

ACTS SUPPLEMENT

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Act 1 *Agricultural Chemicals (Control) Act* **2007**

THE AGRICULTURAL CHEMICALS (CONTROL) ACT, 2006.

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THE AGRICULTURAL CHEMICALS (CONTROL) ACT, 2006.

An Act to control and regulate the manufacture, storage, distribution and trade in, use, importation and exportation of agricultural chemicals and for other related matters.

DATE OF ASSENT: 24th May, 2006.

Date of commencement: 5th April, 2007.

BE IT ENACTED by Parliament as follows:

1. Short title.

This Act may be cited as the Agricultural Chemicals (Control) Act, 2006.

2. Interpretation.

In this Act, unless the context otherwise requires—

“agriculture” means the raising of plants or animals for economic use;

“agricultural chemicals” includes plant protection chemicals, fungicides, insecticides, nematicides, herbicides, miticides, bactericides, rodenticides, molluscides, avicides, fertiliser, growth regulators, wood preservatives, bio-rationals, bio-pesticides, bio-fertilisers or any other chemicals used for promoting and protecting the health of plants, plants products and by products;

“analyst” means a person appointed under section 9;

“bio-rationals” means any potent plants, parts of plants or chemical extracts of plant origin;

“Board” means the Agricultural Chemical Board established under section 5;

“committee” means the Agricultural Chemicals Technical Committee established under section 8;

“currency point” has the value assigned to it in the Schedule;

“fumigant” means any agricultural chemical exhibiting toxicity in the vapour phase;

“health approval” means a statement in writing by the Director General of Health Services or an officer appointed by him or her for the purpose, verifying that the application, use or distribution of specified agricultural chemicals is safe and that no life is in danger as a result of the application or use of the chemical;

“importer” means a person who has been registered under this Act to import agricultural chemicals or their ingredients;

“inspector” means a person appointed under section 8;

“label” means any written, printed or graphic matter on or attached to any agricultural chemical or the immediate container of the agricultural chemical and the outside container or wrapper of the retail package of the agricultural chemical;

“manufacturer” means a person who has been registered under this Act to manufacture agricultural chemicals or the ingredients of agricultural chemicals;

“Minister” means the Minister responsible for agriculture;

“Ministry” means the Ministry responsible for agriculture;

“pest” means any form of plant or animal life or any pathogenic agent, other than a beneficial organism, capable of directly or indirectly injuring any plant material or beneficial organism, and includes weeds;

“pesticide” means a chemical which, by virtue of its poisonous properties is used to kill pests in agriculture and forestry;

“pesticide applicator” means a person who has the qualification in pesticide application and is registered as such;

“pollution” has the meaning assigned to it under the National Environment Act;

“premises” means premises as described in the regulations made under this Act;

“protective clothing” means all clothing that is required to protect the user or dealer of agricultural chemicals or pesticides as specified in regulations made under this Act;

“registered dealer” means a person who is qualified and registered to handle agricultural chemicals under this Act;

“registered fumigator” means a person who has the prescribed qualification in handling fumigants and is registered as a fumigator or operator; and

“safety” refers to the safety of human beings, livestock, game, birds, fish and other organisms and ground, water, air and general environment.

3. Control of manufacture of agricultural chemicals.

(1) No person shall manufacture, package, store, display, distribute, transport, possess, use or advertise any agricultural chemical except in accordance with regulations made under this Act and in accordance with the National Environment Act, Cap 153.

(2) No person shall package, label or advertise any agricultural chemical in a manner that is false, misleading or deceptive or is likely to create an erroneous impression regarding its character, value, quality, composition, merit or safety.

4. Import, export and sale of agricultural chemicals.

(1) No person shall import into or sell in Uganda any agricultural chemical unless that chemical has been registered, packed and labelled in accordance with regulations made under this Act and conforms to the standards specified in such regulations.

(2) No person shall export or re-export out of Uganda any agricultural chemical unless he or she has complied with the requirements specified in regulations made under this Act.

(3) No person shall sell in Uganda any agricultural chemical unless he or she is registered and has premises registered in accordance with the regulations made under this Act.

5. Establishment and composition of the Board.

(1) There is established a Board to be known as the Agricultural Chemicals Board, in this Act referred to as the Board appointed by the Minister.

(2) (a) The Board shall consist of the following members—

- (i) a Chairperson appointed by the Minister;
- (ii) a representative of the National Agricultural Research Organisation;
- (iii) a representative of the faculty of Agriculture of recognised universities in Uganda;
- (iv) a representative of the faculty of Science of recognised universities in Uganda;
- (v) a representative of agricultural chemical merchants;

- (vi) a representative of farmers;
- (vii) a representative of the private agricultural chemicals manufacturers in Uganda;
- (viii) a representative from the agriculture extension service providers;
- (ix) a representative of the faculty of veterinary medicine of recognised universities in Uganda;
- (x) a representative from the Uganda National Forestry Authority; and

(b) The following *ex-officio* members—

- (i) the Commissioner responsible for crop protection;
- (ii) a registrar from the Ministry of Agriculture, Animal Industry and Fisheries who shall be the Secretary to the Board;
- (iii) the Chairperson of the Agricultural Technical Committee;
- (iv) the Commissioner for Trade
- (v) a representative for the Solicitor General;
- (vi) a Commissioner from the Government Analytical Laboratory;
- (vii) the Commissioner from Livestock and Entomology;
- (viii) the Commissioner for Crop Production;
- (ix) a representative from the National Environment Management Authority;
- (x) a representative from the Ministry of Health;

(4) In appointment of the members of the Board, gender consideration shall be taken into account.

(5) The members of the Board, other than *ex-officio* members shall hold office for a period of three years but are eligible for reappointment.

(6) A person shall not qualify to be appointed as a Chairperson of the Board if that person holds a public office.

6. Function of the Board.

(1) The functions of the Board shall be—

- (a) to ensure that agricultural chemicals are duly registered and that such agricultural chemicals are used in a manner consistent with the labelling and in conformity with the regulations made under this Act;
- (b) to advise the Minister on policy to regulate the quality and importation of agricultural chemicals into Uganda and the distribution of agricultural chemicals;
- (c) to consider applications for registration of agricultural chemicals manufacturers, of agricultural chemicals certified commercial applicators and fumigators, to issue licences, and make recommendations to the Minister; for the purposes of this paragraph;
- (d) to suspend, cancel or revoke a certificate of registration or licence issued under this Act or under any regulations made under this Act where any provision of this Act or any regulation made under it has been contravened;
- (e) to advise the Minister on policies on the efficient, prudent and safe use, storage and disposal of agricultural chemicals by conducting public awareness campaigns to this effect when necessary;
- (f) to advise the Minister on all matters relating to enforcement of this Act or any regulations made under this Act;

- (g) to collaborate with other bodies and institutions in the implementation of this Act; and
- (h) to advise the Minister on the accreditation of relevant bodies to carry out some functions under this Act.

(2) The Board may delegate any of its functions under this Act to any other body or person subject to such conditions as the Board may prescribe.

(3) The Minister may on the advice of the Board by statutory instrument appoint Registrars to carry out the registration and issuing licences under this Act or under any regulations made under this Act.

7. Procedures of the Board.

(1) The Board shall meet at least four times in each year and may meet at such times and places as it deems necessary for the transaction of its business.

(2) The Chairperson shall preside at all meetings of the Board and in his or her absence, the Board shall elect one of its members to act as Chairperson.

(3) The person shall when presiding at a meeting of the Board, have a casting vote in addition to his or her deliberative vote.

(4) The quorum at any meeting of the Board shall be one-third of the voting members.

(5) The Secretary shall cause details of all business transacted at meetings of the Board to be entered into a minute book kept for that purpose and the minutes of the proceedings of the meetings shall be submitted for confirmation at a subsequent meeting of the Board and if passed correct shall be confirmed by the signatures of the Chairperson and Secretary and when so confirmed shall be *prima facie* evidence in all courts of law as an accurate record of the proceedings so recorded.

(6) A member of the Board, other than an *ex-officio* member, shall cease to be a member of the Board and the office of that member shall be declared vacant by the Minister—

- (a) if he or she resigns by writing under his or her hand addressed to the Chairperson;
 - (b) if he or she is certified to be insane or otherwise adjudged to be of unsound mind under any written law;
 - (c) if in the opinion of the Board, he or she becomes physically or otherwise incapable of discharging his or her duties as a member, and remains so for a period of ninety consecutive days;
 - (d) if he or she is absent, without reasonable cause from three consecutive meetings of the Board;
 - (e) if he or she is adjudged or otherwise declared bankrupt under any written law;
 - (f) if he or she is sentenced to imprisonment for a term of six months or more for an offence involving moral turpitude; and
 - (g) if his or her term expires.
- (7) The Board shall regulate its own procedure.

8. Establishment of the Agricultural Chemicals Technical Committee.

(1) There shall be an Agricultural Chemicals Technical Committee in this Act referred to as the Committee to be appointed by the Board for purposes of advising the Board on the technicalities of agricultural chemicals for purposes of this Act and any regulations made under this Act.

(2) The Committee shall consist of the following members—

- (a) a chemist;
- (b) an agronomist;
- (c) a plant entomologist;
- (d) a plant pathologist;
- (e) a person responsible for extension services in the Ministry or his or her representative;
- (f) an ecologist;
- (g) an environment monitoring officer from National Environment Management Authority;
- (h) an officer from Uganda Revenue Authority;
- (i) standards officer from Uganda National Bureau of Standards;
- (j) commissioner for occupational safety and health in the Ministry responsible for labour or his or her representative;
- (k) a wood utilisation specialist;
- (l) the registrar of Agricultural Chemical Board who shall be the Secretary to the Committee;
- (m) the Registrar of the National Drugs Authority or his or her representative;
- (n) a soil scientist; and
- (o) weed scientist.

(3) The Chairperson of the Committee shall be appointed by the Board from among the fourteen persons mentioned in subsection (2).

(4) An appointed member of the Committee—

- (a) shall hold office for the five years but shall be eligible for reappointment;
 - (b) may resign by writing under his or her hand addressed to the Board or may be removed from office by the Board for inability to perform the functions of his or her office.
- (5) The Committee—
- (a) shall regulate its own procedure;
 - (b) shall be responsible for all technical analysis and verification of agricultural chemicals;
 - (c) may co-opt to serve on it for such period as it may think fit such persons whose specific expertise is required regarding any of the proceedings of the committee; and
 - (d) shall advise the Board on all technicalities of agricultural chemicals for purposes of this Act and any regulations made under this Act.

9. Appointment of inspectors and analyst of agricultural chemicals.

(1) The Minister shall on the advice of the Board by notice in the *Gazette* designate suitably qualified public officers to act as registrars, assistant registrars, inspectors and analysts of agricultural chemicals for purposes of this Act and any regulations made under this Act.

(2) A person appointed under subsection (1) shall not, while holding that appointment, engage in any activity or business connected with or involving the manufacture, sale, importation or distribution of agricultural chemicals.

10. Duties of Analyst.

Analyst shall be responsible for—

- (a) examining samples submitted to him or her by an Inspector; and

(b) stating the results of the analysis in a certificate.

11. Analytical laboratory.

The Ministry shall establish or accredit a suitable analytical laboratory for the purposes of this Act.

12. Powers of Inspectors.

(1) An Inspector may for the purpose of performing any of his or her function under this Act at all reasonable times—

(a) enter any place, premises, vehicle or vessel, for the purpose of performing any of his or her functions under this Act or regulations made under this Act—

(i) in which he or she reasonably believes an agricultural chemical to which this Act applies is stored, sold or used;

(ii) in which he or she believes there is material, a person, an animal, or crop contaminated by an agricultural chemical;

(iii) which is or are used or capable of being used in the manufacture of an agricultural chemical; or

(iv) which he or she reasonably suspects is being or is about to be used in the commission of an offence under this Act or any regulations made under this Act;

(b) examine any article, agricultural chemical found in any place, premises, vehicle or vessel or open any package found in the premises that he or she has reason to believe contains any agricultural chemical and take samples of it;

(c) require any person to produce for inspection or for obtaining copies of it or excerpts of it, any books, bills of lading, documents containing instructions; or other documents or papers concerning any matter relevant to the administration of this Act or any regulations made under this Act.

(2) An Inspector shall be furnished with an identity card on his or her appointment as an Inspector and on entering any place, premises, vehicle or vessel referred to in subsection (1) shall, if so required produce the certificate to the person in charge of the place, premises, vehicle or vessel.

(3) The owner or the person in charge of any place, premises referred to in subsection (1) and everyone found in the premise or the place shall give the inspector all reasonable assistance to enable the Inspector to carry out his or her duties and functions under this Act or under any regulations made under this Act, and shall furnish the Inspector with such information with respect to the administration of this Act or any regulations made under this Act.

(4) Any person who refuses entry to an Inspector acting under this section or obstructs him or her in making entry or making an inspection or who without reasonable excuse fails to produce an agricultural chemical or material for examination, or any document the production of which is required of him or her under this section commits an offence.

(5) No person shall be entitled to charge or claim compensation for any reasonable amount of an agricultural chemical taken as a sample under this section.

13. Seizure and disposal of agricultural chemicals.

(1) Where an Inspector believes on reasonable grounds that this Act or any regulations made under this Act has or have been contravened, he or she may seize and detain the agricultural chemicals by means of or in relation to which he or she believes the contravention was committed.

(2) Any agricultural chemical seized and detained under subsection (1) shall not be detained after—

- (a) such time not exceeding fourteen days as in the opinion of the Inspector the provisions of this Act and the regulations made under it have been complied with; or
- (b) the expiration of six months from the date of seizure, or such longer period as may be prescribed with respect to any agricultural chemical.

(3) A court of law convicting any person for an offence under this Act or any regulations made under it may make such order as the court shall deem proper as to—

- (a) the forfeiture or disposal of an agricultural chemical including re-export;
- (b) the payment by the accused of all or any fees and other expenses incidental to the examination of an agricultural chemical, in respect of which conviction is obtained.

(4) Where no offence is found to have been committed the Court may order that a reasonable payment be offered to the owner in respect of the agricultural chemical that is not returned to him or her in good condition.

(5) Where an Inspector has seized an agricultural chemical the owner or the person in whose possession the agricultural chemical was at the time of seizure consents in writing to the disposal of it, the agricultural chemical shall after be forfeited to Government and shall be disposed of in such a manner as the Minister may direct and at the expense of the person consenting to the disposal.

(6) Where a sample of an agricultural chemical is needed for analysis in case of adulteration or expiry, the sample shall be taken in accordance with regulation made under this Act.

(7) Any person who hinders or obstructs an Inspector in exercise of his or her powers under this section commits an offence.

14. Secrecy of information.

Any person who is or has been engaged in the enforcement of this Act or any regulations made under it who discloses, except for the purpose of the exercise of his or her functions or when required to do so by a court under any written law any information acquired by him or her in the exercise or purported exercise of his or her functions under this Act to any other person commits an offence.

15. Offences and Penalties.

(1) Any person who contravenes the sections 2 and 3 of this Act commits an offence and is liable on conviction to a fine not exceeding one hundred twenty currency points or to imprisonment for a term not exceeding five years or both.

(2) A person convicted of any offence under this Act, other than the offences referred to in subsection (1), is liable to a fine not exceeding sixty currency points or to imprisonment not exceeding two and half years or both.

(3) Any person who tampers with certificates or alters or deface reports, invoices, labels, certificates or any other document issued in relation to this Act commits an offence and is liable on conviction to a fine not exceeding one hundred and twenty currency points or imprisonment not exceeding five years or to both.

(4) In any prosecution for an offence under this Act or any regulations made under this Act, it shall be a defence of the accused person to prove that the offence, was committed without his or her knowledge or consent and that he or she exercised all due diligence to prevent its commission.

(5) Any act or omission which if done by an individual under this Act or any regulations made under it shall, if done by a company be deemed to be an offence committed by every Director, Secretary and Manager unless he or she can prove that the offence was committed without his or her consent or connivance and that he or she exercised all due diligence to prevent its commission.

(6) In addition to the penalties in this section the court may suspend, cancel, or revoke a certificate of registration or licence issued under the provisions of this Act or any regulations made under this Act.

(7) For the purpose of this section a company means a corporation established or registered under the Companies Act or established by an Act of Parliament.

16. Consent of the Director of Public Prosecutions.

No proceedings shall be instituted for the prosecution of an offence under this Act or any regulations made under this Act without the consent of the Director of Public Prosecutions.

17. Certificate of Analyst.

(1) Subject to this section, a certificate of an analyst stating that he or she examined a sample submitted to him or her by an Inspector and stating the result of his or her examination, shall be admissible in evidence in proceedings under this Act or any regulations made under this Act and shall be *prima facie* evidence of the facts contained in it.

(2) The party against whom a certificate of an analyst is produced under subsection (1) may, with leave of the court, require the attendance of the analyst for the purposes of cross-examinations.

(3) No certificate shall be received in evidence under subsection (1) of this section, unless, the party intending to produce it has, before the conclusion of the trial, given to the party against whom it is intended to be produced reasonable notice of that intention together with a copy of the certificate.

18. Regulations.

(1) The Minister may in consultation with the Board make regulations prescribing—

- (a) for the purposes of this Act, the nomenclature, classes and kinds of pests and agricultural chemicals;

- (b) forms in which applications for registration shall be made and the information to be furnished in the forms;
- (c) the format for the licences, permits, notices of appointment or other documents in relation to such licences or permits under this Act or any regulations made under this Act;
- (d) the registration of agricultural chemicals, certified commercial applications, fumigators, distributors, dealers, stockists and places or premises in which agricultural chemicals are handled by manufacturers or dealers, prescribing fees and respecting the procedures to be followed for the review of cases involving the refusal, suspension or cancellation of the registration of any such agricultural chemical, fumigator, place or premises;
- (e) the form, composition and all other standards relating to the safe manufacture, storage, distribution, advertisement and use of agricultural chemicals including toxic residue effects;
- (f) the manufacture or treatment of any agricultural chemical to facilitate its recognition by change in coloration or other means;
- (g) the standards of efficacy and safety of any agricultural chemical;
- (h) the packing, labelling, distribution and advertising of agricultural chemicals;
- (i) the taking of samples and making of examinations of the sample for purposes and provisions of this Act;
- (j) the information to be supplied and the format for such information in respect of any agricultural chemical that is to be imported into Uganda;

- (k) the types and standards of protective clothing which shall be worn and any other precautionary measures which shall be taken during the manufacture, sale, use, application or handling of agricultural chemicals;
- (l) the disposal and safe destruction of obsolete agricultural chemicals or unregistered, or unauthorised agricultural chemicals;
- (m) the types, formulation, quality, registration, storage and use of fertilisers;
- (n) circumstances and conditions under which agricultural chemicals that have met the requirements of the National Drugs Policy and Authority Act, Cap 206 may be deemed to be registered as prescribed under this Act; and
- (o) anything that needs to be prescribed for the better carrying out the purposes and provisions of this Act.

(2) Regulation made under this Act may prescribe in respect of the contravention of the regulations—

- (a) penalty of a fine not exceeding forty eight currency points or imprisonment not exceeding two years or both;
- (b) higher penalties for repeated offences;
- (c) require the court convicting an offender to forfeit to the state or the distribution of anything involved in the commission of the offences.

(3) The regulation may also prescribe the fees or charges to be paid for any service performed under this Act.

19. Disapplication of certain law.

The National Drug Policy and Authority Act, shall not apply to agricultural chemicals.

20. Repeal of Control of Agricultural Chemicals Act.

(1) The Control of Agricultural Chemical Act, is repealed.

(2) Any statutory instrument made under the repealed Act and in force at the commencement of this Act to the extent that it is not consistent with the provision of this Act shall continue in force until revoked or amended under this Act.

(3) Any licence or other authorisation granted under the repealed Act and anything done under that Act may continue to take effect as if done under this Act.

(4) Notwithstanding subsection (1), any proceedings under the Control of Agricultural Chemical Act, which had been commenced before the commencement of this Act may be continued and concluded in accordance with that Act as though it still had the force of law in Uganda.

21. Amendment of Schedule.

The Minister may by a statutory instrument, and with approval of Cabinet amend the Schedule to this Act.

SCHEDULE.

CURRENCY POINT.

A Currency point is equivalent to twenty thousand Uganda shillings.