be likely to deceive ; or
- (c) it is effective for the purpose for which it is sold or represented to be effective ; or
- (d) it is not generally detrimental or injurious to vegetation, except weeds, or to human or animal health, even when applied according to directions.

(5) When it registers a brand of a pesticide on the application of any person, the Central Government shall grant to him a certificate of registration in such form as may be prescribed.

The registration of a brand of a pesticide shall be effective from the date of its registration until the thirtieth day of June of the third year following the year of registration. Period for which registration shall be effective.

7. If, at any time after the registration of the brand of a pesticide, the Central Government is of opinion that the registration has been secured in violation of any of the provisions of Cancellation of registration.

(Chapter II.—Import, Manufacture, Formulation, Sale, Distribution and Use of Pesticides. Chapter III.—Agricultural Pesticide Technical Advisory Committee, etc.)

this Ordinance or the rules or that the pesticide is ineffective against pests or hazardous to vegetation, other than weeds, or to human or animal life, the Central Government may, after giving to the person on whose application it had been registered an opportunity of being heard, cancel the registration.

Renewal of registration. 8.—(1) The Central Government may, on the application of the importer, manufacturer, formulator, vendor or stock-holder of a registered brand of a pesticide in the guarantee or ingredients of which no change has taken place since the date of its registration, renew the registration of the brand for a further period of three years.

(2) An application under sub-section (1) shall be in such form and be accompanied by such fee as may be prescribed and shall be made before the expiration of the period for which the registration of the brand to which it relates is effective.

Importation may be prohibited. 9. If any pesticide imported into Pakistan is found to be adulterated or incorrectly or misleadingly tagged, labelled or named, or if its sale in any way contravenes any of the provisions of this Ordinance, the Central Government may, by notification in the official Gazette, prohibit the further import of the pesticide into Pakistan.

Labelling of packages. 10. No person shall sell or offer or expose for sale, or advertise or hold in stock for sale any pesticide unless each package containing the pesticide, and every tag or label durably attached thereto, is branded or marked in printed characters in such form and in such manner as may be prescribed.

Storage and use of pesticides 11. No person shall store or use any pesticide save in accordance with rules made under this Ordinance.

CHAPTER III

THE AGRICULTURE PESTICIDE TECHNICAL ADVISORY COMMITTEE, ETC.

The agriculture Pesticide Technical Advisory Committee. 1) As soon as may be after the commencement of this Ordinance, the Central Government shall constitute a committee, to be called the Agriculture Pesticide Technical Advisory Committee, to advise the Central Government on technical matters arising out of the administration of this Ordinance and to perform any other functions assigned to it by or under this Ordinance.

(2) The Committee shall consist of a Chairman and such number of Vice-Chairman and other members, being officers of the Central Government or a Provincial Government or persons representing trade and industry engaged in pesticide business, as the Central Government may appoint :

Provided that no officer of a Provincial Government and no person representing trade and industry so engaged in a Province

(Chapter III.—Agricultural Pesticide Technical Advisory Committee, etc.)

shall be appointed otherwise than on the recommendation of the Government of the Province concerned.

(3) The names of the Chairman, the Vice-Chairman and the other members of the Committee shall be published in the official Gazette.

(4) The Central Government shall appoint one of the members of the Committee, being an officer of that Government, to be the Secretary of the Committee for the period for which he is such a member.

(5) The non-official members of the Committee shall hold office for a term of three years and shall be eligible for re-appointment.

(6) A member of the Committee may, at any time, resign his office by writing under his hand addressed to the Chairman; but the seat of such member shall not be deemed to have fallen vacant unless the resignation has been accepted by the Chairman with the previous approval of the Central Government.

(7) A person appointed to fill a vacancy created by the resignation or death of a member shall hold office for the residue of the term of his predecessor.

(8) The functions of the Committee may be exercised notwithstanding any vacancy in the membership thereof.

(9) The Committee shall have the power to regulate with the prior approval of the Central Government the procedure for the conduct of its business.

(10) The Committee may appoint sub-committees consisting of specialists for the consideration of particular matters for such periods, not exceeding three years, as it may consider necessary.

13.—(1) As soon as may be after the commencement of this Ordinance, the Central Government shall set up a Pesticide Laboratory suitably equipped to carry out the functions entrusted to it by or under this Ordinance. Pesticide Laboratory.

(2) The functions of the Pesticide Laboratory and the mode of submission of samples for analysis or test to the Laboratory shall be such as may be prescribed.

(3) The secrecy of the formulae of brands of pesticides, samples of which are submitted to the Pesticide Laboratory for analysis or test, shall be duly safeguarded in the manner prescribed.

The Central Government may, by notification in the official Gazette, appoint as many persons as it deems fit to be Government Analysts for pesticides and, where it appoints more than one person to be Government Analysts, shall specify in the Govern-
ment Ana-
lyst.

notification the local limits within which each one of them shall perform the functions of Government analyst.

Inspectors. 15. The Central Government may, by notification in the official Gazette, appoint from amongst the officers of the Central Government or a Provincial Government employed for work relating to plant protection such number as it deems fit to be Inspectors within such local limits as may be specified in the notification.

Powers of Inspectors. 16. An Inspector may, within the local limits for which he is appointed, enter upon any premises where pesticides are kept or stored, whether in containers or in bulk, by or on behalf of the owner, including premises belonging to a bailee, such as a railway, a shipping company or any other carrier, and may take samples therefrom for examination. No compensation shall be payable for a reasonable quantity taken as a sample.

Procedure of Inspectors. 17.—(1) Where an Inspector takes a sample of a pesticide for the purpose of test or analysis under section 16, he shall intimate such purpose in writing in the prescribed form to the person from whose possession he takes it and, in the presence of such person (unless he wilfully absents himself), shall divide the sample into three portions and effectively seal and suitably mark the same and permit such person to add his own seal and mark to all or any of the portions so sealed and marked :

Provided that, where the pesticide is made up in containers of small volume, instead of dividing a sample as aforesaid, the Inspector may and if the pesticide be such that it is likely to deteriorate or be otherwise damaged by exposure shall, take three of the said containers after suitably marking the same and, where necessary, sealing them.

(2) The Inspector shall restore one portion of a sample so divided or one container, as the case may be, to the person from whom he takes it, and shall retain the remainder and dispose of the same as follows :—

- (i) he shall forthwith send one portion or container to the Government Analyst for test or analysis ; and
- (ii) he shall send the second portion or container to the Central Government.

Report of Government Analyst. 18.—(1) The Government Analyst to whom a sample of any pesticide has been forwarded by an Inspector under sub-section (2) of section 17 shall deliver to the Inspector, in triplicate in the prescribed form, a signed report of the result of the test or analysis conducted by him.

(2) The Inspector shall deliver one copy of the report received by him to the person from whose possession the sample was taken and shall send one copy to the Central Government.

(3) Any document purporting to be a report signed by the Government Analyst of an analysis conducted by him under this Chapter shall be conclusive evidence of the particulars stated therein unless the person to whom the report has been delivered under sub-section (2) disputes the correctness of the analysis conducted by the Government Analyst and, within thirty days of the delivery of the report to him, places before the Central Government evidence which in his opinion controverts the correctness of such analysis.

(4) Where the evidence placed before the Central Government under sub-section (3) is such as would in its opinion justify a further investigation, it may cause a second part of the same sample to be analysed at the Pesticide Laboratory.

(5) After the sample forwarded to it by the Central Government has been analysed by the Pesticide Laboratory, the Laboratory shall record the result of the analysis in a certificate of analysis and forward the certificate to the Central Government.

(6) A certificate of analysis prepared by the Pesticide Laboratory shall be conclusive evidence of the facts stated therein.

The Central Government may publish in such Publication manner as it may deem fit the result of the test and analysis of of results of a pesticide made by a Government Analyst or the Pesticide test and analysis Laboratory under section 18 together with such other information relating thereto, if any, as it may consider necessary.

(1) Any person who has purchased a pesticide may Purchaser apply to a Government Analyst to conduct a test or analysis of pesticide of the pesticide. may have it tested or analysed.

(2) An application under sub-section (1) shall be made in such form and manner and be accompanied by such fee as may be prescribed.

(3) The Government Analyst to whom an application is made in accordance with sub-section (2) shall conduct the test or analysis and issue to the applicant a report signed by him of the test or analysis.

CHAPTER IV

MISCELLANEOUS

21. Any person who—

- (a) sells, offers or exposes for sale, holds in stock for sale or advertises a registered brand of a pesticide which is not of the nature, substance or quality Offences and penalties.

which it is represented to be by the brand or mark on the package containing it or, as the case may be, on the tag or label attached thereto ; or

(b) falsely represents a pesticide in an advertisement ;
or

(c) contravenes any of the provisions of this Ordinance or the rules for the contravention of which no other penalty is provided in this Ordinance,

shall be punishable, for the first offence, with fine which may extend to one thousand rupees and for every subsequent offence with fine which shall not be less than two thousand rupees or more than three thousand rupees and in default of payment of any such fine with imprisonment for a term which may extend to one year.

Manufacturer's warranty to dealers.

22. Whoever gives false warranty to a dealer or purchaser in respect of a pesticide, that it complies in all respects with the provisions of this Ordinance shall, unless he proves that when he gave the warranty he had good reason to believe the same to be true, be punishable with fine which may extend to one thousand rupees.

Unlawful use of registration number, lowering of pesticidal value or hindering the inspector from performing his duty.

Any person who—

- (a) unlawfully uses any registration number assigned or as if it had been assigned under this Ordinance, or
- (b) wilfully alters the composition of a pesticide by mixing any other substance therewith after the said pesticide has been placed on the market by the manufacturer, importer or vendor, or
- (c) wilfully obstructs, hinders, resists, or in any way opposes any Inspector in performing his duties under this Ordinance,

shall be punishable with fine which shall not be less than two thousand and five hundred rupees or more than five thousand rupees or with imprisonment for a term which shall not be less than one year or more than two years.

Entry and seizure.

24. (1) If an Inspector has reason to believe that an offence punishable under this Ordinance or the rules made thereunder has been, is being or is about to be committed at any time or place, he may enter and search such place and seize any pesticide, article or thing to which the offence relates found therein.

(2) Any pesticide article or thing seized under sub-section (1) shall be disposed of in accordance with the decision of the Court before which the offender is prosecuted for a contravention of any of the provisions of this Ordinance or the rules.

25. If any person is convicted of an offence punishable under this Ordinance committed by him in respect of any pesticide, article or thing, the Court convicting him may further direct that the pesticide, article or thing shall be forfeited to the Central Government.

Power of
Court to
order for-
feiture.

26.—(1) No court inferior to that of a Magistrate of the first class shall try an offence punishable under this Ordinance.

Cognizance
of offences,
etc.

Act. V of 1898. (2) Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for any Magistrate of the first class to pass any sentence authorised by this Ordinance even if such sentence exceeds his powers under the said section 32.

Act. V of 1898. 27. Any Magistrate of the first class or any bench of Magistrates invested with the powers of a Magistrate of the first class empowered for the time being to try in a summary way the offences specified in sub-section (1) of section 260 of the Code of Criminal Procedure, 1898, may, on application in this behalf being made by the prosecution, try in accordance with the provisions contained in section 262 to 265 of that Code, any offence punishable under section 21.

Power to
try offences
summarily.

28. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Ordinance or the rules.

Indemnity.

29.—(1) The Central Government may, in consultation with the Agriculture Pesticide Technical Advisory Committee and after previous publication in the official Gazette, make rules for carrying the provisions of this Ordinance into effect.

Power to
make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

- (a) the nomenclature of every form of plant and animal life that shall be deemed to be insects, fungi or other plant or animal pests ;
- (b) the form in which an application for the registration of a brand of a pesticide or for the renewal of registration shall be made, the information that shall be furnished therewith and the fee that shall accompany it ;
- (c) the procedure for the grant of certificates of registration of brands of pesticides and renewal of such registration and the form of such certificates ;
- (d) the language of the tags or labels to be attached to the containers and packages containing pesticides

and the character and location of the printing to be marked on such tags, labels and containers ;

- (e) the functions of the Pesticides Laboratory and the procedures to be followed by it in the performance of such functions, including—
 - (i) safeguarding of the secrecy of the formulae of any brands of pesticides disclosed to it ;
 - (ii) collection of samples of pesticides for test or analysis ; and
 - (iii) the form in which its reports of tests or analysis shall be written ;
- (f) the methods of analysis to be followed, and the limits of variability to be allowed, by the Government Analyst as between the information marked on the container or on a label attached thereto or supplied to the purchaser when sold in bulk, and the results of the analysis ;
- (g) the qualifications and duties of the Government Analysts ;
- (h) the form in which an intimation of the purpose for which a sample is taken by an Inspector shall be given by him to the person from whose possession the sample is taken, the instruments to be employed, and the quantities to be taken, by an Inspector while taking samples for test or analysis and the manner in which they should be preserved and sent to the Government Analyst and the Central Government ;
- (i) the form in which an application shall be made by the purchaser of a pesticide to a Government Analyst for test or analysis of the pesticide, the manner in which a purchaser may send a pesticide for test or analysis to the Government Analyst, the information that shall be furnished with such application and the fee that shall accompany it ;
- (j) the pesticides that are generally detrimental or injurious to vegetation, domestic animals or public health even when used according to directions ;
- (k) the pesticides that are to be labelled "Poison" and their antidotes ;
- (l) the requirements for the safe storage of pesticides ;
- (m) the quantities of different brands of pesticides which a person may hold in stock at any one time and the premises in which, and the conditions subject to which, he may hold them in stock ;

- (m) the precautions for the protection of workers against risk of poisoning by pesticides arising from their working—
 - (i) in connection with the use of such pesticides in agriculture ; or
 - (ii) on land on which such pesticides are being or have been used in agriculture ;
- (n) the restrictions or conditions as to the purposes for which, the circumstances in which, or the methods or means by which, a pesticide may be used ;
- (p) the restrictions or conditions involving a general prevention or limitation of the use of any pesticide in agriculture ;
- (q) the provision, and keeping available and in good order, of facilities for washing and cleaning and of other things needed for protecting persons, clothing, equipment and appliances from contamination with pesticides or for removing sources of contamination therefrom ;
- (r) the observance of precautions against poisoning by pesticides including the use of things provided in pursuance of the rules, and abstentions from eating, drinking and smoking in circumstances involving risk of poisoning by pesticides ;
- (s) intervals between, or limitations of, periods of exposure to risk of poisoning by pesticides ;
- (t) 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 risk of poisoning by pesticides or of injury therefrom, or imposing, in case of persons so subject, prohibitions or restrictions on employment of workers ;
- (u) the measures for detecting and investigating cases in which poisoning by pesticides has occurred ;
- (v) the provision of effective facilities for prevention of poisoning by pesticides and first aid treatment ; and
- (w) the provision of instruction and training in the use of things provided in pursuance of the rules and in the observance of precautions against poisoning by pesticides.

30. The Central Government may, by notification in the Delegation official Gazette, direct that all or any of its powers under this Ordinance or the rules shall, in such circumstances, and under

such conditions, if any, as may be specified in the direction, be exercised also—

- (a) by any officer or authority subordinate to the Central Government, or
- (b) by any Provincial Government or by any officer or authority subordinate to such Government.

A. M. YAHYA KHAN, H. PK., H. J.
GENERAL,
President and Chief Martial Law Administrator.