

ANNEX D.
AFGHANISTAN PESTICIDE LAW: UNOFFICIAL TRANSLATION

Islamic Republic of Afghanistan

Ministry of Justice

Pesticide Law

Official Gazette

----- No.

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Legislative Decree of the President of the Islamic Republic of Afghanistan on the signing of the Pesticide Law.

No. (71)

Date: 08/06/1394 (30 Aug 2015)

Article 1:

Pursuant to the provision of Article (79) of the Constitution of the Islamic Republic of Afghanistan, I hereby sign the Pesticide Law of Afghanistan which has been ratified by the Cabinet of the Islamic Republic of Afghanistan within (30) Articles and (6) Chapters, on 04/06/1394 (26 Aug 2015).

Article 2:

The Minister of Justice and the Government Minister on Parliamentary Affairs, are assigned to present/table this decree within (30) days of the first meeting of the National Assembly.

Article 3:

This decree, shall, along with the Cabinet resolution, be promulgated in the official gazette.

Mohammad Ashraf Ghani,
President of the Islamic Republic of Afghanistan

The Resolution of the Cabinet of the Islamic Republic of Afghanistan on the Pesticide Law of Afghanistan.

No. (19)

Date: 04/06/1394 (26 Aug 2015).

I hereby, approve the Pesticide Law of Afghanistan which has been ratified by the Cabinet of the Islamic Republic of Afghanistan within (30) Articles and (6) Chapters, in its meeting on 04/06/1394 (26 Aug 2015).

Mohammad Ashraf Ghani,
President of the Islamic Republic of Afghanistan.

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CHAPTER ONE:

GENERAL PROVISIONS

Legal Basis

Article 1

This Act is enacted in pursuant to the Article (14) of the Constitution of the Islamic Republic of Afghanistan.

Objectives

Article 2

The objectives of this Act are:

1. To control the production, import, transport, maintain, distribute and use of pesticides;
2. To prevent risks to human, animal, plant health, resulting from the use of pesticides;
3. To protect plants and environment from the adverse effects of pesticides;
4. To prevent the losses of agricultural products through application of sound techniques.

Descriptions

Article 3

The terms used in this Act shall have the following meaning:

1. **"Pests"**: All living factors such as insects, nematodes, disease (fungus, viruses and bacteria) weeds, that damage plants and agricultural products/fruit, qualitatively and quantitatively.
2. **"Pesticides"**: Chemical substance or mixture of substances used for preventing, controlling or destroying pests, that include:
 - Vectors of human and animal disease factors.
 - Undesirable species of plants and animals, listed in this Act.
 - Substances which may be administered to animals for the control of pests in or on their bodies.
 - Substances intended for use as a plant growth regulator, defoliant and desiccant.
 - Substances applied to crops either before or after harvest to protect the commodity from deterioration during storage and transport.
 - Substances used to eradicate or pacify germs, repellants, pests and sterilizing agents.
3. **"Eradication"** refers to activities for, neutralizing, destroy of isolate wastes, used tools contaminated with agricultural pesticides. **"Label"** refer to written, printed or graphic matter on or attached to the immediate package and on every other covering the package containing pesticides.
4. **"Package or Packaging"** means the container together with the protective wrapping used to carry pesticide products via wholesale or retail distribution to users.
5. **"Residue"** means any substances in or on food, agricultural commodities or animal feed resulting from the use of a pesticide, including:
 - any derivatives of a pesticide, such as conversion products, metabolites, reaction products and impurities considered to be of toxicological significance; and
 - Residues from unknown or unavoidable chemical source uses.
6. **"Premises"** mean any land, shop, stall, place, vehicles or other physical location where any pesticide is, manufactured, stored, transported, sold or used.

7. **“Distribution”** means the process by which pesticides are supplied through trade channels to local or international markets.
8. **“Manufacturer”** means any legal entity in the public or private sector engaged in the manufacture of a pesticide’s active ingredient or preparing its formulation or product, whether directly or through an agent or through an entity controlled by or under contract with it.
9. **“Risk”** means a function of the probability of an adverse health or environmental effect, and the severity of that effect, following exposure to a pesticide.
10. **“Poison”** means a substance that can cause disturbance of structure or function, leading to injury or death when absorbed in relatively small amounts by human beings, plants or animals.
11. **“Formulation”** means the combination of various ingredients designed to make a product useful and effective for the purpose or purposes claimed.
12. **“Agricultural pesticide product”** means the pesticide active ingredients and other components, in the form in which it is packaged and sold.
13. **“Poisoning”** means occurrence of damage or disturbance caused by a pesticide on living organism (human, animal, and plant).
14. **“Active ingredient”** means the chemically active part of the pesticide present in a formulation.
15. **“Permit”** refers to a written document issued by the Ministry of Agriculture, Irrigation and Livestock to license the import, export, store, sale and advertising of the pesticide, in accordance with this Act.
16. **“Registration Office”** refers to an office where a pesticide along with its qualitative and quantitative values is registered.

Implementing Authority

Article 4:

The Ministry of Agriculture, Irrigation and Livestock is responsible for implementing the provisions of this law.

CHAPTER TWO: DUTIES AND AUTHORITIES

Duties and Authorities of the Department of Plant Protection and Quarantine

Article 5:

The Department of Plant Protection and Quarantine shall have the following duties and authorities:

1. Issue and register permits, listed in this Act;
2. Develop and implement of programs to control, monitor and inspection of pesticides.
3. Develop and implement research programs on pesticides;
4. Approve maximum concentration of pesticide residues in consultation with Pesticide Committee, in accordance with this Act.
5. Establish relations with countries, national, regional and international organizations, in accordance with this Act.
6. Organize and management of meetings of the Pesticide Committee.

7. Accomplish other functions listed in this Act.

The Pesticides Committee

Article 6:

- (1) In order to better implementation of provisions of this Act, the Pesticide Committee shall consist of the following members:
 - a. The Deputy Minister (Technical) of the Ministry of Agriculture, Irrigation and Livestock, who shall act as Chairman;
 - b. The Head of the Plant Protection and Quarantine Department of the Ministry of Agriculture, Irrigation and Livestock, as deputy chairman;
 - c. An authoritative representative of the Ministry of Commerce and Industry, as member.
 - d. An authoritative representative of the Ministry of Public Health (MOPH), as member.
 - e. Head of Agricultural Research Institute, as member.
 - f. Director General of Livestock and Animal Health, as member
 - g. An authoritative representative of the National Environment Protection Agency (NEPA), as member.
 - h. An authoritative representative of the Afghan National Standards Authority (ANSA), as member.
 - i. A professor from the Agriculture Faculty of Kabul University, as member.
 - j. A professor from the Veterinary Faculty of Kabul University, as member.
 - k. Head of Agricultural Chemistry Division of the Plant Protection Department, as secretary.
 - l. A professor from the Environment Faculty of Kabul University, as member.
- (2) The Pesticide Committee, may invite experts of relevant fields for consultations and technical information, if required, to its meetings.
- (3) The manner of convening the Committee meetings, referred to in paragraph (1) of this Act, and its activities, shall be organized in accordance with the procedures, to be approved by the committee.

Functions and Authorities of the Committee

Article 7:

The Pesticide Committee shall have the following functions and authorities:

1. Approve or reject applications for the registration, re-registration, suspension, substitution and removal of pesticides from the relevant registry office.
2. Prepare lists of allowed and prohibited pesticides
3. Review, suspend, substitute or removal of pesticides from the list in accordance with new scientific information, on the request of relevant agency or two committee members.
4. Set forth necessary conditions, pursuant to provisions of this Act, for acquiring permit.
5. Provide advice and set forth criteria for the management and better use of pesticides.
6. Provide advice, pursuant to provisions of this Act, in performing good agricultural practices, determination of fees to be collected for the services provided.
7. Approve maximum limit of residue concentration of pesticides.
8. Make sure the registration of pesticides.
9. Select location for store and use of pesticides.
10. Organize the modality of transporting the pesticide and set forth special conditions.

11. Organize the modality of eradicating unusable pesticide, empty containers and liquids from washing pesticide tools, in an environmentally sound manner.

Appointing Inspectors

Article 8:

- (1) The Plant Protection and Quarantine Department, in order to implement the provisions of this Act, shall assign inspectors, whose interests are not opposed to the under inspection matter.
- (2) The inspectors, referred to in paragraph (1) shall have the following duties and authorities:
 - a) Control and inspect individuals, who produce, import, export, pack, label, sell, distribute, transport, use and advertise pesticides.
 - b) Seek information and necessary technical assistance from individuals in order better carry out functions set forth in this Act.
 - c) Take samples of any substances to which this Act is applied, and send such samples for analysis to relevant laboratory.
 - d) Probe violations/offences against the provisions of this Act, and report to the Pesticide Committee.
 - e) Stop all activities contrary to the provisions of this Act.
 - f) Confiscate all documents and substances, insinuate violation and considered offence by the provisions of this Act.
 - g) Inspectors, referred to in paragraph (1), are required to show the special card, during inspection.

Right of Appeal

Article 9:

- (1) Any person, not satisfied with the decision of inspector or the laboratory section, may submit his written objection to the Pesticide Committee within a period of thirty (30) days from the date on which the decision is communicated to him.
- (2) The Pesticide Committee, after receiving the appeal, referred to in paragraph (2) of this Article, within (30) days of acceptance or rejection of the appeal, shall make its decision, and that decision shall be the final.

CHAPTER THREE: PERMITS/LICENSES

Issuance of Permits

Article 10:

- (1) Production, import, export, transportation, store, sale and distribution of pesticides, without permit, shall be prohibited.
- (2) A Legal entity, in order to obtain a permit, referred to in paragraph (1) of this Article, may submit a written application to the Plant Protection and Quarantine Department.
- (3) The Plant Protection and Quarantine Department, shall only issue an import permit to a legal entity, registered in accordance with Afghanistan Law, for a period of one year, provided that the entity:

- a) holds a business/trade permit;
- b) imports pesticides from international firms of good standing;
- c) provides samples of pesticides to be imported for analysis, before importing;
- d) appoints professionals holding third level science degree at pesticide sale stores;
- e) provides list of retailers and sale agencies associated to the Plant Protection and Quarantine Department;
- f) registers pesticides upon import with the Registration Office of the Plant Protection and Quarantine Department;

(4) Affairs related to produce, export, transportation, store, sale, distribution of pesticides and the royalty amounts, referred to in paragraph (2) of this Article, shall be regulated by a separate regulation;

(5) The permit, referred to in paragraph (1) of this Article, is not transferrable;

(6) If the application, referred to in paragraph (2) of this Article, is rejected by the Plant Protection and Quarantine Department, the applicant may submit a written appeal to the Pesticide Committee. The committee decision on acceptance or rejection, is then final.

Purchase without obtaining Permit

Article 11:

Agriculture Cooperatives may purchase necessary pesticides, without a license, proportionate to the land area, in accordance with the recommendations of the relevant technical personnel of MAIL and must undertake to store and use them safely.

Obligations of the Permit/License Holder

Article 12:

The permit/license holder may have the following duties/responsibilities:

- (1) Maintain documents related to production, import, export, store, purchase, sale, use, distribution, formulation and other documents related to pesticides, for at least (3) years.
- (2) Make available, upon request, documents referred to in paragraph (1) of this Article, to inspectors and public authorities.
- (3) Take necessary measures to protect, store and transport any pesticides.
- (4) Comply with environmental protection measures.
- (5) Import pesticides via ports, where equipment for analysis are available.
- (6) Comply with any and all conditions set forth in the permit/license.

Renewal of Permit/License

Article 13:

(1) The holder of permit/license, shall renew the relevant permit within a period of (30) days after the end of the date of expiry. A fine of AFG 500 shall be paid thereafter for each delayed day.

(2) The permit, after the end of expiry date, may be renewed in accordance with relevant regulation, provided that the provisions of this Act are complied.

Termination of Permit/License

Article 14:

The permit/license shall be terminated, if:

- (1) Provisions of this Act are not complied with;
- (2) Permit/license holder dies or his legal entity is dissolved.
- (3) There are safety reasons which justify limiting the trade or use of a pesticide, a premise or other element included in the license.

Returning the Permit/License

Article 15:

When the permit/license holder, is unable to perform his/her duties, he/she shall submit the permit/license along with a written report on the pesticide to the Plant Protection and Quarantine Department.

CHAPTER FOUR: REGISTRATION OF PESTICIDES

Application for Registration

Article 16:

- (1) Any person, desiring to register a pesticide product, shall, according to the provisions of this Act, submit an application for registration to the Plant Protection and Quarantine Department.
- (2) The Plant Protection and Quarantine Department, shall register the allowed pesticides in its relevant office.
- (3) Any pesticide, which existed prior to enactment of this Act, and considered unusable according to the provisions of this Act, shall receive a special ruling by the Pesticide Committee to determine how much quantity and the time period will be allowed for the exceptional use of this same pesticide, otherwise, shall be immediately banned.

Import of Un-registered Pesticides

Article 17:

The manufacture, import, export, transport, storage, sale, distribution, application, use or advertisement of unregistered pesticides, are all prohibited.

Pesticides, imported in emergency cases, in order to prevent a severe pest outbreak, are excluded from this provision, on authorization from MAIL.

Temporary Research Permits/Licenses

Article 18:

- (1) The Plant Protection and Quarantine Department after the approval of the Pesticide Committee, in accordance with the provisions of this Act, may grant a temporary permit to licensed individuals or entities authorizing them to import, formulate or use of pesticide for the purpose of scientific research.
- (2) Individuals, referred to in the paragraph (1) of this Article, shall always submit the outcome of their research to the Plant Protection and Quarantine Department.

Use of Pesticides in Emergency Cases

Article 19:

The Plant Protection and Quarantine Department, after the approval of the Pesticide Committee may grant permits to licensed individuals for the use of unregistered product in cases of emergency or a pest outbreak, provided that:

- (1) There is no product in the Registry available and affordable in sufficient quantities to manage the pest outbreak causing the emergency.
- (2) The permit to use is for a specific time period only, and specified by the Pesticide Committee.
- (3) The permit holder and consignments are clearly identified.

Revoking of a Pesticide from the Registry Office

Article 20:

The Pesticide Committee may cancel the registration of a pesticide and remove it from the list when:

- (1) It is no longer effective for its intended purpose.
- (2) Based on new scientific information that the pesticide presents hazards to human, plant, or animal health or the natural environment.
- (3) Other products or management measures become available that are more or equally effective, and less hazardous.
- (4) The pesticide becomes banned or restricted in a country with similar governance and ecological circumstances, or by an international agreement or convention that Afghanistan has acceded to.

Ban on Pesticides Usage

Article: 21

(1) If the Pesticide Committee has reasons to believe that the use of any registered pesticide may result in risk/injury to human beings, animals or the environment, it may:

- a. Temporarily prohibit the sale, distribution or use of the pesticide, or a specified batch of pesticides.
- b. Specify the area and period of validity in its official notification to an individual or the registration office.
- c. Carry out an investigation of the matter.

(2) According to the results of the investigation, the Pesticide Committee shall order either the removal of the temporary prohibition, or the amendment, suspension, or cancellation of the registration.

Investigation Outcomes

Article 22:

- (1) The Pesticide Committee shall carry out investigation on a prohibited pesticide within the period of 3 months and shall, based on the findings of the investigation, decide on temporary prohibition or removal.
- (2) In case a pesticide is permanently banned as a result of the investigation and decision of the committee, it shall make a decision on eradication of any existing remaining stock.

CHAPTER FIVE: PROTECTIVE MEASURES

Labeling

Article 23:

All containers of pesticides shall be accompanied by a label in one of the official languages of the Islamic Republic of Afghanistan that includes:

- (1) Common and trade names, concentration formulation and ingredients of the pesticide.
- (2) The type of product (e.g. insecticide, fungicide, herbicide, rodenticide).
- (3) The name of the pest which the pesticide is intended to eradicate and the recommended dosage.
- (4) The use instructions, application methods, persistency and pre-harvest interval.
- (5) Warnings and cautionary measures, including signs and symptoms of poisoning and information on safety, health and first aid measures, warning symbols and precautions for environmental protection.
- (6) The date of manufacture, expiry, batch number and name of the manufacturing country.
- (7) Other relative technical requirements.

Ban on Commercial Advertisement of the Pesticides

Article 24:

Advertisement of unregistered pesticides, or the use of pesticides restricted to trained operators and technical equipment, is prohibited.

CHAPTER SIX: MISCELLANEOUS PROVISIONS

Establishment of Laboratory

Article 25:

- (1) The Ministry of Agriculture, Irrigation and Livestock may establish laboratories to carry out pesticide formulations and analysis of samples.
- (2) The Plant Protection and Quarantine Department shall send the pesticides, collected by inspectors to laboratories, referred to in the paragraph (1) of this Article, for analyses, quality control and registration

Functions of Laboratories

Article 26:

- (1) The functions of the laboratories, referred to in Article (25) of this Act, shall include:
 - a) Providing information to applicants on active ingredients of the pesticide and the amount of residue of the pesticide on agricultural products, for the purpose of registration.
 - b) Carry out studies on the presence and eradication of pesticides which are Persistent Organic Pollutants (POPS), harm the environment, are banned or unregistered pesticides.
 - c) Support the development of protocols for studies on pesticide residue.
 - d) Coordination between pesticide residue and other pesticide related studies, with the National Environmental Protection Agency (NEPA).
- (2) The pesticide laboratory staff shall preserve the confidentiality of the formulae submitted for analysis

or test, along with its records.

Punitive measures

Article 27:

- (1) If a person, without holding permit/license or package, serial number and particular label, engaged in importing and selling pesticides, the Plant Protection and Quarantine Department shall, apart from confiscating the pesticide, fine the offender 30% of the total cost of the imported pesticide.
- (2) If a person, contrary to the list of the allowed pesticides, without a permit/license imports any pesticide, the Plant Protection and Quarantine Department shall, apart from confiscating the pesticide, fine the offender 30% of total cost of the imported pesticide.
- (3) If a permit/license holder, shows indifference in keeping the relevant documents or does not reveal upon request by inspectors, the Plant Protection and Quarantine Department shall close the storage facility of the offender until presentation of the documents. In case of failure to present the required documents within one month, the permit/license may be annulled.
- (4) If the permit/license holder does not submit a request for registration of pesticides to the relevant office, and without registration engages in import, store, advertise, sell, distribute, implement and use of pesticides, the Plant Protection and Quarantine Department, shall, considering the type of the offense, order this person to pay 20% of the total cost of the imported pesticides.
- (5) If the outcomes of analysis prove contrary to the samples presented, the imported pesticides shall be confiscated and the offender may be fined to pay 20% of the total cost of the imported pesticide.
- (6) The Plant Protection and Quarantine Department shall, within (10) days, deposit the collected amount in the government income account.

Responsibilities of the Agencies

Article 28:

- (1) Ministries of Finance and Trade and Industry, the Customs Department and other relevant agencies, shall cooperate with the Ministry of Agriculture, Irrigation and Livestock on the control, import and export of pesticide, and prevent the import of all pesticides prohibited by the provisions of this Act.
- (2) Customs officials, required to allow/deny a permit/license holder to import pesticides.

Propose Regulation and Setting Procedures

Article 29:

The Ministry of Agriculture, Irrigation and Livestock, in order to better implement the provisions of this Act, may propose regulations and set procedures, not adverse to the provisions of this Act.

Enforcement

Article 30:

This Act shall, from the date of signature, be enacted and promulgated in the official gazette of the Government of the Islamic Republic of Afghanistan.