

Non-essential Pesticides Control Act

CHAPTER 6

OF THE

ACTS OF 2010

NOTE - This electronic version of this statute is provided by the Office of the Legislative Counsel for your convenience and personal use only and may not be copied for the purpose of resale in this or any other form. Formatting of this electronic version may differ from the official, printed version. Where accuracy is critical, please consult official sources.

An Act to Prohibit the Sale and Use of Non-essential Pesticides

Short title

1 This Act may be cited as the Non-essential Pesticides Control Act. 2010, c. 6, s. 1.

Interpretation

2 In this Act,

(a) "inspector" means any person who is appointed as an inspector by the Minister, and includes any municipal or town police officer and any member of the Royal Canadian Mounted Police;

(b) "Minister" means the Minister of Environment;

(c) "pesticide" means a pesticide as defined in the Environment Act. 2010, c. 6, s. 2.

Act binds Provincial and federal Crown

3 (1) This Act binds Her Majesty in right of the Province, Her Majesty's corporations, agents, administrators, servants and employees and Government agencies.

(2) This Act binds Her Majesty in right of Canada and Her Majesty's corporations, boards, commissions, agents, administrators, servants and employees.

(3) For greater certainty, the persons referred to in subsections (1) and (2) are subject to prosecution and other remedies under this Act.

(4) This Act does not apply to a person who uses, sells or supplies a pesticide for

(a) forestry activities;

(b) agricultural activities; or

(c) a golf course. 2010, c. 6, s. 3.

Prohibition on use

4 (1) In this Section, "lawn" means a plot of grass that is maintained at a regular and approximately uniform height through periodic and regular mowing, other than as the result of agricultural activities, and includes any associated walkway.

(2) Except as prescribed by the regulations, no person shall use or cause or permit the use of a pesticide in, on or over a lawn.

(3) After April 1, 2012, except as prescribed by the regulations, no person shall use or cause or permit the use of a pesticide in, on or over an outdoor tree, shrub, flower or other ornamental plant.

(4) Subsections (2) and (3) do not apply if the pesticide used is on the list of allowable pesticides established by the Minister under Section 6. 2010, c. 6, s. 4.

Prohibition on sale

5 (1) Except as prescribed by the regulations, no person shall sell, supply, or offer for sale a pesticide labelled for use on lawns or labelled for use on turf.

(2) After April 1, 2012, except as prescribed by the regulations, no person shall sell, supply, or offer for sale a pesticide labelled for use on an outdoor tree, shrub, flower or other ornamental plant.

(3) Subsections (1) and (2) do not apply if the pesticide used is on the list of allowable pesticides established by the Minister under Section 6. 2010, c. 6, s. 5.

List of allowable pesticides

6 (1) The Minister may establish a list of allowable pesticides.

(2) The exercise by the Minister of the authority contained in subsection (1) is regulations within the meaning of the Regulations Act.

(3) The Minister shall provide public notification at least three months before removing a pesticide from the list of allowable pesticides and shall, at the same time, provide information concerning the reason for the removal. 2010, c. 6, s. 6.

Inspector deemed peace officer

7 An inspector, in carrying out duties pursuant to this Act, has and may exercise in any part of the Province all the powers, authorities and immunities of a peace officer as defined in the Criminal Code (Canada). 2010, c. 6, s. 7.

Right of entry and inspection

8 For the purpose of ensuring compliance with the Act and the regulations, an inspector, subject to Section 9, may, at any reasonable time,

(a) enter and inspect any land or premises;

(b) make such examinations and inquiries and conduct such tests as the inspector considers necessary or advisable;

(c) require the production of documents and remove them temporarily for the purposes of copying;

(d) inspect, take samples and conduct tests of samples, including tests in which a sample is destroyed;

(e) make any reasonable inquiry of a person, either orally or in writing;

(f) exercise such other powers as are prescribed by regulation; and

(g) exercise such powers as are incidental to the powers set out above. 2010, c. 6, s. 8.

Private dwelling place

9 Notwithstanding anything contained in this Act, an inspector may not enter a private dwelling place or any part of a place that is designed to be used and is being used as a permanent or temporary private dwelling place except

(a) with the consent of the occupant of the place; or

(b) pursuant to an order under Section 10 to enter and inspect, or under the authority of a search warrant. 2010, c. 6, s. 9.

Order to enter and inspect

10 (1) Notwithstanding anything contained in this Act, where a justice is satisfied on evidence under oath by an inspector that

(a) there are reasonable grounds to believe that it is appropriate for the administration of this Act for the inspector to do anything set out in Section 8; and

(b) the inspector may not be able to carry out duties under this Act effectively without an order under this Section because

(i) no person is present to grant access to land or premises that is locked or is otherwise inaccessible,

(ii) a person has denied the inspector access to land or premises or there are reasonable grounds for believing that a person may deny the inspector access to land or premises,

(iii) a person has prevented the inspector from doing anything set out in Section 8 or denied the inspector access to any thing as a result of which the inspector is unable to do anything set out in Section 8,

(iv) there are reasonable grounds to believe that a person may prevent an inspector from doing anything set out in Section 8, or may deny the inspector access to any thing as a result of which the inspector may be unable to do anything set out in Section 8,

(v) it is impractical, because of the remoteness of the land or premises to be inspected or because of any other reason, for the inspector to obtain an order under this Section without delay if access is denied, or

(vi) there are reasonable grounds to believe that an attempt by the inspector to do anything set out in Section 8 without the order might defeat the purpose of that Section or cause an adverse effect,

the justice may issue an order authorizing the inspector to do anything set out in Section 8 that is specified in the order for the period of time set out in the order.

(2) The period of time referred to in subsection (1) may not extend beyond thirty days after the date on which the order is made, but the order may be renewed for any reason set out in subsection (1) for one or more periods each of which is not more than thirty days.

(3) An application pursuant to subsection (2) may be made before or after the expiry of the period.

(4) An order under this Section may be issued or renewed on application without notice. 2010, c. 6, s. 10.

Use of assistants

11 An inspector, in carrying out any duties or exercising any powers under this Act, may be accompanied by one or more persons considered by the inspector to be necessary to enable the inspector to carry out those duties and exercise those powers. 2010, c. 6, s. 11.

Limitation period

12 A prosecution for an offence under this Act may not be commenced more than two years after

(a) the date on which the offence was committed; or

(b) the date on which evidence of the offence first came to the attention of an inspector or the Minister, whichever is later. 2010, c. 6, s. 12.

Offences

13 A person who

(a) contravenes this Act or the regulations;

(b) knowingly provides false or misleading information pursuant to a requirement under this Act to provide information; or

(c) hinders or obstructs an inspector who is exercising powers or carrying out duties, or attempting to do so, pursuant to this Act,

is guilty of an offence. 2010, c. 6, s. 13.

Penalty

14 (1) Subject to subsection (2), a person who contravenes Section 4 or 5 is liable on summary conviction to a fine of not more than twenty-five hundred dollars.

(2) A person, partnership, limited partnership or corporation, authorized or entitled to carry on a trade, occupation, profession, service or venture with a view to a profit, that contravenes Section 4 or 5 is liable on summary conviction to a fine of not more than fifteen thousand dollars.

(3) Where a corporation contravenes this Act or the regulations, a director or officer of the corporation who authorized, permitted or acquiesced in the contravention is also guilty of an offence and liable on summary conviction to the penalties set out in subsection (1), whether or not the corporation has been prosecuted or convicted.

(4) Where an offence under this Act is committed or continued on more than one day, the person who committed the offence is liable to be convicted for a separate offence for each day on which the offence is committed. 2010, c. 6, s. 14.

Court orders relating to penalty

15 (1) Where a person is convicted of an offence under this Act, in addition to any other penalty that may be imposed pursuant to this Act, the court may, having regard to the nature of the offence and the circumstances surrounding its commission, make an order

(a) prohibiting the offender from doing anything that may result in the continuation or repetition of the offence;

(b) directing the offender to take any action the court considers appropriate to remedy or prevent any adverse effect that results or may result from the act or omission that constituted the offence;

(c) directing the offender to publish, in the prescribed manner and at the cost of the offender, the facts relating to the conviction;

(d) directing the offender to notify any person aggrieved or affected by the conduct of the offender, of the facts relating to the conviction, in the prescribed manner and at the cost of the offender;

(e) directing the offender to post a bond or pay money into court in an amount that will ensure compliance with any order made pursuant to this Section;

(f) on application to the court by the Minister within three years after the date of conviction, directing the offender to submit to the Minister any information with respect to the conduct of the offender that the court considers appropriate in the circumstances;

(g) directing the offender to perform community service;

(h) directing the offender to pay to the Minister the costs incurred by the Minister in carrying out the investigation of the offence;

(i) requiring the offender to comply with any other conditions the court considers appropriate in the circumstances for securing the good conduct of the offender and for preventing the offender from repeating the offence or committing other offences.

(2) Where a person contravenes an order made pursuant to clause (1)(c), the Minister may publish the facts in compliance with the order.

(3) Where the Minister incurs publication costs pursuant to subsection (2), the costs constitute a debt due to the Government.

(4) An order made pursuant to subsection (1) comes into force on the day on which it is made or on any other day specified in the order and continues in force for the period specified in the order. 2010, c. 6, s. 15.

Regulations

16 (1) The Governor in Council may make regulations

(a) prescribing any matter that this Act authorizes to be prescribed by the regulations;

(b) prescribing penalties in respect of offences created under this Act;

(c) respecting any matter or thing the Governor in Council considers necessary or advisable for the administration of a system of administrative penalties;

(d) respecting the powers and duties of inspectors, including prescribing additional powers and duties;

(e) respecting records regarding the sale of pesticides;

(f) defining any word or expression used but not defined in this Act;

(g) respecting any matter or thing the Governor in Council considers necessary or advisable to effectively carry out the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is regulations within the meaning of the Regulations Act. 2010, c. 6, s. 16.

Effective date

17 This Act comes into force on such day as the Governor in Council orders and declares by proclamation. 2010, c. 6, s. 17.

Proclaimed - November 30, 2010

In force - April 1, 2011