

PESTICIDES REGULATIONS

CHAPTER 133 SUBSIDIARY LEGISLATION

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PESTICIDES REGULATIONS

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PESTICIDES REGULATIONS

(Cap. 133, section 19)

[15 July 1977]

1. Citation

These regulations may be cited as the Pesticides Regulations.

*(L.N. 422 of 1990)***2. Interpretation**

In these regulations, unless the context otherwise requires—

“label” means any statement forming part of or affixed to a container in which a pesticide is sold, supplied or transported; *(L.N. 422 of 1990)*

“licensee” means the holder of a licence;

“permittee” means the holder of a permit; and

“specified fee”, in relation to a matter, means the fee specified in the Schedule in respect of that matter. *(L.N. 422 of 1990)***3. Application for registration of pesticide**

(1) An application under section 5 of the Ordinance for the registration of a pesticide shall be in a form approved by the Director and shall contain, or be accompanied by, the following—

- (a) the trade name, chemical name and the common name, if any, by which the pesticide is known and under which it is to be sold;
- (b) a statement of the composition of the pesticide including all ingredients, and the chemical identities of the active ingredients including their stability in storage;
- (c) adequate data on the toxicology and efficacy of the pesticide supported by reports on biological tests from experimental stations of a standing acceptable to the Director;
- (d) instructions on the manner in which the pesticide is to be used together with the precautionary measures to be taken when applying the pesticide;
- (e) in the case of a pesticide to be used on food crops, the recommended time interval between the last application and harvesting of the crop;

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- (f) the antidote and first-aid action to be taken in the case of poisoning;
 - (g) methods of analysis of the formulated compound;
 - (h) methods for determination of the residues of the pesticide;
 - (i) such other information relating to the efficacy or safety of the pesticide as may be required by the Director; and
 - (j) the specified fee. (*L.N. 422 of 1990*)
- (2) The applicant shall supply the Director with such samples of the pesticide as he may require.
- (3) A separate application for registration shall be made in respect of each pesticide.

(*L.N. 422 of 1990*)

4. Contents of register

- (1) The Director shall, in respect of each registered pesticide, cause to be entered in the register—
- (a) the chemical name and the common name, if any, by which the pesticide is known and under which it is to be sold or supplied;
 - (b) the concentration of the active ingredients and formulation of the pesticide permitted for retail sale or supply;
 - (c) the name and address of each person who applied for the registration of the pesticide; and
 - (d) the conditions, if any, subject to which the pesticide is registered. (*L.N. 422 of 1990*)
- (2) The register shall be open for public inspection at all reasonable times free of charge.

5. Publication of list of registered pesticides

- (1) As soon as may be after 1 January following the commencement of these regulations and as soon as may be after 1 January of every year thereafter, the Director shall prepare and publish in the Gazette a list of the pesticides which appear in Parts I and II of the register on that date. (*L.N. 422 of 1990*)
- (2) As soon as may be after 1 July of every year, the Director shall prepare and publish in the Gazette a list of the pesticides which have been registered or cancelled from the register between 1 January and 1 July of such year. (*L.N. 422 of 1990*)
- (3) A certificate—
- (a) stating whether or not a pesticide is registered under the Ordinance; or (*L.N. 422 of 1990*)
 - (b) containing a copy of an entry made in the register,

and purporting to be signed by or on behalf of the Director shall be admitted in evidence without further proof on its production in any legal proceedings and—

- (i) until the contrary is proved, it shall be presumed that the certificate is so signed; and
- (ii) the certificate shall be conclusive evidence of the facts stated therein.

6. Application for licence or permit

An application for a licence or permit shall be in a form approved by the Director, shall be accompanied by the specified fee and shall state—

- (a) the name and address of the applicant;
- (b) the business name, if any, of the applicant;
- (c) the address of the premises in which any pesticide is to be stored, kept, displayed for sale or sold, and where there are more than one such premises the address of each of them; (*L.N. 422 of 1990*)
- (d) the pesticides in respect of which the licence or permit is required; and (*L.N. 422 of 1990*)
- (e) such further information as the Director may require.

7. Form and duration of licences and permits

(1) A licence and permit shall be in a form approved by the Director and shall be issued subject to the payment of the specified fee. (*L.N. 422 of 1990*)

(2) Every licence shall expire 12 months after the date of issue but may, on payment of the specified fee, be renewed by the Director. (*L.N. 422 of 1990*)

(3) Every permit shall expire 6 months after the date of issue which period may be extended by the Director for such further periods of 6 months as he thinks fit subject to the payment of the specified fee. (*L.N. 422 of 1990*)

(4) If a licence or permit is lost, damaged or destroyed, the Director may, on payment of the specified fee, issue a duplicate.

8. Surrender of licence or permit on cancellation, etc.

(1) On the cancellation or suspension of a licence under section 10 of the Ordinance, or on the cancellation of a permit under section 11 of the Ordinance, the Director shall notify the licensee or permittee, as the case may be, of the cancellation or suspension and in the case of a suspension he shall specify in the notice the period of the suspension.

(2) On the receipt by him of a notification under paragraph (1) the licensee or permittee, as the case may be, shall forthwith surrender his licence or permit to the Director.

(3) A licence which is surrendered to the Director on its suspension in accordance with paragraph (2) shall at the termination of the period of the suspension be returned by the Director to the licensee.

9. Delivery of licence or permit on variation of particulars or modification of conditions

(1) Where the Director varies the particulars of a licence or permit, or modifies, adds to, or cancels, any condition of a licence or permit, under section 9(8) of the Ordinance he shall notify the licensee or permittee, as the case may be.

(2) On the receipt by him of a notification under paragraph (1) the licensee or permittee shall forthwith deliver the licence or permit to the Director.

(3) Where a licence or permit is delivered under paragraph (2) the Director shall, on payment of the specified fee, issue a new licence or permit to the holder.

(4) A fee shall not be payable for the issue of a new licence or permit under paragraph (3) unless the variation under paragraph (1) is made at the request of the person holding the licence or permit.

10. Conditions of storing, keeping and displaying for sale of registered pesticide

(1) A licensee shall not, except on premises approved by the Director for that purpose, store, keep, repackage, expose for sale or sell any registered pesticide. (*L.N. 422 of 1990*)

(2) A licensee shall not store, keep, repackage or expose for sale any registered pesticide— (*L.N. 422 of 1990*)

(a) in close proximity to any foodstuffs for human or animal consumption; or

(b) in such condition as—

(i) to be liable by spillage to contaminate any foodstuffs for human or animal consumption; or

(ii) to constitute a danger to the health or safety of persons or animals.

11. Registered pesticide not to be sold or supplied except in proper container

(1) A licensee shall not sell, or offer or expose for sale, or supply, either by retail or in a form ready for sale or supply by retail any registered pesticide except in a container which— (*L.N. 172 of 1983*)

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- (a) is impervious to that pesticide; and
- (b) is sufficiently strong to prevent leakage arising from the ordinary risks of handling and transport; and
- (c) is made of—
 - (i) metal;
 - (ii) glass or plastic, the outer surface being, in the case of a container with a capacity of not more than 2 litres, fluted vertically with ribs or grooves recognizable by touch; or (*L.N. 172 of 1983*)
 - (iii) such other material as may be approved by the Director for that pesticide; and
- (d) displays clearly and distinctly the number or mark, if any, assigned to it under regulation 15.

(1A) Paragraph (1)(c) and (d) shall not apply to a registered pesticide which is to be exported by a licensee to a purchaser outside Hong Kong. (*L.N. 172 of 1983*)

(2) No licensee shall sell, or offer or expose for sale, by wholesale or supply by wholesale any registered pesticide except in a container which complies with paragraph (1)(a) and (b).

(*L.N. 422 of 1990*)

12. Labelling of registered pesticides on sale or supply by retail

(1) Subject to paragraphs (2), (3), (4) and (5), a licensee shall not sell, or offer or expose for sale, or supply, either by retail or in a form ready for sale or supply by retail any registered pesticide unless there appears on the container and on every box or other covering of whatever nature enclosing the container, in a conspicuous position, a label setting forth, clearly and distinctly and not in any way obscured or obliterated, the following particulars both in English and Chinese— (*L.N. 172 of 1983*)

- (a) the word "Poison" and the characters "毒藥";
- (aa) the expression "Keep out of reach of children" and the characters "遠離孩童"; (*L.N. 422 of 1990*)
- (ab) the registration number of the pesticide; (*L.N. 422 of 1990*)
- (b) the trade name, chemical name and the common name, if any, by which the pesticide is known;
- (c) the composition by percentage of all the active ingredients of the pesticide;
- (d) the net weight or volume of the contents;
- (e) the word "SYSTEMIC" if the pesticide has a systemic action;
- (f) instructions on the manner in which the pesticide is to be used together with the precautionary measures to be taken when applying the pesticide;

- (g) in the case of a pesticide to be used on food crops, the recommended time interval between the last application and harvesting of the crop;
- (h) the antidote and first-aid action to be taken in the case of poisoning;
- (i) the name of the seller of the pesticide and the address at which it is sold or supplied; and
- (j) such other particulars as the Director may require.

(1A) Paragraph (1) shall not apply to a registered pesticide which is to be exported by a licensee to a purchaser outside Hong Kong. (L.N. 172 of 1983)

(2) The Director may in writing exempt any registered pesticide from compliance with paragraph (1)(a).

(3) Nothing in paragraph (1) shall require the labelling of any transparent cover or any wrapper, hamper, packing case, crate or other covering used solely for the purpose of transport or delivery.

(4) The requirements of paragraph (1)(i) shall be deemed to be satisfied in the case of a registered pesticide supplied from a warehouse or depot, if the label on the container sets out the address of the supplier's principal place of business or in the case of a company, of the registered office of that company.

(5) Where the names of 2 or more persons or where 2 or more addresses appear on any label, there shall also be words on the label indicating clearly which of the persons is the seller and at which of the addresses the registered pesticide is sold or supplied.

(L.N. 422 of 1990)

13. Storage and transport

A licensee shall not store, or transport or consign for transport, any registered pesticide except in a container which is impervious to that pesticide and sufficiently strong to prevent leakage from the container arising from the ordinary risks of handling and, where it is being transported, transport and which is labelled with the word "POISON" and the characters "毒藥" and the trade name and, if any, the common name by which the pesticide is known.

(L.N. 422 of 1990)

14. Sample container to be supplied to Director

The Director may require an applicant for registration of a pesticide to supply him with a sample of the container in which the pesticide is to be stored, sold or supplied.

(L.N. 422 of 1990)

15. Approved containers

The Director may give approval to a type, design or colour of container to be used for any registered pesticide or class or type of registered pesticide and may assign thereto an identifying number or mark.

(L.N. 422 of 1990)

16. Restrictions on sale, supply and advertisement

- (1) A licensee shall not—
- (a) sell, or offer or expose for sale, or supply any registered pesticide, the active ingredients of which differ materially from the particulars supplied under regulation 3(1)(b) or from the particulars stated on the label; or
 - (b) sell or offer or expose for sale, or supply, as a registered pesticide, a product which—
 - (i) is decomposed or deteriorated so as to be ineffective or dangerous; or
 - (ii) is packaged in a container which has deteriorated or is damaged so as to be dangerous in storage or use.
- (2) No person shall—
- (a) advertise any pesticide which is not registered under the Ordinance;
 - (b) advertise any registered pesticide in a manner that is false, misleading or deceptive or not in accordance with any condition imposed on the registration of that pesticide under the Ordinance.

(L.N. 422 of 1990)

17. Director may issue directions relating to unregistered pesticides

The Director may issue to a permittee such directions as he may think fit relating to—

- (a) the storing or keeping of unregistered pesticides; *(L.N. 422 of 1990)*
- (b) the containers in which unregistered pesticides are to be stored or kept; *(L.N. 422 of 1990)*
- (c) the labelling of such containers; and
- (d) the transport of unregistered pesticides. *(L.N. 422 of 1990)*

18. *(Repealed L.N. 422 of 1990)*

19. Offences and penalties

(1) Any person who without reasonable excuse fails to comply with regulation 8(2) or 9(2) or with any requirement under regulation 14 commits an offence and is liable on conviction to a fine of \$2,000 and to imprisonment for 6 months.

(2) Any person who contravenes regulation 10, 11, 12, 13 or 16 commits an offence and is liable on conviction to a fine of \$2,000 and to imprisonment for 6 months.

(3) Any permittee who fails to comply with any direction of the Director under regulation 17 commits an offence and is liable on conviction to a fine of \$2,000 and to imprisonment for 6 months.

SCHEDULE		(reg. 2)
FEES		
Item	Matter	Fee \$
1.	For application for registration of a pesticide under regulation 3	1,200
2.	For lodging of an application for a licence under regulation 6	70
3.	For lodging of an application for a permit under regulation 6	70
4.	For issue of a licence under regulation 7(1) in respect of pesticides registered in Part I only of the register	160
5.	For issue of a licence under regulation 7(1) in respect of pesticides registered in Part II or both Parts I and II of the register	415
6.	For issue of a new licence under regulation 9(3) and (4) at the request of a licensee	180
7.	For issue of a permit under regulation 7(1) in respect of an unregistered pesticide imported or possessed only for re-export without re-packaging	300
8.	For issue of a permit under regulation 7(1) in respect of an unregistered pesticide for any other purpose	525
9.	For issue of a new permit under regulation 9(3) and (4) at the request of a permittee	300
10.	For renewal of a licence under regulation 7(2) in respect of pesticides registered in Part I of the register	75
11.	For renewal of a licence under regulation 7(2) in respect of pesticides registered in Part II or both Parts I and II of the register	255
12.	For issue of a duplicate licence or permit under regulation 7(4)	75
13.	For extension of a permit under regulation 7(3) in respect of an unregistered pesticide imported or possessed only for re-export without re-packaging	165
14.	For extension of a permit under regulation 7(3) in respect of an unregistered pesticide for any other purpose	345

(L.N. 422 of 1990)

