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THE PESTICIDES ACT

THE PESTICIDES (AMENDMENT) REGULATIONS, 2004

In exercise of the power conferred upon the Pesticides Control Authority by section 16 of the Pesticides Act, and of every other power hereunto enabling, the following Regulations are hereby made, with the approval of the Minister:—

1. These Regulations may be cited as the Pesticides (Amendment) Regulations, 2004, and shall be read and construed as one with the Pesticides Regulations, 1996 (hereinafter referred to as the principal Regulations) and all amendments thereto.

2. Regulation 2 of the principal Regulations is amended by inserting the following definitions in their appropriate alphabetical sequence:—

“certificate” means a certificate issued pursuant to regulation 15;

“commercial pest control applicator” means a person who, for purposes of business, uses, applies or supervises the application of a restricted pesticide.

“private applicator” means a person who, other than for purposes of monetary compensation, uses, applies or supervises the application of a restricted pesticide on property owned, leased or rented by him, his employer or any other person and includes a small farmer;

“serviceman” means a person certified by the Authority and who is employed to assist a pest control applicator.

3. Regulation 14 of the principal Regulations is amended in paragraph (3) by inserting in sub-paragraph (a) immediately after the words “paragraph (7)” the words “and regulation 15A”.

4.—(1) Regulation 15 of the principal Regulations is amended:—

(a) by deleting paragraph (5) and renumbering paragraphs (1) to (4) as paragraphs (2) to (5), respectively;

(b) by inserting the following as paragraph (1)—

“ (1) No person shall operate as a pest control applicator or serviceman unless he is the holder of a certificate issued by the Authority authorizing him so to act.”;

(c) by deleting from paragraph (3) as renumbered the words “The Authority” and substituting therefor the words “Subject to regulation 15A, the Authority”;

(d) by deleting from paragraph (5), the numeral “(2)” and substituting therefor the numeral “(3)”;

(e) in paragraph (3) as renumbered, by deleting the words “paragraph (2)(a)” and “paragraph (5)” and substituting therefor the words “paragraph (3)(a)” and “paragraph (6)”, respectively;

(f) by inserting the following as paragraph (6)—

“ (6) The Registrar may issue or renew a certificate for a shorter or longer term if he considers it in the public interest so to do.”.

5. The principal Regulations are amended by inserting next after regulation 15 the following as regulations 15A, 15B, 15C, 15D, 15E, 15F, 15G, 15H and 15I—

“Examination or assessment of applicants. 15A.—(1) Before issuing a licence under regulation 14 or a certificate under regulation 15, the Authority may, if it considers necessary—

(a) require an applicant for such licence or certificate to—

(i) sit a written examination in accordance with a programme developed by the Authority; or

(ii) undergo such other form of assessment as the Authority deems fit; and

(b) charge such fees as it deems appropriate, for the examination or assessment.

(2) Where the Authority takes action under paragraph (1), it shall publish a notice in a daily newspaper containing information on—

- (a) the date of each examination or assessment, as the case may require, and any other matters relating thereto; and
- (b) the amount of the fees and any other matters relating thereto.

(3) Each applicant for a certificate under regulation 15 shall demonstrate to the Authority his competence in the safe application of the type of pesticide to be used, in such manner as to prevent—

- (a) unreasonable adverse effect on the environment; and
- (b) injury to humans and animals.

(4) A certificate shall not be issued to any person who fails to demonstrate his competence to the satisfaction of the Authority.

(5) The Authority may, if it thinks fit, exempt any applicant from the requirements of paragraph (1), (2) or (3).

Re-examination 15B.—(1) An applicant may apply for a re-examination after two consecutive failures.

Authority may issue guidelines, etc. 15C. The Authority may, in addition to issuing guidelines on the hazards in the use of pesticides, issue to pest control applicators and servicemen, standards and guidelines on the safe use and handling of pesticides covered by the certificate.

Duty of pest control applicators to supervise servicemen 15D.—(1) A pest control applicator shall directly supervise a serviceman where the serviceman performs the same use as that specified in the certificate held by the pest control applicator.

(2) A pest control applicator shall be present at all times on the site on which the pesticide is applied.

(3) A certified pest control applicator shall be responsible for all actions by a serviceman under his supervision.

Production of certificates for inspection. 15E. Every pest control operator, pest control applicator and serviceman shall, at all times during the application of pesticides, have his certificate available for production at the request of an inspector.

Insurance and guarantees 15F.—(1) The Registrar may require a pest control operator to be insured or to provide a guarantee or bond of such amount as the

Authority shall specify for—

- (a) the reimbursement of persons who may suffer damage as a result of the operation of the pest control operator; and
- (b) any costs incurred in cleaning up or in mitigating any adverse effect on the environment.

(2) The guarantee shall be in the form of

- (a) cash or certified cheque made payable to the Accountant General;
- (b) a security or guarantee insurance policy with a stipulation that it is joint and several; or
- (c) an irrevocable letter of credit issued by a bank, credit union or other licensed financial institution.

(3) Guarantees shall be deposited with the Accountant General for the term of the certificate or until the expiry of twelve months following the date of the expiry of the certificate or revocation of the certificate, whichever first occurs.

Suspension or
Revocation of
certificate.

15G.—(1) Subject to paragraph (2), the Authority may—

- (a) suspend a certificate issued pursuant to regulation 15 if the holder thereof fails to follow the guidelines issued pursuant to regulation 15C;
- (b) revoke a licence issued pursuant to regulation 14 where the licensee—
 - (i) makes any false or misleading statements during or after an inspection by an inspector;
 - (ii) fails to conform to guidelines issued by the Authority with respect to a pesticide or categories of pesticides for which the certificate is granted.

(2) Before taking action under paragraph (1), the Authority shall give notice in writing of the proposed action to the holder of the certificate or the licensee, as the case may require—

- (a) giving the reasons therefor;
- (b) indicating a period within which the holder may make written or oral representations on the proposed action.

Revocation of
certificate after
suspension

15H.—(1) The Authority may, revoke any certificate suspended under regulation 15G(1)(a) and shall give notice of such revocation to the holder thereof.

(2) The revocation of a certificate shall take effect upon service of the notice referred to in paragraph (2).

(3) A person to whom a notice is given pursuant to paragraph (2) shall immediately surrender the certificate to the Authority.

Training sessions for renewal of a certificate

151. An applicant for a renewal of a certificate shall prove to the Authority that he has attended a minimum number of training sessions approved by the Authority for that purpose.”

6. The principal Regulations are amended by inserting next after regulation 16 the following as 16A--

“ Records of pesticides imported or used.

16A.--(1) Every pest control operator shall keep a record of each pesticide imported or used by that operator.

(2) Such a record shall be kept for a period of three years and shall include--

- (a) the name of the pesticide;
- (b) the types of formulation used; and
- (c) the location where the pesticide was used.”

7. The principal Regulations are amended by inserting next after regulation 17 the following as regulations 18, 19, 20, 21, 22, 23, 24, 25, 26, 27 and 28—

“ Complaints to the Authority.

18.—(1) Any person who is aggrieved by the performance of the holder of a certificate or a licensee may make a complaint to the Authority or the Consumer Affairs Commission.

(2) The complaint shall contain information as to—

- (a) the name and address of the holder of the licence or certificate;
- (b) the date, time and duration of incidence;
- (c) the exact location of the area affected;
- (d) the weather conditions (wind, temperature and humidity);
- (e) the symptoms of harm to people, plants and animals;
- (f) the type of pesticide used if known;
- (g) details of any notification provided prior to the application of the pesticide;
- (h) the name and address of any other witness.

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- (3) The Authority shall conduct investigations in relation to such a complaint and take such action as it considers appropriate in the circumstances, including—
- (a) the suspension or revocation of a licence or certificate; or
 - (b) the issue of a stop order pursuant to regulation 20.
- Contamination of human or animal consumption 19. (1) Any person transporting a pesticide that contaminates any commodity intended for human or animal consumption shall
- (a) immediately isolate such commodity;
 - (b) immediately inform the Registrar of such contamination; and
 - (c) carry out the instructions of the Registrar in relation to any remedial action.
- (2) Any person who contravenes paragraph (1) commits an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding thirty-five thousand dollars or to imprisonment for a term not exceeding five months or to both such fine and imprisonment.
- Stop Order. 20.—(1) The Authority shall act in accordance with paragraph (2) where it appears to the Authority that, in relation to a pesticide for which a licence has been issued, a pest control operator, pest control applicator or serviceman, as the case may be—
- (a) uses the pesticide in a manner inconsistent with the manufacturer's instructions; or
 - (b) is otherwise negligent in the use of such pesticide.
- (2) The Authority shall serve or cause to be served on the pest control operator, a stop order in the form set out in the Schedule preventing the sale, distribution or use of the pesticide.
- Schedule. (3) A stop order shall state—
- (a) the name and address of the person to whom it is directed;
 - (b) the basis on which the stop order is made;
 - (c) that the stop order takes effect from the time it is served; and
 - (d) the period for which the stop order is effective.
- (5) Where a stop order is served on any person referred to in paragraph (1), a copy thereof shall be posted in a conspicuous place

on the premises of that person for a period of not less than fourteen days.

Powers of the court

21. The court may if it appears that a public authority has incurred costs and expenses in connection with the prevention, control, abatement or mitigation of any pesticide pollution caused by the prevention, order the offender to pay to the public authority the costs and expenses so incurred, or compensation for the loss or damage suffered in such amount as the Court may specify.

Offences and penalties

22. (1) Any person who operates as a pest control applicator or serviceman outside the category for which a certificate is granted commits an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding forty thousand dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(2) Any person who operates as a pest control operator without a valid licence, or a pest control applicator or serviceman without a valid certificate commits an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding thirty thousand dollars or to imprisonment for a term not exceeding four months or to both such fine and imprisonment.

(3) Any person, who distributes or sells restricted pesticides to any person who is not licensed as a pest control operator, or certified as a pest control applicator or serviceman commits an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding thirty thousand dollars or to imprisonment for a term not exceeding four months or to both such fine and imprisonment.

(4) Any pest control applicator or private applicator who detaches, or attaches an incorrect mark, alters, defaces or destroys in whole or in part any label on any restricted pesticide commits an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding twenty thousand dollars or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

(5) Any person who wilfully obstructs any inspector in the course of his duty commits an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(6) Any licensee or person who holds a certificate who falsifies any information relating to the application of any pesticide commits

an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding forty thousand dollars or to imprisonment for a term not exceeding five months or to both such fine and imprisonment.

(7) Any person who fails to keep records as required under regulation 16A commits an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding thirty thousand dollars or to imprisonment for a term not exceeding four months or to both such fine and imprisonment.

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| Offences relating to the misuse of pesticides. | 23. Any person who negligently uses any pesticide in any manner that endangers the life of any person, flora or fauna or causes harm to the environment commits an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment. |
| Inconsistent use of label. | 24. Any person who uses a pesticide in a manner inconsistent with the label commits an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding thirty thousand dollars or to imprisonment for a term not exceeding four months or to both such fine and imprisonment. |
| Drawing of water in a pesticide container. | 25. Any person who draws water directly from surface water, a well, public or private water system into a pesticide container or an apparatus used for the mixing or application of a pesticide commits an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding thirty thousand dollars or to imprisonment for a term not exceeding four months or to both such fine and imprisonment. |
| Transportation of pesticide. | 26. Any person who transports or causes or permits a pesticide to be transported in a commercial or private vehicle together with commodities intended for human or animal consumption that are not separated in a manner that prevents contamination of those commodities by the pesticides, commits an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding thirty thousand dollars or to imprisonment for a term not exceeding four months or to both such fine and imprisonment. |
| Failure to comply with a Stop Order | 27. Any person who fails to comply with a stop order issued under regulation 20 commits an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding fifty thousand dollars or in default of payment to imprisonment for a term not exceeding six months. |

Amendment of 28.—(1) “The Authority may amend the categories of certificates specified in the Second Schedule by a notice published in the *Gazette*.”

9. The First Schedule to the principal Regulations is amended by inserting next after Form 13 the following Forms---

FORM 14

*APPLICATION FOR A CERTIFICATE TO OPERATE
AS A PRIVATE APPLICATOR*

Application No. _____

1. Name of Applicant _____

2. Address of Applicant _____

3. Date of Birth _____

4. Telephone: Business _____

Home _____

5. Name and address of employer _____

6. Address where pesticides are stored _____

7. Address where pesticides are to be applied _____

8. Method of disposal of containers of pesticide _____

Signature of Applicant

Date

For Official Use only

1. Date of application _____

2. Number of Certificate _____

Signature of Registrar

Date

FORM 15

CERTIFICATE FOR PRIVATE APPLICATOR

This is to certify that _____
 is hereby authorized to use restricted pesticides and supervise the use of such pesticides
 at _____

Chairman, Pesticides Control Authority

Date

FORM 16

THE PESTICIDES REGULATIONS, 1996
STOP ORDER

issued under regulation 20

TO: (name of person)(registered office)

WHEREAS it appears to the Authority that you are—
 (delete as not appropriate)

- (a) negligent in your use of a restricted pesticide;
- (b) using a restricted pesticide in a manner inconsistent with the manufacturer's instructions,

namely:

(Description of activity)

in breach of the Pesticides Act.

THE PESTICIDES CONTROL AUTHORITY hereby orders that, upon the effective date of this Stop Order, you immediately cease the activity specified herein. Failure to cease the activity shall render you liable to prosecution without further notice to you.

This Stop Order shall be valid for a period of fourteen days from the date of issue.

Dated this _____ day of _____, 20____

SEAL

10. The Second Schedule to the principal Regulation is amended by inserting next after the item relating to "Certificate for Serviceman assisting" the following—

*Categories of Certificates for Pest Control
Applicators and Servicemen*

Certificate A	Stored Food Pest Control
Certificate B	Structural Fumigation and Wood Destroying Organism
Certificate C	Ornamental and Turf Pest Control
Certificate D	General Household
Certificate E	Animal Pest Control
Certificate F	Aquatic Pest Control
Certificate G	Public Health Pest Control
Certificate H	Farm and Servicemen
Certificate I	Aerial Spraying."

Dated this 27th day of July, 2004.

PETER FIGUEROA
Chairman,
Pesticides Control Authority.

APPROVED:

JOHN JUNOR
Minister of Health.

No. 211/6th