



ANALYSIS

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1967, No. 144

An Act to amend the Agricultural Chemicals Act 1959

[24 November 1967]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title—This Act may be cited as the Agricultural Chemicals Amendment Act 1967, and shall be read together with and deemed part of the Agricultural Chemicals Act 1959 (hereinafter referred to as the principal Act).

2. Interpretation—(1) Section 2 of the principal Act is hereby amended by omitting from the definition of the term “agricultural chemical” the word “sold”, and substituting the words “sold or used”.

(2) Section 2 of the principal Act is hereby further amended by adding the following definition:

“‘Special mixture’ means a mixture of agricultural chemicals registered or exempted from registration under this Act which is prepared in accordance with the requirements of the intending user and to which the provisions of section 16A of this Act apply.”

3. Registrar of Committees—Section 9 of the principal Act is hereby amended by repealing subsection (3).

4. Functions of Board—Section 11 of the principal Act is hereby amended by adding the following subsection:

“(3) In the exercise of its powers and functions the Board shall have regard to the general effect which the application of agricultural chemicals is likely to have on all forms of plant and animal life.”

5. Annual report—The principal Act is hereby further amended by inserting, after section 11, the following section:

“11A. (1) The Board shall, not later than the thirty-first day of August in each year, prepare a report of its proceedings and operations for the last preceding year ending with the thirtieth day of June and forward a copy of the report to the Minister.

“(2) A copy of the report shall be laid before Parliament.”

6. Application for registration—Section 13 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) Every such application shall be accompanied by the prescribed fee, and by such number of specimen copies as the Board requires of every label which it is intended to use in respect of the agricultural chemical and also, if requested by the Board, by a statutory declaration by the applicant verifying any information contained in or relating to the application.”

7. Registration—(1) Section 14 of the principal Act is hereby amended by adding the following subsection:

“(4) Registration may be subject to such terms and conditions as may be prescribed in the certificate of registration.”

(2) Section 12 of the principal Act is hereby amended as follows:

- (a) By omitting from subsection (2) the words “been provisionally registered”, and substituting the words “been registered”:
- (b) By omitting from subsection (2) the word “provisional”.

8. Labelling—(1) Section 15 of the principal Act is hereby amended by omitting from paragraph (c) of subsection (1) the words “prescribed by regulations under this Act”, and substituting the words “required by the Board”.

(2) Paragraph (d) of subsection (1) of section 15 of the principal Act is hereby repealed.

(3) Section 15 of the principal Act is hereby further amended by repealing paragraph (g) of subsection (1), and substituting the following paragraph:

“(g) Such precautionary advice as may be required by the Board for the purpose of safeguarding the health of livestock and beneficial animals (including birds, fish, and beneficial insects):”.

(4) Section 15 of the principal Act is hereby further amended by repealing subsection (5), and substituting the following subsections:

“(5) Every label shall contain a statement that the agricultural chemical to which it relates has been registered or provisionally registered under this Act and the registered number of the certificate of registration; but no label shall contain any other reference to registration of the agricultural chemical or to the acceptance of the label by the Board.

“(5A) Every label attached to a package shall state, in a manner approved by the Board, the net weight or the net quantity of the agricultural chemical contained in the package.”

9. Special mixtures—The principal Act is hereby further amended by inserting, after section 16, the following section:

“16A. (1) No person shall sell any special mixture otherwise than pursuant to and in accordance with a permit issued by the Board under this section.

“(2) Application for a permit to sell special mixtures under this section shall be accompanied by the prescribed fee and shall be made in writing signed by the applicant and addressed to the Registrar.

“(3) The Board may, in its absolute discretion,—

“(a) Refuse any such application; or

“(b) Grant the application either unconditionally or subject to such terms and conditions as the Board thinks fit.

“(4) The Board may from time to time, by notice in writing to the holder thereof, revoke or vary any permit issued under this section.

“(5) No person shall sell any special mixture to any purchaser other than the person at whose request the mixture was prepared or the authorised agent of that person.

“(6) Every package containing a special mixture shall have attached to it a label containing such information as may be specified in that behalf by the Board.

“(7) The provisions of section 12 and of section 15 of this Act shall not apply with respect to any special mixture:

“Provided that the proprietor of a special mixture may apply under section 13 of this Act for registration of the mixture as an agricultural chemical and, if the mixture is registered or provisionally registered, the provisions of this section shall not apply to the mixture.

“(8) Every person who sells a special mixture shall record the quantity and composition of the mixture comprised in the sale, the name and address of the purchaser, and the date of delivery. The seller shall retain the record in his possession for a period of two years after the date of the sale and shall permit an Inspector to examine the record at any time during which it is retained by the seller.

“(9) Every person who fails to comply with any provision of this section or who fails to comply with any terms or conditions to which a permit is subject commits an offence against this Act, and shall be liable on summary conviction to a fine not exceeding two hundred dollars.”

10. Revocation of registration—(1) The principal Act is hereby further amended by repealing section 20 (as amended by section 3 of the Agricultural Chemicals Amendment Act 1963), and substituting the following section:

“20. (1) If the Board is satisfied that the use, in the circumstances in which it is normally used or is likely to be used, of any agricultural chemical registered under this Act—

“(a) Is likely to be materially prejudicial to the health or safety of human beings, livestock, beneficial animals (including birds, fish, and beneficial insects) or beneficial plants; or

“(b) Is likely, because of the nature or quantity of the ingredients contained therein, to have a detrimental effect on meat, dairy produce, or other produce intended for human consumption that has been exposed to the agricultural chemical, or is likely to prejudice the sale of any such meat or produce in New Zealand or elsewhere,

the Board may, by notice in writing addressed to the proprietor, revoke the registration.

“(2) The Board may at any time, at the request of the proprietor thereof, revoke the registration of any agricultural chemical.

“(3) Where any registration is revoked pursuant to subsection (1) or subsection (2) of this section or deemed to be revoked pursuant to subsection (2) of section 19 of this Act, the Board shall fix a date, not later than twelve months after the date of the determination of the Board to revoke the registration, on which the revocation shall have effect.

“(4) The Board may, in its discretion, publish in the *Gazette* a notice of the revocation of the registration of any agricultural chemical, the grounds of the revocation, and the date from which the revocation has effect.”

(2) Section 19 of the principal Act is hereby amended by inserting in subsection (2), after the word “shall”, the words “, as from a date determined by the Board in that behalf,”.

(3) Section 3 of the Agricultural Chemicals Amendment Act 1963 is hereby repealed.

11. Appeals—Section 21 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsection:

“(3) Sections 3, 4, 4A, and 5 to 12 of the Commissions of Inquiry Act 1908 shall apply with the necessary modifications to every Appeal Authority constituted pursuant to this section as if every such Appeal Authority were a Commission of Inquiry under that Act.”

12. Advertisements—The principal Act is hereby further amended by repealing section 23, and substituting the following section:

“23. (1) Subject to subsection (2) of this section, no reference shall be made in any advertisement of an agricultural chemical to the registration of the agricultural chemical except a statement that it has been registered under this Act.

“(2) Where an agricultural chemical has been provisionally registered, every advertisement of the agricultural chemical shall contain a statement to that effect and such other statement as the Board may direct relating to the terms and conditions on which the agricultural chemical is provisionally registered.

“(3) Where the Board is satisfied that any advertisement in respect of any agricultural chemical contains any inaccurate or misleading statement, it may direct any proprietor or vendor responsible for the advertisement to omit or to modify or vary the statement in such manner as the Board may direct.

“(4) Every proprietor or vendor who publishes or causes to be published any advertisement contrary to the provisions of this section or who fails to comply with any direction of the Board under this section, commits an offence against this Act and shall be liable on summary conviction to a fine not exceeding two hundred dollars.”

13. Powers of Inspectors with respect to certain substances—The principal Act is hereby further amended by inserting, after section 24, the following section:

“24A. (1) In this section the term ‘Inspector’ includes any member of the Police, and the term ‘agricultural chemical’ includes the container in which an agricultural chemical is enclosed.

“(2) Any Inspector may at all reasonable times enter and inspect any land, vehicle, factory, commercial premises, store, or shed where he has reasonable grounds for believing that there is any agricultural chemical.

“(3) Any Inspector may mark, seal, or otherwise secure, or impound any substance which he has reasonable grounds for believing is an agricultural chemical which—

“(a) Is not for the time being registered; or

“(b) Is contained in a package which does not bear a label accepted by the Board in respect of that agricultural chemical in accordance with this Act; or

“(c) Has been or is being sold or used contrary to the provisions of this Act or regulations under this Act.

“(4) Where any substance is marked, sealed, secured, or impounded by an Inspector under this section, he shall, as soon as practicable, take or cause to be taken all reasonable measures to have the substance removed to a place of safety to be dealt with under section 24B of this Act.

“(5) Where any substance is removed under subsection (4) of this section, the Inspector shall give notice of the removal to the owner of the substance and to any other person who, so far as is known to the Inspector, is qualified to make application under section 24B of this Act in respect of the substance.

“(6) Subject to any order under section 24B of this Act, the reasonable costs of marking, sealing, securing, impounding, or removing any substance under this section shall be recoverable from the owner thereof as a debt due to the Crown, but nothing in this subsection shall affect any right of action that the owner may have against any other person.

“(7) Subject to any such order as aforesaid, every person commits an offence against this Act and shall be liable on summary conviction to a fine not exceeding two hundred dollars who, without the authority of an Inspector, removes or interferes with any substance which has been marked, sealed, secured, or impounded under this section.”

14. Magistrate’s Court may order return of property—The principal Act is hereby further amended by inserting, after section 24A (as inserted by section 13 of this Act) the following section:

“24B. (1) Any person claiming any estate or interest in any substance marked, sealed, secured, or impounded under section 24A of this Act may, within fourteen days thereafter, apply to a Magistrate’s Court for an order—

“(a) That the substance shall be returned or otherwise made available to him, or that he shall have access to it for any purpose:

“(b) Where he has suffered any loss or damage as a result of an order of the Court under this section, that he shall be paid, in accordance with this section, such sum by way of compensation for that loss or damage as the Court thinks fit:

“(c) That the applicant, being the owner of the substance, shall be relieved from liability for the payment of the whole or any part of any costs and expenses otherwise payable by him under section 24A of this Act.

“(2) On any such application, the Court may make such order as it thinks fit, and any such order may be made upon and subject to such terms and conditions as the Court thinks fit.

“(3) On any such application, the Court may also make an order that the substance be forfeited to the Crown or destroyed or that it be sold and the proceeds of the sale paid to the Crown or disposed of in such manner as the Court directs.

“(4) Where an application is not made under subsection (1) of this section within the time limited in that behalf, an Inspector may destroy or sell any substance secured or impounded under section 24A of this Act.

“(5) Where the Court makes an order for the payment of any sum by way of compensation to any person under this section, the sum so awarded shall be recoverable by that person as a debt due from the Crown.

“(6) Every application to the Court under this section shall be made and dealt with by way of originating application, on notice, under the rules of procedure for the time being in force under the Magistrates' Courts Act 1947, and the provisions of those rules shall apply accordingly.

“(7) Every order made by the Court under this section shall be final and binding on all parties.”

15. Returns—The principal Act is hereby further amended by inserting, after section 27, the following section:

“27A. (1) Every proprietor of an agricultural chemical shall, as and when required to do so by notice in writing given to him by the Director-General, on the recommendation of the Board, furnish a return giving particulars of the amount of the agricultural chemical sold or held in stock by him during such period as may be specified in the notice and containing such other information to enable the Director-General to determine the extent of the use in New Zealand of agricultural chemicals as the Director-General may specify in the notice.

“(2) The Director-General may from time to time publish, in such manner as he thinks fit, statistical information obtained from the returns furnished under this section.

“(3) No action shall lie against the Director-General or any other person in respect of the publication of any matter pursuant to this section.

“(4) Any person who wilfully fails to make any return or furnish any information required by the Director-General under subsection (1) of this section or who wilfully furnishes false information pursuant to any such request commits an offence against this Act and shall be liable on summary conviction to a fine not exceeding one hundred dollars.”

16. Time for commencement of proceedings—The principal Act is hereby further amended by inserting, after section 29, the following section:

“29A. Notwithstanding anything in section 14 of the Summary Proceedings Act 1957, any information for an offence against this Act or regulations under this Act may be laid within two years after the time when the matter of the information arose.”

17. Regulations—(1) Section 30 of the principal Act is hereby amended by inserting in paragraph (k) of subsection (2), after the word “method”, the word “, place,”.

(2) Section 30 of the principal Act is hereby further amended by inserting in subsection (2), after paragraph (k), the following paragraphs:

“(kk) Regulating, prohibiting, or restricting the sale, distribution, custody, carriage, packaging, handling, or use of any agricultural chemical or of any class thereof:

“(kkk) Regulating, prohibiting, or restricting the grazing of livestock or beneficial animals in any area to which any agricultural chemical has been applied or on which any agricultural chemical has been deposited:”.

(3) Section 30 of the principal Act is hereby further amended by inserting, after subsection (2), the following subsection:

“(2A) Any regulations under this section may confer on the Minister or on the Director-General power to issue, in such manner as may be prescribed, instructions, orders, requirements, permits, authorities, or notices for the purpose of ensuring the safe or efficient use of any agricultural chemical or class thereof and, where the regulations so provide, any such instruction, order, requirement, permit, authority, or notice shall have effect according to its tenor and be complied with by all persons affected thereby.”

This Act is administered in the Department of Agriculture.
