

BILL No. 12 of 1998

Thursday, 15th October, 1998

PARLIAMENT OFFICE,
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Georgetown,
Guyana.

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The following Bill which will be introduced in the National Assembly is published for general information.

F. A. Narain,
Clerk of the National Assembly.



GUYANA

Bill No. 12 of 1998

PESTICIDES AND TOXIC CHEMICALS CONTROL BILL 1998

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A BILL
Intituled

AN ACT to regulate the manufacture, importation, transportation, storage, sale, use and disposal of pesticides and toxic chemicals, and to provide for the establishment of the Pesticides and Toxic Chemicals Control Board, and for matters connected therewith or incidental thereto.

A.D. 1998

Enacted by the Parliament of Guyana:-

Short title and commencement. 1. This Act may be cited as the Pesticides and Toxic Chemicals Control Act 1998, and shall come into operation on such date as the Minister may appoint by order.

Interpretation. 2. In this Act-

- (a) "active ingredient" means any substance in a pesticide which acts on a pest so as to exterminate it;
- (b) "advertisement" include any representation by any means whatever for the purpose of promoting directly or indirectly the sale, distribution, use or disposal of any controlled product.
- (c) "Agriculture" means the production and storage of any produce which is grown for consumption or any other purpose and includes the use of land for grazing, forestry and woodland, fish culture, bee culture, market gardening, horticulture and nurseries and animal husbandry.
- (d) "Analyst" means any person appointed as an analyst under section 26;
- (e) "antiseptic" means any substance or mixture of substances sold or represented principally for its germicidal or anti-microbial use on the skin of man or animal;
- (f) Article" includes:-
 - (i) any controlled product or any produce to which a

- pesticide is believed to have been applied, anything that may have been contaminated with a controlled product;
- (ii) anything used for the manufacture, packaging, storage, application or use of a controlled product; and
- (iii) any labelling, packaging or advertising material used for, or relating to, controlled product;
- (g) "Board" means the Pesticides and Toxic Chemicals Control Board established under section 4;
- (h) "Container" means anything in which a controlled product is wholly or partly contained or packed;
- (i) "controlled product" means any pesticide or toxic chemical;
- (j) "disinfectant" means any substance or mixture of substances sold or represented principally for its germicidal or antimicrobial action on inanimate objects;
- (k) "drug" includes any substance or mixture of substances manufactured, sold or represented for use in the —
- (a) diagnosis, treatment, mitigation or prevention of a disease, disorder, abnormal state of health or the symptoms thereof, in man or animal;
- (b) restoring, correcting or modifying organic functions in man or animal;
- (l) "employer" means any person who employs a worker;
- (m) "extermination" means the destruction or control of pests, by means of the use of a pesticide on any land or premise or in any vehicle whether on land or any other place;
- (n) "food" includes any article manufactured, sold or represented for use as food or drink for man, and any ingredient that may be mixed with food or drink for any purpose whatever;
- (o) "formulating" means the act of preparing or compounding a pesticide in a form in which it is sold or distributed to persons using the pesticide for extermination purposes;
- (p) "importer" in relation to an imported article, includes any person who, whether as an owner, consignee, agent or broker is in possession of the article or in any way entitled to the custody or control of it;
- (q) "inspector" means any person appointed as such under section 26 and includes an inspector designated as an environment officer under the Environmental Protection Agency Act or the Environmental Impact Assessment Act;
- (r) "label" means any legend, word, mark, symbol or design applied or attached included in, belonging to or accompanying any controlled product or a package therefore;
- (s) "manufacture" includes the synthesizing, formulating, producing, preparing mixing, packaging or processing of an controlled product;

- (t) "manufacturer" means a corporation or other entity in the public or private sector or any individual engaged in the business or function (whether directly or through an agent or through an entity controlled by or under contract with it) of manufacturing a controlled product;
- (u) "medical examiner" means any person so appointed under section 26;
- (v) "Minister" means the Minister who is charged with responsibility for Agriculture;
- (w) "package" includes anything in which a controlled product is wholly or partly contained, placed or packed;
- (x) "pest" includes any insect, rodent, bird, fish mollusc, nematode, fungus, weed, alga, micro-organism, virus, ectoparasites of man, ectoparasites or endoparasites of animals and any other kind of plant or animal life which is injurious, troublesome or undesirable to any crop, stored produce, feed, wood, textiles or other clothes, fabrics or other inanimate objects, of which are objectionable from the point of view of public health or hygiene, and also anything which is undesirable under any enactment relating to pest control;
- (y) "pest-control operator" means any licensed person who by himself or his employees, assistants or agents applies pesticides or carries out an extermination for a remuneration.
- (z) "pesticide" means any substance or mixture of substances intended for preventing, destroying or controlling any pest, including vectors of human or animal disease, unwanted species of plants or animal causing harm during or otherwise interfering with the production, processing, storage, transport, or marketing of food, agricultural and industrial commodities, wood and wood products, or animal feedstuffs or which may be administered to animals for the control of insects, arachnids or other pests in or on their bodies but the term does not include any anti-septic, disinfectant or drug;
- (aa) "produce" means any crop grown for consumption or other use and includes anything ordinarily used or which may be used in the composition of food for man or feed for domestic and farm animals, but does not include growing crops;
- (ab) "prohibited pesticide" means any pesticide of which the effects on the environment, plants, animals or human beings are considered by the Minister to be dangerous to justify its use, and which is specified in Part 1 of the First Schedule of the regulations;
- (ac) "Registrar" means any person designated to be Registrar of Pesticides and Toxic Chemicals under sections 6;
- (ad) "regulations" means regulations made by the Minister under section 32;
- (ae) "restricted pesticide" means any pesticide specified in Part 11 of the First Schedule of the Regulations or any pesticide so specified in the list of restricted pesticides of the Food and Agriculture Organisation;
- (af) "sell" includes offer for sale, expose for sale, have in possession for sale, and distribute;
- (ag) "toxic chemical" means any disinfectant or any other substance known to be poisonous, corrosive, irritating, sensitizing or harmful to man or animal that is used in agriculture, the arts, commerce or

industry, or for any domestic or other purpose, other than any antiseptic, drug or pesticide;

(ah) "vehicle" includes any aircraft, container or vessel;

(ai) "worker" means a person employed in the use and handling of controlled products.

PART I

GENERAL

Power of Minister to order the furnishing of particulars relating to composition use and effects of controlled products.

3. (1) For the purpose of enabling him to exercise his functions under this Act, the Minister may, by order, require every person who at the date of the order, or at any subsequent time carries on a business which includes the manufacture, importation, sale or use of substance of any class specified in the order to furnish to the Registrar, within such time as may be so specified, such particulars as may be so specified of the composition and use of any such substances, which in the course of that business, are used, or sold for use, in the preparation of controlled products.

(2) Without prejudice to the generality of sub-section (1), an order made thereunder may require the following particulars to be furnished in respect of any substance, that is to say:-

(a) particulars of the composition and physical and chemical properties of the substance;

(b) particulars of the manner in which the substance is used or proposed to be used in the preparation of controlled products;

(c) particulars of any investigations carried out by or to the knowledge of the person carrying on the business in question, for the purpose of determining whether and to what extent the substance, or any product formed when the substance is used as aforesaid, is injurious to, or in any other ways affects health;

(d) particulars of any investigations or inquires carried out by or to the knowledge of the person carrying on the business in question for the purpose of determining the cumulative effect on the health of a person consuming the substance in ordinary quantities.

(3) Any person who, without the previous consent in writing of the person carrying on the business in question, discloses particulars furnished in accordance with an order under this section, or information relating to any individual business obtained by means of such particulars, except

(a) in accordance with directions of the Minister so far as may be necessary for the purpose of this Act; or

(b) for the purposes of any proceedings for an offence under this act or of any report of such proceedings,

shall be guilty of an offence.

PART 11:-

ESTABLISHMENT AND FUNCTIONS OF BOARD

Establishment of
Pesticide
and Toxic Chemicals
Control Board.

4. (1) There shall be established for the purposes of this Act a Board to be known as the Pesticides and Toxic Chemicals Control Board.

(2) The Board shall consist of the following members-

(a) the Head of the Environmental Protection Agency;

(b) representatives of the Ministries of Agriculture, Health and Labour;

(c) such number of persons, including representatives from non-governmental organisations and/or private sector agencies as the Minister thinks fit.

(3) The number of members of the Board shall not exceed seven.

(4) In respect of each member of the Board referred to in subsection (2) (a) to (c), the Minister may appoint an officer from the respective institution, as the case may be, as an alternate member, who may act instead of the respective member at any meeting of the Board.

(5) The members of the Board shall be appointed by the Minister and the membership of the Board as first constituted and every change in the membership thereof shall be notified in the Gazette.

(6) The Minister shall appoint the Chairman of the Board.

(7) The post of Deputy Chairman shall be elected from members of the Board referred to in subsection (2).

(8) The remuneration and other terms and conditions of appointment of members of the Board shall be such as may be determined by the Minister.

(9) A member of the Board, who is a public officer, shall have and may exercise in like manner all the powers conferred upon an inspector by this Act.

(10) The Minister may, after consultation with the Chairman, give the Board directions of a general character as to the policy to be followed in the performance of any of its functions, and the Board shall give effect to such directions.

(11) The Board shall provide such facilities to the Minister as will enable him to verify any information furnished in pursuance of this section.

(12) A member of the Board appointed under subsection (2) (c) may resign his office at any time by giving notice in writing to the Minister through the Chairman.

Meeting and procedure
of Board

5. (1) The Minister may make regulations to regulate the procedure and business of the Board, including the intervals at which the meetings of the Board shall be held and the quorum for its meetings.

(2) Subject to the provisions of this Act, the Board may regulate its own procedure and business and may make rules for that purpose.

(3) Any minutes made of a meeting of the Board shall, if duly signed by the Chairman of the Board or other person presiding at the meeting, without further proof of any other matter or thing, be receivable in all legal proceedings as *prima facie* evidence of the proceedings of the Board of which the minutes have been made and of the meetings of the Board, in respect of the proceedings of which the minutes have been so made, having been duly convened and held.

Register of pesticides
and Toxic Chemicals

6. (1) The Minister shall, for the purpose of this Act, by notification in the *Gazette*, appoint the Registrar of Pesticides and Toxic Chemicals who in consultation with the Board who in consultation with the Board, may engage such other employees as he thinks necessary for the proper carrying out of the provisions of this Act at such remuneration and on such terms and conditions as he thinks fit.

(2) The Registrar shall be the Secretary of the Board.

(3) The Registrar shall —

(a) keep and maintain such registers as the Board deems necessary, including registers of all licences issued under this Act;

(b) enter in the registers kept by him such information as may be specified by the Board or prescribed by regulations;

(c) give the inspectors and analysts such information as may be necessary for carrying out the purposes of this Act; and

(d) perform such other duties as may be assigned to him by the Board.

(4) The Board shall pay the Registrar such remuneration and allowances as the Minister thinks fit.

Functions of
the Board.

(7.) The functions of the Board shall be —

(a) to register pesticides and toxic chemicals;

(b) to license persons to import or manufacture registered pesticides and toxic chemicals;

(c) to authorise persons to sell restricted pesticides;

(d) to register premises in which a restricted pesticide may be sold;

(e) to license pest control operators;

(f) to consider and determine applications made pursuant to this Act and to deal with all aspects of the importation, manufacture, transportation, storage, packaging, preparation for sale, sale, use and disposal of pesticides and toxic chemicals and to advise the Minister on all matters in relation thereto;

(g) to advise the Minister on matters relevant to the making of regulations under this Act, and to monitor the implementations; of these regulations;

(h) to furnish such returns as the Minister may from time to time require

(i) to exercise and perform such other functions conferred upon it by or under this Act;

(j) with the approval of the Minister, to make such provision as it thinks appropriate for the payment of pension, gratuity, or other allowance in respect of the services of its officers and other employees on their retirement therefrom.

Power to
delegate

8. (1) Where under this Act any power, duty or authority is granted to or vested in the Minister, he may in writing, subject to the approval of the President, delegate that power, duty or authority to the head of the Environmental protection Agency or any officer or officers of the Ministry, subject to such limitations, restrictions, conditions and requirements as the Minister may set out in the delegation.

8. (2) The Board may, with the approval of the Minister, delegate to any of its members the power and authority to carry out on its behalf such of its functions as the Board may determine.

Power to
Appoint committees.

9. (1) The Board may appoint such committees as it thinks fit.

(2) A committee appointed by the Board under subsection (1) may consist only of the members of the Board or may consist of such members and other persons.

(3) Subject to the provisions of this section, the constitution, functions and procedure of a committee appointed under subsection (1) by the Board, shall be determined by the Board.

(4) Where persons, not being members of the Board, are members of a committee appointed under subsection (1), the Board may pay such persons such remuneration or allowances as the Board thinks fit.

Appeals.

10. Any person aggrieved by any decision of the Board may appeal to the Minister against such decision within such time and in such manner as may be prescribed.

PART 111

REGISTRATION AND LICENCES

Registration of
controlled products.

11. No person shall manufacture, import, advertise, sell, use, store or transport any controlled product unless such product is registered in the prescribed manner.

Licence to manufacture
or import controlled
products

12. No person shall manufacture, or import any registered controlled product unless he first obtains in the prescribed manner a licence to manufacture, or import as the case may require, that product, and shall comply with such conditions as may be stipulated in the licence.

- Licence to sell registered controlled products.**
13. Any person wishing to sell a registered controlled product shall obtain from the Board a licence entitling him to sell registered controlled products, and shall comply with such conditions as may be stipulated in the licence.
- Registration of premises to store controlled products.**
14. (1) No person shall store a controlled product marketable quantities, unless the premises in which the controlled products is stored, is registered as prescribed.
- (2) A person is deemed to store a controlled product in marketable quantities when there are on premises occupied by him larger quantities of a controlled product than would reasonably be necessary for his domestic use.
- Regulating controlled products.**
15. No person shall manufacture, import, handle, use store in marketable quantities, dispose of or transport a controlled product unless the person does so in the prescribed manner.
- Application for registration, licence and authorisation**
16. (1) Every application for the registration of a controlled product, for a licence to manufacture, import or sell a registered controlled product, for a permit to purchase or use a controlled product, for authorisation to sell a restricted pesticide, for registration of the premises in which such restricted pesticide, may be sold, or in which a controlled product is stored in marketable quantities or for registration as a pest control operator, shall be made on the prescribed form and be accompanied by the relevant prescribed fee; and, subject to the provisions of this Act, the Board may grant any such application on such terms and conditions as it thinks fit, may refuse any such application, and may at any time after an application has been granted, revoke any licence, certificate, or authorisation or permit issued pursuant to that application.
- (2) The Registrar shall issue to every person whose application made pursuant to this section is granted, the appropriate licence or certificate of registration or authorisation or permit as the case may require, in the prescribed form.
- Suspension of registration, licence and authorisation and deletion of entry from register.**
17. (1) If any person who has obtained any registration, licence, authorisation or permit pursuant to this Act, is found upon enquiry by the Board to have procured such registration, licence, authorisation or permit as the case may be, as a result of any misleading, false or fraudulent representation, the Board may after investigations, either suspend that registration, licence, authorisation, or permit as the case may be, for a period not exceeding one year or direct the Registrar to delete the relevant entry from the appropriate register.
- (2) The Board may at any time, if necessary direct any entry which has been deleted from a register pursuant to sub section (1) to be reinstated.
- (3) The Board may, as soon as practicable after :-
- (a) any registration, licence, authorisation or permit has been suspended or deleted from a register; or

(b) the reinstatement of any registration, licence, authorisation or permit which was deleted from a register, cause notice of the appropriate fact to be published in the Gazette.

(4) Whenever any registration, licence, authorisation or permit is deleted from a register, the Board may in writing require the person to whom such registration, licence or authorisation had been granted to return to the Registrar the relevant certificate or licence, as the case may be, and such person shall comply with that requirement.

Declaration by manufacturer and certificate in respect of imported controlled products.

18. (1) The Minister may order that the manufacturer of any controlled product shall furnish a declaration in prescribed form that the product in question as manufactured by him has been made in accordance with all requirements of this Act, and any person who fail to comply with any such order is guilty of an offence.

(2) Except as provided by the regulations, no controlled product shall be imported into Guyana unless the product wholly conforms to the law of the country in which it was manufactured or produced and is accompanied by a certificate from the Regulatory Agency in prescribed form and manner that the article does not contravene any known requirement of the law of that country.

Prohibited pesticides First Schedule.

19. (1) The pesticides specified in Part 1 of the First Schedule of the Regulations shall be prohibited pesticides for the purposes of this Act and accordingly, shall not be brought into or used in the country.

(2) The Minister may from time to time, after consultation with the Board, by order amend the list of prohibited pesticides specified in the First Schedule of the Regulations.

(3) An order made pursuant to subsection (2), may provide for the withdrawal from sale or use, and for the disposal of, any pesticide added to the list of prohibited pesticides.

Authorisation to sell restricted pesticides and registration of premises.

20. (1) No person shall sell restricted pesticide unless -

(a) he is authorised in the prescribed manner to do so;

(b) the premises in which the sale is carried out has been registered in the prescribed manner for the purpose, and

(c) the sales is carried out in accordance with other requirements as may be prescribed.

(2) The Minister may from time to time, after consultation with the Board by order, amend the list of restricted pesticides specified in Part 11 of the First Schedule of the Regulations.

Prohibition on extermination for reward without

21. (1) No person shall engage in or perform or offer to perform an extermination for reward unless he is licensed as a pest control operator by the Board in the prescribed manner or,

- licence subject to subsection (2), is an employee of such operator.
- (2) No person shall serve as an employee of a pest control operator for the purpose of carrying out an extermination unless he complies with the regulations being in force relating to employees of pest control operators.
- Prohibition against various firms of misleading representation.
22. (1) Any person who packages, labels, treats, processes, sells or advertises any controlled product in a manner that is false, misleading or deceptive, or is likely to create an erroneous impression regarding its character, value, quantity, composition, merit, or safety, or is inconsistent with the information supplied to the Board at the time of the application for registration, is guilty of an offence.
- (2) A product that is not labelled or packaged as required by the regulations, or is labelled or packaged contrary to the regulations shall be deemed to be labelled or packaged contrary to subsection (1).
- Maintenance of standard.
23. Where a standard has been prescribed for a controlled product any person who labels, packages, sells or advertises any article in such a manner that it is likely to be mistaken for such products, is, unless the article complies with the prescribed standard, guilty of an offence.

PART IV

ADMINISTRATION AND ENFORCEMENT

- Staff of Board.
24. The Board may employ at such remuneration and on such other terms and conditions as it thinks fit such officers and other employees as the Board deems necessary for the purpose of carrying out its functions.
- Experts
25. The Board may, at any time, retain the services of experts and other professional persons (including consultants) having specialized knowledge relevant to the Board's functions and may pay such persons such remuneration in respect thereof as the Board, with the approval of the Minister, may determine.
- Appointment of analysts inspector and medical examiners.
26. (1) The Minister may appoint such number of fit and proper persons to be analysts, inspectors and medical examiners for the purposes of this Act and notice of any such appointment shall be published in the Gazette and shall be officially and judicially noticed.
- (2) The Minister shall furnish every person appointed by him under subsection (1) with a certificate of his appointment.
- Power of inspector to enter properties, examine, take samples make copies of documents and demand information.
27. (1) Any inspector may for the purpose of exercising any of his powers under this Act or the regulations enter at any reasonable time-
- (a) any vehicle-
- (i) in which an extermination is about to be, is being or has been carried out;
- (ii) in which a controlled product is about to be, is

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being or has been transported; or

- (iii) in which he has reasonable cause to believe a breach of this Act or the regulations is about to be, is being or has been committed;

(b) any land or premises-

- (i) in which an extermination is about to be, is being or has being carried out;
- (ii) on which a controlled product is being or has been, or about to be used, manufactured, sold, packaged, stored, kept for sale or disposed of;
- (iii) which is being, or has been, or is about to be used for a purpose connected with the use, manufacture, sale, packaging, or storage of a controlled product;
- (iv) on which things required by the regulations to be provided or done have been provided or done; or
- (v) which he has reasonable cause to believe to be land or premises falling within subparagraph (ii), (iii) or (iv) and may make such examinations and enquires as he may deem necessary;

(c) open and examine any receptacle or package found in any premises or vehicle mentioned in paragraphs (a) and (b) that he reasonably believes contains any controlled product.

(d) examine any books, documents or other records found in any place mentioned in paragraphs (a) and (b) which on reasonable grounds he believes contain or are likely to contain any information relevant to the enforcement of his Act applies and make copies thereof or extracts therefrom;

(e) seize and detain for so long as may be necessary for the purpose of any examination, investigation, trial or inquiry, any article by means of or in relations to which he reasonably believes any provision of his Act has been contravened;

(f) take without payment, samples of any article where such article is being sold, used or transported or is in storage, and submit them to any analyst for analysis or examination;

(g) take without payment samples of any article when imported into Guyana but not delivered to the importer out of the charge of Customs and submit them to an analyst for analysis or examination.

(2) For the purpose of subsection (1) the expression "article to which the Act applies" includes-

(a) any pesticide or toxic chemical;

(b) anything used for the manufacture, formulation, package or storing thereof; and

(c) Any labelling or advertising material.

3. An inspector on entering vehicle, land or premises pursuant to subsection (1) shall if so required, produce his certificates of appointment to the person in charge thereof.
4. An inspector may, if he considers it necessary, take with him when entering any vehicle, land or premises mentioned in subsection (1) a police officer, a medical practitioner, a public health inspector and any person who possesses expert knowledge of the use or effects of pesticides and toxic chemicals.
5. The owner or person in charge of any land, premises or vehicle entered by an inspector pursuant to subsection (1), and every person found therein, shall give the inspector all reasonable assistance in their power and shall furnish him such information in their possession as he may reasonably require.
6. Any person who—
 - (a) fails to comply with subsection (5),
 - (b) obstructs an inspector in the carrying out his duties under this Act;
 - (c) knowingly makes any false or misleading statement either verbally or in writing to any inspector engaged in carrying out his duties under this Act; or
 - (d) removes, alters or interferes in any way with any article seized under this Act without the authority of an inspector,

is guilty of an offence.

7. (a) An inspector may submit an article seized by him or any sample therefrom or any sample taken by him to an analyst for analysis or examination;
- (b) Where an analyst has made an analysis or examination he shall issue to the inspector a certificate or report setting forth the results of his analysis or examination.
8. An inspector who exercises any power set out under this section may, if the inspector is designated as an environmental officer under the Environmental Protection Agency Act or the Environmental Impact Assessment Act, as the case may be, do anything authorised by those Acts.

Power of inspector regarding seizure of articles.

28. (1) Any article seized under this Act may at the option of an inspector be kept or stored in the building or place where it was seized or may at the direction of an inspector be removed to any other proper place.
- (2) Where an article is seized under this Act, the inspector shall give to the owner or the person in whose possession the article was at the time of the seizure, written notice of the grounds upon which the article was seized and where

appropriate, specify in such notice what might reasonably be done to comply with the provisions of this act and the regulations:

- (3) A notice under subsection (2) shall be given to the person or each of the persons entitled to receive the same by delivering it personally to such person or sending it by registered post to his usual place of abode or business premises or, if the usual place of abode or business premises of, such person is not known or if the person refuses to receive the notice, by publishing the notice in one newspaper having circulation in Guyana.
 - (4) Where proceedings have been instituted in respect of a contravention of this Act or the regulations, the article seized shall not be released or destroyed before the proceedings are finally concluded.
29. (1) An inspector has the right to examine any customs entries of controlled products imported into Guyana and to take samples thereof and to submit the samples to an analyst for analysis or examination.
- (2) In any case where samples are taken such products shall not be delivered to the importer until the analyst has reported upon the samples taken.
 - (3) If it appears from the report of the inspector or the analyst that the sale of the product-
 - (a) would be in contravention of this Act if sold in Guyana, the product shall not be admitted in Guyana for use as a controlled product;
 - (b) would not be in contravention of this Act if sold in Guyana, the product shall subject to the provisions of any other law, be admitted to Guyana for use as a controlled product.
 - (4) An inspector shall release any article seized by him under this Act when he is satisfied that all the provisions of this Act with respect thereto have been complied with.
 - (5) Where an inspector has seized an article under this Act and the owner thereof or the person in whose possession the articles was at the time of seizure consents to the destruction thereof, the article shall therefrom be forfeited to the State and may be destroyed or otherwise disposed of as the Minister may direct on the advice of the Board
 - (6) Where a person has been convicted of an offence against this Act, the court may order that all articles in respect of which the offence was committed be forfeited, and upon the order being made, the article shall be forfeited to the State and may be destroyed or otherwise disposed of as the Minister may direct on the advice of the Board.

Power of
medical examiner.

30. (1) A medical examiner shall have and may exercise in like manner all the powers conferred upon an inspector by this Act.
- (2) A medical examiner may with the oral or written consent of any person who he reasonably believes has been harmed by a controlled product or is exposed to any risk or harm by any controlled product, carry out a medical examination of that person and take samples of blood, urine or any biological material from that person.
- (3) A medical examiner may request any medical practitioner to assist him in dealing with poisoning suspected to have been caused by a controlled product

Safety of workers.

31. (1) Where it appears to the Board that any controlled product at the place of employment of any worker is likely to cause risk of bodily injury to him, the Board may serve on the employer a notice in writing specifying the measures which should be adopted to remove the risk of bodily injury and requiring the measures to be carried out before a date to be specified in the notice.
- (2) The Board may in writing give directions to any employer-
- (a) to exhibit by notice before a specified date, in a conspicuous manner at his place of business, a warning that controlled products are likely to cause poisoning, or bodily injury, explosions, and the notice shall be in such form as may be specified by the Board;
 - (b) to take such special precautions as it may deem necessary to protect workers who because of their state of health, age or other circumstances are subject to particular risks of poisoning by controlled products;
 - (c) to provide periodical medical examinations of workers as prescribed by regulations.
- (7) All Medical Examiners and other Medical Practitioners shall submit to the Board on a quarterly basis reports on the treatment of patients for poisoning (accidental and deliberate) by pesticides and toxic chemicals.

Regulations

32. The Minister may make regulations for carrying the purposes and provisions of this Act into effect, and, in particular, but without prejudice to the generality of the foregoing, may make regulations-
- (a) Prohibiting or controlling the manufacture, importation, method of packaging, labelling, transportation, advertisement, sale, use and disposal of any controlled product;
 - (b) for controlling the use of pesticides in agriculture generally, or in particular, on crops or pests, and for controlling the use of toxic chemicals in agriculture, the arts, commerce, industry, or for any domestic or other purposes;

to submit to, instruction and training in the use of any machine, apparatus or facility provided in pursuance of this Act;

- (a) requiring employers to report to the Board cases of death, poisoning, injury, incapacity, or illness caused by any controlled product;
- (i) prescribing standards and setting limits as to the amount of controlled product that may be present in the air of premises where controlled products are used, manufactured, sold or stored, or in water or in waste material coming from such premises;
- (u) requiring the observance of precautions against poisoning by controlled products, including the abstention from eating, drinking and the use tobacco in circumstances involving the risk of poisoning;
- (v) for securing intervals between or limitations of periods of exposure of workers to controlled products to minimize risks of poisoning; and
- (w) regarding any other matter which is required to be prescribed under this Act.

Evidence and
sufficiency
of proof.

33. (1) A certificate of an analyst stating that he has examined or analysed an article or sample for the purposes of this Act and stating the result of his examination or analysis, as the case may be, or a certificate or report of a medical examiner shall be admissible in evidence in a prosecution for a contravention of this Act and shall be *prima facie* evidence of the statements contained in the certificate; if in any such proceeding an analyst is called as an expert, the party calling him shall, unless the magistrate otherwise expressly orders, pay all costs occasioned by his having been so called.
- (2) Proof that a package containing any article to which this Act applies bore a name or address purporting to be the name or address of the person by whom it was manufactured or packaged is *prima facie* evidence in a prosecution for an offence against this Act that the article was manufactured or packaged as the case may be, as the case may be, by the person whose name or address appeared on the package.
- (3) In a prosecution for an offence against this Act, a copy of any document or record or an extract therefrom certified to be a true copy by the inspector who made it pursuant to section 27 (1) (d) is receivable in the proceeding as *prima facie* evidence of the contents thereof.
- (4) In a prosecution for an offence against this Act it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused whether or not the employee or agent has been prosecuted for the offence; and for the purposes of this subsection, any person selling or ostensibly employed to sell shall be presumed to be employed to sell.

Offence and
penalties.

34. (1) A person is guilty of an offence who-
- (a) manufactures, imports, sells or uses a controlled product in

- (c) for controlling the pesticides on produce during its storage or transportation;
- (d) for controlling the conditions under which controlled products are stored;
- (e) for protecting workers against the risk of poisoning by controlled products when working in connection with the use of controlled products or when working on land or in any premises on or in which controlled products have been or are being used, stored or manufactured;
- (f) for protecting the interest of owners, occupiers, or users of land or premises adjacent to land or premises on or in which controlled products are used, stored or manufactured;
- (g) for protecting persons against the risk of poisoning or other injury by controlled products;
- (h) prescribing the maximum permissible level of any controlled product in any particular kind of produce at the time of marketing or sale;
- (i) respecting the quantities of controlled products which may be imported or manufactured and the types of packages in which controlled products may be imported, transported or sold and as to the disposal of such packages after use and as to the disposal of unwanted stocks of controlled products and of waste materials containing controlled products;
- (j) requiring the keeping and inspection of records and the furnishing of returns of sales, stocks, and the use or disposal of controlled products and other relevant information;
- (k) restricting or prohibiting the use of particular controlled products or classes of controlled products;
- (l) imposing restrictions and obligations on pest control operators;
- (m) imposing duties on employers of workers, on the workers themselves and on others using controlled products;
- (n) requiring the provision by employers, manufacturers, or workers, and the keeping in good order and the production when required by an inspector, of protective clothing and equipment, of facilities for washing and cleaning, and of other things needed for protecting persons, clothing, and equipment from contamination by controlled products, or for removing sources of contamination therefrom;
- (o) prescribing the manner and contents of any advertisement of a controlled product;
- (p) prescribing the method of packaging and labelling of any controlled product;
- (q) requiring the provision and keeping in good order and use of facilities for preventative and first aid treatment for poisoning by controlled products;
- (r) requiring employers to provide, and the necessity for workers

- contravention of this Act or its regulations;
- (b) assaults, resists, intimidates, obstructs or prevents an inspector in the execution of his duties under this Act or the regulations;
 - (c) by any gratuity, bribe, promise or other inducement prevents or attempts to prevent an inspector from carrying out his duties under this Act or the regulations
 - (d) removes, alters or interferes in any way with any articles seized under this Act without the authority of an inspector;
 - (e) fails to comply with any requirements imposed by an inspector under section 27;
 - (f) operates as a pest control operator in contravention of the regulations, or in breach of any condition subject to which a licence was granted to him under the regulations;
 - (g) fails to keep any record which he is required to keep by the regulations;
 - (h) willfully makes a false entry in a register, record, return, or other document kept or furnished in pursuance of the regulations, or willfully makes use of such false entry;
 - (i) being an inspector or other officer designated or appointed under this Act as the case may be, accepts or solicits any bribe in connection with any matter arising in the performances of any of his functions pursuant to this Act;
 - (j) conceals or prevents any person from appearing before an inspector under section 27;
 - (k) knowingly or recklessly makes any false or misleading statement either orally or in writing to any inspector engaged in exercising his power under this Act or the regulations;
 - (l) contravenes any provisions of this Act or its regulations.
- (2) Any person who commits an offence against this Act is liable-
- (a) on summary conviction for a first offence to a fine of not less than five hundred dollars and to imprisonment for three months, and for a subsequent offence to a fine of not less than twenty five hundred dollars and not more than two hundred thousand dollars and to imprisonment for six months;
 - (b) on conviction upon indictment to a fine of not less than five thousand dollars and not more than five hundred thousand dollars and to imprisonment for three years.
- (3) A person convicted of an offence under this section may, in addition to any other penalty imposed, be disqualified for such period as the court or magistrate thinks fit, from obtaining a licence, in respect of any activity relating to controlled products.

**Offences by
Corporations.**

35. Where an offence against this Act is committed by a body corporate, any person who at the time of the commission of the offence was a director, manager, secretary or other officer

thereof, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence, unless he proves that the contravention took place without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

- Jurisdiction 36. A prosecution for an offence against this Act may be instituted, heard, tried or determined in the place in which the offence was committed or the subject matter of the prosecution arose or in any place in which the accused is apprehended or happens to be.
- Time limit on prosecutions 37. A prosecution for a contravention of this Act or the regulations may be instituted at anytime within six months from the time the subject matter of the prosecution arose.
- Prosecution by inspector. 38. An inspector may institute proceedings under this Act before a court of summary jurisdiction and has power to conduct any proceedings so instituted by him notwithstanding that he is not a barrister or a solicitor.

PART V

FINANCIAL PROVISIONS

- Funds and resources of Board. 39. The funds and resources of the Board shall consist of —
- (a) such sums as may be provided to the Board by or under an appropriation law
 - (b) such fees as may be charged by the Board for services rendered by it;
 - (c) such moneys or other assets as may accrue to or vest in the Board by way of grants, subsidies, bequests, donations or gifts; and
 - (d) all other sums or property which may in any manner be received by, or become payable to, or be vested in, the Board in the performance of its functions or in respect of any matter incidental thereto.
- Charging of fees by Board. 40. The Board may charge fees for an services rendered by it under this Act.
- Account and audit 41. (1) The Board may for the purpose of carrying out its functions under this Act, open and operate any current savings, bank or any type of account or accounts with any bank or banks in Guyana.
- (2) The Board shall keep accounts of its transactions to the satisfaction of the Minister and the accounts shall be audited annually by an auditor appointed by the Minister.
 - (3) The members, officers and other employees of the Board shall grant to the auditor appointed under subsection (2) access to all books, documents, cash and securities of the Board and shall give to him on request all such information as may be

within their knowledge in relation to the operation of the Board.

Exemption from tax,
duty, etc,
Cap.80:02,
Cap.81:01,
Cap. 82:01

42. (1) The Board shall be exempt from the payment of income tax under the Income Tax Act, import or export duties of customs under the Customs Act, and consumption tax, in respect of goods imported by it into Guyana under the Consumption Tax Act.
- (2) The Minister responsible for finance may, by order, which shall be subject to affirmative resolution of the National Assembly exempt the Board from payment wholly or partly of any tax or duty, not being a tax or duty referred to in subsection (1) or rate, levy or other charge payable under any written law for the time being in force.

Borrowing powers
of Board.

43. The Board may, with the approval of the Minister, borrow sums required by it for meeting any of its obligations or discharging any of its functions.

Act binds
the state

44. This Act binds the State.

EXPLANATORY MEMORANDUM

This Bill seeks to establish a pesticides and Toxic Chemicals Control Board which is proposed to be charged with the responsibility for making arrangements and providing facilities for controlling the manufacturing, importing, transporting, storing, selling, using and advertising of pesticides and toxic chemicals.

The Bill also seeks to provide that all pesticides and toxic chemicals should be registered by the Board and that, no person shall manufacture, or import pesticides or toxic chemicals or operate as a pest control operator unless the person is the holder of a valid licence to do so. It is proposed in this Bill that an application for such a licence may be made to the Board and should be accompanied by the prescribed licence fee.

Where the Board, however, has reason to believe that any person employed in the using or handling of pesticide or toxic chemicals is likely to suffer bodily injury as a result of such employment, the Bill seeks to give the Board the authority to serve on the employer of the person a notice in writing specifying measures to be adopted to remove the likelihood of such bodily injury. The Bill also seeks to give the Board the Authority to issue directions to any employer requiring him to take special precautions to protect workers who because of their age, health or other circumstances are subject to particular risk of poisoning by pesticide or toxic chemicals.

The Board may, as proposed in the Bill, employ its own staff and designate fit and proper person as analysts and inspectors for carrying into effect the purpose of the Bill.

The Bill also seeks to provide for offences and empowers the court to impose penalties here offences have been committed.

It is finally proposed in this Bill to give the Minister the power to make regulations for carrying into effect its purposes.

R. D. Persaud,
Minister of Agriculture and
Parliamentary Affairs.