

**AN ORDINANCE
TO CONSOLIDATE AND AMEND THE AGRICULTURAL
PESTICIDES ORDINANCE 2000 AND TO PROVIDE FOR
THE REGULATION OF PLANT PROTECTION PRODUCTS
IN THE SOVEREIGN BASE AREAS**

**P. T. C. Pearson CBE
ADMINISTRATOR**

23rd December 2004.

BE it enacted by the Administrator of the Sovereign Base Areas of Akrotiri and Dhekelia as follows:—

1. This Ordinance may be cited as the Agricultural Pesticides and Plant Protection Products Ordinance 2004. Short title.

2. In this Ordinance, unless the context otherwise requires— Interpretation.

“active ingredient” or “active substance” means any substance, including micro-organisms and viruses, that acts against harmful organisms or against plants, parts of plants or plant products;

“advertise” means to make known by notice, circular, label, wrapper or other document, and includes any announcement made orally or by any means of producing or transmitting light or sound;

“agricultural pesticide” means any substance used as a means of preventing, reducing, controlling or suppressing directly or indirectly any plant disease or pest and includes insecticides, nermatocides, fungicides, bactericides, herbicides, rodenticides, moluscicides, plant regulators, dessicants, defoliant, attractants, repellents, sterilants, fumigants, synergists, wetting agents, adjuvants and any other substance which may be designated as an agricultural pesticide by the Chief Officer, irrespective of whether it can be used for agricultural, domestic or environmental protection purposes;

“animal” means any animal of a species ordinarily nourished and kept or consumed by man;

“disease” or “pest” means any insects, mites, spiders, nematodes,

fungi, bacteria, viruses, mycoplasmas, weeds, rodents and includes any other species which is harmful, infectious or troublesome to plant or animal life;

“harmful organisms” means any pests of plants or plant products;

“ingredient” means any matter or substance used in the production of an agricultural pesticide;

“Inspector” means a person appointed under section 10(1);

“member State means a member State of the European Union;

“package” means the container in which a designated agricultural pesticide is offered for sale;

“placing on the market” means any supply within the Areas, whether in return for payment or free of charge, other than that intended for storage followed by disposal outside the territory of the Community. Any import of a plant protection product into the territory of the Areas shall be deemed to constitute placing on the market;

“plant” means any live plant or part of a plant, including fresh fruit and sowing seeds;

“plant product” means any non manufactured product of plant origin or any product of plant origin which has undergone only simple treatment such as milling, drying or pressing but not including any matter within the definition of a plant;

“plant protection product” means any active substance, or any preparation which contains one or more active substances, offered in the form in which it is to be supplied to the user and which is intended to—

- (i) protect plants or plant products against any kind of harmful organisms or to prevent the action of such organisms;
- (ii) affect the biological processes of plants other than as a nutrient (such as a growth regulator);
- (iii) preserve any plant products, excluding substances or products which are subject to special European Community Council or Commission provisions on preservatives;
- (iv) destroy unwanted plants; or
- (v) destroy parts of plants, or delay or obstruct the unwanted growth of plants;

“proprietary name” means the trade name used for an agricultural pesticide by its manufacturer, importer or distributor;

“quality control” means the qualitative and quantitative determination of the active or inert ingredients and of other ingredients which may be by-products in the composition or decomposition of the active ingredients, and includes the control of the chemical and natural properties and of the stability of the formulation;

“registration number” means the number assigned to an agricultural pesticide or plant protection product as the case may be in accordance with the Republican Law;

“Republican Agricultural Chemist” means an agricultural chemist as defined in the Republican Law;

“Republican Analyst” means the Analyst of the Government of the Republic;

“Republican Law” means the Agricultural Pesticides Law 1993 of the Republic and includes any Law amending or substituting the same;

Law No. I(I)/93
(Republic).

“sell” includes barter or exchange and includes agreeing to sell or offering or exposing for sale or possessing for the purpose of selling or sending, forwarding or delivering for sale;

“substances” means any chemical elements and their compounds, as they occur naturally or by manufacture, including any concomitants which may arise during the manufacturing process.

3.—(1) No person shall import, manufacture, advertise, place on the market or in any other manner whatsoever use in the Areas any agricultural pesticide or plant protection product unless such pesticide or plant protection product is recognised under this Ordinance.

Importation etc.
of non- registered
pesticide or plant
protection product
prohibited.

(2) No person shall use an agricultural pesticide or plant protection product for any purpose or in any manner other than that declared upon its registration or contrary to the conditions of registration imposed under the Republican Law or to any instructions which either accompany the packaging or are otherwise printed on the label attached to the pesticide or plant protection product.

4.—(1) Any agricultural pesticide registered in the Republic under the Republican Law shall be a recognised pesticide for the purposes of this Ordinance and shall, in the Areas, be assigned the same registration number as it has been assigned in the Republic under the Republican Law.

Recognition of
pesticide.

(2) Any such pesticide shall cease to be recognised in the Areas for the same period as it ceases to be registered under the provisions of the Republican Law.

(3) Notwithstanding that such a pesticide remains registered in the Republic, the Chief Officer may, after consultation with the appropriate authorities of the Republic, by order declare that any agricultural pesticide shall cease to be recognised in the Areas for such period as he may specify in the order.

5.—(1) Any plant protection product approved in the Republic under the Republican Law shall be a recognised plant protection product for the purposes of this Ordinance.

Recognition of
plant protection
product.

(2) Any such plant protection product shall cease to be recognised in the Areas for the same period as it ceases to be recognised under the provisions of the Republican Law.

(3) Notwithstanding that such a product remains recognised in the Republic, the Chief Officer may, after consultation with the appropriate authorities of the Republic, by order declare that any such product shall cease to be recognised in the Areas for such period as he may specify in the order.

6. The production, storage or sale of any plant protection product which has not been approved in the Republic shall be permitted where such product is intended for use in a member State other than the Republic, provided that—

Use of plant
protection
products.

- (a) such product has been approved in the member State in which it is to be used; and
- (b) any controls relating to the use of such product in that member State are complied with.

Pesticides to be sold in sealed containers.

7. No person shall sell, or advertise for sale, any agricultural pesticide except in a sealed unbroken container, as may be prescribed.

Pesticides containers to be marked or labelled.

8. No person shall sell or advertise for sale in the Areas any agricultural pesticide unless the package containing the said pesticide is marked or labelled in such form and in such manner as may be prescribed.

Detaching, defacing etc. of labelling prohibited.

9. It shall be unlawful for any person—

- (a) to detach, alter, deface or destroy in whole or in part, any label or labelling prescribed in this Ordinance or in any regulations made thereunder, or to add any substance to, or take any substances from an agricultural pesticide in a manner that may defeat the purpose of this Ordinance;
- (b) to force open the package of any agricultural pesticide and to repack the contents in another package without the prior approval of the Chief Officer.

Appointment, powers and duties of Inspectors

10.—(1) For the purpose of ensuring the proper observance of the provisions of this Ordinance the Chief Officer may appoint Inspectors.

(2) Any Inspector may, for the purpose of checking compliance with the provisions of this Ordinance, at all reasonable times enter any premises other than a dwelling house in relation to which he has reasonable cause to believe that—

- (a) an agricultural pesticide or plant protection product is being manufactured, prepared, sold or stored for sale; or
- (b) any agricultural produce in which there may be present the residue of an agricultural pesticide or plant protection product is being stored or packed for sale,

and he may examine such agricultural pesticide, plant protection product or agricultural produce and may take samples in the prescribed manner.

(3) For every such sample an Inspector shall issue a receipt in the prescribed form.

(4) The owner of any agricultural pesticide, plant protection product or agricultural produce in respect of which samples are obtained under subsection (1) may claim payment for the quantity so taken at the price in force on the date on which the said samples were taken.

Taking of samples by Inspectors.

11.—(1) Where a sample has been taken by an Inspector in the manner prescribed by section 10, he shall forward it to the Republican Agricultural Chemist for analysis. On completion of the analysis, the Republican Agricultural Chemist shall supply the Inspector with a certificate showing the results of the analysis and indicating whether these are in compliance with the provisions of the Ordinance or regulations. The Inspector shall send or deliver a copy of such certificate to the manufacturer, importer, distributor or seller of the agricultural pesticide or plant protection product concerned.

(2) In the case of analysis of residues of agricultural pesticides in the sample of any agricultural produce taken in accordance with section 10, the certificate by the Republican Agricultural Chemist shall indicate whether the results of the analysis are in accordance with the Agricultural Pesticides Regulations 1993 of the Republic and a copy of such certificate shall be forwarded to the producer or seller of the agricultural product concerned.

(3) The certificate relating to the analysis carried out by the Republican Agricultural Chemist shall be in the form prescribed by the Agricultural Pesticides Regulations 1993 of the Republic.

(4) Any certificate of the Republican Agricultural Chemist or the Republican Analyst, as the case may be, received in the Areas, which specifies the result of the analysis and which states whether or not the results are in accordance with the provisions of this Ordinance or any regulations made under it shall be recognised in the Areas for the purposes of this Ordinance as if such analysis and report had been made in the Areas.

(5) Where the certificate of the Republican Agricultural Chemist relating to the quality of the pesticide or plant protection product is called into question, the manufacturer, importer, distributor or seller shall be entitled, within forty five days of the receipt of the copy of the said certificate, and upon payment of the prescribed fee, to submit such product through the Inspector to the Republican Analyst for the purpose of analysis and for the issue to him of a certificate relating to the results of such analysis.

(6) The report of the Republican Analyst shall, if received in the Areas, be deemed to be final for the purposes of this Ordinance as if it had been made in the Areas.

12.—(1) Any purchaser of an agricultural pesticide shall, subject to the agreement of the appropriate authorities of the Republic and upon payment of the prescribed fee, be entitled to submit such product through the Inspector to the Republican Agricultural Chemist for analysis.

Right of individual to have samples analysed.

(2) There shall be sent with each sample forwarded for analysis under subsection (1) of this section a statement giving—

- (a) the name and address of the purchaser,
- (b) the name and address of the manufacturer, importer or distributor,
- (c) the date of purchase,
- (d) the conditions of its storage,
- (e) the proprietary name of the agricultural pesticide, and
- (f) its registration number.

(3) The Republican Agricultural Chemist shall forward or deliver to the purchaser a certificate as to the results of the analysis which shall also include a description of the condition of the sample at the time when it was received by the Agricultural Chemist.

13. It shall be unlawful for any manufacturer, agent, distributor or seller to advertise in any way the results of the analysis that may have been carried out either under this Ordinance or under the Republican Law unless prior authorisation has been obtained from the appropriate authorities of the Republic under the Republican Law or from the Chief Officer.

Advertisement of results of analysis prohibited.

Restrictions on advertisements.

14. Words stating, implying or inferring that an agricultural pesticide is approved, accepted or recommended by the Administrator or any officer or department of the Administration or by the Government of the Republic, shall not be used in the Areas on any container, label, tag or advertisement for such product.

Regulations.

15.—(1) The Administrator may make regulations in respect of any matter which may be prescribed under this Ordinance and more generally for the purpose of applying this Ordinance more effectively and in particular, but without prejudice to the generality of the foregoing, for all or any of the purposes in subsection (2).

(2) To prescribe—

- (a) the classification of materials from which the manufacture of agricultural pesticides is possible;
- (b) the type, properties and the percentage proportion of the ingredients which may be contained in agricultural pesticides;
- (c) the procedure for taking samples;
- (d) the methods of analysis which shall be followed at the time of quality control and the acceptable limits of variation between the particulars that are stated on the application for registration or on the label of the container of an agricultural pesticide and the report of the Republican Agricultural Chemist relating to the analysis carried out at the Laboratory;
- (e) any fees payable under this Ordinance;
- (f) the information which shall be inscribed on the label accompanying a pesticide and the size, colour and type of label;
- (g) the conditions under which small consignments of agricultural pesticides which are not recognised and are intended for experimental use or chemical analyses by Government Departments of the Republic or individuals, may be imported into or manufactured in the Areas;
- (h) the categories of toxicity of agricultural pesticides;
- (i) the conditions and safety measures that are considered necessary—
 - (i) to protect the health of people living in the vicinity of places where agricultural pesticides are manufactured;
 - (ii) to prevent the pollution of the environment;
 - (iii) to protect the health of persons using agricultural pesticides; and
 - (iv) to protect the health of persons employed in the manufacture, packing, distribution or sale of agricultural pesticides;
- (j) the type and kind of materials that may be used for the packaging for agricultural pesticides;
- (k) the safe storage of agricultural pesticides and the prevention of their contamination;
- (l) the precautions to be taken during the use of any agricultural

pesticide for the purpose of preventing any wilful or accidental damage or injury to any person or property;

- (m) the qualifications, responsibilities and liabilities of any retailer of agricultural pesticides, including an obligation to register and obtain a licence to retail in agricultural pesticides, and for the payment of the relevant fee;
- (n) the standards and specifications to be fulfilled by warehouses or premises used for the sale of agricultural pesticides and the manner in which they shall be stored and the kind of agricultural pesticides permitted to be stored or sold therein;
- (o) the various means which may be used for spraying or dusting and the qualifications, responsibilities and liabilities of persons who offer their services by way of trade, including their obligation to register as such;
- (p) the procedure for carrying out tests on the effectiveness of agricultural pesticides, the manner of analysis and the preparation and submission of the results to the Chief Officer;
- (q) the conditions under which any plant protection product may be placed on the market and used, including any requirements with regard to the labelling of such products.

16.—(1) Any person who—

- (a) contravenes section 3, 7, 8, 9, 13 or 14;
- (b) alters the label of any registered agricultural pesticide without the prior approval of the Chief Officer;
- (c) falsely represents any agricultural pesticide in any advertisement; or
- (d) unlawfully uses a registration number of an agricultural pesticide or plant protection product assigned under this Ordinance or unlawfully uses such number as if it has been allocated under the provisions of this Ordinance; or
- (e) contravenes any other requirement or prohibition imposed by this Ordinance or any regulations made under it,

shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding £500 or to both such penalties.

(2) Any person who wilfully obstructs, hinders, resists or in any other way opposes any Inspector shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding £500 or to both such penalties.

(3) In addition to any other penalty prescribed by this section, the Judge's Court before which a person is convicted of an offence under subsection (1), may order that the agricultural pesticide or plant protection product in relation to which the offence has been committed shall be confiscated, destroyed or otherwise disposed of.

17.—(1) Where it is established that an agricultural pesticide or plant protection product is advertised, exposed, offered or held in possession for sale in the Areas contrary to the provisions of this Ordinance or any regulations made under it, an Inspector may serve upon the manufacturer, importer, distributor, seller or possessor

Offences and penalties.

Interim prohibition of disposal etc. of pesticides.

of such agricultural pesticide or plant protection product, a notice in writing to that effect, and the person upon whom such notice is served shall not sell, dispose, use, remove, export from the Areas or destroy such agricultural pesticide or plant protection product for at least seven days from the time he is so served.

(2) Following the commencement of prosecution for an offence under subsection (1), an Inspector may, at any stage during the criminal proceedings, make an ex parte application to the Judge's Court for the issue of an interim order prohibiting the sale, disposal, use, removal or destruction of the agricultural pesticide or plant protection product in relation to which the alleged offence was committed until the final determination of the case; upon such application the Court may make such order subject to such terms and conditions as it may think fit and shall fix a date on which the defendant shall have the opportunity of opposing before the Court the order issued.

Certificate of
Agricultural
Chemist prima
facie evidence.

18. In any criminal proceeding for an offence under the provisions of subsection (1) of section 16, the production by the prosecution of a certificate by the Republican Agricultural Chemist in the form prescribed in the regulations shall constitute sufficient evidence of the facts stated therein, unless the accused requests the attendance of the Republican Agricultural Chemist as a witness.

Exemptions.

19. Nothing contained in this Ordinance shall apply to, or shall affect or shall be construed as affecting—

- (a) any agricultural pesticides imported into the Areas for re-export outside the Island of Cyprus;
- (b) the import and sale of agricultural pesticides for industrial purposes only, or the import and sale of raw materials for the manufacture of agricultural pesticides, provided that a permit had been issued in advance by the Chief Officer under such conditions and limitations as the Chief Officer may deem fit;
- (c) the import or manufacture in the Areas of small consignments of agricultural pesticides for experimental use or chemical analyses, provided that a permit has been issued in advance by the Chief Officer under such conditions and restrictions as the Chief Officer may deem fit.

Repeal Ordinance
3 of 2000.

20.—(1) The Agricultural Pesticides Ordinance 2000 is repealed.

(2) Any regulations made under the Agricultural Pesticides Ordinance, in so far as they are not inconsistent with the provisions of this Ordinance, shall continue in force until revoked and shall be deemed to have been made under this Ordinance.

23rd December 2004

(128/354)

P. D. Draycott

Chief Officer.
