

রেজিস্টার্ড নং ডি এ-১ “জাতির পিতা বঙ্গবন্ধু শেখ মুজিবুর রহমানের
জন্মশতবার্ষিকী উদ্যাপন সফল হোক”

বাংলাদেশ



গেজেট



অতিরিক্ত সংখ্যা
কর্তৃপক্ষ কর্তৃক প্রকাশিত

বৃহস্পতিবার, মার্চ ৩, ২০২২

Government of the People's Republic of Bangladesh
Ministry of Agriculture

NOTIFICATION

Dated : 30 December, 2021

S.R.O. No.364-Law/2021.—The Government, in accordance with the serial No. 5 and 8 of the item No. 29B of the Schedule I (Allocation of Business among the different Ministries and Divisions) of the Rules of Business, 1996, is pleased to publish the following English Text of the Act (Act No. XXIV of 2018) to be called the Authentic English Text of the Act :

The Pesticides Act, 2018

Act No. XXIV of 2018

An Act to repeal and re-enact the Pesticides Ordinance, 1971 by updating the provisions with modifications thereof for the purpose of regulating the import, manufacture, formulation, sale, distribution and use thereof and for matters ancillary thereto

WHEREAS it is expedient and necessary to repeal and re-enact the Pesticides Ordinance, 1971 (Ordinance No. II of 1971) by updating the provisions with modifications thereof for the purpose of regulating the import, manufacture, formulation, sale, distribution and use thereof and for matters ancillary thereto;

THEREFORE, it is hereby enacted as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Pesticides Act, 2018.
(2) It shall come in to force at once.

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2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,

- (1) "weed" means any plant which grows where not wanted;
- (2) "ingredient" means any object or material or substance used in the manufacture of pesticide;
- (3) "Technical Advisory Committee" means the Pesticide Technical Advisory Committee constituted under section 19;
- (4) "insect" means any of all small invertebrate animals commonly known as insects and includes such forms of animal life as may be prescribed by rules;
- (5) "guarantee" means the warranty indicating the strength, effectiveness and other qualities of any brand of pesticide which an improver, manufacturer, formulator, seller or person holding stock for sale of any brand of pesticide is required to submit at the time of applying for the registration of any brand of pesticide;
- (6) "registration" means registration granted under section 5;
- (7) "registration authority" means the Director of the Plant Protection Wing of the Department of Agricultural Extension or any other employee of that wing authorised by him with a written order;
- (8) "registered" means registered under this Act;
- (9) "Inspector" means an Inspector appointed under section 24;
- (10) "package" includes all containers to be used in package;
- (11) "formulation" means the process by which a pesticide is converted, by mixing with other substances, into a form in which it is ready to be used;
- (12) "pesticide" means any substance or mixture of substances used or represented as a means for preventing, destroying, repelling, mitigating, or controlling, directly or indirectly, any pest, fungus, bacterial, organism, nematode, virus, weed, rodent, or other plant or insect; but does not include any substance which is a 'drug' within the meaning of the Drugs Act, 1940;
- (13) "brand" means the trade name used by an importer, manufacturer, formulator or seller to the goods imported, manufactured or sold by him;
- (14) "advertise" means to make known by publication of any advertisement, circular or other notice;
- (15) "rules" means rules made under this Act;

- (16) "Analyst" means an Analyst appointed under sub-section (1) of section 21;
- (17) "person" means any importer, manufacturer, formulator, packer, repacker, stock holder, wholesaler and retailer of pesticides, but does not include any farmer or consumer;
- (18) "adulterated pesticides" means such pesticides—
 - (a) the quality of which falls below the professed standard or quality which is expressed on its label; or
 - (b) any important ingredient of which has been partially or wholly extracted or removed;
- (19) "licence" means the licence issued under section 10;
- (20) "licencee" means any person holding licence under this Act for the purpose of importing, manufacturing, packaing, re-packaging, stocking, selling and advertising of pesticides;
- (21) "licencing authority" means the Director of the Plant Protection Wing of the Department of Agricultural Extension or any other employee of that Wing authorised by him with a written order; and
- (22) "label" means a written, printed, graphic or attached mark containing a description of the concerned pesticide on a pesticide or its container or outside of the container or the wrapper of its retail package.

3. Provisions of this Act to be in addition to other laws.—The provisions of this Act shall be in addition to, and not in derogation of, the provisions of the Poisons Act, 1919, and any other law for the time being in force.

4. Pesticides to be registered.—No person, without having registration of any brand of a pesticide under this Act, shall import, manufacture, formulate, pack and repack, sell or offer for sale and hold in stock for sale of or in any manner advertise any pesticide.

5. Application for registration of pesticide and granting registration.—(1) Any person intending to import, manufacture, formulate, pack and re-pack, sell or offer for sale and hold in stock for sale of or advertise any brand of pesticides, may apply to the registration authority for the registration, in such manner as may be prescribed by rules.

(2) Upon the receipt of an application under sub-section (1), the registration authority shall, in such manner as may be prescribed by rules, grant a registration certificate by the name indicated in the application, if it is satisfied that—

- (a) the brand is not such as would tend to deceive or mislead the purchaser with respect to the guarantee relating to the pesticide or its ingredients or the method of its preparation;

- (b) the guarantee relating to the pesticide or its ingredients is not the same as that of another registered brand or is not so similar thereto as to be likely to deceive the purchaser or the user;
- (c) the brand is not ineffective for the purpose for which it is sold or represented to be effective;
- (d) the brand is not generally detrimental or hazardous to the plants other than weeds, human beings or animals, when applied according to directions specified on its level.

6. Period of registration.—The period of registration of any brand of a pesticide shall be 3 (three) years from the date of its registration.

7. Renewal of registration.—(1) If no change is made in the guarantee or ingredients of a registered brand of a pesticide before 30 (thirty) days of expiry of the period of its registration, the person referred to in sub-section (1) of section 5, may apply to the registration authority for its renewal in such manner as may be prescribed by rules.

(2) Upon the application under sub-section (1), the registration authority may renew the registration in such manner as may be prescribed by rules.

(3) The period of renewal of registration of any brand of a pesticide shall be 3 (three) years from the date of its registration.

8. Cancellation of registration.—(1) After the registration of any brand of a pesticide, the registration authority may cancel its registration for any of the following reasons, namely :—

- (a) if the registration has been obtained in violation of any provision of this Act and rules;
- (b) if false information has been given at the time of registration;
- (c) if the pesticide is ineffective against pests; and
- (d) if the pesticide is hazardous to the health of the plants other than weeds, human beings or animals.

(2) Prior to the cancellation of registration of any brand of pesticide under sub-section (1), the person on whose application the brand was registered shall be given an opportunity of being heard.

(3) Any person aggrieved by an order of cancellation of registration may prefer an appeal to the Director General of the Department of Agricultural Extension within 30(thirty) days of such order, and the decision of the Director General shall be final in this regard.

9. Licence for import, manufacture, etc. of pesticide.—Any person having registration of any brand of pesticide under section 5 shall, without obtaining licence, not import, manufacture, formulate, pack, re-pack, sell, and advertise any brand of registered pesticide.

10. Application for licence and issuance of licence.—(1) Any person having registration of any brand of a pesticide under section 5, for the purpose of obtaining licence to import, manufacture, formulate, pack, re-pack, sell, operate the process of controlling insects on commercial basis and advertise, may apply to the licencing authority for a licence in such manner, on payment of such fees and accompanied with such information as may be prescribed by rules.

(2) Upon receipt of the application under sub-section (1), the licencing authority shall issue a licence subject to such procedures and conditions as may be prescribed by rules.

11. Period of licence.—The period of a licence issued under section 10 shall be 2 (two) years from the date of its issuance.

12. Renewal of licence.—(1) The licensee may, before 30 (thirty) days of the expiry of licence, apply to the licencing authority for its renewal in such manner as may be prescribed by rules.

(2) Upon the receipt of an application under sub-section (1), the licencing authority shall renew the licence in such manner as may be prescribed by rules.

(3) The period for renewal of licence shall be 2 (two) years from the date of its renewal.

13. Transfer of licence.—(1) If the licensee is unable to conduct business due to his death or any other reason, the licence may be transferred to his legal heir or any other person, subject to the approval of the licencing authority.

(2) The procedure of transfer of licence shall be prescribed by rules.

14. Suspension of licence and revocation thereof.—(1) If any licensee violates the conditions of the licence, the licencing authority may suspend or revoke the licence:

Provided that no licence shall be suspended or revoked without giving the licensee an opportunity of being heard.

(2) If any licensee is aggrieved by an order of revocation of licence issued by the licencing authority under sub-section (1), he may prefer an appeal to the Director General of the Department of Agricultural Extension within 60 (sixty) days of such order, and the decision of the Director General shall be final in this regard.

15. Control of import and prohibition thereon.—(1) The provisions of the Import Policy Order shall be applicable to the import of pesticides.

(2) If in the opinion of the licencing authority, any pesticide imported into Bangladesh is found to be adulterated or incorrectly or misleadingly tagged, labelled or named, or if its sale in any way contravenes any of the provisions of this Act, the Ministry of Commerce may, on the recommendation of the licencing authority, prohibit the further import of such pesticide.

16. Obligation to use label.—(1) No person shall sell or offer or expose for sale, or advertise or hold in stock for sale any pesticide unless each container of the pesticide, is affixed with a durable tag or label.

(2) Each tag or label shall have the brand of pesticide and other information printed in clear Bengali letters in such manner as may be prescribed by rules.

17. Power to determine maximum selling price of pesticides, etc.—

(1) The Government may, by notification in the *official Gazette*, determine the following matters, namely:—

- (a) the maximum selling price of any pesticide specified in the notification;
- (b) the maximum rate of commission allowed to a wholesaler or retailer for distribution or sale of pesticide.

(2) For the purpose of sub-section (1), the Government may, in its discretion, require a licensee to furnish such information as may be necessary.

18. Storage and use of pesticides.—No person shall store or use any pesticides except in such manner as may be prescribed by rules.

19. Pesticide Technical Advisory Committee.—(1) There shall be a committee to be called the Pesticide Technical Advisory Committee constituted by the Government to advise the Government on any technical matter arising out of the implementation of the provisions of this Act and to perform other functions assigned to it under this Act and rules.

(2) The Pesticide Technical Advisory committee shall consist of the following members, namely:—

- (1) the Executive Chairman, Bangladesh Agricultural Research Council, who shall also be its Chairman;
- (2) the Director General, Department of Agricultural Extension, who shall also be its Vice-Chairman;
- (3) Joint Secretary (Extension), Ministry of Agriculture;
- (4) Joint Secretary (Materials), Ministry of Agriculture;

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- (5) the Head of the Department, Department of Entomology, Bangabandhu Sheikh Mujibur Rahman Agricultural University;
 - (6) the Head of the Department, Department of Entomology, Sher-e-Bangla Agricultural University;
 - (7) the Head of the Department, Department of Zoology, University of Dhaka;
 - (8) the Head of the Department, Department of Entomology, Bangladesh Agricultural University;
 - (9) the Director General, Department of Environment;
 - (10) the Director General, Bangladesh Rice Research Institute;
 - (11) the Director General, Bangladesh Agricultural Research Institute;
 - (12) the Director General, Bangladesh Jute Research Institute;
 - (13) the Director General, Bangladesh Atomic Agricultural Research Institute;
 - (14) the Director General, Bangladesh Sugarcrop Research Institute;
 - (15) the Director General, Department of Drug Administration;
 - (16) the Director, Bangladesh Tea Research Institute;
 - (17) the Director, Institute of Epidemiology, Disease Control and Research (IEDCR);
 - (18) the Director, Soil Resources Development Institute;
 - (19) the Deputy Secretary (Environmental Pollution Control), Ministry of Environment and Forests;
 - (20) the Deputy Secretary (Imports), Ministry of Commerce;
 - (21) the Chief Health Officer, Dhaka South City Corporation;
 - (22) the Chief Health Officer, Dhaka North City Corporation;
 - (23) the Additional Director (Pesticide Administration and Quality Control), Plan Protection Wing, Department of Agricultural Extension;
 - (24) the Member Director (Crop), Bangladesh Agricultural Research Council;
 - (25) the President, Bangladesh Crop Protection Association;
 - (26) the Director, Plant Protection Wing, Department of Agricultural Extension, who shall also be its Member Secretary.

(3) The Pesticide Technical Advisory committee may, if necessary, form a Technical Sub-committee comprising the experts in the concerned subject.

(4) The rules of procedure of the Pesticide Technical Advisory Committee and the Pesticide Technical Sub-committees shall be prescribed by rules.

20. Pesticide Laboratory.—(1) The pesticide laboratory established under sub-section (1) of section 13 of the Pesticides Ordinance, 1971 shall remain in force as if it had been established under this Act.

(2) The functions of the pesticide laboratory and the mode of submission of samples for test or analysis thereof shall be prescribed by rules.

(3) The secrecy of the formulae of the brands of pesticides, samples of which are submitted to the pesticide laboratory for test and analysis shall be maintained in such manner as may be prescribed by rules.

21. Analysts.—(1) For carrying out the purposes of this Act, the Government may appoint such number of Analysts as may be required for test or analysis of pesticide samples from among the government employees engaged in charge of plant protection.

(2) If more than one Analyst is appointed under sub-section (1), the jurisdiction of their functions shall be specified, by notification in the *official Gazette*.

(3) The responsibilities and duties of the analysts shall be prescribed by rules.

22. Report of the Analyst.—(1) The Analyst shall prepare a report containing the results of examination and analysis of the samples received under sub-section (2) of section 26, and deliver to the Inspector 3 (three) copies of the report signed by him.

(2) The Inspector shall send 1 (one) copy of the report received under sub-section (1) to the person from whom the pesticide sample has been collected and 1 (one) copy to the Government.

(3) Unless any objection is raised under sub-section (4), the report signed by the Analyst shall be deemed to be final.

(4) Within 30 (thirty) days from the date of receipt of the analysis report under sub-section (2) an objection may be raised to the Government by the person from whom the pesticide sample has been collected.

(5) If any objection is raised under sub-section (4), the Government may, if it thinks fit, direct to further test and analyse the second part of the same sample which was sent at the pesticide laboratory.

(6) As per the instructions of sub-section (5), the report of the results of the samples of pesticides sent to the laboratory to be tested and analysed shall be sent to the Government, after preservation in the laboratory.

(7) The report made under sub-section (6) shall be deemed to be final.

23. Publication of the result of test and analysis.—The results of test and analysis by a laboratory or Analyst and other information related thereto, if any, shall, if necessary, be published by the Government in such manner as may be prescribed by it.

24. Inspectors.—The Government may, by notification in the *official Gazette*, appoint required number of employees as inspectors from among the government employees engaged in charge of plant protection within such local limits as may be specified in the notification.

25. Powers of the Inspector.—(1) An Inspector shall have access to any premises within the local limits of his jurisdiction where pesticides are kept or stored, whether in any container or in bulk, by or on behalf of the owner including the premises belonging to a railway, a shipping company and any person storing pesticides and may collect samples therefrom for examination.

(2) For collection of samples of pesticides under sub-section (1), the person to whom the pesticides are kept shall be obliged to provide the sample on demand of the Inspector, and no compensation shall be payable for a reasonable quantity of pesticide to be collected as a sample.

(3) The procedure of the Inspector shall be prescribed by rules.

26. Procedure for collection of samples.—(1) In case of collection of samples for test or analysis of any brand of pesticide under section 25, the Inspector shall—

- (a) inform the person from whom the samples of any brand of pesticide have been collected, in writing the purpose of collection of samples in such form as may be prescribed by rules; and
- (b) in the presence of such person (unless he is intentionally absent), divide the collected samples into two parts and seal and mark it accordingly and allow the person to seal and mark his own seal on all or specified parts of the sample.

(2) The Inspector shall send one part of the collected samples to the Analyst and one part to the laboratory for test or analysis.

27. Entry, search and seizure.—If the Inspector has sufficient reasons to believe that an offence punishable under this Act is being committed or likely to be committed at any time or place or any provision of the rules made thereunder is being contravened or likely to be contravened, he may enter and search such place and seize any pesticide, object or thing to which the offence relates.

28. Analysis or test of pesticide by the purchaser.—(1) The person purchasing a pesticide may apply to the Analyst for the test or analysis of the pesticide purchased by him in such form and manner and be accompanied by such fees as may be prescribed by rules.

(2) Upon receipt of the application under sub-section (1), the analyst shall conduct the test or analysis and issue to the applicant a report signed by him of the test or analysis.

29. Penalty for sale of pesticides not having the qualities mentioned in the package, etc.—(1) If any person—

- (a) sells, offers or exposes for sale, stores or advertises any pesticide of the registered brand, which does not contain the nature, material or quality of the brand marked on the tag, label or package; or
- (b) misrepresents a pesticide in an advertisement,

his such act shall be an offence.

(2) If any person commits any offence mentioned in sub-section (1), he shall be punished with fine which may extend to 1 (one) lakh Taka and, in default of payment of such fine, with imprisonment for a term which may extend to 1 (one) year.

(3) If any person recurrently commits any offence mentioned in sub-section (1), he shall be punished for every subsequent offence with fine which may extend to 2 (two) lakh Taka and, in default of payment of such fine, with imprisonment for a term which may extend to 2 (two) years.

30. Penalty for giving false warranty to the dealer by the manufacturer.—(1) If any manufacturer gives false warranty to the dealer or buyer to the effect that the pesticide manufactured by him has been manufactured in compliance with the provisions of this Act, his such act shall be an offence (unless he proves that when he gave the warranty he had sufficient reason to believe the same to be true).

(2) If any person commits any offence mentioned in sub-section (1), he shall be punished with fine which may extend to 1 (one) lakh Taka and, in default of payment of such fine, with imprisonment for a term which may extend to 1 (one) year.

31. Penalties for unlawful use of registration number, lowering of pesticidal value, hindering the Inspector from performing his duty and providing false information during registration.—(1) If any person—

- (a) unlawfully uses any registration number issued under this Act in any other brand of pesticide; 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, importer or seller; or
- (c) willfully obstructs, hinders, resists or in any way opposes any Inspector in performing his duties under this Act; or
- (d) gives any false information during registration,

his such act shall be an offence.

(2) If any person commits any offence mentioned in sub-section (1), he shall be punished with fine of not less than 75 (seventy five) thousand Taka and not more than 1 (one) lakh Taka, or with imprisonment for a term not less than 1 (one) year and not more than 2 (two) years.

Explanation: For the purpose of this section, 'registration number' means a specific number issued by the registration authority in favour of a registered pesticide.

32. Power of court to order forfeiture.—If any person is convicted of an offence under this Act committed by him in respect of any pesticide, object, substance or article related to the offence, the concerned court may direct that the pesticide, and the object, substance or article related thereto shall be forfeited to the Government.

33. Cognizance of offences and trial.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, no court shall take cognizance of, or try any offence under this Act except upon a complaint made in writing by an Inspector or a government employee engaged in charge of plant protection.

(2) Offences under this Act shall be tried by a First Class Magistrate or, as the case may be, a Metropolitan Magistrate.

34. Jurisdiction of the Mobile Court.—Notwithstanding anything contained contrary in this Act, the offences under this Act, as and when applicable, may be tried subject to being included into the Schedule of the Mobile Courts Act, 2009 (Act No. 59 of 2009).

35. Power to make rules.—For carrying out the purposes of this Act, the Government may, by notification in the *official Gazette*, make rules.

36. Repeal and savings.—(1) The Pesticides Ordinance, 1971 (Ordinance No. II of 1971), hereinafter referred to as the repealed Ordinance, shall stand repealed.

(2) Notwithstanding the repeal under sub-section (1)—

- (a) any act done and measures taken or proceedings initiated under the repealed Ordinance, shall be deemed to have been done, taken or initiated under this Act;
- (b) any rules made, notifications issued, orders or instructions given, registration granted, licence issued, and any committee constituted under the repealed Ordinance shall, subject to not being inconsistent with any provision of this Act, remain in force until repealed or amended under this Act; and
- (c) any measures taken or proceedings initiated or suits filed shall, if pending or going on under the repealed Ordinance, be disposed of in such way as if it had been taken or initiated or filed under this Act.

By order of the President

Md. Mesbahul Islam

Senior Secretary.