

THE PESTICIDES MANAGEMENT BILL, 2008

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Bill No. XLVIII of 2008

THE PESTICIDES MANAGEMENT BILL, 2008

A

BILL

to regulate the import, manufacture, export, sale, transport, distribution, quality and use of pesticides with a view to—

- (i) control pests;
- (ii) ensure availability of quality pesticides;
- (iii) allow its use only after assessing its efficacy and safety;
- (iv) minimize the contamination of agricultural commodities by pesticide residues;
- (v) create awareness among users regarding safe and judicious use of pesticides,

and to take necessary measures to continue, restrict or prohibit the use of pesticides on reassessment with a view to prevent its risk on human beings, animals or environment, and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Pesticides Management Act, 2008.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different States and for different provisions of this Act.

Short title,
extent and
commencement.

Application of other laws not barred.

2. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force.

Definitions.

3. In this Act, unless the context otherwise requires,—

(a) "active ingredient" means the technical grade pesticide present in a formulation;

(b) "animals" means animals useful to human beings and include fish and fowl, and such kinds of wild life as the Central Government may, by notification in the Official Gazette, specify, being kinds which in its opinion is desirable to protect or preserve;

(c) "batch" means an identifiable quantity of a technical grade pesticide or its formulation which has been manufactured and processed under uniform conditions in a single lot;

(d) "Board" means the Central Pesticides Board constituted under section 4;

(e) "Central Pesticides Laboratory" means the Central Pesticides Laboratory established, or as the case may be, the institution accredited under section 21;

(f) "deemed registered pesticides" means the pesticides registered on the basis of their being imported or manufactured immediately before the commencement of this Act;

(g) "environment" includes water, air and land and the inter-relationship which exists among and between water, air and land, and human beings, other living creatures, plants, micro-organisms and property;

(h) "export" means taking out to any place outside those territories to which this Act extends from a place inside the territories;

(i) "formulation" means manufacture of a preparation containing one or more technical grade pesticide in a definite proportion along with other specified ingredients;

(j) "household pesticide" means any pesticide that is sold to the user for the purpose of use only in household and intended to destroy, deter, render harmless, prevent the action of or otherwise exert a controlling effect on any harmful pest by chemical or biological means, which is not used on fields or farms or for commercial storage applications;

(k) "import" means bringing into any place within the territories to which this Act extends from a place outside those territories;

(l) "label" means any written, printed or graphic matter on the immediate package and on every other covering in which the package is placed or packed and includes any written, printed or graphic matter accompanying the pesticide;

(m) "licensing officer" means a licensing officer appointed under section 16;

(n) "manufacture", in relation to any pesticide, includes—

(i) any process or part of a process for making, altering finishing, packing, repacking, labelling, breaking up or otherwise treating or adopting any pesticide with a view to its sale, distribution or use without changing the date of manufacture or expiry of such pesticide; and

(ii) any process by which a preparation containing a pesticide is formulated;

(o) "misbranded"—a pesticide shall be deemed to be misbranded—

(i) if its label or leaflet contains any statement, design or graphic representation relating thereto which is false or misleading in any material particular, or if its package is otherwise deceptive in respect of its contents; or

(ii) if its label does not contain a warning or caution which may be necessary and sufficient, if complied with to prevent risk to human beings or animals; or

(iii) if any word, or statement or other information required by or under this Act to appear on the label is not displayed thereon in such conspicuous manner as the other words, statements designs or graphic matter have been displayed on the label in such terms as to render it likely to be read and understood by any ordinary individual under customary conditions of purchase and use; or

(iv) if it is not packed or labelled as required by or under this Act; or

(v) if the label contains any reference to registration other than the registration number; or

(vi) if the date of manufacture and the date of expiry printed on its label is at variance with the shelf-life as approved by the Registration Committee;

(p) "nominal value" means the registered strength of a pesticide;

(q) "other Ingredients" means inert material, wetting agents, dispersing agents, emulsifying agents, stabilizers or other substances which are added in a specified proportion to technical grade pesticide to make a formulation;

(r) "package" means a box, bottle, casket, tin, barrel, case, receptacle, sack, bag, wrapper, or such other things as approved by the Registration Committee, in which an pesticide is placed or packed;

(s) "pesticide" means any substance or mixture of substances of chemical or biological origin intended for preventing, destroying, attracting, repelling, mitigating or controlling any pest including unwanted species of plants or animals during the production, storage, transport and distribution of agricultural commodities or animal feeds including substances intended for use as plant growth regulator, defoliant, desiccant, fruit thinning agents, or sprouting inhibitor and substances applied to crops either before or after harvest to protect them from deterioration during storage and transport;

(t) "Pesticide Analyst" means an Pesticide Analyst appointed under section 24;

(u) "pest control operator" means any person who undertakes pest control operations and includes the person or the firm or the company or the organisation under whose control such person is operating.

(v) "Pesticide Inspector" means an Pesticide Inspector appointed under section 25;

(w) "premises" means any land, shop, stall or place, where any pesticide is sold or manufactured or stored or used, and includes any vehicle carrying pesticides;

(x) "prescribed" means prescribed by rules made under this Act;

(y) "registered", with its grammatical variations and cognate expressions, means registered under this Act;

(z) "sale", with its grammatical variations and cognate expressions, means the sale of any pesticide whether for cash or on credit and whether by wholesale or retail, and includes an agreement for sale, an offer for sale, exposing for sale or having in possession for sale of any pesticide or an attempt to sell any such pesticide;

(za) "sub-standard"— a pesticide shall be deemed to be sub-standard—

(i) if it does not conform to the active ingredient test approved for it by the Registration Committee and its active ingredient is within five per cent. of the nominal value when applied beyond the upper and lower limits prescribed for conforming to the test:

Provided that no tolerance limit shall apply in case of pesticides, which are registered on minimum purity basis; or

(ii) if it does not conform to other tests specified or approved for it by the Registration Committee while granting registration;

(zb) "spurious"— a pesticide shall be deemed to be spurious—

(i) if it is not registered or licensed in the manner required by or under this Act; or

(ii) if on test or analysis it shows active ingredient higher or lower even beyond the limits prescribed under clause (v); or

(iii) if it is an imitation of, or is sold under the name of, another pesticide; or

(iv) if the container bears the name of the person or company purporting to be the manufacturer of the pesticide, which is either fictitious or does not exist; or

(v) if the chemical composition as approved by the Registration Committee is not adhered to or is modified or changed by adding or substituting any ingredient or substance; or

(vi) if it has outlived its shelf-life, as evident by the date of manufacture and the date of expiry as printed on its label, approved by the Registration Committee and displayed for sale, distribution, use or caused to be used or not disposed of as per provision under section 52; or

(vii) if its import, manufacture, use or sale is prohibited and it is found to be imported, manufactured, stocked, distributed, transported, sold or exhibited for sale, caused to be used;

(zc) "State Government", in relation to a Union territory, means the administrator of that Union territory appointed by the President under article 239 of the Constitution;

(zd) "stockist" in relation to any household pesticide means, any person who purchases such packages for distribution or re-sale from any manufacturer of such pesticide;

(ze) "technical grade pesticide" means purest form of a pesticide produced for commercial use, prior to being formulated;

(zf) "worker" means a person employed under a contract of service or apprenticeship.

CHAPTER II

CENTRAL PESTICIDES BOARD

Constitution
of Central
Pesticides
Board.

4. (1) The Central Government shall, as soon as may be, constitute a Board to be called the Central Pesticides Board to advise the Central Government and the State Governments on scientific and technical matters arising out of administration of this Act and to carry out the functions assigned to it by or under this Act.

(2) The Board shall consist of the following members, namely:—

(i) Director General of Health Services, who shall be the Chairperson; *ex officio*

(ii) Joint Drugs Controller General of India; *ex officio*

(iii) Agriculture Commissioner, Department of Agriculture and Cooperation, Ministry of Agriculture; *ex officio*

(iv) the Plant Protection Adviser to the Government of India; *ex officio*

(v) a representative of—

(a) **Director of Storage and Inspection, Ministry of Food, Consumer Affairs and Public Distribution;**

(b) **Chief Adviser of Factories;**

(c) **Director, National Institute of Communicable Diseases;**

(d) **Director-General, Indian Council of Medical Research;**

(e) **Director, Zoological Survey of India;**

(f) **Director-General, Bureau of Indian Standards;**

(g) **Director-General of Shipping, Ministry of Road Transport and Highways;**

(h) **Joint Director, Traffic (General), Ministry of Railways (Railway Board);**

(i) **Secretary, Central Committee for Food Standards;**

(j) **Animal Husbandry Commissioner, Department of Animal Husbandry, Dairying and Fisheries;**

(k) **Joint Commissioner (Fisheries), Department of Animal Husbandry, Dairying and Fisheries, Ministry of Agriculture;**

(l) **Deputy Inspector-General of Forests (Wild Life), Ministry of Environment and Forests;**

(m) **Industrial Adviser (Chemical), Department of Industrial Policy and Promotion, Ministry of Commerce;**

(n) **Department of Biotechnology;**

(o) **Ministry of Commerce, Department of Commerce;**

(p) **Central Ground Water Board;**

(q) **National Institute of Nutrition;**

(r) **Ministry of Law;**

(vi) **Assistant Director-General (Plant Protection), Indian Council of Agricultural Research, *ex officio*;**

(vii) **Director, Central Pesticides Laboratory, *ex officio*;**

(viii) **Assistant Director-General (Prevention of Food Adulteration), Ministry of Health and Family Welfare, *ex officio*;**

(ix) **Additional Industrial Adviser (Chemicals), Department of Chemicals and Petrochemicals, Ministry of Chemicals and Fertilizers, *ex officio*;**

(x) **Director, Hazardous Substances Management, Ministry of Environment and Forests, *ex officio*;**

(xi) **Director, National Institute of Occupational Health, *ex officio*;**

(xii) **one Pharmacologist to be nominated by the Central Government;**

(xiii) **one medical toxicologist to be nominated by the Central Government;**

(xiv) **one person who shall be in charge of the department dealing with public health in a State, to be nominated by the Central Government;**

(xv) **five persons who shall be Directors of Agriculture or Horticulture in States, representing five respective agro-climatic zones, to be nominated by the Central Government;**

(xvi) **one person to represent the Council of Scientific and Industrial Research, to be nominated by the Central Government; and**

(xvii) **one ecologist to be nominated by the Central Government.**

(3) The Central Government may appoint an officer from the Directorate of Plant Protection as the Member-Secretary to the Board having such qualifications as may be prescribed.

Term of office of nominated members.

5. The person nominated under clauses (xii) to (xviii) of sub-section (2) of section 4 shall, unless their seats become vacant earlier by resignation, death or otherwise, hold office for a period of three years from the date of their nomination but shall be eligible for re-nomination:

Provided that the persons nominated under clauses (vi) to (xi) shall hold office only for so long as they hold the appointments by virtue of which their nominations were made.

Vacancies, etc., not to invalidate proceedings of Board, Registration Committee or any other committee.

6. No act or proceeding of the Board, the Registration Committee or any other committee constituted under this Act, shall be called in question on the ground merely of the existence of any vacancy in, or any defect in the constitution of the Board, the Registration Committee or such committee, as the case may be.

Functions and powers of Board.

7. The matters on which the Board may advise the Central Government and the State Governments shall, *inter alia*, include—

(a) prevention of risk to human beings, animals and environment during the manufacture, sale, storage, transport, distribution, handling and use of pesticides and necessary safety measures and practices relating thereto;

(b) monitoring performance of registered pesticides in improvement of agricultural production;

(c) review of the toxicity and safety of pesticides from time to time;

(d) suggest development and availability of safer alternatives to existing pesticides as per latest global research and development; and

(e) disposal of obsolete, date-expired and banned pesticides.

Procedure, etc., of Board.

8. The Board may, subject to the previous approval of the Central Government, make regulations for the purpose of regulating its procedure and the procedure of any committee thereof and the conduct of all business to be transacted by it or such committee.

Officers and employees of Board and Registration Committee.

9. The Central Government shall provide the Board and the Registration Committee with such technical and other staff, as it considers necessary.

Other Committees and allowances payable to members of Board, Registration Committee and other committees.

10. (1) The Board may constitute such committees as it considers necessary and may appoint to them, persons who are not members of the Board to exercise such powers and perform such duties as may, subject to such conditions, if any, as the Board may impose, be delegated to them by the Board.

(2) **The members of the Board, the Registration Committee and other committees shall receive such allowances as may be prescribed.**

CHAPTER III

REGISTRATION OF PESTICIDES

Registration Committee and its functions.

11. (1) The Central Government shall constitute a Registration Committee consisting of the Chairperson and following *ex officio* members, namely:—

(a) **Agriculture Commissioner in the Ministry of Agriculture as Chairperson;**

(b) **Plant Protection Adviser to the Government of India;**

(c) **Joint Drugs Controller General of India;**

(d) **Assistant Director General (Plant Protection), Indian Council of Agricultural Research;**

(e) **Director, National Institute of Occupational Health;**

(f) **Additional Industrial Adviser (Chemicals), Department of Chemicals and Petrochemicals, Ministry of Chemicals and Fertilizers;**

(g) **Assistant Director General (Prevention of Food Adulteration), Ministry of Health and Family Welfare;**

(h) **Director, Hazardous Substances Management, Ministry of Environment and Forests;**

(i) **Director, Industrial Toxicological Research Centre;**

(j) **Member-Secretary, Central Pesticide Board as Member-Secretary.**

(2) The Registration Committee shall—

(i) register pesticides after scrutinising their formulae and verifying claims made by the importer or the manufacturer or the exporter, as the case may be, as regards their efficacy and safety to human beings, animals and environment;

(ii) allow the continued use or restrict or prohibit the use on reassessment of their safety and availability of safer alternatives;

(iii) specify requirements of necessary infrastructure including machinery, equipment and technically qualified personnel for grant of licence for manufacture and storage of pesticides;

(iv) specify guidelines for the regulation of advertising of pesticides in all media to ensure that it is in accordance with label directions and precautions to be observed in its application;

(v) specify protocols, procedures and good manufacturing practices for manufacture of pesticides;

(vi) maintain a national register of persons engaged in import, manufacture and export of pesticides;

(vii) perform such other functions as are assigned to it by or under this Act; and

(viii) notify the pesticides registered under this Act from time to time; and specify the pesticides having pesticidal properties and its uses in such manner as may be prescribed.

(3) The Registration Committee may co-opt such number of experts and for such purpose or period as it may consider necessary but the expert so co-opted shall have no right to vote.

(4) The Registration Committee may constitute one or more sub-committees consisting of at least three persons who are members of the Committee to exercise such powers and perform functions delegated to them by the Committee, subject to such conditions, if any, as the Committee may impose:

Provided that the sub-committee shall submit details of the decisions taken by them for the ratification by the Registration Committee.

12. (1) Any person desiring to import or manufacture or export any pesticide shall apply to the Registration Committee for the registration of such pesticide and there shall be separate application for each pesticide:

Registration of pesticides.

Provided that the insecticides registered under the provisions of the Insecticides Act, 1968, immediately before the commencement of this Act, shall be deemed to be the registered pesticides under the corresponding provisions of this Act.

(2) Every application under sub-section (1) shall be made in such form and contain such particulars as may be prescribed, including claims regarding expected performance, efficacy and safety along with usage instructions and infrastructure available or proposed to be made available to manufacture and to stock that pesticide.

(3) It shall be the responsibility of all applicants applying for registration to provide complete information on all the known inimical effects of the pesticide on human beings, animals and the environment.

(4) On receipt of the application complete in all respects for the registration of a pesticide, the Committee may, after such enquiry as it considers necessary and after satisfying itself that the pesticide to which the application relates conforms to the claims made by the importer or by the manufacturer or by the exporter, as the case may be, as regards the expected performance and efficacy of the pesticide as well as its safety to human beings, animals and environment, and availability or provision of requisite minimum infrastructure to manufacture and stock that pesticide, register the pesticide on such conditions as may be specified by it and on payment of such fee as may be prescribed and allot a registration number thereto and issue a certificate of registration as a token thereof within a period of two years:

Provided that the Committee may, in exceptional circumstances and for reasons to be recorded in writing, extend the period up to six months.

(5) No pesticide shall be registered for import or manufacture unless its tolerance limit are specified for its residues on crops and commodities under the Food Safety and Standards Act, 2006.

34 of 2006.

(6) The data submitted for the purpose of registration in respect of a pesticide under this section which has not been previously registered shall not be relied upon for grant of registration of the same pesticide in respect of any other person for a period of three years.

(7) Subject to sub-section (6), where a pesticide has been granted a patent, the period of non-reliance on data shall be limited to the period of the patent.

Explanation.— The words "not been previously registered" in respect of a pesticide shall include its name or label expansion through "new uses":

Provided that the provisions of non-reliance on data submitted for registration of a pesticide by the first registrant shall be available for the period with effect from the date of the first marketing approval granted anywhere in the world and this shall not apply to the data relating to bio-efficacy and shelf-life part of pesticides where data is to be generated for use under Indian conditions.

(8) Subject to the provisions of sub-section (6), the Central Government may relax or exempt the provision of non-reliance of data submitted for registration of a pesticide by the first registrant in the following circumstances, namely:—

(i) (a) national exigency; or

(b) in cases of urgency; or

(c) public interest; or

(ii) for use by the Government for academic and research purposes.

(9) If the Committee is of the opinion that the precautions claimed by the applicant as being sufficient to ensure safety to human beings or animals are not such as can be easily observed or that notwithstanding the observance of such precautions the use of the pesticide involves serious risk to human beings or animals or environment, or that infrastructure to manufacture or stock that pesticide is inadequate, it may refuse to register the pesticide.

(10) Where the Registration Committee is of opinion that the pesticide is being introduced for the first time in India, it may pending an enquiry, register it provisionally for a

period of two years on such conditions as may be specified by it for the purpose of generation of data for making an application under sub-section (1):

Provided that the Central Government may, on the recommendation of the Registration Committee and if no other appropriate pesticide is registered or available, allow commercialization of such pesticide on such conditions as may be specified to meet national exigency.

(11) The Registration Committee may, having regard to the efficacy of the pesticide and its safety to human beings and animals, vary the conditions subject to which a certificate of registration has been granted and may for that purpose require the certificate-holder by giving notice in writing to produce the certificate before it within such time as may be specified in the notice.

(12) Notwithstanding anything contained in this section, where a pesticide has been registered on the application of any person, any other person desiring to import or manufacture the pesticide or engaged in the business of import or manufacture thereof, shall, on application and on payment of prescribed fee, be allotted a registration number and granted a certificate of registration in respect thereof on the same conditions on which the pesticide was registered under sub-section (4):

Provided that registration in respect of a pesticide, data of which cannot be relied upon under sub-section (6) shall not be granted during a period of three years of the date of its registration unless a letter of consent is enclosed with the application, in original, from the registrant of that pesticide.

(13) Subject to the provisions of sub-section (12), the Central Government may allow grant of registration under this sub-section in respect of a pesticide, data of which is not relied upon under sub-section (6) even within the period of three years of the date of registration of such pesticide in the following circumstances, namely:—

- (a) National exigency; or
- (b) in cases of urgency; or
- (c) public interest;

13. (1) If the Registration Committee, either *suo motu* or otherwise, is *prima facie* satisfied of violation of any provision of the Act or the rules framed thereunder, or any of the conditions of certificate of registration, if may, after giving an opportunity of hearing to the registrant and for reasons to be recorded in writing, suspend the registration certificate for a period not exceeding three months.

Suspension or
cancellation of
registration.

(2) The certificate of registration issued under section 12 shall be deemed cancelled if the registrant fails to submit a copy of the manufacturing licence and satisfy the Registration Committee of having set up necessary manufacturing facilities and started production of that pesticide within a period of three years in case of manufacture or a copy of the licence to manufacture, stock, distribute or sale within a period of one year in case of import.

(3) The Registration Committee may either itself or through any of its officers, may cause the inspection of the manufacturing premises or processing facility of that registrant with respect to adequacy of infrastructure to manufacture, stock that pesticide and cancel the Certificate of Registration if the infrastructure is found inadequate.

(4) (a) The Registration Committee, having satisfied itself with the adverse impact of a pesticide of a particular registrant on crops, human beings, animals or environment or to minimise the risk of such adverse impact through risk assessment or risk benefit analysis, either on its own motion or on receiving evidence of adverse impact may after giving an opportunity of hearing to the registrant, and for the reasons to be recorded in writing, cancel the registration of that pesticide;

(b) The Registration Committee, having satisfied itself with the evidence that any of the conditions of certificate of registration in respect of a pesticide has been violated, may

after giving an opportunity of hearing to the registrant, and for the reasons to be recorded in writing, cancel the registration of that pesticide.

(5) The Registration Committee at any time, either *suo motu* or on the basis of a complaint, may visit and inspect any manufacturing premises or facilities, or may cause the said manufacturing premises or facility to be visited and inspected through any of its officers and if it is found by way of such inspection that the facility of manufacturing and laboratory thereof are sub-standard or that the capacity is inadequate for manufacture of registered pesticide, such registration shall be cancelled by the Registration Committee, after giving an opportunity of hearing to the registrant and for the reasons to be recorded in writing.

(6) If it is found that the data submitted by the applicant is false or misleading or has been deliberately suppressed, such registration shall be cancelled by the Registration Committee, after having been given an opportunity of hearing to the registrant and for the reasons to be recorded in writing.

Appeal against refusal or suspension or cancellation registration.

14. Any person aggrieved by a decision of the Registration Committee under section 12 or 13 may, within a period of thirty days from the date on which the decision is communicated to him, appeal in the prescribed manner and on payment of the prescribed fees to the Central Government whose decision thereon shall be final:

Provided that the Central Government may entertain an appeal after the expiry of the said period, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time:

Provided further that no order under this section shall be made without giving an opportunity of hearing to the applicant.

Power of Central Government to review decision of Registration Committee.

15. The Central Government may, at any time, call the record relating to any case in which the Registration Committee has given a decision under section 12 or 13 for the purpose of satisfying itself as to the grounds for arriving at any such decision and may pass any order in relation thereto as it considers necessary:

Provided that no such order shall be passed after the expiry of a period of one year from the date of decision of the Registration Committee:

Provided further that the Central Government shall not pass any order prejudicial to any person unless that person has been given a reasonable opportunity of being heard.

CHAPTER IV

GRANT OF LICENCES

Licensing officers.

16. The State Government may, by notification in the Official Gazette, appoint such person as it thinks fit to be licensing officers for the purposes of this Act having such qualifications as may be prescribed by the State Government and define the areas in respect of which they shall exercise jurisdiction.

Grant of licence.

17. (1) Any person desiring to manufacture or sell or stock or exhibit for sale or distribute any pesticide or to undertake commercial pest control operations with the use of any pesticide, who himself possesses, or employ a person possessing, such qualifications as may be prescribed, may make an application to the licensing officer for grant of a licence:

Provided that the person except a manufacturer, holding the licence on the date of coming into force of this Act shall be exempted from the condition of himself possessing, or employing a person possessing prescribed qualification, for a period of five years.

(2) Every application under sub-section (1) shall be made in such form and shall contain such particulars as may be prescribed.

(3) On receipt of an application complete in all respect for the grant of a licence, the licensing officer may grant a licence, within a period of three months from the date of receipt

of the application complete in all respect, in such form, on such conditions and on payment of such fees as may be prescribed.

(4) A licence granted under this section shall be issued for such period, which may be renewed from time to time on payment of such fees, as may be prescribed.

(5) In prescribing fees for the grant or renewal of licences under this section, different fees may be prescribed for the sale or distribution of pesticides for domestic use and for other purposes.

(6) (i) Any persons who intends to manufacture household pesticide shall obtain a separate licence for stocking, distribution or sale of each of the household pesticide.

(ii) Any persons who desires to distribute or stock for distribution household pesticides shall obtain only one licence for stocking or distribution of all the household pesticides.

(iii) A retailer shall not require a licence to sell, stock or exhibit for sale, a household pesticide.

(7) The licensing officer shall—

(a) maintain a register of persons engaged in manufacture, distribution, stocking and sale of pesticides and of persons engaged in commercial pest control operations with the use of any pesticide in such form as may be prescribed;

(b) provide information to the State Government on infrastructure facilities possessed by pesticide manufacturers;

(c) provide information to the State Government on performance of registered pesticides in improving agricultural production; and

(d) provide information to the State Government on the monitoring of the quality of pesticides and the offences and punishment awarded under this Act.

(8) The State Government shall send a report for a period of every six months to the Central Government containing details of information under sub-section (7) in such form as may be prescribed.

18. (1) If the licensing officer is satisfied, either on a reference made to him in this behalf or otherwise, that—

Revocation, suspension and amendment of licences.

(a) The licence granted under section 17 has been granted because of misrepresentation as to an essential fact; or

(b) the holder of a licence has failed to comply with the conditions subject to which the licence was granted or has contravened any of the provisions of this Act or the rules made thereunder,

then, without prejudice to any other penalty to which the holder of the licence may be liable under this Act, the licensing officer may, after giving the holder of the licence an opportunity of showing cause revoke or suspend the licence.

(2) Subject to any rules that may be made in this behalf, the licensing officer may also vary or amend a licence granted under section 17.

19. A licence to manufacture, sell, stock or exhibit for sale or distribute a pesticide or to undertake commercial pest control operations with the use of that pesticide shall be deemed to be suspended or cancelled, as the case may be, if the certificate of registration of that pesticide is suspended or cancelled by the Registration Committee.

Effect of suspension or cancellation of registration on licence.

20. (1) Any person aggrieved by a decision of a licensing officer under section 17 or section 18 may, within a period of thirty days from the date on which the decision is communicated to him, appeal to such authority in the manner and on payment of such fees as may be prescribed:

Appeal against decision of a licensing officer.

Provided that the appellate authority may entertain an appeal after the expiry of the said period if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the appellate authority shall, after giving the appellant an opportunity of showing cause, make an endeavour to dispose of the appeal within a period of six months and the decision of the appellate authority thereon shall be final.

Central
Pesticides
Laboratory.

21. (1) The Central Government may, by notification in the Official Gazette, establish a Central Pesticides Laboratory under the Control of Director to be appointed by the Central Government to carry out the functions entrusted to it by or under this Act:

Provided that if the Central Government so directs by a notification in the Official Gazette, the functions of the Central Pesticides Laboratory shall, to such extent as may be specified in the notification, be carried out at any such institution as may be specified therein and thereupon the functions of the Director of the Central Pesticides Laboratory shall to the extent so specified, be exercised by the head of that Institution:

Provided further that the Central Government may accredit private laboratories to carry out any or all functions of the Central Pesticides Laboratory on fulfilment of such criteria and procedure as may be prescribed and subject to inspection by, and control of, the Plant Protection Adviser to the Government of India.

(2) No private laboratory, any director or partner or officer of which has any financial interest in the manufacture, import, export, stocking for distribution or sale of any pesticide or pest control operation, shall be accredited under sub-section (1).

(3) Any accreditation granted under sub-section (1) may be withdrawn for the reasons to be recorded in writing and after giving the accredited laboratory an opportunity of being heard and such withdrawal of accreditation shall be conclusive.

CHAPTER V

PROHIBITION OF IMPORT, EXPORT AND MANUFACTURE OF CERTAIN PESTICIDES

Prohibition
of import,
export and
manufacture
of certain
pesticides.

22. (1) No person shall, himself or by any person on his behalf, import, export or manufacture—

(a) any misbranded, sub-standard or spurious pesticide;

(b) any pesticide the sale, distribution or use of which is for the time being prohibited under section 33;

(c) any pesticide except in accordance with the condition on which it was registered; and

(d) any pesticide in contravention of any other provision of this Act or of any rule made thereunder.

(2) No person shall, himself or by any person on his behalf, manufacture any pesticide except under, and in accordance with the conditions of a licence issued for such purpose under this Act.

(3) No person shall, himself or by any person on his behalf, import any pesticide from, or export any pesticide to, any country in contravention of the provisions of the Prior Informed Consent Procedure specified for certain hazardous chemicals and pesticides in international trade.

Prohibition of
sale, etc. of
certain
pesticides.

23. (1) No person shall, himself or by any person on his behalf, sell, stock or exhibit for sale, distribute, transport, use, or cause to be used by any worker—

(a) any pesticide which is not registered under this Act;

(b) any pesticide, the sale, distribution or use of which is for the time being prohibited under section 33;

(c) any pesticide in contravention of any other provision of this Act or of any rule made thereunder;

(d) any pesticide in a packing other than its original packing in which it was primarily packed by the manufacturer;

(e) any pesticide which has outlived its shelf-life as evident from its label; and

(f) any pesticide without disclosing its expected performance as claimed and usage instructions as suggested by the manufacturer or importer, as the case may be, while applying for grant of certificate of registration under section 12.

(2) No person shall—

(i) transport, or cause to be transported, any pesticide, which is registered in India only for the purpose of export, within the country except directly between the premises of manufacture for which the licence has been obtained and the port of exit; or

(ii) distribute, sell or exhibit for sale, or use or caused to be used any pesticide within the country, which is registered in India only for the purpose of export.

(3) No person shall, himself or by any person on his behalf, sell, stock or exhibit for sale or distribute or use for commercial pest control operations any pesticide except under, and in accordance with the conditions of, a licence issued for such purpose under this Act.

CHAPTER VI

ANALYSIS OF PESTICIDES

24. The Central Government or a State Government may, by notification in the Official Gazette, appoint such persons as it thinks fit, possessing such technical and other qualifications as may be prescribed, to be pesticide Analysts for such areas and in respect of such pesticides or class of pesticides as may be specified in the notification:

Pesticide analysts.

Provided that no person who has any financial interest in the manufacture or import or export or sale of any pesticide, shall be appointed as Pesticide Analysts.

25. The Central Government or a State Government may, by notification in the Official Gazette, appoint such persons as it thinks fit, possessing such technical and other qualifications as may be prescribed, to be Pesticide Inspectors for such areas as may be specified in the notification:

Pesticides inspectors.

Provided that no person who has any financial interest in the manufacture or import or export or sale of any pesticide shall be appointed as Pesticide Inspector.

26. (1) A Pesticide Inspector shall have power—

Power of Pesticide Inspectors.

(a) to enter and search, at all reasonable times and with such assistance, if any, as he considers necessary, any premises in which he has reason to believe that an offence under this Act or the rules made thereunder has been or is being or is about to be committed; or for the purpose of satisfying himself that the provisions of this Act or the rules made thereunder or the conditions of any certificate of registration or licence issued thereunder are being complied with;

(b) to require the production of, and to inspect, examine and make copies of, or take extracts from registers, records or any other documents kept by a manufacturer, distributor, carrier, dealer or any other person in pursuance of the provisions of this Act or the rules made thereunder and seize the same, if he has reason to believe that all or any of them, may furnish evidence of the commission of an offence punishable under this Act or the rules made thereunder;

(c) to make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act or the rules made thereunder are being complied with and for that purpose stop any vehicle;

(d) to stop, with the permission of the Executive Magistrate, the distribution, sale or use of a pesticide which he has reason to believe is being distributed or sold or

used in commercial pest control operations in contravention of the provisions of this Act, or the rules made thereunder, till the receipt of the report of the Pesticide Analyst under sub-section (1) of section 30:

Provided that if the Pesticide Inspector has not been able to take prior permission due to emergent circumstances, he shall, as soon as may be but not later than forty-eight hours, inform the Executive Magistrate and take his orders to stop the sale of any pesticide;

(e) to take samples of any pesticide and send such samples within forty-eight hours for test and analysis to the Pesticide Analyst in such manner as may be prescribed; and

(f) to exercise such other powers as may be necessary for carrying out the purposes of this Act or the rules made thereunder.

(2) The provisions of the Code of Criminal Procedure, 1973, shall, so far as may be, apply to any search or seizure under this Act as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code. 2 of 1974.

Powers to
Customs.

27. Notwithstanding anything contained in section 26, any customs officer, shall on his own volition or on receiving a written complaint about unlawful import or export of any pesticide also have the powers of a Pesticide Inspector, specified under section 26 and take action as per provisions of this Act.

Procedure to
be followed by
Pesticide
Inspectors.

28. (1) Where a Pesticide Inspector seizes any record, register or document under clause (b) of sub-section (1) of section 26, he shall, as soon as may be, inform a Magistrate and take his orders as to the custody thereof.

(2) Where a Pesticide Inspector takes any action under clause (d) of sub-section (1) of section 26—

(a) he shall use all reasoning in ascertaining whether or not the pesticide or its sale, distribution or use contravenes any of the provisions of section 23 and if it is ascertained that the pesticide or its sale, distribution or use does not so contravene, forthwith revoke the order passed under the said clause or, as the case may be, take such action as may be necessary for the return of the stock seized;

(b) if he seizes the stock of the pesticide he shall, as soon as may be, inform a Magistrate and take his orders as to the custody thereof;

(c) without prejudice to the institution of any prosecution, if the alleged contravention be such that the defect may be remedied by the possessor of the pesticide, he shall, on being satisfied that the defect has been so remedied, forthwith revoke his order and in case where the Pesticide Inspector has seized the stock of pesticide, he shall, as soon as may be, inform a Magistrate and obtain his orders as to the release thereof.

(3) Where a Pesticide Inspector takes any sample of a pesticide, he shall issue a receipt therefor stating therein that the fair price of such sample shall be tendered by cheque if the sample, after test or analysis is not found to be misbranded, sub-standard or spurious and the Pesticide Analyst has reported to that effect and on such price having been tendered may require a written acknowledgement therefor.

(4) Where a Pesticide Inspector seizes the stock of any pesticide under clause (d) of sub-section (1) of section 26, he shall tender a receipt therefor in the prescribed form.

(5) Where a Pesticide Inspector takes a sample of a pesticide for the purpose of test or analysis, he shall intimate such purpose in writing in the prescribed form to the person from whom he takes it and, in the presence of such person unless he wilfully absents himself, shall draw the sample and divide it into three portions, each of 250 millilitre of volume or 250 gram of weight, in simulated containers or glass bottles, in case of a liquid pesticide or polythene bags in case of solid pesticide from the containers carrying more than one litre of volume or one kilogram of weight, and effectively seal and suitably 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 and also put his seal on the package from which the sample is drawn indicating the quantity of sample drawn for test or analysis:

Provided further that where the pesticide is made up in containers carrying up to one litre in volume or one kilogram of weight, instead of dividing a sample as aforesaid, the Pesticide Inspector shall take three of the said containers after suitably marking the same and sealing them.

(6) The Pesticide Inspector shall dispose of the sample so divided or containers, as the case may be, as follows:—

(i) one portion or container, he shall restore to the person from whom he takes it, who may use it for test or analysis for adducing evidence in controversion of the report of the Pesticide Analyst under sub-section (3) of section 30;

(ii) one portion or container, he shall send to the Pesticide Analyst within forty-eight hours for test or analysis under sub-section (1) of section 30; and

(iii) one portion or container, he shall send within forty-eight hours to be deposited with the Director (Agriculture) in respect of Pesticide Inspectors notified by the State Government or the Plant Protection Adviser to the Government of India in respect of Pesticide Inspectors, notified by the Central Government, for producing to the court before which proceedings, if any, are instituted in respect of the pesticide for test or analysis under sub-section (4) of section 30.

(7) The remains of the samples so drawn and tested shall be disposed of in the manner prescribed under section 52 after three years or the pendency of the proceedings before the court, whichever is earlier.

29. Every person for the time being in charge of any premises where any pesticide is being manufactured or is kept for sale or distribution shall, on being required by a Pesticide Inspector so to do, disclose the place where the pesticide is being manufactured or is kept, as the case may be.

Persons bound to disclose place where pesticides are manufactured or kept.

30. (1) The Pesticide Analyst to whom a sample of any pesticide has been submitted for test or analysis under clause (ii) of sub-section (6) of section 28, shall, within a period of forty-five days, deliver to the Pesticide Inspector a signed report in triplicate in the prescribed form.

Report of Pesticide Analyst.

(2) The Pesticide Inspector on receipt thereof shall, within a period of fifteen days, deliver two copies of the report to the person from whom the sample was taken, who shall deliver one copy to the manufacturer of that pesticide, and retain one copy for use in any prosecution in respect of the sample.

(3) Report signed by the Pesticide Analyst shall be the evidence of the fact stated therein, and such evidence shall be conclusive unless the person from whom the sample was taken has within a period of twenty-eight days of receipt of the report, notified in writing, the Pesticide Inspector or the court before which any proceeding in respect of the sample is pending that he intends to adduce evidence controverting the report.

(4) Unless the sample has already been tested or analysed in the Central Pesticides Laboratory, where a person has under sub-section (3) notified his intention of adducing evidence in controversion of the Pesticide Analyst's report, the court may, in its discretion or on the request, of the complainant or the accused, cause the sample of the pesticide produced before the magistrate under clause (iii) of sub-section (6) of section 28 to be sent for test or analysis to the said laboratory.

(5) On receipt of the sample of pesticide under sub-section (4), the laboratory shall, within a period of thirty days, carry out the test or analysis and report in writing signed by, or under the authority of, the Director of the Central Pesticides Laboratory the result thereof, and such report shall be conclusive evidence of the fact stated therein.

(6) The cost of a test or analysis made by the Central Pesticides Laboratory under sub-section (5) shall be paid by the complainant or the accused, as the court may direct.

Confiscation.

31. (1) Where any person has been convicted under this Act for contravening any of the provisions of this Act or of the rules made thereunder, the stock of the batch of the pesticide in respect of which the contravention has been made shall be liable to confiscation.

(2) Without prejudice to the provisions contained in sub-section (1) where the court is satisfied on the application of a Pesticide Inspector or otherwise and after such inquiry as may be necessary, that the pesticide is misbranded, sub-standard or spurious, such pesticide shall be liable to confiscation.

Notification of poisoning.

32. (1) The State Government may, by notification in the Official Gazette, require any person or class of persons specified therein to report all occurrences of poisoning (through the use or handling of any pesticide) coming within his or their cognizance to such officer as may be specified in the said notification.

(2) The State Government shall also submit a copy of the report on occurrences of poisoning to the Central Government on quarterly basis.

Prohibition of sale, etc., of pesticides for reasons of public safety.

33. (1) If, on receipt of a report under section 32 or otherwise, the Central Government or the State Government is of the opinion, for reasons to be recorded in writing, that the use of any pesticide specified in clause (j) or clause (s) of section 3 or any specific batch thereof is likely to involve such risk to human beings or animals as to render it expedient or necessary to take immediate action, then, that Government may, by notification in the Official Gazette, prohibit the sale, distribution or use of the pesticide or batch in such area, to such extent and for such period not exceeding one hundred and eighty days as may be specified in the notification pending investigation into the matter:

Provided that where the investigation is not completed within the said period, the Central Government, or as the case may be, the State Government with prior approval of the Central Government, may extend it by such further period not exceeding sixty days in aggregate as it may specify in a like manner.

(2) If, as a result of its own investigation or on receipt of the report from the State Government, and after consultation with the Registration Committee, the Central Government is satisfied that the use of the said pesticide or batch is likely to cause any risk, it may pass such order including an order refusing to register the pesticide or canceling the certificate of registration, if any, granted in respect thereof, as it deems fit, depending on the circumstances of the case.

Notification of cancellation of registration, etc.

34. A refusal to register any pesticide or a cancellation of a certificate of registration of any pesticide shall be notified in the Official Gazette and in such other manner as may be prescribed.

CHAPTER VII

OFFENCES AND PUNISHMENT

Punishment for use of pesticide in contravention of Act.

35. whoever uses or causes to use a pesticide in contravention of any provision of this Act or any rule made thereunder shall be punishable with a fine which shall not be less than twenty-five thousand rupees but which may extend to fifty thousand rupees or with imprisonment for a term which may extend to six months, or with both.

Punishment for obstruction.

36. Whoever obstructs a Pesticide Inspector, or an officer exercising the power of the Pesticide Inspector, in the exercise of his powers or discharge of his duties under this Act or the rules made thereunder shall be liable to a penalty which may extend to twenty-five thousand rupees.

Punishment for misbranded pesticide.

37. Whoever imports, exports, manufactures, sells, stocks, or exhibits for sale or distributes any misbranded pesticide shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees or with imprisonment for a term, which may extend to one year, or with both.

38. Whoever—

(a) imports, exports, manufactures, sells, stocks, or exhibits for sale or distributes any sub-standard pesticide; or

(b) imports or exports any pesticide in contravention of sub-section (3) of section 22,

shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees or with imprisonment for a term which may extend to two years, or with both.

Punishment for sub-standard pesticide.

39. (1) Whoever—

(a) imports or manufactures any pesticide without a certificate of registration; or

(b) manufactures, sells, stocks or exhibits for sale or stocks for pest control operation or distributes a pesticide without a valid licence; except the retailer for sales, stocking or exhibiting for sale any household pesticide; or

(c) imports, manufactures, sells stocks or exhibits for sale or distributes any spurious pesticide; or

(d) imports, manufactures, sells, stocks, or exhibits for sale or distributes any pesticide which is ineffective on particular crop for which it is intended to be used as approved by the Registration Committee or is phyto-toxic to that crop, or if it has a toxicity which is higher than the level specified; or

(e) sells, stocks or distributes a pesticide in contravention of section 33; or

(f) causes a pesticide, the use of which has been prohibited under section 33 to be used by any worker; or

(g) sells, stocks or exhibits for sale or distributes or stocks for pest control operation any pesticide which is in contravention of provisions of section 23,

shall be punishable with fine which shall not be less than five lakh rupees but which may extend to ten lakh rupees or with imprisonment for a term which may extend to five years, or with both in addition to cancellation of licence, wherever applicable, and sealing of manufacturing premises.

Punishment in certain cases.

(2) Whoever contravenes any other provisions of this Act or rule made thereunder or any condition of a certificate of registration or licence granted thereunder or fails to perform as per the claims of efficacy and safety, made under sub-section (2) of section 12 at the time of registration, shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees or with imprisonment for a term which may extend to one year, or with both.

40. If any person convicted of an offence under this Act commits a like offence afterwards, it shall be lawful for the court before which a conviction takes place to cause the offenders name and place of residence, the offence and the penalty imposed, to be published in such newspapers or in such other manner as the court may direct.

Publication of name, etc., of offender.

41. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

Defences which may or may not be allowed in prosecution under this Act.

42. (1) Save as hereinafter provided in this section, it shall be no defence in a prosecution under this Act to prove merely that the accused was ignorant of the nature or quality of the pesticide in respect of which the offence was committed or of the risk involved in the manufacture, sale or use of such pesticide or of the circumstances of its manufacture or import.

(2) For the purposes of section 22, a pesticide shall not be deemed to be misbranded, sub-standard or spurious only by reason of the fact that there has been added thereto some innocuous substance or ingredient because the same is required for the manufacture or the preparation of the pesticide and not to increase the bulk, weight or measure of the pesticide or to conceal its inferior quality or other defect.

(3) A person not being an importer or a manufacturer of a pesticide or his agent for the distribution thereof, shall not be liable for a contravention of any provision of this Act, if he proves—

(a) that he acquired the pesticide from an importer or a duly licenced manufacturer, distributor or dealer thereof; and

(b) that the pesticide, while in his possession, was properly stored and remained in the same state in which he acquired it.

Cognizance and trial of offences.

43. (1) No prosecution for an offence under this Act shall be instituted except by, or with the written consent of the State Government or a person authorised in this behalf by the State Government.

(2) No court inferior to that of a metropolitan magistrate or a judicial magistrate of first class shall try any offence under this Act.

Special courts.

44. (1) If the State Government is satisfied that it is necessary for the purpose of providing for speedy trial of offences under this Act in any district or metropolitan area, it may, by notification in the Official Gazette and after consultation with the High Court, notify one or more courts of judicial magistrates of first class, or as the case may be, a metropolitan magistrate, in such district or metropolitan area to be special courts for the purposes of this Act.

(2) Unless otherwise directed by the High Court, a court notified under sub-section (1), shall exercise jurisdiction only in respect of cases under this Act.

(3) Subject to the provisions of sub-section (2), the jurisdiction and powers of the presiding officer of the special court notified under sub-section (1) in any district or metropolitan area shall extend throughout the district or the metropolitan area, as the case may be.

(4) Subject to the foregoing provisions of this section, a special court notified under sub-section (1) in any district or metropolitan area shall be deemed to be a court established under sub-section (1) of section 11, or as the case may be, sub-section (1) of section 16 of the Code of Criminal Procedure, 1973 and the provisions of that Code shall apply accordingly in relation to such courts.

CHAPTER VIII

MISCELLANEOUS

- 45 of 1860.
- 45.** The Central Government may give such directions, as it may deem necessary, to a State Government or the Board for carrying out all or any of the provisions of this Act and the State Government, or as the case may be, the Board, shall comply with such directions. Power of Central Government to give directions to State Governments.
- 46.** The members and the officers of the Board and the Registration Committee and the Pesticide Inspector or an officer exercising the power of the Pesticide Inspector shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act or the rules made thereunder, to be public servants within the meaning of section 21 of the Indian Penal Code. Members and officers of Board and Registration Committee and Pesticide Inspector to be public servants.
- 47.** No prosecution, suit or other proceeding shall lie against the Government, or any officer of the Government, or the Board, the Registration Committee or any committee of the Board, for anything in good faith done or intended to be done under this Act. Protection of action taken in good faith.
- 48.** (1) The Central Government may, after consultation with the Board and subject to the condition of previous publication, by notification in the Official Gazette, make rules for carrying out the provisions of this Act: Power of Central Government to make rules.
- Provided that consultation with the Board may be dispensed with if the Central Government is of opinion that circumstances have arisen which render it necessary to make rules without such consultation, but in such a case the Board shall be consulted within six months of the making of the rules and the Central Government, shall take into consideration any suggestions which the Board may make in relation to the amendment of the said rules.
- (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 manner of notifying the registered pesticides and specifying the pesticides having pesticidal properties and its use under clause (viii) of sub-section (2) of section 11;
- (b) the form and particulars of making application for registration of pesticides under sub-section (1), fee for its registration under sub-sections (4) and (12) and the matters of public interest for exemption of non-reliance of data under sub-section (13) of section 12;
- (c) the manner of making appeal and payment of fee thereon to the Central Government against the decision of the Registration Committee under section 14;
- (d) the form of application for the grant of licence and the particulars relating thereto under sub-section (2); the form of licence, the conditions attached thereto and the fee payable therefor under sub-section (3); the period for which a licence may be renewed and the fee for such renewal under sub-section (4); the form of register to be maintained by the licensing office under sub-section (7); the form of report to be submitted by the State Government under sub-section (8) of section 17;
- (e) the circumstances in which a licence may be varied or amended under sub-section (2) of section 18;
- (f) the authority to, and the manner in, and the fee on payment of which, an appeal may be filed under section 20 and the procedure to be followed by the appellate authority in disposing of the appeal;
- (g) the qualifications, powers and duties of an Pesticide Analyst and an Pesticide Inspector;

(h) the manner of taking samples of any pesticide testing of such samples and the fee payable therefor;

(i) the form of tendering receipt under sub-section (4) and the form in which intimation shall be given by an Pesticide Inspector under sub-section (5) of section 28 to a person from whom a sample of a pesticide is taken for test of analysis;

(j) the form in which a Pesticide Analyst shall submit a report of his test or analysis to the Pesticide Inspector under sub-section (1) of section 30;

(k) the manner in which refusal to registration of a pesticide or cancellation of certificate of registration thereof may be notified;

(l) the officer or authority to whom the Central Government may delegate any of the powers and functions conferred on it by this Act;

(m) provide for the exemption, conditionally or otherwise, from all or any of the provisions or the rules (except relating to registration, manufacture and quality control) for retailers and stockist in respect of the category of household pesticide;

(n) the manner and time of segregation and disposal of pesticides of a batch which has outlived its shelf-life or has been declared misbranded, sub-standard or spurious or has been banned; and

(o) any other matter which has to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power of State Government to make rules.

49. (1) The State Government may, after consultation with the Board and subject to the condition of previous publication, by notification in the Official Gazette, make rules for the purpose of giving effect to the provisions of this Act and not inconsistent with the rules, if any, made by the Central Government.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the qualifications of the licensing officer under section 16;

(b) the authority to which, the manner in which, and the fee on payment of which, an appeal may be filed under section 20 and the procedure to be followed by the appellate authority in disposing of the appeal; and

(c) the delegation of any of the powers and functions conferred by this Act on the State Government to any officer or authority specified by that Government.

(3) Every rule made by the State Government under this section shall be laid as soon as it is made, before each House of the State Legislature where it consists of two Houses, or where such State Legislature consists of one House, before that House.

Exemption in certain cases.

50. (1) (a) Nothing in this Act shall apply to the use of any pesticide by any person for his own household purposes or for garden or in respect of any land under his cultivation;

(b) The Central Government may, on the recommendation of the Registration Committee and subject to such conditions as it may specify therein, exempt from any or all provisions of this Act any substance having pesticidal properties or any preparation containing any one or more such substances, if such substance or preparation is intended for the purpose other than those mentioned under clause (j) or (s) of section 3.

(2) The central Government may, by notification in the Official Gazette, and subject to such conditions, if any, as it may specify therein, exempt from all or any of the provisions of this Act or the rules made thereunder, any educational, scientific or research organisation engaged in carrying out experiments with pesticide.

51. Every pesticide sold to a farmer, producer, stockist, distributor, retailer or pest control operator, as the case may be, shall disclose the expected performance, efficacy or safety of such pesticide under given conditions, and if the pesticide fails to provide the expected performance or causes any harm to human or animal health or damage to the environment by use of that pesticide, then, the farmer or the affected person may claim compensation from the manufacturer or distributor or stockist or retailer or pest control operator, as the case may be, under the provisions of the Consumer Protection Act, 1986.

Compensation to farmer or affected person.

68 of 1986.

52. A batch of a pesticide that has outlived its shelf-life; or a batch that has been declared to be misbranded, sub-standard or spurious or has been banned shall, within a period of three months, be segregated and disposed of in such manner which is safe for human beings, animals and environment as may be prescribed:

Segregation and disposal of pesticides.

Provided that the remains of samples of pesticides drawn by the Pesticide Inspector and tested shall also be disposed of in a similar manner after the period as may be prescribed.

46 of 1968.

53. (1) The Insecticides Act, 1968, is hereby repealed.

Repeal and savings.

(2) Notwithstanding such repeal, anything done or any action taken under the said Act, shall be deemed to have been done or taken under the corresponding provisions of this Act.

54. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary, for removing the difficulty:

Power to remove difficulties.

Provided that no order shall be made under this section after the expiry of the period of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

STATEMENT OF OBJECTS AND REASONS

In the overall agricultural development of the country, the pesticides play an important role in sustaining the agricultural production by protecting all kinds of crops from pest attack and reducing the growth of pest population. Pesticides are also useful in health programmes for controlling vectors responsible for diseases, like, malaria. As the pesticides have toxic properties, therefore, they need a well ordered system of management and regulation encompassing all stages in their life-cycle, from import or production to sale and disposal.

2. The Insecticides Act, 1968 was enacted to regulate the import, manufacture, sale, transport, distribution and use of insecticides with a view to prevent risk to human beings or animals, and to ensure use of efficacious insecticides. However, during the years some deficiencies were noticed in its working which were also observed by different Parliamentary Committees and stakeholders. The provisions of the Act were found to be insufficient to cover certain aspects such as the restrictive definition of 'insecticide' which does not regulate substances being used as pesticides but not included in the Schedule to the Act. Similarly, other areas requiring immediate consideration are: (i) definition of 'manufacture'; (ii) qualification for manufactures, sellers, stockists and commercial pest control operators; (iii) larger representation of experts in the Central Pesticides Board and the Registration Committee; (iv) fixation of tolerance limits of pesticides as a pre-condition of their registration; (v) suspension or cancellation of registration of pesticides on account of violations of the Act, or risk to crops, human beings and environment; and (vi) inadequate penalties and fines for contravention of the provisions of the Act.

3. The National Policy for Farmers brought out in 2007 states that "the development, introduction and diffusion of environmentally safe and effective pesticides will be given priority" while "suitable quality control, safety evaluation and other regulatory system would be strengthened". The policy highlights the need for "incorporating the use of chemical pesticides in an Integrated Pest Management System". The policy also states that "the sale of spurious and sub-standard pesticides would be prevented and bio-pesticides would be promoted". Various Parliamentary Committees recommended stringent and deterrent punishment for manufacturers/sellers of spurious insecticides and the necessity of fixing of maximum residue limits for registration of pesticides.

4. In this background, the need was left for a new legislation to provide for better management of pesticides to respond to the need for faster agricultural growth. Also, the manufacture of quality, safe and affordable pesticides need to be encouraged while spurious and poor quality pesticides be stringently curbed. With this in view, it is proposed to replace the Insecticides Act, 1968 by a new legislation, the Pesticides Management Bill, 2008. The proposed legislation shall *inter alia* provide for the following, namely:—

(i) to rename it as 'pesticides' which has a broader connotation and includes insecticides, fungicides, herbicides, rodenticides, molluscicides, acaricides;

(ii) to provide for an elaborate definition of pesticides to cover any substance of chemical or biological origin intended for preventing, destroying, repelling or mitigating or controlling any pest including unwanted species of plants or animals which will enable regulation of existing pesticides as well as new discoveries;

(iii) address all aspects of development, regulation and quality monitoring, production, management, packaging, labeling, distribution, handling, application, use and control, including post-registration activities and disposal of all types of pesticides;

(iv) define household pesticides, to prohibit their field applications and to enable delicensing of their retail sale for easy availability to the consumer;

(v) effective and efficient working of the Central Pesticides Board, Registration Committee;

(vi) fixation of tolerance limits of pesticides as pre-requisite to registration;

(vii) requirement of minimum qualification of licensees;

(viii) accredit private laboratories to carry out any or all functions of the Central Pesticides Laboratory;

(ix) prescribe an elaborate procedure for drawal of pesticide samples and inspection of pesticides;

(x) make punishments more stringent to check production and sale of misbranded, sub-standard and spurious pesticides;

(xi) the disposal of date expired, misbranded, sub-standard and spurious pesticides in an environment friendly and safe manner.

5. The Bill seeks to achieve the above objectives.

SHARAD PAWAR.

NEW DELHI;

The 30th September, 2008.

Notes on Clauses

Clause 1 provides for short title, extent and commencement of the Bill.

Clause 2 provides that the provisions of the Bill shall be in addition to, and not in derogation of, any other law for the time being in force.

Clause 3 provides for the definition of the certain words and expressions used in various provisions of the Bill. These expressions *inter alia* include the expressions, environment, household pesticide, label, manufacture, misbranded, pesticide, substandard, spurious *etc.*

Clause 4 provides for constitution of the Central Pesticide Board for the purpose of advising the Government on scientific and technical matters arising out of administration of the Bill and to carry out the functions assigned to it. It also makes provisions for composition of the board with the Director General of Health Services as its Chairperson and thirty-seven members from various Ministries/Departments of the Central Government, Laboratories, Institutions, *etc.*, and it also provides that the Central Government may appoint an officer having prescribed qualifications from the Directorate of Plant Protection Quarantine and Storage as a Member Secretary to the Board.

Clause 5 provides that tenure of members nominated under clauses (xii) to (xvii) of subsection 2 of section 4 shall be three years from the date of their nomination and they shall be eligible for re-nomination. It also provides that members nominated under clause (vi to xi) shall hold office only for the period till they hold the office by virtue of which they have been nominated.

Clause 6 provides that proceedings of the Board, Registration Committee or any other Committee shall not be called in question on the ground of existence of any vacancy in, or any defect in their constitution.

Clause 7 enumerates the matters on which the Board may advise the Government which include prevention of risk to human beings, animals and environment during the manufacture, sale, storage, transport, distribution, handling and use of pesticides and necessary safety measures and practices relating thereto; monitoring performance of registered pesticides; review of toxicity and safety of pesticides; suggest development and availability of safer alternatives to existing pesticides and disposal of obsolete pesticides.

Clause 8 makes provisions for making regulations by the Board subject to the previous approval of the Central Government for the purpose of regulating its procedure and procedure of any committee thereof and conduct of all business to be transacted by it or such committee.

Clause 9 provides that the Central Government shall provide such technical and other staff as it consider necessary to the Board and the Registration Committee.

Clause 10 empowers the Board to constitute such committees as it considers necessary and appoint in such committees persons who are not members of the Board to exercise such powers and perform such duties as may be delegated to them by the Board. The Board may also impose certain conditions on such committees. It also makes provision that members of the Board and Registration Committee shall receive such allowances as may be prescribed.

Clause 11 provides for constitution of Registration Committee consisting of Agriculture Commissioner in the Ministry of Agriculture as Chairperson and Member Secretary of the Central Pesticides Board as its Member Secretary and eight other *ex officio* members. It also provides for various functions of the Registration Committee. This clause also empowers the Registration Committee to co-opt experts for such purpose or period as it may consider necessary and may constitute one or more sub-committees consisting of atleast three members of the Committee and delegate them such powers and functions subject to such conditions, if any, as it may consider necessary.

Clause 12 seeks to make provisions relating to registration of pesticides. It provides that any person may make separate application for registration of each pesticide for its import, manufacture or export. It also provides that pesticides which are registered under the provisions of Insecticides Act, 1968 shall be deemed to have been registered under the corresponding provisions of the Bill. It also imposes the responsibility on the applicant for registration to provide complete information on all the known inimical effects of the pesticide on human beings, animals and environment. It also provides that after receipt of application complete in all respects the Registration Committee within a period of two years after making such enquiry as it considers necessary and after satisfying itself that the claim made by the applicant as regard to expected performance and efficacy of the pesticide as well as its safety to human beings, animals and environment, and availability or provision of requisite minimum infrastructure to manufacture and stock the pesticide may register such pesticide, and allot a registration number thereto and issue a certificate of registration.

It also provides that no pesticide shall be registered for import or manufacture unless its tolerance limits are specified for its residues on crops and commodities under the Food Safety and Standards Act, 2006. It also makes provisions for non-reliance on data which means that the data submitted for the purpose of registration of a pesticide which has not been previously registered shall not be relied upon for registration of the same pesticide by any other person for the period of three years or if the pesticide has been granted a patent then for a period of the patent. It also empowers the Central Government to relax or exempt the said provision of the non-reliance on data in case of national exigency or in case of public interest or for the use by Government or academic and research purpose.

Clause 13 makes provision for suspension or cancellation of registration of pesticides. It provides that the Registration Committee either *suo motto* or otherwise if *prima-facie* satisfied of violation of any provision of the Bill or the rules made thereunder or any condition of the registration may after giving an opportunity of hearing to the registrant and for the reasons to be recorded in writing, suspend the registration of a pesticide for a period not exceeding three months. It further provides that if registrant fails to submit copy of manufacturing licence and satisfy the Registration Committee of having set up necessary manufacturing facilities and starting manufacture the pesticide within a specified period, the certificate of registration shall be deemed to have been cancelled. It also makes provision relating to inspection of manufacturing premises or facilities, *etc.*, by the Registration Committee or through its officers.

Clause 14 provides that any person aggrieved by the decision of the Registration Committee under clause 12 or 13 may appeal within a period of 30 days to the Central Government in the prescribed manner and on payment of prescribed fees. The decision of the Central Government thereon shall be final. It also empowers the Central Government to entertain an appeal under this clause after the expiry of the said period, if it is satisfied that the appellant was prevented by the sufficient cause for filing of appeal on time. It also provides that no order shall be made under this clause without giving an opportunity of hearing to the applicant.

Clause 15 empowers the Central Government to call for the record relating to any case where Registration Committee has given any decision under clause 12 or 13 and may pass any order as it considers necessary. It also provides that any order shall be passed within a period of one year from the date of decision of Registration Committee and Central Government shall not pass any order prejudicial to any person unless that person has been given a reasonable opportunity of being heard.

Clause 16 empowers the State Government to appoint such persons having prescribed qualifications as it thinks fit to be licencing officers for the purposes of the Bill and may define areas in which they shall exercise their jurisdiction.

Clause 17 makes provision for grant of licence. It provides that any person who himself possesses or employs a person possessing prescribed qualification may make application in

such form and containing such particulars as may be prescribed for grant of licence to manufacture, sell, stock or exhibit for sale or distribute any pesticide or to undertake commercial pest control operations with the use of any pesticide. It also provides that licensing officer may grant the licence within a period of three months from the date of receipt of application complete in all respects in such forms and on such conditions and on payment of such fees as may be prescribed for such period which may be renewed from time to time on payment of such fees as may be prescribed. It exempts the retailers from requirement of licence for sell, stock or exhibit for sale of a household pesticide. This clause also requires the licensing officer to maintain a register of persons engaged in manufacture, distribution or stocking and sale of pesticide and of persons engaged in commercial pest control operations; to provide information to the State Government on infrastructure facility possessed by pesticide manufacturer and on performance of registered pesticides in improving agricultural production and on the monitoring of the quality of pesticides and offences and punishment awarded under the Bill. It also requires the State Government to send a report in prescribed form containing above referred information to the Central Government for a period of every six months.

Clause 18 makes provision for revocation, suspension and amendment of licences. It provides that a licensing officer either on a reference made to him or otherwise may after giving the licence holder, an opportunity of showing cause revoke or suspend the licence on the ground that licence was granted because of misrepresentation or the holder of the licence has failed to comply with the conditions of licence or has contravened the provision of the Bill or the rules made thereunder. It also empowers the licensing officer to vary or amend the licence.

Clause 19 provides that if a certificate of registration of a pesticide is suspended or cancelled by the Registration Committee the licence granted in respect to that pesticide relating to manufacture, sell or exhibit for sale or distribute a pesticide or undertake commercial pest operations with the use of that pesticide shall be deemed to be suspended or cancelled, as the case may be.

Clause 20 provides that any person aggrieved by the decision of a licensing officer under clause 17 or 18 may appeal within a period of 30 days from the date on which the decision was communicated to him to the authority in such manner and on payment of such fees as may be prescribed. It also empowers the appellate authority to entertain such appeal after the expiry of the said period if it satisfied that appellant was prevented by sufficient cause from filing of appeal. It also requires the appellate authority to make an endeavour to dispose of the appeal within a period of six months after giving the appellant an opportunity of showing cause.

Clause 21 empowers the Central Government to establish a Central Pesticides Laboratory under the control of Director to be appointed by Central Government to carry out the functions entrusted to it by or under the Bill. It also empowers the Central Government to entrust the functions of the laboratory to any other institution or the function of the Director of the Central Pesticides Laboratory to the head of such institution to the extent as may be specified in the notification published in the Official Gazette. It also authorises the Central Government to accredit private laboratories to carry out all or any of the functions of the Central Pesticides Laboratory on fulfillment of prescribed criteria and procedures subject to inspection by and control of the Plant Protection Adviser to the Government of India. It also prohibits from accreditation of any laboratory in which any Director or partner or official has any financial interest in the manufacture, import, export, stocking, for distribution or sale of any pesticide or pest control operation. Any accreditation granted under this clause may be withdrawn after communicating to the accredited laboratory reasons for such withdrawal in writing and giving it an opportunity of being heard.

Clause 22 prohibits import, export or manufacture of pesticides which are misbranded, substandard or spurious or of which the sale, distribution or use is for the time being prohibited or which is not in accordance with the conditions on which it was registered or

which contravenes any provision of the Bill or the rule made thereunder. It also provides that any pesticide shall not be manufactured except under and in accordance with the condition of licence issued for the purpose. It also provides that any pesticide shall not be imported or exported to any country in contravention of the provisions of the prior informed consent procedure specified for certain hazardous chemicals and pesticides in international trade.

Clause 23 provides for prohibition of sell, stock or exhibition for sale, distribution, transportation, use *etc.*, of any pesticide which is not registered, or sale, distribution or use of which is prohibited, or which contravenes the provisions of the Bill or rules made thereunder, or is repacked from its original packing which has outlived its shelf-life or which does not disclose its expected performance as explained while applying for grant of registration. It also prohibits distribution, sale, use, *etc.*, of pesticide within the country which is registered only for the purpose of export.

Clause 24 provides that Central Government or State Government may appoint such persons who possess prescribed technical and other qualifications, to be the pesticide analyst for the areas and in respect of such pesticide or class of pesticide as may be mentioned in the notification published in the Official Gazette. It also prohibits appointment of any person as pesticide analyst who has any financial interest in respect of any pesticide.

Clause 25 provides that Central Government or State Government may appoint such persons who possess prescribed technical and other qualifications, to be the pesticide inspector for the areas and in respect of such pesticide or class of pesticides as may be mentioned in the notification published in the Official Gazette. It also prohibits appointment of any person as pesticide inspector who has any financial interest in respect of any pesticide.

Clause 26 provides powers of pesticide inspectors. It provides that a pesticide inspector may enter and search any premises in which he has reason to believe that an offence under the provisions of the Bill or rules made thereunder has been or is being committed for the purpose of satisfying himself that the provisions of the Bill or rule made thereunder or conditions of the registration or licence are being complied with. It also empowers the inspector to ask for production, inspection, examination and copies of records, registers, documents from the manufacturer, distributor, carrier, dealer or any person and may seize the same if he has reasons to believe that all or any of them may furnish evidence of the commission of any offence under the Bill or the rules made thereunder. It also provides that pesticide inspectors may stop with the permission of Executive Magistrate the distribution, sale, use of pesticide which is being distributed or sold or used in commercial pest control operation in contravention of the provisions of the Bill or the rules. It also empowers the pesticide inspectors to take samples of any pesticide and send them within a period of 48 hours for test and analysis to the pesticide analyst in prescribed manner. This clause provides that the provisions of the Code of Criminal Procedure, 1973 relating to search and seizure shall apply to any search and seizure under the provisions of the Bill.

Clause 27 provides that any customs officer shall have the powers of pesticide inspectors in relation to import or export of pesticides.

Clause 28 enumerates the procedure to be followed by the pesticide inspector while exercising powers under the Bill. It provides that where any pesticide inspector seizes any record, register or document, he shall as soon as may be inform the Magistrate and take his orders for custody thereon. It provides that when a pesticide inspector takes any sample of pesticide he shall issue a receipt thereof and mention therein if sample on test or analysis is not found misbranded, substandard or spurious, the price of the same shall be tendered and incase he seizes stock of a pesticide he shall tender receipt in prescribed form. It also provides that where pesticide inspector takes a sample of any pesticide he shall intimate such purpose in writing to the person from which sample is taken and shall draw the sample and divide it in three portions and seal effectively and mark the same and permit the person to add his own seal and mark. It requires pesticide inspector to send one portion of the sample to the pesticide analyst within a period of 48 hours for test and analysis and deposit one portion

with the Director, Agriculture or as the case may be the Plant Protection Adviser to the Government of India and give one portion to the person from whom sample was taken.

Clause 29 provides that every person in charge of premises where any pesticide is being manufactured or is kept for sale or distribution, *etc.*, shall disclose to a pesticide inspector on being required by him the place where pesticide is being manufactured or kept.

Clause 30 deals with the manner of report by pesticide analyst. It provides that pesticide analyst within a period of forty-five days deliver his report in triplicate in prescribed form to pesticide inspector, thereafter pesticide inspector within a period of fifteen days deliver two copies of report to the person from whom sample was taken who shall forward one copy to the manufacturer of the pesticide. It provides that the signed report of the pesticide analyst shall be evidence of the fact stated therein and such evidence shall be conclusive unless the person from whom sample was taken notifies, in writing within a period of twenty-eight days to pesticide inspector or the court, his intention to adduce evidence contrary to the report and in such cases court may send the sample to the Central Pesticides Laboratory for test and analysis. On receipt of such samples the Central Pesticides Laboratory shall within a period of thirty days carry out the test and analysis and submit the report in writing signed by the Director of Central Pesticide Laboratory which shall be conclusive evidence for the fact stated therein.

Clause 31 provides that where any person has been convicted for contravening any provision of the Bill or the rules made thereunder, the stock of the batch of pesticide in respect of which contravention was made, shall be liable to confiscation. It also provides that if court is satisfied on application of pesticide inspector or otherwise and after making such enquiry as may be necessary that pesticide is misbranded, substandard or spurious, such pesticide is also liable to confiscation.

Clause 32 provides that the State Government may by notification in the Official Gazette require any person or class of persons to submit a report of all occurrences of poisoning (through the use or handling of any pesticide) to such officer as may be mentioned in the notification. It also requires the State Government to submit a report in this regard to the Central Government on quarterly basis.

Clause 33 provides that if on receipt of report under clause 32 or otherwise the State Government or Central Government is of the opinion to be recorded in writing that use of any pesticide or any batch thereof is likely to involve such risk to human beings or animals which require immediate action then the Government may by notification prohibit the sale, distribution or use of said pesticide or batch in such area to such extent and for such period not exceeding one hundred and eighty days during the pending investigation and if such investigation is not completed within the said period the Central Government or State Government with prior approval of the Central Government may extend such prohibition for a further period not exceeding sixty days in aggregate, and on the result of investigation or receipt of report from the State Government, if the Central Government after consulting the Registration Committee is satisfied that the use of said pesticide or batch is likely to cause any risk, it may pass any order as it deems fit including an order refusing to register the pesticide or cancellation of registration of the pesticide.

Clause 34 requires that any order of refusal to register any pesticide or cancellation of registration of a pesticide shall be notified in the Official Gazette in prescribed manner.

Clause 35 provides for punishment of the fine which shall not be less than Rs. 25,000/- which may extend to Rs. 50,000/- or imprisonment for a term upto six months or with both for contravention of any provision of the Bill or the rules made thereunder.

Clause 36 provides for a penalty upto Rs. 25,000/- for obstructing a pesticide inspector or an officer exercising the power of pesticide inspector in exercise of his powers or discharge of his duties under the Bill or the rules made thereunder.

Clause 37 provides for punishment of the fine which shall not be less than Rs. 25,000/- which may extend to Rs. 1,00,000/- or imprisonment for a term upto one year or with both for

import, export, manufacture, sell, stock or exhibit for sale or distribution of any misbranded pesticide.

Clause 38 provides for punishment of fine which shall not be less than Rs. 1,00,000/- which may extend to Rs. 5,00,000/- or with imprisonment for a term which may extend to two years or with both for import, export, manufacture, sell, *etc.*, of substandard pesticide or import, export of any pesticide in contravention of sub-clause (3) of clause 22.

Clause 39 provides for punishment of fine which shall not be less than Rs. 5,00,000/- which may extend Rs. 10,00,000/- or with imprisonment for a term which may extend to five years or with both in addition to cancellation of licence and sealing of manufacturing premises for import or manufacture any pesticide without a certificate of registration or manufacture, sell, stock, *etc.* without a valid licence or import, manufacture, sell, *etc.*, any spurious pesticide or any pesticide which is ineffective on a particular crop for which it is intended to be used as approved by the Registration Committee or is phytotoxic to that crop or it has a toxicity higher than the specified label or sells, stocks or distributes a pesticide in contravention of clause 33 or clause 23. It also provides for punishment of a fine which shall not be less than Rs. 25,000/- which may extend to Rs. 1,00,000/- or with imprisonment for a term which may extend to one year or with both for contravention of any other provision of the Bill or the rules made thereunder or conditions of certificate of registration or licence.

Clause 40 empowers the court to publish name of offender, their place of residence, the offence and penalty imposed on him if any person convicted of any offence under the Bill commits a like offence afterwards.

Clause 41 contains provisions relating to offences by companies. It seeks to provide that where a person committing offence is a company, every person responsible in the company for the conduct of its business will be liable to be proceeded against and where a person accused, proves that offence was committed without his knowledge he will not be liable. However, where it is proved that an offence has been committed with the consent or connivance or is attributable to the neglect of any Director, Manager, Secretary or any officer of the company, he shall be deemed to be guilty of the offence and shall be liable to be proceeded against.

Clause 42 provides that it shall not be a defence in a prosecution under the Bill that the accused was ignorant of the nature or quality of the pesticide in respect of which offence was committed or the risk involved in any manufacture, sale or use of such pesticide or the circumstances of its manufacture or import. It also provides for the purpose of clause 22, a pesticide shall not be deemed to be misbranded, substandard or spurious only by reason of the fact that there has been added thereto some innocuous substances or ingredient because the same is required for the manufacture or the preparation of the pesticide and not to increase the bulk, weight or measure of the pesticide or to conceal its inferior quality or other defect.

Clause 43 provides that any prosecution under the Bill shall not be instituted without the written consent of the State Government or a person authorised by it in this behalf. It also provides that any court inferior to that of metropolitan magistrate or a judicial magistrate of first class shall not try any offence under the Bill.

Clause 44 provides that if the State Government is satisfied that it is necessary for the purpose of providing for speedy trial of offence under the Bill in any district or metropolitan area it may after consultation with the High Court notify one or more courts of judicial magistrate of first class, or as the case may be, a metropolitan magistrate in such district or metropolitan area to be special court for the purpose of the Bill. It also provides that unless otherwise directed by the High Court, a court notified under this clause shall exercise jurisdiction only in respect of cases under the Bill and the jurisdiction and powers of its presiding officer shall extend through out the district or the metropolitan area. It also provides that a special court notified under this clause shall be deemed to be a court established under sub-section (1) of section 11 or sub-section (1) of section 16 of the Code of Criminal Procedure, 1973 and the provision of that Code shall apply to such courts.

Clause 45 empowers the Central Government to give directions to a State Government or the Board for carrying out all or any of the provisions of the Bill and the State Government or the Board shall comply with such directions.

Clause 46 provides that members and officers of the Board, the Registration Committee and the pesticide inspector or an officer exercising the powers of pesticide inspector, when acting or purporting to act in pursuance of any provision of the Bill or the rules made thereunder, shall be deemed to be public servant within the meaning of section 21 of the Indian Penal Code.

Clause 47 provides immunity to Government or any officer of the Government or the Board, Registration Committee or any committee of the Board from suits, prosecution or other proceedings in respect of anything done or intended to be done in good faith under the Bill.

Clause 48 empowers the Central Government to make rules by notification in the official Gazette after consultation with the Board and subject to condition of previous publication. Sub-clause (2) enumerates the various matters in respect of which such rules may be made. It also requires that every rule made under this clause shall be laid before each House of Parliament.

Clause 49 empowers the State Government to make rules by notification in the official Gazette after consultation with the Board and subject to condition of previous publication. Sub-clause (2) enumerates the various matters in respect of which such rules may be made. It also requires that every rule made under this clause shall be laid before each House of State Legislature where it consists of two Houses or where such State Legislature consists of one House, before that House.

Clause 50 provides for exemption from the application of the provisions of the Bill in respect to the use of any pesticide by any person for his own household purposes or for garden or in respect of land under his cultivation. It also empowers the Central Government to exempt, on the recommendation of Registration Committee, from any or all provisions of the Bill, any substance having pesticidal properties or any preparation containing one or more substances if such substances or preparation is intended for the purpose other than those mentioned under sub-clause (j) or sub-clause(s) of clause 3. It also empowers the Central Government to exempt from all or any of the provisions of the Bills or rules made thereunder, any educational, scientific or research organization engaged in carrying out experiments with pesticides.

Clause 51 provides for compensation to the farmers in case any pesticide fails to provide the expected performance under given conditions. The compensation may be claimed from the manufacturer or distributor or stockist or retailer or pest control operator as per the provisions of the Consumer Protection Act, 1986.

Clause 52 provides that a batch of pesticide that has outlived its shelf-life or it has been declared to be misbranded, substandard or spurious or it has been banned shall be segregated and disposed of with a period of three months in such manner which is safe for human beings, animals and environment, as may be prescribed.

Clause 53 provides for repeal of the Insecticides Act, 1968 and also provides that all action done under the repealed Act shall be deemed to have been done under the corresponding provisions of the Bill.

Clause 54 empowers the central Government to issue an order, published in the Official Gazette and not inconsistent with the provisions of the Bill, for removing any difficulty which may have arisen in giving effect to the provisions of the Bill within a period of two years from the date of commencement of the Act. Every such order is also required to be laid before each House of Parliament.

FINANCIAL MEMORANDUM

Clause 4 of the Bill seeks to provide for constitution of the Central Pesticides Board to advise the Government on scientific and technical matters arising out of the administration of the Bill. Clause 11 provides for constitution of a Registration Committee for the purpose of registration of pesticides. Sub-clause (4) of clause 11 enables the Registration Committee to constitute one or more sub-committees to exercise such powers and perform functions as may be delegated to them. Sub-clause (2) of clause 10 makes provision for allowances of the Members of the Board, the Registration Committee and other Committees.

Clause 21 of the Bill seeks to establish a Central Pesticides Laboratory to carry out the functions entrusted to it. Clause 24 provides for appointment of the pesticide analyst for analysis of pesticides. Clause 25 provides for appointment of pesticide inspector to exercise the powers entrusted to him by or under the Bill.

2. Presently, a Central Insecticides Board and the Registration Committee constituted under the provisions of the Insecticides Act, 1968 (which is being repealed by the present Bill), or in operation. An amount of Rs. 8.81 crore have been allocated for the financial year 2008-09 to the Department of Agriculture and Cooperation to be utilised for the purposes of the administration of the Insecticides Act, 1968. The constitution of Central Pesticides Board and all other expenditure arising out of the administration of the proposed Pesticides Bill, 2008 shall be met out of this budgetary provision and no other additional expenditure is envisaged in the Bill. Apart from converting the insecticide analyst and the insecticide inspector as the pesticides analyst and the pesticide inspector, additional officials, if any, shall be appointed from amongst the officers of the Government. Therefore, the Bill does not entail any other additional expenditure.

3. The Bill does not involve any other expenditure recurring or non-recurring in nature.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 48 of the Bill empowers the Central Government to make rules, after consultation with the Board and subject to the condition of previous publication for carrying out the provisions of the Bill. Such rules may, *inter alia*, provide for:

(i) the manner of notifying the registered pesticides and specifying the pesticides having pesticidal properties under sub-clause (3) of clause 11;

(ii) the form and particulars of making application for registration of pesticides, fees for registration under clauses (4) and (12) of clause 12;

(iii) the manner of making appeal and payment of fee thereon under clause 14;

(iv) the form of application for the grant of licence for manufacture, sell, *etc.*, the fee payable therefore the form of register to be maintained by the licensing officer, the form of report to be submitted by the State Government to the Central Government under clause 17;

(v) the circumstances in which the license may be varied or amended under sub-clause (2) of clause 18;

(vi) the manner in, and the fee of payment of which, an appeal may be filed to the Central Government under clause 14;

(vii) the form in which the pesticide analyst shall submit a report of tests or analysis to the pesticide inspector under sub-clause (1) of clause 30;

(viii) the manner and time of segregation and disposal of pesticides on a batch which has outlived its shelf-life or has been declared miss-branded, sub-standard or spurious or has been banned under clause 52 of the Bill.

All the rules made under clause 48 of the Bill are required to be laid before each House of Parliament.

2. Clause 49 of the Bill empowers the State Government to make rules to provide for: (i) the qualifications of the licensing officer under clause 16; (ii) the authority to which, the manner in which, and the fees on payment of which, an appeal may be filed under clause 20.

Every rule made by the State Government are required to be laid before each House of the State Legislature where it consists of two Houses or where such State Legislature consist of one House, before that House.

3. That matter in respect of which rules may be made under the aforesaid provisions are matter of procedure and administrative details and it is not practical to provide for them in the Bill. The delegation of legislative powers, is therefore, of a normal character.

RAJYA SABHA

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BILL

to regulate the import, manufacture, export, sale, transport, distribution, quality and use of pesticides with a view to—

- (i) control pests;
 - (ii) ensure availability of quality pesticides;
 - (iii) allow its use only after assessing its efficacy and safety;
 - (iv) minimize the contamination of agricultural commodities by pesticide residues;
 - (v) create awareness among users regarding safe and judicious use of pesticides, and to take necessary measures to continue, restrict or prohibit the use of pesticides on reassessment with a view to prevent its risk on human beings, animals or environment, and for matters connected therewith or incidental thereto.
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(Shri Sharad Pawar, Minister of Agriculture and Consumer Affairs, Food & Public Distribution)