

**A  
BILL**

to regulate the manufacture, formulation,  
repacking, sale, distribution and use of pesticides

WHEREAS it is expedient to regulate the manufacturing, formulation, repacking, sale, distribution, disposal, advertisement and use of pesticides and for matters ancillary thereto;

AND WHEREAS it is necessary to protect the human health, animal health and the environment from adverse effects resulting from the use of pesticides;

It is hereby enacted as follows:

**1. Short title, extent and commencement.**---(1) This Act may be called the Khyber Pakhtunkhwa Agricultural Pesticides Act, 2013.

(2) It extends to the whole of the Province of the Khyber Pakhtunkhwa.

(3) It shall come into force at once.

**2. Definitions.**---In this Act, unless the context otherwise requires-

- (a) “adulterated” in relation to a pesticide means a pesticide with which-
  - (i) spurious, deleterious or harmful substances have been mixed or which is wholly or mainly ineffective for the purpose for which it is intended; or
  - (ii) its physical and chemical properties thus altered, debased or corrupted to render it mainly ineffective;
- (b) “active ingredient” means the biologically active part of the pesticide present in a formulation;
- (c) “advertise” means to promote the sale and use of pesticides by printed and electronic media, signs, displays, gifts, demonstration, or word of mouth;
- (d) “banned” means a pesticide for which all uses have been prohibited under this Act, in order to protect the health of human beings or the environment and includes a pesticide-
  - (i) that has been refused approval for first-time use or has been withdrawn by manufacturer or producer from the domestic market or is placed under consideration under the provisions of this Act and where, there is clear evidence that such action has been taken in order to protect human health or the environment; or
  - (ii) which is declared banned by the Federal Government; or

- (iii) which is banned in the Organisation for Economic Cooperation and Development, the People's Republic of China, Australia or under Food and Agriculture Organization and World Health Organisation guidelines;
- (e) "brand" means the trade name applied for registration purposes by a manufacturer, formulator, distributor, vendor of a pesticide for identification or tracking purposes and is shown on the label only;
- (f) "Committee" means the Agriculture Pesticide Technical Advisory Committee constituted under section 17 of this Act;
- (g) "Court" means a Court as defined in section 38 of this Act;
- (h) "Department" means Agriculture, Livestock and Cooperation Department of Khyber Pakhtunkhwa;
- (i) "Director-General" means the Director-General of Agriculture (Extension);
- (j) "Environment" means all natural surroundings and includes air, water, soil, their interrelationship as well as their relationship with human beings and any other living animal or organisms; and also includes "Environment" within the meaning of the Khyber Pakhtunkhwa Environmental Protection Act, 1997 (Act No. XXXIV of 1997);
- (k) "Expired pesticide" means a pesticide for which the date of expiry as printed on the label has lapsed;
- (l) "equivalence" means the determination of the similarity of the impurity and toxicological profile, as well as the physical and chemical properties, presented by supposedly similar technical material originating from different manufacturers;
- (m) "fake" means any substance claimed to be pesticides carrying less than 30% of the active ingredient as required or is labelled to mislead as to its contents or which is an imitation of or sold under the name of another pesticide;
- (n) "FAO" means Food and Agriculture Organisation of the United Nations;
- (o) "formulation" means the combination of various ingredients designed to render the product usable and effective for the purpose claimed in the form of the pesticide as purchased by users;

- (p) “Good agricultural practice” means and includes recommended or authorized uses of pesticides for effective and reliable pest control;
- (q) “Government” means the Government of the Khyber Pakhtunkhwa;
- (r) “Government Analyst” means a Government Analyst appointed under section 20 of this Act;
- (s) “guarantee” means the statement indicating the strength, effectiveness and other qualities of a pesticide which, manufacturer, formulator, vendor or person holding stock for sale of a pesticide is required to submit under the rules at the time of applying for the registration of the pesticide;
- (t) “ingredient” means any material used in making a pesticide;
- (u) “insect” means any of the small invertebrate animals commonly known as insects and includes such forms of animal life as may be prescribed;
- (v) “Inspector” means an Inspector appointed under section 21 of this Act;
- (w) “label” means any printed or graphic matter, and includes any written statement on a tag, leaflet, brand, stamp, marked or stencil durably attached to a container or wrapping material for retail packaging of a pesticide;
- (x) “maximum residue limit” means the maximum concentration of a residue that is legally permitted or recognized as acceptable in or on a food or agricultural commodity or animal feedstuff by the Food and Agriculture Organization, United State Department of Agriculture, Organization for Economic Cooperation and Development;
- (y) “obsolete pesticide” means a pesticide which no longer meets the registered specifications and cannot be revalidated and is unusable or unsaleable;
- (z) “Off specification” means any pesticide which when tested according to the prescribed methods is marginally different from its registered specifications, and is still mainly effective for the purpose for which it is intended and its deficiency is not due to any intentional or deliberate act including physical and chemical characteristics, emulsion stability and the active ingredient contents vary two times of the Food and Agriculture Organization (FAO) tolerance limits due to accidental reasons or weather conditions;
- (aa) “packaging” means any container including any protective wrapping which is used to facilitate the safe delivery of the pesticide product;

- (ab) “person” means any natural or legal entity and includes a person, an association of persons, firm, partnership, society, group, a public or private limited company, corporation, cooperative society or any other body corporate;
- (ac) “pest” means any living stage of any or all insects, nematodes, slugs, snails, protozoa, or other vertebrate and invertebrate animals, fungi, bacteria, weeds or other parasitic plants or reproductive parts thereof, virus or any organism, or any infectious substance which may directly or indirectly injure or cause disease to any crop or plant or its produce;
- (ad) “pesticide” means any substance or mixture of substances intended for preventing, regulating, destroying or controlling any pest, including vectors of human or animal disease, unwanted species of plants or animals causing harm during or otherwise interfering with the production processing, storage, transport, or marketing of food, agricultural commodities, wood and wood products, or animal feedstuffs, or substances which may be administered to animals for the control of insects, arachnids or other pests in or on their bodies, and include substances intended for use as plant growth regulators, defoliant, desiccant or agent for thinning fruit or preventing the premature fall of fruit, and substances applied to the crops either before or after harvest to protect the commodity from deterioration during storage and transport, but does not include a substance which is a drug within the meaning of the Drug Act 1976 (Act No. XXXI of 1976) or a hazardous substances within the meaning of the Khyber Pakhtunkhwa Environmental Protection Act, 1997;
- (ae) “pesticides laboratory” means a pesticide laboratory notified under section 19 of this Act;
- (af) “plant protection material” means pesticides (including active ingredients, emulsifiers, solvents carriers) pesticide spray machinery or related safety equipments and materials;
- (ag) “prescribed” means prescribed by rules made under this Act;
- (ah) “recipe” means one hundred percent breakup of the registered technical material or formulation specifying the chemicals of active ingredients free from extraneous impurities to the extent of permissible International or Food and Agriculture Organization standard, solvents, emulsifiers, stabilizers and other ingredients;
- (ai) “Province” means the Province of the Khyber Pakhtunkhwa;

- (aj) “reference pesticides laboratory” means a pesticide laboratory, national or international, accredited and notified by the Provincial Government as a reference laboratory;
- (ak) “registered” means registered by the Department under this Act;
- (al) “registration” means the process whereby Government approves the registration for the purposes specified following the evaluation of comprehensive scientific data demonstrating that a pesticide is effective for the intended purposes and does not pose an unacceptable risk to human or animal health or the environment;
- (am) “registration number” means a specific number assigned by Government to each registered pesticide;
- (an) “repackaging” means the authorized transfer of a pesticide from any commercial package into any other, usually smaller container for subsequent sale;
- (ao) “residue” means any substances in or on food, agricultural commodities or animal feed resulting from the use of a pesticide and includes any derivatives of a pesticide, such as, conversion products, metabolites, reaction products and impurities considered to be of toxicological significance. The term “pesticide residue” includes residues from unknown or unavoidable sources e.g. environmental as well as known uses of the chemical;
- (ap) “revalidation” means confirmation or up-gradation of an expired pesticide to the registered specifications given in the registration certificate by the manufacturer, formulator or importer after approval of the Department;
- (aq) “rules” means rules made under this Act;
- (ar) “Secretary” means Secretary of the Department;
- (as) “standard” means pesticides that conform to the registered specifications of the product registered with the Department and falls within the permissible tolerance limits as laid down under Food and Agriculture Organisation guidelines;
- (at) “sub-standard” 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;
- (au) “trade name or trade mark” means a trade name or mark which is duly registered under the Trade Marks

Ordinance, 2001 (Ordinance No. XIX of 2001), and includes any assignee thereof; and

- (av) “use pattern” means the combination of all factors involved in the use of pesticide, including the concentration of active ingredient in the preparation of the pesticide being applied, the rate of application, time of treatment, number of treatment, use of adjuvants and methods and sites of application which determine the quantity applied, timing of treatment and interval before harvest.

**3. Pesticides not registered.**--- No person shall manufacture, formulate, repackage, sell, offer for sale, hold in stock for sale or in any manner advertise any pesticide which has not been registered in the manner hereinafter provided:

Provided that the Government may, by notification in the official Gazette, allow the marketing of pesticides under generic scheme.

**4. Certification of machinery.**---No person shall manufacture, assemble, sell, offer for sale, hold in stock for sale or in any manner advertise any pesticide spray machinery or equipment or concerned safety equipments or materials which have not been standardised in the manner provided by this Act or the rules framed there under.

**5. Registration of pesticide.**---(1) Any person intending to manufacture, formulate, repackage, sell, offer for sale, hold and stock for sale or advertise any pesticides may apply to the Department for registration of pesticides under such specific and identified trade mark or trade name with the common name, as he may indicate in the application, as prescribed.

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

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

(4) Upon receipt of an application duly completed under sub-section (1), Department may register pesticide by the name indicated in the application, if it is satisfied that,-

- (a) the name of the pesticide is not such as would tend to deceive or mislead a purchaser with respect to the guarantee relating to the pesticide or its ingredients or the method of its preparation;
- (b) the person seeking registration of the pesticide has submitted necessary guarantee as may be required relating to a particular pesticide or its ingredients;
- (c) the guarantee relating to the pesticide or its ingredient is not the same as that of another registered pesticide or is not so similar as is likely to deceive or mislead a purchaser;

- (d) the pesticide is effective for the purpose for which it is claimed to be effective or sold;
- (e) the pesticide is not generally detrimental or injurious to vegetation except weeds, or to human or animal health, or that it does not adversely affect the environment when apply according to directions;
- (f) the pesticide by the name indicated in the application does not fall under category of banned pesticides; and
- (g) the application fulfils any other conditions as may be prescribed under the rules.

(5) When it registers a pesticide upon the application of any person under sub-section (1), Department shall grant him a certificate of registration in such form as may be prescribed.

**6. Distribution.**---The manufacturer, formulator, as the case may be, shall undertake to repackage, label and deliver to the relevant distributor in retail packaging, a pesticide manufactured, formulated by him either at his own registered plant or at a repackaging or formulation plant certified by the Department.

**7. Registration period.**---The registration of a pesticide shall be valid for a period of three years from the date of its registration or any shortest period as may be prescribed.

**8. Cancellation of registration.**---If, at any time after the registration of a pesticide, Department is of the opinion that the registration has been secured in violation of the provisions of this Act or the rules made thereunder that the pesticide is ineffective against pests or is hazardous to vegetation, other than weeds, or to non-target organisms, or to human health or animal health, or to the environment under the direction of use by the manufacturer, the Director-General may, after giving to the person on whose application the pesticide had been registered, an opportunity of being heard, cancel the registration, with approval of Secretary.

**9. Renewal of registration.**---(1) Department may, on the application of the registration holder of a registered pesticide in the guarantee or ingredients of which there has been no change since the date of its registration, and no disqualification has been earned in terms of section 10 nor any contravention of any rule and on such satisfaction by the Director-General, renew the registration of the pesticide for a further period of three years.

(2) An application under sub-section (1) shall be in such form and accompanied by such fee as may be prescribed and be made at least six weeks before the expiration of the period for which the registration of pesticide is valid.

(3) In case an application for renewal of registration is not finalized by Department within one month of expiry of previous registration, registration shall be deemed to have been renewed.

**10. Labelling of packages.**--- (1) No person shall sell or offer or expose for sale, labelling 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.

(2) Any dealer, whole seller, retailer, distributor or any other agent who has been convicted of not less than two offences under this Act shall be black listed by Department to ensure business ethics.

(3) Certification of distributor or dealer or retailer who fails to maintain prescribed requirements shall be cancelled by Department.

**11. Storage and use of pesticides.**--- No person shall store or use any pesticide in violation of the rules made under this Act.

**12. Certification of manufacture, formulation and repackaging.**---(1) No person shall engage in manufacture, formulation and repackaging of a pesticide, including that of intermediates, without obtaining prior certification on the prescribed proforma from Department.

(2) Any person who has established a manufacturing, formulation or repackaging plant for any pesticide, shall apply to the Department for certification of the plant under such name as he may indicate in the application.

(3) An application under sub-section (1) shall be in such form and accompanied by such fee and contained such information as may be prescribed.

(4) Upon receipt of an application under sub-section (2), Department may certify a pesticide plant indicated in the application for a period of five years if it is satisfied that the plant,-

- (a) fulfils all requisite and prescribed conditions; and
- (b) is equipped with the necessary laboratory facilities as prescribed.

(5) Department may carry out periodical inspections and recommend improvement in area relating to the manufacture and formulation based on the application filed for certification requirements.

**13. Renewal of certificate of manufacturing, formulation or repacking plant.**---(1) Department may, upon application of the expiry of the certificate of a manufacturing, formulation or repackaging plant, renew the certification for a further period of five years.

(2) The renewal of certificate shall be subject to the filling of a declaration or an application confirming that the improvement, if any, suggested by Department under sub-section (5) of section 15, has been carried out in addition to the requirements under sub-section (4) of the said section.

(3) If no application is made for renewal under sub-section (1), Department shall on expiry of further three months, of the period specified in



the certification, shall decertify the manufacturing, formulation and repackaging plant.

**14. Agricultural Pesticide Technical Advisory Committee.**---(1) As soon as, after the commencement of this Act, Government shall constitute a committee, to be called Agricultural Pesticide Technical Advisory Committee, to advise Government on technical matters arising out of the administration of this Act and to perform any other functions assigned to it by or under this Act.

(2) The Committee shall be appointed by Government having not more than twenty-one members and shall consist of a Chairperson and a Vice-Chairperson and other members, being officers of the Agriculture Extension, Health, Environmental Protection Departments and persons representing farmers, trade and industry engaged in pesticide business. The Chairperson may co-opt any other stakeholders in the field of pesticides.

(3) The Secretary shall be the Chairperson and other members of the Committee shall be notified in the official Gazette.

(4) The Director-General, Agriculture Extension shall be member-cum Secretary of the Committee.

(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) Any member of the Committee may, at any time, resign his office in writing and duly signed by him address to the Chairperson, but the seat of such member shall not be deemed to have fallen vacant unless the resignation has been accepted by the Chairperson.

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

(8) The Committee shall standardize all the plant protection material in the Province and furnish its recommendation to Government for their registration.

(9) The Committee shall be responsible for overseeing the distribution of the use pattern of plant protection material in the Province.

(10) In order to have a check, the Committee shall supervise quality control of pesticides in the Province and shall submit periodic reports to this effect to Government.

(11) The Committee may scrutinize the gravity of cases of offences and may guide the Inspector for registration of cases accordingly.

(12) The Committee shall be responsible for the application of the use of pesticide and advise Government for education at farmer level.

**15. Provincial Agricultural Experts and Standardization Committee.**---

(1) As soon as may be practicable, Governments shall notify Agricultural Experts and Standardization Committee to advise Government in the matters of standardization of pesticides and check on quality, at the level of distribution and retail. The Committee shall consist of a Chairperson and not more than twelve members including officers from Agriculture Extension and Research

having direct role in plant protection and a representative from the Department and persons from trade and industry of pesticides and representatives of farmer community.

(2) The Committee shall be notified in official Gazette and its tenure shall expire after three years.

(3) Upon expiry of the term of the Committee, the Committee would be reconstituted and the previous Committee membership shall be eligible to be re-appointed.

(4) The Committee shall be responsible for overseeing the distribution, retailing and the use pattern of pesticides in the Province.

(5) The Committee shall be responsible for supply of information of the registered distributors or dealers and other information desired from time to time accordingly.

(6) The Committee shall supervise quality control of pesticides in the Province and shall submit periodic reports to this effect to Government and Government shall forward the same to the Department on quarterly basis.

(7) The Committee shall supervise the role of Inspectors and Government Analysts in sample collection and analysis.

(8) The Committee may scrutinize the gravity of cases of offences and may guide the Inspector for registration of cases accordingly.

(9) The Committee shall be responsible for the application of the use pattern of pesticide and advise Government for education at farmer level.

**16. Reference pesticides laboratory.**---(1) Government shall designate Reference Pesticides Laboratory and notify such other pesticides laboratories which shall be suitably equipped to carry out the functions entrusted under this Act.

(2) The functions of the Reference Pesticides Laboratory and other pesticides laboratories as notified and declared under sub-section (1), the mode of submission of samples for analysis or test to these shall be such as may be prescribed.

(3) The secrecy of the information provided in an application for registration including formulae of formulation and recipe, any sample of pesticides which are submitted to the Department and various pesticides laboratories for analysis or tests shall be duly safeguarded in the prescribed manner.

**17. Government Analyst.**---Government may, by notification in the official Gazette, appoint as many persons as it deems fit to be Government Analysts, and where it appoints more than one person to be a Government Analyst, shall specify in the notification the jurisdiction of that Government Analyst.

**18. Inspectors.**---Government may, by notification in the official Gazette, appoint from amongst the officers of the Provincial or District Government, possessing degree in Agriculture, employed for work relating to Plant

Protection such number as they deem fit to be Inspectors within such local limits as may be specified in the notification.

**19. Samples to be taken by Inspectors.**---(1) Any Inspector may, within the local limits for which he is appointed, enter 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 of the products to be offered for sale provided that an Inspector shall inspect, take sample at import stage, manufacturing, formulation, repackaging plants, inspect and collect sample from the distributors.

(2) Any sample collected under sub-section (1), shall be taken in a new, clean and compatible container of prescribed specifications and sealed and stored in proper place for examination. No compensations shall be payable for a reasonable quantity taken as a sample.

(3) Where an Inspector takes a sample of a pesticide for the purpose of test or analysis under sub-section (2), he shall intimate such 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 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 suitable marking, sealing and fulfilling any other requirements as may be prescribed.

(4) 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 in the following manners namely:

- (a) the Inspector shall forthwith send one portion or container to the Government Analyst for test or analysis; and
- (b) the Inspector shall send forthwith the second portion of the container to Department or its representative office.

provided that the person, if he wishes, from whose possession the sample is taken may in the presence of the Inspector handover the second portion of the sample to Department or its representative office or dispatch through courier or registered acknowledgement due to Department.

**20. Time for testing and report.**---(1) Government Analyst to whom a sample of any pesticide has been forwarded by an Inspector under sub-section (4) of section 22 shall certify in the prescribed manner that the sample was received with a seal that was un-broken and not tampered with, and shall store the sample in such a way that the characteristics of the contents of the pesticide are not affected and shall conduct at the earliest or within thirty days of receipt of the sample, the physical and chemical analysis of the sample and

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 sample analysis report received by him from the Government Analyst to the person from whose possession the sample was taken and shall send one copy to Department.

(3) Any document purporting to be the report by the Government Analyst of an analysis conducted by him under this Act 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, may appeal to the Director-General for re-analysis of the sample, in the prescribed manner.

(4) Where the evidence is placed before the Director-General under sub-section (3) he may upon receiving such appeal, if he deems fit that it is proper case in which to proceed in this regard, cause portion of the sample to be analyzed at the Reference Pesticides Laboratory, or at such designated pesticide laboratory or any pesticides laboratory as he may consider appropriate, upon the payment of the necessary fee by the appellant.

(5) The appellant may indicate that it wishes a nominee chemist of his choice to be present at the time that the analysis is conducted by the Reference Pesticides Laboratory or other pesticides laboratory. Such nominee shall attend the test at the expense of the appellant. No result prepared by the Reference Pesticides Laboratory or other pesticides laboratory shall be prejudiced if the nominee chemist willfully absents himself or fails to attend the analysis at the time intimated.

(6) After a sample is forwarded to the Reference Pesticides Laboratory or other pesticides laboratory under sub-section (4), the sample shall be analyzed and its result, recorded in a certificate of analysis, shall be forwarded to the Director-General. The Director-General will send copies of the certificates to the concerned Inspector and the appellant.

(7) A certificate of analyses prepared by the Reference Pesticides Laboratory or other pesticides laboratory shall be conclusive evidence of the facts stated therein.

**21. Publishing of results.**---The Agricultural Experts and Standardization Committee may, subject to any appeal to the Director-General under sub-section (3) of section 22 and after due consideration of the evidence, publish the result of the test of the analysis of a pesticide carried out by a Government Analyst under section 22 in such manner as it may deem fit, together with such information relating thereto, if any, after approval of Government.

**22. Testing on application of purchaser.**---(1) Any person who purchases a pesticide may apply to a Government Analyst to conduct a test or analysis of a pesticide.

(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 and analysis according

to the method prescribed and issue to the applicant a report signed by him of the test and analysis and send a copy of the report to the Agricultural Experts and Standardization Committee. This report shall not of itself constitute valid evidence before any court.

**23. Evaluation of market of pesticides.**---(1) Government or District Governments shall supervise and monitor the position of demand and supply chain of pesticides in the Province or area of competence, as the case may be, and furnish the same to Department through its Area Directorates.

(2) The Area Directorates of Department may make periodical surveys of manufacturers, formulators, repackaging, dealers and distributors and prepare reports and suggest actions for improvement on storage and disposal of the pesticides to Department.

**24. Offences arising from actions contrary to the provisions of this Act.**---(1) Any person who manufactures, formulates, repackages, sells, offers or holds in stock for sale off-specification, sub-standard, expired (until it is marked "Not for sale"), adulterated, fake, unregistered or banned pesticide shall be guilty of an offence.

(2) The person guilty of an offence under sub-section (1) shall be punishable,-

- (a) in the case of an adulterated, fake, unregistered or banned pesticide, in relation to a first offence, with imprisonment for a term which shall not be less than one year or more than three years and with fine not less than five hundred thousands and not more than ten hundred thousand rupees, and in relation to every subsequent offence committed in this regard, with imprisonment for a term which shall not be less than two years but not more than seven years and with fine not less than ten hundred thousand rupees;
- (b) in case of a sub-standard pesticide, in relation to a first offence, with imprisonment for a term which may extend to one year or with a minimum fine of one hundred thousand rupees but not more than five hundred thousand rupees, and for every subsequent offence with a term of imprisonment which may extend to three years but is not less than a term awarded for a first offence under this sub-section and with a fine but shall not be less than the punishment given for the first offence; and
- (c) in case of off-specification or expired pesticides, with fine which may extend to five hundred thousand rupees but not less than one hundred thousand rupees.

**25. Offences for which penalty not provided.**---Any person who contravenes or fails to comply with any of the provisions of this Act or the rules made there under and for the contravention of which no other penalty is provided shall be liable to fine which may extend to two hundred thousand rupees but not less than one hundred thousands rupees.

**26. Manufacture, formulation or repackaging at non-certified plant.---**

(1) Any person who manufactures or formulates or repackages a pesticide in a plant not certified by Department, shall be liable to fine which may extend to two million rupees but not less than five hundred thousand rupees, and confiscation of plant machinery.

**27. False warranty.---**(1) Whoever gives a false warranty to a dealer or purchaser in respect of adulterated or sub-standard pesticide shall, unless he proves that at the time the warranty was given, he had good reason to believe the same to be true, shall be guilty of an offence punishable in the same manner and to the same extent as provided under clause (a) and (b) of sub-section (2) of section 27.

(2) Any dealer, wholesaler, retailer, distributor or any other agent who has been convicted of not less than two offences under this Act, not being offences as contained in section 34 or 35 shall be blacklisted by the importer, manufacturer, distributor or formulator of the pesticide in question and by Government to ensure business ethics.

(3) Any person indulges in tempering of official documents pertaining to pesticides under this Act, shall be punishable with fine of two hundred thousand rupees, which may extend to five hundred thousand rupees with every subsequent offence and the person who has been convicted and fined for more than two offences shall be blacklisted by Department.

(4) Certification of distributor or dealer or retailer who fails to maintain the prescribed requirements shall be cancelled by Department.

**28. Obstruction and unlawful use of registration and tempered official document.---**Any person who,-

- (a) unlawfully uses any registration number assigned or as if it had been assigned under this Act; or
- (b) willfully 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, vendor; or
- (c) wilfully obstructs, hinder, resists or in any way opposes any Inspector in performing his duties under this Act,

Shall be liable to imprisonment for a term of two months which may extend to six months and with a minimum fine of fifty thousand rupees but which may extend to one hundred thousand rupees.

**29. Power to search and seize.---**(1) If an Inspector has reason to believe that an offence punishable under this Act or the rules made there under has been, or is being, or is about to be, committed at any time or place he may, after recording his reasons in writing and with the permission of the Court, unlock, enter and search such place or premises and seize/seal any pesticide, article or thing which is found at such place or premises to which the offence relates, and the Inspector shall, at the time of effecting entry, hand over a copy of the reasons so recorded to the person in possession of such place:

Provided that if such person is not available nor can be found after a diligent search, the reasons shall be pasted on the entrance or any outer wall of the place being entered in such manner as may be prescribed.

(2) Any pesticide, article or thing seized under sub-section (1) shall be disposed of in accordance with the decision of the Court which is competent to try and decide the case in question and the same shall be done in an environmentally safe manner as may be prescribed.

(3) An Inspector may apply for any necessary police assistance and such assistance shall be provided for the purpose of collecting samples and discharge of the duties of an Inspector under this Act.

(4) Nothing contained in this section shall be construed as being a power to seize or seal any premises unless a relevant order is obtained from a Court.

**30. Accountability of Inspector and Government Analyst.---** (1) If,

- (a) an Inspector willfully tempers, mixes, substitutes or otherwise varies any sample of a pesticide; or
- (b) a Government Analyst willfully prepares an incorrect report; and
- (c) where on the complaint of a recognized or registered trade body or an association, the Provincial Agricultural experts and Standardization Committee determines the conduct of an Inspector or a Government Analyst unscrupulous.

(2) Such person shall be punishable in accordance with prevailing laws and rules.

(3) A person found guilty under sub-section (1) shall immediately be de-notified as an Inspector or Government Analyst, as the case may be.

**31. Power of Court to order forfeiture.---** If any person is convicted of an offence punishable under this Act in respect of a pesticide, article or thing, the Court while convicting such person may further direct that the pesticide, article or thing shall be forfeited to the Department for disposal, at the cost of defaulter, in an environmentally safe manner.

**32. Injury to persons or damage to property resulting from pesticide use.---** (1) A person shall be guilty of an offence if the person willfully or negligently uses a pesticide in a manner that,-

- (a) injure or is likely to injure any other person; or
- (b) damage or is likely to damage any property of another person.

(2) A person found guilty of an offence under sub-section (1) shall be liable, in addition to any criminal proceedings that might be initiated, to compensate the person so injured or whose property is damaged, as determined by Court according to the extent of damage caused.

(3) A person shall be deemed not to have committed any offence under sub-section (1) if the person establishes,-

- (a) that the injury or damage caused, or is likely to be caused, only on the agricultural farm land in respect of which the pesticide was used; and
- (b) that the person is the occupier of that land or is employed or engaged by the occupier of that land.

**33. Harm to animals or plants.**---(1) A person who uses a pesticide in a manner that,-

- (a) harms any non-target animal or plant; or
- (b) if there is no approved brand for the pesticide nor is the pesticide registered under a generic scheme and that pesticide harms any animal or plant;

shall be guilty of an offence.

(2) A person found guilty of an offence under sub-section (1) shall be liable to a fine which may not exceed ten thousand rupees but not less than five thousand rupees.

(3) A person shall be deemed not to have committed any offence under sub-section (1), if he establishes that,-

- (a) the harm occurred only on the agricultural farm land, or the residential premises, in respect of which the pesticide was used; and
- (b) the person is the occupier of that land or those premises, or is employed or engaged by the occupier of that land or premises.

(4) It shall not be an offence if a person establishes,-

- (a) that the commission of the offence was due to the causes over which the person had no control; and
- (b) that the person took all reasonable precautions and exercise all due diligence to prevent the commission of the offence.

**34. Keeping pesticides in container without approved label.**---(1) A person who, without reasonable excuse, keeps a registered pesticide in a container that does not have a label approved by the Department attached to a container shall be guilty of an offence.

(2) If a registered pesticide is mixed with any other substance, the requirement under sub-section (1) in relation to a pesticide shall not be affected.

(3) A person found guilty of an offence under sub-section (1), shall be liable to a fine which may not be less than fifty thousand rupees for the first offence and may not exceed one hundred thousand rupees for subsequent offences.



**35. Court where offences to be tried.**---(1) Notwithstanding anything contained in any other law for the time being in force, no Court inferior to that of Magistrate of the first class shall try an offence punishable under this Act.

(2) Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898 (Act No. V of 1898), it shall be lawful for any Magistrate of the first class to pass any sentence authorized by this Act even if such sentence exceeds his powers under the said section.

**36. Power to try offence summarily.**---Any Magistrate of the first class invested with the powers for the time being enforce to try offences summarily, specified in sub-section (1) of section 260 of the Code of Criminal Procedure, 1898 (Act No. V of 1898), may on application in this behalf made by the prosecution, try in accordance with the provisions contained in sections 262 to 265 of the Code any offence punishable under sections 35 to 37 of this Act.

**37. Nature of offences and registration of cases.**---(1) The offences specified in clauses (a) and (b) of sub-section(2) of section 27 shall be cognizable and non-bailable but a police officer shall not register or investigate a case relating to an offence under this Act except on a complaint made by the Inspector notified under this Act or on advice of the Director-General.

**38. Conduct of prosecution.**---The Public Prosecutor or counsel engaged by Government shall be responsible for conducting prosecution of offences under this Act.

**39. Jurisdiction of Court.**---In the matter of jurisdiction of the officer having the powers of a Judicial Magistrate, consideration shall be had to the main place of business or the place where the pesticides are stored or the offences is committed, as the case may be.

**40. Indemnity.**--- No suit, prosecution or other legal proceeding shall lie against any person enforcing this Act for anything which is done or purported to be done in good faith under this Act or the rules made thereunder.

**41. Power to make rules.**---(1) Government may, in consultation with the Agricultural Pesticide Technical Advisory Committee and after previous publications in the official Gazette make rules for carrying out the purposes of this Act.

(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 pesticide or for the generic registration under any other provision or the renewal of registration shall be made, the information shall be furnished therewith and the fee that shall accompany with the application;

- (c) the procedure for the grant of a certificate of registration of a pesticide and the renewal of such registration and the form of such certificates;
- (d) the language of the labels to be attached to the containers and packages containing a pesticide and the character and location of the printing to be marked on such labels and containers;
- (e) the functions of the Reference Pesticides Laboratory and provincial pesticides laboratories and the procedures to be followed by in the performance of such functions, including-
  - (i) safeguarding of the secrecy of the formulae of any trade name or trade mark 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 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 and Inspectors;
- (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 of the Reference Pesticides Laboratory;
- (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 with the pesticides that are generally detrimental or injurious to vegetation, domestic animals or public health even when used according to directions;
- (j) the pesticides that are to be labelled poison and their antidotes;
- (k) the requirements for the safe storage of pesticides;

- (l) the quantities of different brands of pesticides which a person may hold in stock at any one time and the premises in which 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 purpose for which the circumstances in which or the methods or means by which a pesticide may be used;
- (o) the provision, keeping available and in good order, of facilities for washing and cleaning of other things needed for protecting persons, clothing, equipment and appliances from contamination with pesticides or for removing sources of contamination therefrom;
- (p) 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;
- (q) intervals or limitations of periods of exposure to risk of poisoning by pesticides;
- (r) 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;
- (s) the measures for detecting and investigating case in which poisoning by pesticides has occurred;
- (t) the provisions of effective facilities for prevention of poisoning by pesticides and first aid treatment;
- (u) 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;
- (v) the rules and procedure for settlement of compensation claims of aggrieved persons who suffer damage to his health or loss to property;

- (w) the procedure for environmentally sound disposal of confiscated unregistered, non-permitted, banned, adulterated, sub standard and obsolete pesticides;
- (x) rules for administrative penalty;
- (y) rule governing the responsibility of price;
- (z) rules regarding standard of container packing material etc.
- (aa) Government may make notification in the official Gazette regarding cancellation, delisting or changing registration from one to another.

**42. Obsolete pesticides.**---A person in possession of obsolete pesticides shall declare to Department on a prescribed proforma.

**43. Pesticide residue laboratory.**--- Government shall establish pesticide residue laboratory in order to study pesticide residues on crops for registration and other purposes, including determination of interval before harvest under local conditions and monitoring of maximum residue limit, as may be prescribed.

**44. Centre for poison control.**---A centre for poison control shall be established under the direction of Department to monitor pesticide poisoning cases, as may be prescribed.

**45. Delegation of powers under the Act.**--- Government may, by notification in the official Gazette, direct that all or any of its powers under this Act, as may be specified in the direction, shall be exercised by any officer or authority subordinate to Government.

**46. Appeal.**---An appeal, against any administrative decision or action, provided in the rules on the subject of registration, cancellation of registration or any form of inspection, shall lie before a Committee chaired by the Secretary who shall be competent to co-opt any member as he may deem fit to decide the appeal within sixty days of the order passed.

**47. Repeal and savings.**--- (1) The Pesticides Ordinance, 1971 (Ordinance No. II of 1971), is hereby repealed in its application to the province of the Khyber Pakhtunkhwa.

(2) Any proceeding pending or appeal lies before any Court or Administrative Authority of the Province shall be decided under the repealed Ordinance.

(3) Notwithstanding the repeal of the Pesticides Ordinance, 1971 (Ordinance No. II of 1971), everything done, action taken, authority established, liabilities incurred, rights, assets or property acquired, persons appointed or order issued under any of the provisions of the said ordinance or rules made thereunder, if not inconsistent with the provisions of this Act or rules made under this Act, shall be continued, and, so far as may be, be deemed to have been respectively done, taken, established, incurred, acquired, appointed or authorised, conferred and issued under this Act, and any document referring to any of the provisions of the said Ordinance or rules shall so far, as

may be, be considered to refer to the corresponding provisions of this Act or rules made under this Act.

**48. Removal of difficulties.**--- If any difficulty arises in giving effect to any of the provisions of this Act, Government may, by notification in the official Gazette, make any such order, not inconsistent with any provision of this Act, as may deem necessary for the purpose of removing the difficulty.

**STATEMENT OF OBJECTS AND REASONS.**

It is desirable to amend the Agriculture Pesticides Ordinance, 1971, as the subject is devolved to the provinces in wake of 18<sup>th</sup> Amendment of the Constitution of the Islamic Republic of Pakistan. Hence, this Bill.

MINISTER-IN-CHARGE