



# LAWS OF MALAYSIA

---

REPRINT

---

**Act 149**

## **PESTICIDES ACT 1974**

*Incorporating all amendments up to 1 January 2006*

PUBLISHED BY  
THE COMMISSIONER OF LAW REVISION, MALAYSIA  
UNDER THE AUTHORITY OF THE REVISION OF LAWS ACT 1968  
IN COLLABORATION WITH  
PERCETAKAN NASIONAL MALAYSIA BHD  
2006

**PESTICIDES ACT 1974**

Date of Royal Assent ... .. 30 July 1974

Date of publication in the *Gazette* ... .. 29 August 1974

*PREVIOUS REPRINTS*

<i>First Reprint</i>	... ..	1983
<i>Second Reprint</i>	... ..	1997
<i>Third Reprint</i>	... ..	2001

# LAWS OF MALAYSIA

## Act 149

### PESTICIDES ACT 1974

---

#### ARRANGEMENT OF SECTIONS

---

##### PART I

##### PRELIMINARY

Section

1. Short title, application and commencement
2. Interpretation

##### PART II

##### THE PESTICIDES BOARD

3. Establishment of the Board
4. Alternate members
5. Provision of facilities by Ministry
6. Proceedings of the Board

##### PART III

##### CONTROL OF IMPORTATION AND MANUFACTURE OF PESTICIDES BY REGISTRATION AND PERMIT

7. Application for registration of pesticides
8. Registration and refusal to register
9. Period of registration
10. Power to cancel registration
- 10A. Registrant shall inform Board about adverse effects of pesticide
11. Appeal against decision of Board
12. Gazetting of pesticides
13. Prohibitions as to importation and manufacture, and penalty
14. Importation of pesticides for educational or research purposes
- 14A. Research or experiment on unregistered pesticides synthesized in Malaysia

## PART IV

CONTROL OF MANUFACTURE, SALE AND  
STORAGE OF PESTICIDES BY LICENSING

## Section

15. Licence to manufacture pesticides
16. Appointment of Pesticides Licensing Officers
17. Licence to sell or store pesticides
18. Revocation and suspension of licence
19. Appeal against decision of Board or Pesticides Licensing Officer
20. Offences relating to manufacture, sale, and storage for sale

## PART V

CONTROL OF PRESENCE OF  
PESTICIDES IN FOOD

21. Regulations to control presence of pesticides in food
22. Entry, inspection and seizure
23. Power to demand, select and take samples
24. Right to analysis of food
25. Offence of selling contaminated food
26. Ignorance of contaminating not a defence
27. Defence of reliance on written warranty or statement

## PART VI

DEATH AND INJURY OCCASIONED  
BY PESTICIDES

28. Reporting of accident, death and personal injury
29. Inquiry into and investigation of accident, death and personal injury
30. Inquiry or inquest in cases of death occasioned by pesticides

## PART VII

## ENFORCEMENT

31. Entry, search and seizure
32. Power to stop and search conveyances
33. Identification of officers when taking action

PART VIII

ANALYSIS

Section

34. Appointment of Analysts
35. Manner of taking samples
- 35A. Time to commence analysis
36. Court may order analysis
37. Right to analysis of pesticide
38. Certificate of Analyst
39. Certificate of Analyst to be *prima facie* evidence
40. Recovery of fees and other expenses

PART IX

PROCEEDINGS

41. Notice of seizure, detention or removal
42. Complaints as to seizure, detention or removal
43. Summons
44. (*Deleted*)
45. Presumption as to importer or manufacturer
- 45A. Label as evidence of substance being a pesticide
- 45B. Presumption for sale or storage for sale
46. Liability of agent, servant, principal and employer
47. Liability of directors and other officers of bodies corporate
48. Offence as to sample deemed offence as to the whole lot
49. Forfeiture of offending substances
50. Jurisdiction
51. Privilege from disclosure
52. Notification of conviction

PART X

GENERAL

53. Giving or making false information or statement
- 53A. Possession or use of unregistered pesticides and unapproved use of pesticides

## Section

54. Interference with official marks
55. Secrecy
56. General penalty
57. Rules and regulations
58. Amendment of Schedules
59. Exemption

## PART XI

AMENDMENT, REPEAL, AND SAVING OF  
RELATED LAWS

60. Removal of certain substances from F.M. 29/1952
61. Control in Peninsular Malaysia of substances that are both poisons and pesticides
62. Removal of certain substances from Sabah Cap. 100
63. Control in the State of Sabah of substances that are both poisons and pesticides
64. Removal of certain substances from Sarawak Cap. 121
65. Control in the State of Sarawak of substances that are both poisons and pesticides
66. Repeal of F.M. 15/1949 and Sabah Cap. 99
67. Amendment of F.M. 29/1952

FIRST SCHEDULE

SECOND SCHEDULE

THIRD SCHEDULE

## LAWS OF MALAYSIA

### Act 149

### PESTICIDES ACT 1974

An Act to control pesticides.

*[Throughout Malaysia—15 April 1975, ss.1–6, 16, 21–27, 34, 50–52, 55–59, P.U. (B) 118/1975;*  
*Throughout Malaysia—1 December 1976, ss.7–12, P.U. (B) 637/1976;*  
*Throughout Malaysia—1 February 1981, s.53, P.U. (B) 48/1981;*  
*Peninsular Malaysia—1 April 1981, ss.13, 14, 31–33, 35, 36, 38–49, 54, 61, P.U. (B) 49/1981;*  
*Peninsular Malaysia—1 January 1982, s.20(3), P.U. (B) 50/1981;*  
*Peninsular Malaysia—1 January 1982, s.60, P.U. (B) 51/1981;*  
*Sabah and Sarawak—1 January 1982, ss.13, 14, 31–33, 35, 36, 38–49, 54, 61, P.U. (B) 52/1981;*  
*Sabah and Sarawak—1 September 1982, s.20(3), P.U. (B) 574/1981;*  
*Peninsular Malaysia—1 April 1982, s.20(4), P.U. (B) 127/1982;*  
*Sabah and Sarawak—1 September 1982, s.20(4), P.U. (B) 297/1982;*  
*Throughout Malaysia—1 September 1988, ss.17–19, P.U. (B) 353/1988;*  
*Sabah, Sarawak and Federal Territory of Labuan—1 October 1991, ss.20(1), 20(2), P.U. (B) 466/1991]*

**BE IT ENACTED** by the Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

#### PART I

#### PRELIMINARY

#### **Short title, application and commencement**

**1.** (1) This Act may be cited as the Pesticides Act 1974 and shall apply throughout Malaysia.

(2) This Act shall come into operation on a date to be appointed by the Minister by notification in the *Gazette*; and the Minister may appoint different dates for the coming into operation of this Act, or of different provisions thereof, in different parts of Malaysia.

### Interpretation

2. (1) In this Act, unless the context otherwise requires—

“active ingredient” means an ingredient, as listed in the First Schedule, which has pesticidal properties and gives pesticidal properties to a substance, material, preparation or mixture, of which the ingredient is one of the constituents of the substance, material, preparation or mixture;

“Analyst” means an Analyst appointed under section 34;

“analytical standard” means a substance containing an active ingredient and is used as a reference standard in the analysis of a pesticide;

“animals” means—

- (a) animals that are useful to man as a source of food or other essential products or as beasts of burden;
- (b) animals that are commonly kept as domestic animals or as pets;
- (c) animals that are protected under any written law for the time being in force relating to the protection of wild life;
- (d) animals that are beneficial to agricultural production; or
- (e) animals that are valued for reasons of amenity;

“authorized officer” means—

- (a) a Pesticides Licensing Officer; or
- (b) a public officer designated as an authorized officer by the Minister by notification in the *Gazette*;

“Board” means the Pesticides Board established under section 3;

“contaminated food” means food in which there is present a pesticide, or a quantity, proportion, strength, or concentration of a pesticide, in contravention of regulations made under section 21; and a reference to the use or presence of a pesticide in food includes a reference to its use or presence on food;

“food” includes every substance that is used for food or drink by man or that enters into or is used in the composition or preparation of the substance, and also includes flavouring matters and condiments, but does not include a substance or mixture of substances used by man as a medicine;

“label” means any written, printed, or graphic matter—

- (a) on the package, whether immediate or otherwise, of a pesticide; or
- (b) accompanying a pesticide;

“manufacture” in relation to a pesticide means to prepare, compound, formulate, mix, make, pack, re-pack, label, or otherwise treat the pesticide with a view to its sale, but does not include the carrying on of a *bona fide* research or experiment relating to a pesticide or the doing of an act or thing forming part of or incidental to such research or experiment;

“pack” means to enclose in a package;

“package” means anything in or by which a pesticide or any food, as the case may be, is cased, covered, closed or contained;

“pest” includes bacteria, virus, fungi, weeds, insects, rodents, birds, or any other plant or animal that adversely affects or attacks animals, plants, fruits or property;

“pesticide” means, subject to subsection (2)—

- (a) any substance that contains an active ingredient; or
- (b) any preparation, mixture or material that contains any one or more of the active ingredients as one of its constituents,

but does not include contaminated food or any article listed in the Second Schedule;

“Pesticides Licensing Officer” means a Pesticides Licensing Officer appointed under section 16;

“prescribed” means prescribed by the rules or regulations;

“rules” and “regulations” mean rules and regulations made under this Act;

“Secretary” means the Secretary of the Board;

“sell” includes offer for sale, exhibit for sale, or possess for sale any pesticide, or offer for reward any service relating to the usage of pesticides.

(2) For the purposes of this Act, a pesticide shall be treated as a different pesticide from another pesticide if—

- (a) the chemical name of that pesticide is different from that of the other pesticide;
- (b) the trade name or trade mark of that pesticide is different from that of the other pesticide;
- (c) the ingredients of that pesticide are different from those of the other pesticide, in type, number, proportion, concentration, or in other respects;
- (d) that pesticide is differently formulated from the other pesticide;
- (e) that pesticide is manufactured by a manufacturer other than the manufacturer of the other pesticide; or
- (f) that pesticide is different in quality, nature, characteristics, or efficacy from the other pesticide.

(3) For the purposes of this Act, a pesticide shall be deemed to be misbranded if—

- (a) its label contains a statement, design, or graphic representation relating to the pesticide that is false or misleading in any material particular, or if its package is otherwise deceptive in respect of the contents of the package;

- (b) it is an imitation, or is sold under the name, of another pesticide;
- (c) its label does not contain such warning or caution as is necessary and, if complied with, sufficient to prevent risk to human beings or animals;
- (d) any word, statement, information, or other matter required by the rules or regulations to appear on its label is not displayed thereon at all or in the prescribed manner;
- (e) it is not packed or labelled in the prescribed manner;
- (f) it has a toxicity that is different from that claimed for it;
- (g) it is mixed or packed with a substance so as to subsequently alter its original nature or quality; or
- (h) it contains a substance other than the substance or substances that it is claimed to contain.

## PART II

### THE PESTICIDES BOARD

#### **Establishment of the Board**

**3.** For the purposes of this Act, there is hereby established a board named Pesticides Board and consisting of the following members:

- (a) the Director General of Agriculture, who shall be the Chairman;
- (b) a senior officer of the Department of Agriculture, Peninsular Malaysia, who shall be appointed by the Minister, and be the Secretary;
- (c) the Deputy Director General of Health (Public Health);
- (d) the Director General of Chemistry;
- (e) the Director General of the Malaysian Agricultural Research and Development Institute;
- (f) the Director General of the Malaysian Rubber Board;

- (g) the Director General of the Department of Standards, Malaysia;
- (h) the Director General of Veterinary Services;
- (i) the Director of Pharmaceutical Services of the Ministry of Health;
- (j) the Director General of Forestry, Peninsular Malaysia;
- (k) the Director of Agriculture, Sabah;
- (l) the Director of Agriculture, Sarawak;
- (m) the Director General of Environmental Quality; and
- (n) the Director General of the Malaysian Palm Oil Board.

### **Alternate members**

4. (1) The Minister may, in relation to each member of the Board, appoint, on the nomination of the member, not more than one person to be an alternate member to attend in place of the member meetings of the Board that the member is for any reason unable to attend.

(2) When attending meetings of the Board, an alternate member shall for all purposes be deemed to be a member of the Board.

### **Provision of facilities by Ministry**

5. The Ministry responsible for the Board shall provide it with such staff, funds, and other facilities as are necessary to enable it to carry out its functions.

### **Proceedings of the Board**

6. (1) The Chairman shall preside at all meetings of the Board that he attends.

(2) In the absence of the Chairman at a meeting of the Board, the members present shall elect one of themselves to preside at the meeting.

(3) The Chairman or other member presiding at a meeting of the Board shall have a deliberative vote and, if upon any question the votes are equally divided, a casting vote.

(4) The Board shall meet at such places and times as the Chairman may appoint; and at a meeting of the Board seven members including the Chairman or other member presiding shall form a quorum.

(5) The Board may invite any person to attend any of its meetings but the person shall have no right to vote at the meeting.

(6) Subject to this section, the Board may regulate its own procedure.

### PART III

#### CONTROL OF IMPORTATION AND MANUFACTURE OF PESTICIDES BY REGISTRATION AND PERMIT

##### **Application for registration of pesticides**

7. (1) A person desiring to import or manufacture a pesticide shall apply to the Board in the prescribed manner for registration of the pesticide.

(2) Subject to subsection (4), an applicant must with his application submit to the Board—

- (a) a statement of the common name of the pesticide, if available, its trade name, its chemical name, and its structural formula, and of the name and concentration of every active ingredient of the pesticide;
- (b) the name and concentration of every other ingredient of the pesticide;
- (c) detailed toxicological information on every ingredient of the pesticide and on the pesticide as a whole;
- (d) all matters proposed to be included in the label of the pesticide, including instructions for, and the precautionary measures to be taken in connection with, its use the claims made for it and the proposed class of pesticide;

- (e) a statement as to, or a sample of, the proposed package of the pesticide;
- (f) reports on the efficacy and safety of the pesticide;
- (g) a statement of the methods of analyzing the pesticide and of the authorities or sources of information on which the statement is based;
- (h) a statement of the methods of determining the residue of the pesticide on plants or crops on which it is intended to be used;
- (i) the addresses of the place of business of the applicant and of the place where the applicant intends to store pesticides;
- (j) if he is a manufacturer, the name and address of the factory, building, or premises at which the applicant intends to manufacture the pesticide and an outline of the process of manufacturing the pesticide; and
- (k) a prescribed amount of a sample of the pesticide which the applicant intends to register.

(3) The Board may require the applicant—

- (a) to submit to it any information relating to the pesticide other than the matters specified in subsection (2); and
- (b) to amend or modify the matters specified in paragraphs (2)(d) and (e) so as to comply with the rules or regulations relating thereto or, if there are no such rules or regulations for the time being, with the policy of the Board relating thereto.

(4) The Board may, in any particular case, waive any of the requirements of subsection (2) or accept and act on an application that lacks any of those requirements, if it considers that it may properly act under section 8 notwithstanding the absence of that requirement.

(5) Every application made to the Board under subsection (1) shall be accompanied by the prescribed application fee.

### **Registration and refusal to register**

**8.** (1) Upon receipt of an application duly made under and in accordance with section 7 and the rules, and after compliance by

the applicant with any requirement of the Board made under subsection 7(3), the Board may, after such inquiry or investigation as it considers proper and necessary to carry out and on payment of the prescribed registration fee, register the pesticide to which the application relates subject to such conditions as the Board thinks fit to impose, state the class of pesticide, assign a registration number thereto, and issue to the applicant a certificate of registration thereof, if the Board is satisfied that—

- (a) all matters contained in and submitted with the application are true in all material particulars;
- (b) the matters proposed to be included in the label of the pesticide, and the proposed package of the pesticide, comply with the rules or regulations relating to labelling and packaging or, if there are no such rules or regulations for the time being, with the policy of the Board relating thereto; and
- (c) the pesticide, if used or handled according to the instructions contained in its proposed label, would be efficacious and would—
  - (i) be safe to human beings and animals; or
  - (ii) constitute a risk to human beings and animals of such a minimal extent or degree as to be outweighed by the necessity or advantages of using the pesticide.

(2) If the Board is not satisfied of any of the matters specified in subsection (1), it shall not register the pesticide.

(3) If a standard specification in respect of the pesticide has been declared under section 28 of the \*Standards and Industrial Research Institute of Malaysia (Incorporation) Act 1975 [Act 157]—

- (a) in formulating its policy relating to the label and package of the pesticide for the purpose of paragraph (1)(b), the Board shall, in addition to other matters, take into consideration the relevant requirements of the standard specification and the need or otherwise of adopting any or all of those requirements; and
- (b) in assessing and determining the efficacy and safety of the pesticide for the purpose of paragraph (1)(c), the

---

\*NOTE—Standards and Industrial Research Institute of Malaysia (Incorporation) Act 1975 [Act 157] has since been repealed by Standards of Malaysia Act 1996 [Act 549]—see subsection 23(1) of Act 549.

Board shall, in addition to other determining factors, take into consideration the relevant requirements of the standard specification, and may refuse to register the pesticide if it does not satisfy any of those requirements.

(3A) For the purposes of subsection (1), the Board shall issue guidelines regarding the classification of pesticides.

(4) Notwithstanding subsections (1), (2) and (3), if an application is made for the registration of a pesticide that is for the time being registered on the previous application of another person, the Board shall, on payment of the prescribed fee, register the pesticide on the same conditions as those imposed on the existing registration, assign a registration number thereto, and issue to the subsequent applicant a certificate of registration thereof.

### **Period of registration**

9. (1) The period of registration of a pesticide shall be five years but the pesticide may, on application by the person on whose application the pesticide was registered and on payment of the prescribed registration fee, be re-registered at the end of every five-year period.

(2) An application for re-registration of a pesticide shall be made and dealt with in the same manner as an application for registration under section 7.

### **Power to cancel registration**

10. (1) Subject to subsection (2) and without prejudice to any prosecution that may be brought under this Act or the rules or regulations, the Board may order the cancellation of the registration of a pesticide—

- (a) upon receipt of a notification in writing from the person on whose application the pesticide was registered, and on being satisfied, that the pesticide has been withdrawn from sale or use;
- (b) if the Board considers it undesirable that the pesticide should continue to remain registered owing to its toxicity, inefficacy or adverse effects on human beings, animals, plants, fruits or property;

- (c) if the pesticide does not conform to the claims made for it in its label;
- (d) if its label does not comply with the requirements of this Act or the rules or regulations;
- (e) if any of the conditions subject to which the pesticide is registered has not been observed;
- (f) if the Board finds that any of the matters submitted to it under subsection 7(2) is untrue in any material particular; or
- (g) if the Board is satisfied that the pesticide has fallen into disuse.

(2) Before ordering the cancellation of the registration of a pesticide on any of the grounds in subsection (1), other than those in paragraph (a) thereof, the Board shall by notice in writing give the person on whose application the pesticide was registered an opportunity to show cause against the making of the order, and pending the making of such order all sales, import or manufacture of the pesticide by that person shall be suspended from the date of the receipt of the notice by him.

**Registrant shall inform Board about adverse effects of pesticide**

**10A.** (1) Without prejudice to the power conferred upon the Board under section 10, the person on whose application the pesticide was registered shall inform the Board upon discovering any adverse effects of the pesticide on human beings, animals, plants, fruits or property, within sixty days from such discovery.

(2) Any person who contravenes subsection (1) commits an offence.

**Appeal against decision of Board**

**11.** (1) If an applicant for registration or re-registration of a pesticide is dissatisfied with the refusal of the Board to register or re-register the pesticide or if the person on whose application a pesticide was registered is dissatisfied with the order of the Board to cancel the registration of the pesticide, the applicant or person, as the case may be, may appeal to the Minister whose decision shall be final and shall not be called into question in any court.

(2) In the case of an appeal against the refusal of the Board to register or re-register a pesticide, the appellant may submit to the Minister any information relating to the pesticide additional to that previously submitted to the Board on condition that it is also at the same time submitted to the Board.

### **Gazetting of pesticides**

**12.** As soon as possible after a pesticide has been registered, re-registered or removed from the register by cancellation, the Board shall cause the fact to be published in the *Gazette* together with particulars relating to the pesticide sufficient to identify it.

### **Prohibitions as to importation and manufacture, and penalty**

**13.** (1) Except as provided in sections 14 and 14A, no person shall import or manufacture—

- (a) a misbranded pesticide;
- (b) a pesticide that is not for the time being registered on his application under this Act; or
- (c) a pesticide otherwise than in accordance with the conditions subject to which it was registered on his application.

(2) Subject to subsection (3), a person who contravenes subsection (1) commits an offence and is liable, on a first conviction, to imprisonment for five years or to a fine of fifty thousand ringgit and, on a second or subsequent conviction, to imprisonment for ten years or to a fine of one hundred thousand ringgit or to both.

(3) Notwithstanding subsections (1) and (2), it shall be a defence to a charge under paragraph (1)(a) of importing or manufacturing a pesticide that is misbranded as defined in paragraph 2(3)(g) or (h), that, in the process of manufacturing or transporting the pesticide, some extraneous substance has unavoidably become intermixed with it.

### **Importation of pesticides for educational or research purposes**

**14.** (1) A person desiring to import a pesticide for educational or research purposes or as registration sample or analytical standard shall apply to the Board in the prescribed manner and accompanied with the prescribed application fee, for a permit to import the pesticide.

(2) Upon receipt of an application under subsection (1), the Board may, if it is satisfied that the pesticide desired to be imported is intended solely for educational or research purposes or as a registration sample or an analytical standard, issue to the applicant a permit in the prescribed form subject to such conditions as the Board thinks fit to impose, including conditions as to the disposal of any unused surplus of the pesticide.

(3) If an applicant for a permit under this section is dissatisfied with the refusal of the Board to issue to him the permit, he may appeal to the Minister whose decision shall be final and shall not be called into question in any court.

(4) A permit issued under this section shall authorize the importation of one consignment only of one or more pesticides within a specified period.

(5) The person to whom a permit is issued under this section may, subject to the conditions thereof, import the pesticide or pesticides named therein notwithstanding that the pesticide or pesticides are not for the time being registered under this Act on his application and notwithstanding the prohibitions in section 13 against the importation of misbranded or unregistered pesticides.

(6) A person who imports a pesticide under a permit issued to him under this section but contrary to or in breach of any of the conditions of the permit commits an offence.

(7) A person who imports a pesticide under a permit issued to him under this section and who uses or disposes of the pesticide otherwise than for educational or research purposes or as a registration sample or an analytical standard, commits an offence and is liable to imprisonment for three years or to a fine of fifty thousand ringgit.

(8) The Board may delegate its functions under this section to any member thereof.

**Research or experiment on unregistered pesticides synthesized in Malaysia**

**14A.** (1) A person desiring to carry out any research or experiment outside the laboratory on an unregistered pesticide synthesized in Malaysia shall apply to the Board in the prescribed manner, and accompanied with the prescribed application fee, for a permit to carry out the research or experiment.

(2) Upon receipt of an application under subsection (1), the Board may, if it is satisfied that the pesticide desired to be researched or experimented on is intended solely for the purpose of research or experiment, issue to the applicant a permit in the prescribed form subject to such conditions as the Board thinks fit to impose, including conditions as to the disposal of any unused surplus of the pesticide.

(3) If an applicant for a permit under this section is dissatisfied with the refusal of the Board to issue to him the permit, he may appeal to the Minister whose decision shall be final and shall not be called into question in any court.

(4) The person to whom a permit is issued under this section may, subject to the conditions of the permit, research or experiment on the pesticide named in the permit, notwithstanding that the pesticide is not for the time being registered under this Act and notwithstanding the prohibitions in section 53A against the possession or use of unregistered pesticides.

(5) A person who researches or experiments on a pesticide under a permit issued to him under this section, but contrary to or in breach of any of the conditions of the permit, commits an offence.

(6) A person who researches or experiments on an unregistered pesticide without a permit issued to him under this section commits an offence and is liable to imprisonment for six years or to a fine of fifty thousand ringgit.

(7) The Board may delegate its functions under this section to any of its members.

#### PART IV

#### CONTROL OF MANUFACTURE, SALE AND STORAGE OF PESTICIDES BY LICENSING

#### **Licence to manufacture pesticides**

**15.** (1) A person desiring to manufacture a pesticide shall apply to the Board in the prescribed manner and accompanied with the prescribed application fee, for a licence to manufacture the pesticide.

(2) Upon receipt of an application duly made under subsection (1) and in accordance with the rules, the Board may, issue to the applicant a licence in the prescribed form subject to such conditions as the Board thinks fit to impose, if the Board is satisfied that—

- (a) the pesticide to which the application relates is for the time being registered under this Act on the application of the applicant;
- (b) the applicant is technically competent to manufacture the pesticide; and
- (c) the applicant is aware of the toxicity of the pesticide and of the risks involved in the use and handling thereof, and is equipped with effective means of minimizing or avoiding them.

(3) A licence under this section shall be valid for three years from the date of its issue but may be renewed at the end of every three-year period on payment of the prescribed application fee.

### **Appointment of Pesticides Licensing Officers**

**16.** For the purpose of this Act, the Minister may by notification in the *Gazette* appoint such number of officers of any Department of Agriculture as he considers necessary, to be Pesticides Licensing Officers for specified areas.

### **Licence to sell or store pesticides**

**17.** (1) A person desiring to sell or store for sale a pesticide shall, in the prescribed manner and accompanied with the prescribed application fee, apply for a licence for that purpose to the Pesticides Licensing Officer for the area in which he resides or, in the case of a body corporate or firm, in which the body corporate or firm has its place or principal place of business.

(2) Upon receipt of an application duly made under subsection (1) and in accordance with the rules, the Pesticides Licensing Officer may, issue to the applicant a licence in the prescribed form subject to such conditions as the Pesticides Licensing Officer thinks fit to impose, if he is satisfied that—

- (a) the pesticide to which the application relates is for the time being registered under this Act; and

- (b) the applicant is aware of the toxicity of the pesticide and of the risks involved in the use and handling thereof.
- (3) A licence under this section—
- (a) shall not authorize the sale or storage for sale of a pesticide at more than one premises;
  - (b) shall specify the premises at which the sale or storage for sale of the pesticide is authorized;
  - (c) may authorize both the sale and storage for sale of one or more pesticides that may be of the same class or different classes of pesticides at the specified premises; and
  - (d) shall be valid for three years from the date of its issue but may be renewed on payment of the prescribed application fee.

### **Revocation and suspension of licence**

**18.** (1) If the Board, in the case of a licence to manufacture, or the proper Pesticides Licensing Officer, in the case of a licence to sell or store for sale, is satisfied that—

- (a) the application on which the licence has been granted under section 15 or 17, as the case may be, contains a misrepresentation as to a material fact; or
- (b) the holder of the licence has failed to comply with any of the conditions subject to which it was issued or has contravened any of the provisions of this Act or the rules or regulations,

the Board or Pesticides Licensing Officer, as the case may be, may, without prejudice to any prosecution that may be brought under this Act or the rules or regulations, but subject to subsection (2), revoke the licence, suspend it for such period as the Board or Pesticides Licensing Officer, as the case may be, thinks fit, or refuse to renew it.

(2) Before acting under subsection (1), the Board or Pesticides Licensing Officer, as the case may be, shall give the holder of the licence concerned an opportunity to show cause against so acting.

**Appeal against decision of Board or Pesticides Licensing Officer**

**19.** If an applicant for a licence or a holder of a licence, as the case may be, is dissatisfied with the refusal of the Board or Pesticides Licensing Officer to grant or renew a licence under section 15 or 17, or the decision of the Board or Pesticides Licensing Officer to revoke, suspend, or refuse to renew his licence under section 18, he may appeal to the Minister whose decision shall be final and shall not be called into question in any court.

**Offences relating to manufacture, sale, and storage for sale**

**20.** (1) No person shall manufacture, sell, or store for sale a pesticide unless he is licensed to do so under this Act or otherwise than in accordance with the conditions of a licence to do so issued to him under this Act.

(2) No person shall sell or store for sale a pesticide other than at the premises specified in a licence issued to him under section 17.

(3) No person, whether or not he is licensed under this Act, shall sell or store for sale a pesticide that is misbranded or is not for the time being registered under this Act.

(4) A person who contravenes any of the provisions of this section commits an offence and is liable, on a first conviction, to imprisonment for three years or to a fine of ten thousand ringgit and, on a second or subsequent conviction, to imprisonment for six years or to a fine of twenty thousand ringgit or to both.

PART V

CONTROL OF PRESENCE OF PESTICIDES IN FOOD

**Regulations to control presence of pesticides in food**

**21.** (1) The Minister may, after consulting the Board and the Minister responsible for health services, make regulations to prohibit—

(a) the addition to or the use or presence in food or any specified kind thereof; or

(b) the treatment of food or any specified kind thereof,

of or with any specified pesticide or more than the specified quantity, proportion, strength, or concentration thereof.

(2) Regulations made under subsection (1) may provide that, unless the contrary is proved, a specified contravention of any prohibition therein shall be presumed to have been committed by a specified person or persons in respect of any specified food if there is present therein a specified pesticide or a specified quantity, proportion, strength, or concentration thereof.

### **Entry, inspection and seizure**

**22.** An authorized officer may—

- (a) at all reasonable times enter into and inspect any place where he has reason to believe that there is any food intended for sale;
- (b) inspect any food, wherever found, that he has reason to believe to be intended for sale;
- (c) seize, detain, or remove any such food that is or appears or is believed to be contaminated food, and may mark, seal, or otherwise secure the food in order to effect seizure, detention, or removal thereof.

### **Power to demand, select and take samples**

**23.** (1) On payment or tender to a person selling any food, or to his agent or servant, of the current market value thereof, if demanded, an authorized officer may at any place demand, select, and take or obtain samples of the food for the purpose of analysis to determine whether the food is contaminated food.

(2) If any food is kept for retail sale in an unopened package, the authorized officer shall not demand or take less than the whole of the contents of the package.

(3) A person who refuses or neglects to comply with a demand made by an authorized officer in pursuance of this section commits an offence.

### **Right to analysis of food**

**24.** (1) A person who has bought any food shall, on payment of the prescribed fee, be entitled to have a sample of the food analysed by an Analyst in order to determine whether the food is contaminated food, and to receive from him a certificate of analysis.

(2) A person, other than the seller of the food, may, on payment of the prescribed fee and the cost of the sample, require an authorized officer to purchase a sample of any food and submit it for analysis by an Analyst in order to determine whether the food is contaminated food.

### **Offence of selling contaminated food**

**25.** A person who sells any contaminated food commits an offence.

### **Ignorance of contamination not a defence**

**26.** In a prosecution for an offence under section 25 it shall be no defence that the accused did not know that the food in question was contaminated food unless he also proves that he had taken all reasonable steps to ascertain that the food was not contaminated food.

### **Defence of reliance on written warranty or statement**

**27.** (1) Subject to subsections (2) and (3), it shall be a defence in a prosecution for an offence under section 25 that—

- (a) the accused purchased the food sold by him in reliance on a written warranty or other written statement as to the nature of the food, given or made by or on behalf of the person from whom he purchased it; and
- (b) the accused had no reason to believe that the food sold did not conform to such warranty or statement; and
- (c) if the food had conformed to such warranty or statement, it would not have been contaminated food.

(2) No such warranty or statement given or made by a person resident outside Malaysia shall be a defence under subsection (1) unless the accused proves that he had taken reasonable steps to ascertain, and did in fact believe in, the truth of the matters set forth in the warranty or statement.

(3) No such warranty or statement shall be a defence under subsection (1) unless the accused has, within ten days after service of the summons on him—

- (a) delivered to the prosecutor a copy of the warranty or statement and a written notice stating that he intends to rely thereon and specifying the name and address of the person who gave or made it; and

(b) sent by registered post to the person a like notice of his intention.

(4) If the accused is a servant or agent of the person who purchased the food in reliance on such warranty or statement, he shall be entitled to the benefit of subsection (1) in the same manner and to the same extent as his employer or principal would have been if he had been the accused, if the accused further proves that he had no reason to believe that the food did not conform to the warranty or statement.

(5) A person who, in respect of any food sold by him as principal or agent, gives or makes to the purchaser a false written warranty or other written statement as to the nature of the food commits an offence and is liable, on a first conviction, to a fine of ten thousand ringgit and, on a second or subsequent conviction, to a fine of twenty thousand ringgit, unless he proves that when he gave or made the warranty or statement he had reason to believe that the matters contained therein were true.

## PART VI

### DEATH AND INJURY OCCASIONED BY PESTICIDES

#### **Reporting of accident, death and personal injury**

**28.** (1) Whenever an accident that occasions loss of human life or personal injury occurs as a result of the fumigation, spraying, or any other mode of treatment of plants, premises, or articles, including ships and vehicles, with a pesticide, the person by whom, or by whose servant or agent, the fumigation, spraying, or treatment was carried out shall forthwith send or cause to be sent to the Minister notice of the accident and of the loss of human life or personal injury.

(2) Whenever an accident that occasions loss of human life or personal injury is suffered by an employee as a result of the handling, use, or presence of or contact with or exposure to a pesticide in the course of his employment, his employer shall forthwith send or cause to be sent to the Minister notice of the accident and of the loss of human life or personal injury.

(3) Whenever a registered medical practitioner finds or has reason to believe that a person has died or suffered personal injury as a result of the handling, use, or presence of or contact with or exposure to a pesticide, the registered medical practitioner shall forthwith send or cause to be sent to the Minister notice of the death or personal injury.

(4) This section shall not apply to accidents occasioning loss of human life or personal injury of which notice is required by the Hydrogen Cyanide (Fumigation) Act 1953 [Act 260] to be given to the proper Minister thereunder.

(5) A person who fails to comply with any of the provisions of this section commits an offence and is liable to a fine of one thousand ringgit.

### **Inquiry into and investigation of accident, death and personal injury**

**29.** (1) The Minister may direct an inquiry to be made by such person or persons as he may appoint into the cause of an accident, death, or personal injury of which notice is required by section 28 to be given to him and, if it appears to him, either before or after the commencement of the inquiry, that a more formal investigation of the accident, death, or personal injury and of the causes and circumstances thereof is expedient, he may direct a formal investigation to be held.

(2) The following provisions shall apply to inquiries and investigations made or held under this section:

- (a) the Minister may appoint any person or persons possessing legal or special knowledge to assist in holding a formal investigation, or direct a Magistrate or any other person or persons to hold such an investigation with the assistance of any named assessor or assessors;
- (b) the persons holding a formal investigation, who hereafter in this section are referred to as the tribunal, shall hold it in open court in such manner and under such conditions as they think most effectual for ascertaining the causes and circumstances of the accident, death, or personal injury, and for enabling them to make the report required by paragraph (f);
- (c) the tribunal shall, for the purpose of the investigation, have all the powers of a Magistrate when exercising jurisdiction in criminal cases and, in addition, the power—
  - (i) to enter and inspect any place or building the entry or inspection whereof appears to them requisite;

- (ii) by summons under their hands, to require the attendance of all such persons as they think fit to call before them and examine, and to require to be furnished to them answers or returns to such inquiries as they think fit to make;
  - (iii) to require the production of all books, papers, and documents that they consider important;
  - (iv) to administer oaths and to require any person examined to make and sign a declaration of the truth of the statements made by him in his examination;
- (d) persons attending as witnesses before the tribunal shall be allowed such expenses as would be allowed to witnesses attending before the High Court in criminal cases, and in case of dispute as to the amount to be allowed, the dispute shall be referred by the tribunal to any Registrar of the High Court who shall ascertain and certify the proper amount of the expenses;
- (e) if a person, without reasonable cause, proof of which shall lie on him, fails, after having had the expenses, if any, to which he is entitled tendered to him, to comply with a summons or requisition of the tribunal issued or made under paragraph (c), or prevents or impedes the tribunal in the execution of their duty, he commits an offence and is liable to a fine of five hundred ringgit, or, in the case of a failure to comply with a requisition for the furnishing of answers or returns or the production of any book, paper, or document, to a further fine of one hundred ringgit for every day on which the failure occurs or continues;
- (f) the person or persons appointed to make an inquiry, and the tribunal holding an investigation, under this section shall make a report to the Minister stating the causes of the accident, death, or personal injury and all the circumstances attending it, and containing such observations thereon or on the evidence or any matter arising out of the inquiry or investigation as he or they think right to include in the report, and the Minister shall cause every such report to be published in such manner as he thinks expedient.

(3) All persons appointed under this section to make an inquiry or to hold or assist in holding a formal investigation, including assessors, shall be deemed to be public servants within the meaning of the Penal Code [*Act 574*].

### **Inquiry or inquest in cases of death occasioned by pesticides**

**30.** (1) An appropriate Magistrate shall hold, under the relevant law, an inquiry or inquest in every case of death that may have been occasioned by a pesticide or in which a pesticide may have been involved, unless the case is one in which, under the relevant law, it is not necessary to hold, or the Magistrate is enjoined not to hold, an inquiry or inquest, as the case may be, by reason that criminal proceedings have been, or are about to be, instituted or commenced against any person for having caused the death.

(2) The Magistrate shall, at least seven days before holding the inquiry or inquest, send to the Minister notice in writing of the time and place of holding the inquiry or inquest.

(3) If, in the course of any inquiry or inquest, it appears to the Magistrate holding the inquiry or inquest that the death that is the subject matter thereof may have been occasioned by a pesticide or was one in which a pesticide may have been involved, he shall, unless—

- (a) the notice required by subsection (2) had been sent; or
- (b) a representative of the Minister is present at the inquiry or inquest,

adjourn the inquiry or inquest, but before doing so he may take evidence to identify the body.

(4) The Magistrate shall, at least seven days before holding the adjourned inquiry or inquest, send to the Minister notice in writing of the time and place of holding the adjourned inquiry or inquest.

(5) A representative of the Minister appearing at an inquiry or inquest referred to in this section may, subject to the order of the Magistrate on points of law, examine any witness.

(6) A copy of the notes of evidence and findings made in every such inquiry or inquest shall be furnished to the Minister without fee.

(7) This section shall apply notwithstanding anything inconsistent therewith in the relevant law but shall otherwise be read and construed as one with the relevant law.

(8) This section shall not apply to cases of loss of human life occasioned by accident of which notice is required by the Hydrogen Cyanide (Fumigation) Act 1953 to be given to the proper Minister thereunder.

(9) In this section—

“appropriate Magistrate” means the Magistrate to whom, under the relevant law, is forwarded by the officer in charge of a police district or a police station, the report of an investigation into the cause of a death;

“relevant law” means the Criminal Procedure Code [*Act 593*] or the \*Inquest Ordinance of Sabah [*Ord. 6 of 1959*] or Sarawak [*Cap. 48*], as the case may be.

## PART VII

### ENFORCEMENT

#### Entry, search and seizure

**31.** An authorized officer may at all reasonable times enter into any place where a pesticide is or may reasonably be supposed to be kept or stored and, by himself or by some other person accompanying him and acting under his instructions and in his presence, may search the place and may—

- (a) examine and, on payment of the current market value thereof, if demanded, take samples of any substance found in the place and reasonably believed to be or to contain a pesticide;
- (b) require the production of, inspect, make copies of, or take extracts from, any book or record relating or reasonably believed to relate to any dealing in or with pesticides and kept or found in the place and may, if he has reason to believe that it may furnish evidence of the commission of an offence against this Act or the rules or regulations, seize it;

---

\*NOTE—See P.U. (A) 97/1976—Modification of Laws (Criminal Procedure) (Sabah and Sarawak) Order 1976.

- (c) seize, detain, or remove any substance found therein that is reasonably believed to be or to contain a pesticide in respect of which an offence against this Act or the rules or regulations is being or has been committed, and mark, seal, or otherwise secure the substance in order to effect seizure, detention, or removal thereof.

### **Power to stop and search conveyances**

**32.** (1) If an authorized officer has reasonable suspicion that a conveyance is carrying a pesticide in contravention of this Act or the rules or regulations or in respect of which an offence against this Act or the rules or regulations is being or has been committed, he may stop and examine the conveyance and seize any pesticide found therein in respect of which the contravention or offence is suspected to be or to have been committed and any book or document that is reasonably believed to furnish evidence of the contravention or of the commission of the offence.

(2) The person in control or in charge of the conveyance shall, if required to do so by the authorized officer—

- (a) stop the conveyance and allow the authorized officer to examine it; and
- (b) open all parts of the conveyance for examination and take all measures to enable or facilitate the carrying out of such examination as the authorized officer considers necessary,

and if he fails to do so he commits an offence.

### **Identification of officers when taking action**

**33.** (1) An authorized officer must, if not in uniform, on demand declare his office and produce to the person against whom he is acting, the prescribed certificate of identify.

(2) A person may refuse to comply with a request, requisition, demand, or order made by an authorized officer acting or purporting to act under this Act if he is not in uniform and refuses, on demand by the person, to declare his office and produce his certificate of identity.

## PART VIII

## ANALYSIS

**Appointment of Analysts**

**34.** For the purposes of this Act, the Minister may by notification in the *Gazette* appoint such number of competent persons as he considers necessary, to be Analysts.

**Manner of taking samples**

**35.** (1) An authorized officer shall, before or forthwith after taking or obtaining a sample of any substance under this Act for analysis, inform the seller or his agent or servant or the person apparently having possession, custody, or control of the lot from which the sample is to be or was taken or obtained that he intends to have the sample analysed by an Analyst.

(2) The authorized officer shall thereupon divide the sample into three approximately equal parts and shall mark and seal or fasten, in such manner as its nature will permit, each such part and shall offer one of such parts to the seller or his agent or servant or the person apparently having possession, custody, or control of the lot from which the sample was taken or obtained.

(3) The authorized officer shall subsequently deliver, either personally by registered post or courier service, another of such parts to an Analyst, and shall retain the third of such parts for future comparison or use.

(4) If the substance is in packages of small volume, the requirements of this section shall be deemed to be complied with if the authorized officer takes or obtains three unopened packages of the substance and deals with them as if they were the three parts into which the sample is required to be divided.

**Time to commence analysis**

**35A.** Where any substance has been purchased, taken or obtained from a person under this Act for the purpose of analysis, the analysis of that substance shall be commenced within sixty days from the time of purchasing, taking or obtaining the substance.

**Court may order analysis**

**36.** If a sample has been dealt with in accordance with section 35, the court before which a person is prosecuted for an offence against this Act or the rules or regulations shall, on the request of either the prosecutor or the accused, and may, if it thinks fit, without such request, order that the part of the sample retained by the authorized officer be submitted to another Analyst for analysis.

**Right to analysis of pesticide**

**37.** (1) A person who has bought a pesticide shall, on payment of the prescribed fee, be entitled to have a sample of the pesticide analysed by an Analyst and to receive from him a certificate of analysis.

(2) A person, other than the seller of the pesticide, may, on payment of the prescribed fee and the cost of the sample, require an authorized officer to purchase a sample of any pesticide and submit it for analysis by an Analyst.

**Certificate of Analyst**

**38.** (1) The certificate of analysis of an Analyst shall be in the prescribed form.

(2) If a method of analysis has been prescribed by regulations made under this Act for the analysis of any food or pesticide, an Analyst, whether for the prosecution or for the defence, shall follow, and shall in his certificate declare that he has followed, the prescribed method in his analysis.

(3) A copy of the certificate of analysis of a sample of any food or pesticide taken or obtained by an authorized officer may, on payment of the prescribed fee, be obtained from the appropriate Analyst by the seller of the food or pesticide or his agent or servant, or by the person having possession, custody, or control of the lot from which the sample was taken or obtained.

**Certificate of Analyst to be *prima facie* evidence**

**39.** (1) A certificate of analysis purporting to be under the hand of an Analyst and complying with subsection 38(2) shall, on production thereof by the prosecutor, be sufficient evidence of the facts stated therein unless the accused requires that the Analyst be

called as a witness, in which case he shall give notice thereof to the prosecutor not less than ten clear days before the day fixed for the hearing of the case.

(2) In like manner such a certificate of analysis shall, on production thereof by the accused, be sufficient evidence of the facts stated therein unless the prosecutor requires that the Analyst be called as a witness, in which case he shall give notice thereof to the accused not less than ten clear days before the day fixed for the hearing of the case.

(3) If the accused intends to put in evidence a certificate of analysis of an Analyst, he shall send to the prosecutor a certified copy of the certificate at least fourteen clear days before the day fixed for the hearing of the case, and if it has not been so sent the court may adjourn the hearing on such terms as it thinks proper.

### **Recovery of fees and other expenses**

**40.** (1) Where a person is convicted of an offence against this Act or the rules or regulations, the court may order that all fees and other expenses incurred in respect of the analysis of any food or pesticide in respect of which the conviction is obtained, including an analysis made pursuant to section 36, be paid by the person.

(2) All such fees and expenses shall be recoverable in the same manner as a fine is recoverable.

## PART IX

### PROCEEDINGS

#### **Notice of seizure, detention or removal**

**41.** If the seizure, detention, or removal of any substance under this Act is made in the absence of a person having or apparently having lawful possession, custody, or control of the substance, the authorized officer making or effecting the seizure, detention, or removal shall forthwith give notice thereof in writing to the owner or to the agent of the owner, or to the consignor or consignee, of the substance, if his name and address are attached thereto or, after reasonable inquiries or otherwise, are known to the authorized officer, and the address is in Malaysia.

**Complaints as to seizure, detention or removal**

**42.** (1) A person claiming any substance seized, detained, or removed under this Act may, at any time, but not later than forty-eight hours, after its seizure, detention, or removal or, if notice under section 41 has been given to any person, after receipt of the notice by the person, complain thereof to a Magistrate who shall hear and determine the complaint and who may confirm or disallow the seizure, detention, or removal wholly or in part or order the substance to be restored to the person who appears to the Magistrate to be entitled to possession thereof.

(2) The Magistrate shall not disallow the seizure, detention, or removal, whether wholly or in part, unless he is satisfied—

(a) that it was unlawful; or

(b) if it was lawful, that no contravention of this Act or the rules or regulations had occurred.

(3) The substance seized, detained, or removed shall—

(a) if no complaint is made under and in accordance with this section; or

(b) if the seizure, detention, or removal is confirmed, to the extent of the confirmation,

become the property of the Government and shall be disposed of, by destruction or otherwise, as directed by the Minister, unless it is intended to prosecute any person in respect of the substance, in which case it shall be held to abide the result of the prosecution and the order of the court under section 49.

(4) Notwithstanding subsection (3)—

(a) the authorized officer who has seized, detained, or removed any substance may destroy it or cause it to be destroyed if and when he finds that it has begun to deteriorate but shall, forthwith after the destruction, prepare a written statement signed by him and setting out a description and the quantity of the substance destroyed, and the date, time, method, and reason of the destruction;

(b) the Minister may at any time order the restoration of the substance to any person if he thinks it just and proper to do so.

**Summons**

**43.** (1) The summons in a prosecution for an offence against this Act or the rules or regulations shall not be returnable in less than twenty-one days from the date of service thereof.

(2) There shall be served with the summons a copy of the certificate of analysis of an Analyst, if any, intended to be introduced in evidence by the prosecution.

**44.** (*Deleted by Act A1226*).

**Presumption as to importer or manufacturer**

**45.** For the purpose of a prosecution for an offence against this Act or the rules or regulations in respect of a pesticide found in an unopened package, the person who appears from the label of the pesticide to have imported or manufactured it shall, unless he proves the contrary, be deemed to have imported or manufactured it.

**Label as evidence of substance being a pesticide**

**45A.** For the purpose of a prosecution for an offence against this Act or the rules or regulations in respect of a substance found in a package, the label on the package describing the substance to be a pesticide shall be *prima facie* evidence that the substance is a pesticide, unless the contrary is proved.

**Presumption for sale or storage for sale**

**45B.** For the purpose of a prosecution for an offence against this Act or the rules or regulations in respect of a pesticide not registered under this Act that is found in any premises which have been licensed for the sale or storage for sale of pesticides, such pesticide shall, unless the contrary is proved, be deemed to be intended for sale or is being stored for sale.

**Liability of agent, servant, principal and employer**

**46.** (1) If a person does an act that constitutes an offence against this Act or the rules or regulations, he shall be liable for the act whether he does it on his own account or as an agent or servant of another person.

(2) If the act is done by an agent or servant, his principal or employer shall be liable for the act as if he had done it himself, unless he proves that it was done neither with his consent nor with his connivance and that it was not attributable to any neglect on his part.

**Liability of directors and other officers of bodies corporate**

**47.** (1) If an offence against this Act or the rules or regulations that has been committed by a body corporate is proved to have been committed with the consent or connivance, or to have been attributable to any neglect on the part, of a director, manager, secretary, or other similar officer of the body corporate, or a person purporting to act in any such capacity, the director, manager, secretary, officer, or person, as the case may be, shall be deemed to have also committed that offence, and both he and the body corporate are liable to be proceeded against and punished therefor.

(2) For the purpose of subsection (1), the director of a body corporate that is established by or under any law and whose affairs are managed by its members, includes a member of the body corporate.

**Offence as to sample deemed offence as to the whole lot**

**48.** If, in a prosecution for an offence against this Act or the rules or regulations, the offence is proved with regard to a sample of any substance, the offence shall be deemed to have been proved with regard to the whole lot from which the sample was taken or obtained or to all of the substance bought, taken, or obtained at the same time as the sample.

**Forfeiture of offending substances**

**49.** (1) The court before which a person is prosecuted for an offence against this Act or the rules or regulations relating to any substance shall—

(a) upon conviction of the person for the offence; or

(b) if it is satisfied that the offence has been committed, notwithstanding that no person has been convicted thereof,

order that the substance and any similar substance found in the premises of the accused or in his possession at the time of the commission of the offence, together with all packages and vessels

thereof, be forfeited and be disposed of at the direction of the Minister and in the case of disposal upon the conviction of a person for an offence against this Act or the rules or regulations, the cost of such disposal shall be borne by the person convicted of the offence.

(2) In any other case, the court shall order the restoration of the substance to the person who appears to the court to be entitled to possession thereof.

### **Jurisdiction**

**50.** Notwithstanding anything to the contrary contained in any other written law, a Court of a First Class Magistrate shall have jurisdiction to try any offence against this Act or the rules or regulations and to impose the full penalty provided therefor.

### **Privilege from disclosure**

**51.** No prosecutor or witness in a prosecution for an offence against this Act or the rules or regulations shall be compelled to disclose the fact that he received any information or the nature of the information or the name of the person who gave the information or to produce any confidential report or document made or received by him in his official capacity or to make any statement in relation thereto.

### **Notification of conviction**

**52.** A notification of the name and occupation of a person who has been convicted of an offence against this Act or the rules or regulations and of the address or addresses of his place or places of business, the nature of the offence, the penalty imposed and any order made shall, if the court so orders, be published in any newspaper circulating in Malaysia or in any part thereof.

## PART X

### GENERAL

### **Giving or making false information or statement**

**53.** A person who, in making an application under this Act other than an application for a licence to sell or store for sale a pesticide, gives an information or makes a statement that is false in any material particular, unless he proves that he did not know and had

no reason to suspect that the information or statement was false and had taken all reasonable steps to ascertain the truth thereof, commits an offence and is liable to imprisonment for one year or to a fine of twenty-five thousand ringgit or to both.

### **Possession or use of unregistered pesticides and unapproved use of pesticides**

**53A.** (1) Except as provided in sections 14 and 14A, no person shall—

- (a) possess or use a pesticide that is not for the time being registered under this Act; or
- (b) use a pesticide otherwise than in accordance with the uses stipulated on the label, as approved by the Board.

(2) Any person who contravenes subsection (1) commits an offence and is liable on a first conviction, to imprisonment for one year or to a fine of ten thousand ringgit and, on a second or subsequent conviction, to imprisonment for three years or to a fine of twenty thousand ringgit or to both.

### **Interference with official marks**

**54.** A person who without authority opens, alters, breaks, removes, or erases any mark, fastening, or seal placed by an authorized officer in pursuance of the provisions of this Act upon any substance or upon any package, place, door, or opening containing or affording access to the substance commits an offence.

### **Secrecy**

**55.** Except for the purposes of this Act or of an investigation into or prosecution for an offence against this Act or the rules or regulations, no person shall disclose any information that he has obtained in the course of his duties under this Act and if he does so he commits an offence.

### **General penalty**

**56.** A person who commits an offence against this Act or the rules or regulations, for which no other penalty is specifically provided thereby, is liable, on a first conviction, to imprisonment for six months or to a fine of five thousand ringgit and, on a second or subsequent conviction, to imprisonment for one year or to a fine of ten thousand ringgit or to both.

**Rules and regulations**

**57.** (1) The Minister may, after consulting the Board, make rules or regulations to carry out the purposes of this Act and to give effect to the provisions thereof and in particular, but without prejudice to the generality of the foregoing power, such rules or regulations may—

- (a) prescribe the procedure to be followed and the forms to be used in making applications under this Act and the fees payable therefor;
- (b) provide generally for matters connected with registration, licensing, and the issue of permits;
- (c) prescribe the procedure for appeals and showing cause under this Act;
- (d) prescribe the manner of testing and analyzing samples of any food or pesticide;
- (e) prescribe the measures to be taken and the practice to be followed or avoided by manufacturers and employers for the protection, safety, and well-being of their workers engaged in the manufacture or handling of pesticides, including—
  - (i) the provision of protective clothing, equipment, and facilities for the workers;
  - (ii) the provision of facilities for medical examination of the workers;
  - (iii) the provision of facilities for ensuring first aid treatment of the workers;
  - (iv) the giving to the workers of instruction and training in the manufacture or in any process in the manufacture of, and in handling, pesticides; and
  - (v) the measures to be taken in cases of poisoning through the use or handling of pesticides by the workers;
- (f) prescribe the requirements to be fulfilled in transporting pesticides in bulk;
- (g) prescribe the manner of storing or keeping pesticides;

- (h) prescribe the manner of labelling and packing pesticides, the matters to be displayed on labels of pesticides, and the persons liable for breaches in respect of labelling and packing;
- (i) provide for the dyeing or colouring of certain pesticides;
- (j) regulate the manner of using certain pesticides and the precautions to be taken in respect thereof;
- (k) with a view to protecting persons from danger in connection with the fumigation, spraying, or any other mode of treatment of premises and articles, including ships and vehicles, and fumigation, spraying, or treatment for agricultural purposes, with a pesticide—
  - (i) generally regulate the fumigation, spraying, or treatment;
  - (ii) regulate the manner in which the pesticide is to be generated or applied and require the admixture therewith of any substance;
  - (iii) prohibit the carrying out of fumigation, spraying, or treatment except by or under the supervision of persons having such training or experience and by such number of persons as may be specified;
  - (iv) prohibit the carrying out of fumigation, spraying, or treatment except by persons licensed to carry it out;
  - (v) regulate the issue, suspension, or cancellation of licences for the carrying out of fumigation, spraying, or treatment and the terms and conditions subject to which they may be issued and the fees to be charged therefor;
  - (vi) regulate the disposal of the residues of any substance used in the fumigation, spraying, or treatment;
  - (vii) impose temporary restrictions upon the use of any premises, article, ship, or vehicle, and require such tests as may be specified to be carried out after fumigation, spraying, or treatment;
- (l) regulate the advertising of pesticides;

- (m) provide for the control of pesticides imported under a permit under section 14;
- (n) regulate the conduct of the duties of Pesticides Licensing Officers, Analysts, and authorized officers under this Act;
- (o) prescribe the fees payable under this Act;
- (oa) regulate the export of pesticides; and
- (p) prescribe anything that may be prescribed under this Act.

(2) If a standard specification in respect of a pesticide has been declared under section 28 of the Standards and Industrial Research Institute of Malaysia (Incorporation) Act 1975, the Board, in making rules or regulations under subsection (1) prescribing the label or package of the pesticide, shall, in addition to other matters, take into consideration the relevant requirements of the standard specification and the need or otherwise of adopting any or all of those requirements.

(3) Rules and regulations made under subsection (1) may provide for presumptions, which shall be rebuttable, to facilitate the proof of acts or omissions that constitute an offence thereunder.

(4) If any proceedings or prosecution under this Act or the rules or regulations or in the administration thereof a question or dispute arises as to the correctness or acceptability of the result of a test or analysis of any substance or a sample thereof, the result obtained from a test or analysis conducted in the manner prescribed under paragraph (1)(d) shall be taken and accepted to be the correct result.

### **Amendment of Schedules**

**58.** The Minister may from time to time, after consulting, or on the advice of, the Board, by order amend the First and Second Schedules.

### **Exemption**

**59.** The Minister may, by order published in the *Gazette* and subject to such conditions as he may specify therein, exempt any person from any provision of this Act or the rules or regulations.

## PART XI

## AMENDMENT, REPEAL, AND SAVING OF RELATED LAWS

**Removal of certain substances from F.M. 29/1952**

**60.** (1) Subject to and except as provided by subsection (2), the \*Poisons Ordinance 1952 [*F.M. 29 of 1952*] shall cease to apply to the substances listed in Part I of the Third Schedule to this Act and accordingly the Ordinance is amended by—

- (a) deleting from the Poisons List set out in the First Schedule thereto all entries relating to those substances; and
- (b) deleting from the Appendix to the said Poisons List the entries listed in Part II of the Third Schedule to this Act.

(2) Notwithstanding subsection (1) and the other provisions of this Act—

- (a) a person who, by virtue of a licence issued, under the Ordinance or the regulations made thereunder, before the coming into operation of this section, would, but for this Act, be entitled to do any act or thing in relation to a substance listed in Part I of the Third Schedule to this Act may, during the period for which the licence is valid, continue to do that act or thing subject to the terms or conditions of the licence and shall, in doing or in relation to the doing of that act or thing, continue to be governed by the Ordinance and the regulations made thereunder;
- (b) if the appropriate licensing authority under the Ordinance or the regulations made thereunder considers, after consulting the Board, that it is necessary to do so in order that the business or activities of a person referred to in paragraph (a) may not be unduly jeopardized by any delay in fully implementing this Act, the licensing authority may, upon the expiry of the current licence of the person, from time to time issue to him another such licence under, in accordance with, and subject to the Ordinance and the regulations made thereunder as if they continue to apply to the substance concerned in the licence, and paragraph (a) shall apply *mutatis mutandis* to the person;
- (c) a person who would, but for this Act, be entitled to do an act or thing by virtue of subsection 4(3) or section 15 of the Ordinance shall continue to be so entitled in relation

---

\*NOTE—Poisons Ordinance 1952 [*F.M. 29 of 1952*] has since been superseded and revised—see relevant section of the Poisons Act 1952 [*Act 366*].

to a substance listed in Part I of the Third Schedule to this Act and shall, in doing or in relation to the doing of that act or thing, continue to be governed by the Ordinance and the regulations made thereunder;

- (d) a person who would, but for this Act, be entitled, by virtue of paragraph 9(1)(a), (b) or (c) of the Ordinance, to dispense, compound, or mix any of the substances listed in Part I of the Third Schedule to this Act with any other substance for the purpose of its being used for medical treatment shall continue to be so entitled and, in doing or in relation to the doing of the said acts, shall continue to be governed by the Ordinance and the regulations made thereunder;
- (e) regulations made under the Ordinance relating to the possession, containers, packaging, labelling, or storing of poisons generally or of particular poisons and applicable, immediately before the coming into operation of this section, to the substances listed in Part I of the Third Schedule to this Act or to any one or more of them shall, notwithstanding and to the exclusion of the rules and regulations made under this Act, continue to be so applicable and to be enforceable under the Ordinance until those first-mentioned regulations are amended expressly in order to remove those substances from the operation thereof, upon the happening of which event the rules and regulations made under this Act relating to those matters shall apply or be made to apply, as the case may be, to those substances.

### **Control in Peninsular Malaysia of substances that are both poisons and pesticides**

**61.** (1) This section shall apply in relation to a substance that is both a poison as defined in the Poisons Ordinance 1952 and a pesticide as defined in this Act.

(2) A person who does an act or thing in relation to that substance, which act or thing is authorized by or under the Ordinance or the regulations made thereunder or would not, but for this Act, constitute an offence by virtue of a licence, authorization, exemption, or exception under, or any provision of, the Ordinance or the regulations made thereunder, shall not be liable to be prosecuted under this Act or the rules or regulations for doing that act or thing.

(3) A person who does an act or thing in relation to that substance, which act or thing is authorized by or under this Act or the rules or regulations or would not, but for the Ordinance, constitute an offence by virtue of a registration, licence, permit, authorization, exemption, or exception under, or any provision of, this Act or the rules or regulations, shall not be liable to be prosecuted under the Ordinance or the regulations made thereunder for doing that act or thing.

### **Removal of certain substances from Sabah Cap. 100**

**62.** (1) Subject to and except as provided by subsection (2), the \*Poisons and Deleterious Drugs Ordinance of the State of Sabah [*Cap. 100*] shall cease to apply to the substances listed in Part III of the Third Schedule to this Act and accordingly the Ordinance is amended by deleting from the First Schedule thereto all entries relating to those substances.

(2) The Ordinance is further amended by deleting the words “Substances for use in agriculture and horticulture” appearing against the entry “Metanitro-phenol; orthonitrophenol; and paranitrophenol” added to the First Schedule thereto by State of Sabah *Gazette* No. S. 33 of 1969.

(3) Notwithstanding subsection (1) and the other provisions of this Act—

- (a) a person who, by virtue of a licence issued under the Ordinance before the coming into operation of this section, would, but for this Act, be entitled to do any act or thing in relation to a substance listed in Part III of the Third Schedule to this Act may, during the period for which the licence is valid, continue to do that act or thing subject to the terms, conditions, or limitation of the licence and shall, in doing or in relation to the doing of that act or thing, continue to be governed by the Ordinance;
- (b) if the appropriate licensing authority under the Ordinance considers, after consulting the Board, that it is necessary to do so in order that the business or activities of a person referred to in paragraph (a) may not be unduly jeopardized by any delay in fully implementing this Act, the licensing authority may, upon the expiry of the current licence of the person, from time to time issue to him another such

---

\*NOTE—See P.U. (A) 157/1978—Modification of Laws (Dangerous Drugs and Poisons) (Extension and Modification) Order 1978.

licence under, in accordance with, and subject to the Ordinance as if it continues to apply to the substance concerned in the licence, and paragraph (a) shall apply *mutatis mutandis* to the person;

- (c) a person who would, but for this Act, be authorized, by virtue of section 5 of the Ordinance, to import, possess, and use poisons shall continue to be so authorized and, in doing or in relation to the doing of the said acts, shall continue to be governed by the Ordinance and the regulations made thereunder;
- (d) section 8 of the Ordinance shall, notwithstanding and to the exclusion of the rules and regulations made under this Act, continue to apply where appropriate to the substances listed in Part III of the Third Schedule to this Act in relation to the manner of containing, securing, distinguishing, labelling, or storing them when they are in the possession of a person or under his control, or in keeping, selling, dispensing, or delivering them, and to be enforceable under the Ordinance, until the Minister orders otherwise by notification in the *Federal Gazette*, upon the happening of which event the rules and regulations made under this Act relating to those matters shall apply or be made to apply, as the case may be, to those substances.

### **Control in the State of Sabah of substances that are both poisons and pesticides**

**63.** (1) This section shall apply in relation to a substance that is both a poison as defined in the Poisons and Deleterious Drugs Ordinance of the State of Sabah and a pesticide as defined in this Act.

(2) A person who does an act or thing in relation to that substance, which act or thing is authorized by or under the Ordinance or would not, but for this Act, constitute an offence by virtue of a licence, authorization, exemption, or exception under, or any provision of, the Ordinance, shall not be liable to be prosecuted under this Act or the rules or regulations for doing that act or thing.

(3) A person who does an act or thing in relation to that substance, which act or thing is authorized by or under this Act or the rules or regulations or would not, but for the Ordinance, constitute an

offence by virtue of a registration, licence, permit, authorization, exemption, or exception under, or any provision of, this Act or the rules or regulations, shall not be liable to be prosecuted under the Ordinance for doing that act or thing.

### **Removal of certain substances from Sarawak Cap. 121**

**64.** (1) Subject to and except as provided by subsection (2), the \*Poisons Ordinance of the State of Sarawak [*Cap. 121*] shall cease to apply to the substances listed in Part IV of the Third Schedule to this Act and accordingly the Ordinance is amended by deleting from the Poisons List set out in the Schedule thereto all entries shown in the said Part IV.

(2) Notwithstanding subsection (1) and the other provisions of this Act—

- (a) a person who, by virtue of a licence issued, under the Ordinance or the rules made thereunder, before the coming into operation of this section, would, but for this Act, be entitled to do any act or thing in relation to a substance listed in Part IV of the Third Schedule to this Act may, during the period for which the licence is valid, continue to do that act or thing subject to the terms, conditions, or limitations of the licence and shall, in doing or in relation to the doing of that act or thing, continue to be governed by the Ordinance and the rules made thereunder;
- (b) if the appropriate licensing authority under the Ordinance or the rules made thereunder considers, after consulting the Board, that it is necessary to do so in order that the business or activities of a person referred to in paragraph (a) may not be unduly jeopardized by any delay in fully implementing this Act, the licensing authority may, upon the expiry of the current licence of the person, from time to time issue to him another such licence under, in accordance with, and subject to the Ordinance and the rules made thereunder as if they continue to apply to the substance concerned in the licence, and paragraph (a) shall apply *mutatis mutandis* to the person;
- (c) a person who would, but for this Act, be entitled to do an act or thing by virtue of section 7 of the Ordinance shall continue to be so entitled in relation to a substance listed in Part IV of the Third Schedule to this Act and

---

\*NOTE—See P.U. (A) 157/1978.

shall, in doing or in relation to the doing of that act or thing, continue to be governed by the Ordinance and the rules made thereunder;

- (d) the provisions of section 9 of the Ordinance shall, notwithstanding and to the exclusion of the rules and regulations made under this Act, continue to apply where appropriate to the substances listed in Part IV of the Third Schedule to this Act in relation to the manner of containing, securing, distinguishing, labelling or storing them when they are in the possession of a person or under his control, or in keeping, selling, dispensing, or delivering them, and to be enforceable under the Ordinance, until the Minister orders otherwise by notification in the *Federal Gazette*, upon the happening of which event the rules and regulations made under this Act relating to those matters shall apply or be made to apply, as the case may be, to those substances.

### **Control in the State of Sarawak of substances that are both poisons and pesticides**

**65.** (1) This section shall apply in relation to a substance that is both a poison as defined in the Poisons Ordinance of the State of Sarawak and a pesticide as defined in this Act.

(2) A person who does an act or thing in relation to that substance, which act or thing is authorized by or under the Ordinance or would not, but for this Act, constitute an offence by virtue of a licence, authorization, exemption, or exception under, or any provision of, the Ordinance, shall not be liable to be prosecuted under this Act or the rules or regulations for doing that act or thing.

(3) A person who does an act or thing in relation to that substance, which act or thing is authorized by or under this Act or the rules or regulations or would not, but for the Ordinance, constitute an offence by virtue of a registration, licence, permit, authorization, exemption, or exception under, or any provision of, this Act or the rules or regulations, shall not be liable to be prosecuted under the Ordinance for doing that act or thing.

### **Repeal of F.M. 15/1949 and Sabah Cap. 99**

**66.** (1) The Poisons (Sodium Arsenite) Ordinance 1949 [*F.M. 15 of 1949*] and the Poisons (Agricultural and Industrial) Ordinance of the State of Sabah [*Cap. 99*] are repealed.

(2) A person who does an act or thing in relation to sodium arsenite, which act or thing is authorized by the regulations made under the Ordinances or would not, but for this Act, constitute an offence whether by virtue of a licence, or permit under, or any provision of, the regulations, shall not be liable to be prosecuted under this Act or the rules or regulations for doing that act or thing.

(3) A person who does an act or thing in relation to sodium arsenite which act or thing is authorized by or under this Act or the rules or regulations or would not, but for the regulations made under the Ordinances, constitute an offence by virtue of a registration, licence, permit, authorization, exemption, or exception under, or any provision of, this Act or the rules or regulations, shall not be liable to be prosecuted under the regulations made under the Ordinances for doing that act or thing.

(4) If it is intended to revoke the regulations in their entirety or to amend them so as to affect the provisions thereof relating to the right to deal in sodium arsenite, such revocation or amendment shall not be made to have effect until at least one year after the publication of the revocation or amendment.

### **Amendment of F.M. 29/1952**

**67.** The Poisons Ordinance 1952 is amended by deleting subsection 21(3).

---

#### FIRST SCHEDULE

#### (Section 2)

#### LIST OF ACTIVE INGREDIENTS

#### **EXPLANATION**

1. In the following list the common name and the chemical name, or, if no common name is provided, the chemical name only, determine the identity of an active ingredient.
2. The sign (=) indicates continuity of spelling and is used where a word or name is broken up owing to limitation of space.

<i>Common Names</i>	<i>Chemical Names</i>
abamectin	<p>a mixture of (i) (10E,14E,16E,22Z)-(1R,4S,5'S,6S,=6'R,8R,12S,13S,20R,21R,24S)-6'-[(S)-sec-butyl]-21,=24-dihydroxy-5',11,13,22-tetramethyl-2-oxo-3,7,19-trioxatetracyclo[15.6.1.1<sup>4.8</sup>.0<sup>20.24</sup>]=pentacosa-10,14,16,22-tetraene-6-spiro-2'-(5',6'-dihydro-2'H-pyran)-12-yl 2,6-dideoxy-4-O=(2,6-dideoxy-3-O-methyl-<math>\alpha</math>-L-arabino-hexopyranosyl)-3-O-methyl-<math>\alpha</math>-L-arabino-hexopyranoside</p> <p>(ii) (10E,14E,16E,22Z)-(1R,4S,5'S,6S,6'R,8R,=12S,13S,20R,21R,24S)-21,24-dihydroxy-6'-isopropyl=5',11,13,22-tetramethyl-2-oxo-3,7,19-trioxatetracyclo=[15.6.1.1<sup>4.8</sup>.0<sup>20.24</sup>]pentacosa-10,14,16,22-tetraene=6-spiro-2'-(5'-6'-dihydro-2'H-pyran)-12-yl 2,=6-dideoxy-4-O-(2,6-dideoxy-3-O-methyl=<math>\alpha</math>-L-arabino-hexopyranosyl)-3-O-methyl=<math>\alpha</math>-L-arabino-hexopyranoside</p>
acephate	O,S-dimethyl acetylphosphoramidothioate
acetamiprid	(E)-N <sup>1</sup> -[(6-chloro-3-pyridyl)methyl]-N <sup>2</sup> -cyano-N <sup>1</sup> -methylacetamidine
acetochlor	2-chloro-N-ethoxymethyl-6'-ethylaceto-o-toluidide
acifluorfen (including salts)	5-(2-chloro- $\alpha,\alpha,\alpha$ -trifluoro-p-tolyloxy)-2-nitrobenzoic acid
aclonifen	2-chloro-6-nitro-3-phenoxyaniline
acrinathrin	(S)- $\alpha$ -cyano-3-phenoxybenzyl (Z)-(1R,3S)-2,2-dimethyl-3-[2-(2,2,2-trifluoro-1-trifluoromethylethoxycarbonyl)vinyl]=cyclopropanecarboxylate
acrolein	prop-2-enal
acypetacs (including salts)	<p>a reaction mixture of C<sub>8</sub> to C<sub>10</sub> linear and branched chain saturated aliphatic carboxylic acids, the branched chain acids being a mixture of approximately equal parts by mass of:</p> <p>(a) acids in which the main chain is dialkyl-substituted on the second carbon atom, and</p> <p>(b) acids in which the second carbon atom is either unsubstituted or monoalkyl-substituted</p>
<i>Adoxophyes orana</i> granulosis virus	—
alachlor	2-chloro-2',6'-diethyl-N-methoxymethylacetanilide