

Queensland



ANNO TRICESIMO SEPTIMO

ELIZABETHAE SECUNDAE REGINAE



No. 103 of 1988

**An Act to control the use of certain chemicals and the use  
of substances in or on which is the residue of certain  
chemicals and for related purposes**

[ASSENTED TO 8TH DECEMBER, 1988]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

**1. Short title.** This Act may be cited as the *Chemical Usage (Agricultural & Veterinary) Control Act 1988*.

**2. Commencement.** (1) This section and section (1) shall commence on the day on which this Act is assented to for and on behalf of Her Majesty.

(2) Except as provided by subsection (1), this Act or the provisions thereof specified in the Proclamation shall commence on the day or days appointed by Proclamation for the commencement of this Act or, as the case may be, those provisions.

**3. Arrangement.** This Act is arranged as follows:—

PART I—PRELIMINARY (ss. 1-7);

PART II—USE OF CHEMICALS AND SUBSTANCES  
HAVING CHEMICAL RESIDUES (ss. 8-19);

PART III—MISCELLANEOUS (ss. 20-38).

**4. Interpretation.** (1) In this Act except where a contrary intention appears—

“agricultural produce” means any plant or part thereof, or the produce of a plant, whether processed or not, that is intended or normally used for human or animal consumption;

“analysis” means analysis or examination or analysis and examination and includes any test or determination relative to—

standard, quality, composition, physical property or any other particular of a chemical or other substance whatsoever;

or

detection, identification or determination of the amount of the residue of a chemical in or on any substance;

“analyst” means an analyst appointed for the purposes of this Act;

“Board” means The Agricultural Requirements Board constituted under the *Agricultural Standards Act 1952-1981*;

“chemical” means any growth regulating material, pest destroyer (other than a lure) or stock medicine within the meaning of section 7 (1) of the *Agricultural Standards Act 1952-1981* and includes any other substance prescribed to be a chemical for the purposes of this Act;

“disease” has the meaning assigned to that term by the *Agricultural Standards Act 1952-1981*;

“fertilizer” means any material used or intended as a fertilizer or manure, or for supplying nutriment for the use of plants,

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- or for remedying or assisting to remedy any deficiency or excess in the soil and includes any substance prescribed to be a fertilizer for the purposes of this Act;
- “inspector” means an inspector appointed for the purposes of this Act;
- “label” means any label, tag, brand, stamp, stencil or writing;
- “manufactured stock food” has the meaning assigned to that term by the *Agricultural Standards Act 1952-1981*;
- “maximum residue limit” in relation to the residue of a chemical in or on any agricultural produce or manufactured stock food, means the maximum residue limit prescribed in respect of that chemical for that agricultural produce or manufactured stock food;
- “Minister” means the Minister of the Crown for the time being charged with the administration of this Act and includes a Minister of the Crown who, for the time being, is performing the duties of the Minister;
- “occupier” in relation to land, means the person in actual occupation of the land or, if there is no person in actual occupation, the person entitled to possession of the land;
- “owner” in relation to land, means the person other than the Crown who for the time being is entitled to receive the rent of that land either of his own account or on account of some other person or who, if the same were let to a tenant at a rack rent, would be entitled to receive the rent thereof: the term includes the holder of any lease or licence or permission from the Crown, or any person deriving title thereunder;
- “package” in relation to any chemical, or other substance whatsoever, means anything in or by which the chemical or substance is wholly or partly cased, covered, enclosed, contained or packed;
- “plant” includes any tree, vine, shrub, vegetable, edible fungus or alga;
- “proscribed chemical” means a chemical proscribed under section 13;
- “registered” includes provisionally registered;
- “residue” in relation to a chemical, includes, in addition to any of that chemical, any derivative or metabolite of the chemical;
- “standards officer” means the standards officer, deputy standards officer or any assistant standards officer appointed under the *Agricultural Standards Act 1952-1981*;
- “stock” has the meaning assigned to that term by the *Agricultural Standards Act 1952-1981*;
- “use” in relation to a chemical, means to administer, apply, disperse, inject, spray or spread the chemical or to use the chemical by similar means;

“wholesale dealer” means—

in relation to a chemical registered under Part III of the *Agricultural Standards Act 1952-1981*—the person in whose name the chemical is so registered under that Act;

in relation to any other chemical—any person who, whether as manufacturer, importer, distributor, seller, agent or otherwise, is responsible for placing that chemical on the market in the State.

(2) For the purposes of section 8 a person shall be taken to have used a chemical in a manner or, as the case may be, for a purpose that is in accordance with a direction or recommendation—

(a) appearing on the label registered, or that was registered, under the *Agricultural Standards Act 1952-1981* in respect of the chemical;

or

(b) approved by the Board pursuant to the *Agricultural Standards Act 1952-1981* in respect of the chemical,

where—

(c) the concentration of the chemical when used is less than that specified in the direction or recommendation unless, in the case of a direction appearing on a label, the direction states that the chemical must be used at a particular concentration or at a concentration that is not less than the concentration stated;

(d) the rate at which the chemical (whether diluted or not) is used is lower than that specified in the direction or recommendation unless, in the case of a direction appearing on a label, the direction states that the chemical must be used at a rate that is not lower than the rate stated;

(e) if the chemical is used more than once in respect of the same plant or stock—the period between one use and the next is greater than that specified in the direction or recommendation unless, in the case of a direction appearing on a label, the direction states that the period between one use and the next must not be greater than that specified;

(f) if the direction or recommendation relates to the use of the chemical in controlling any disease in any plant or stock—the chemical is used for the purpose of controlling any other disease in that plant or stock unless, in the case of a direction appearing on a label, the direction states that the chemical must not be used for any other purpose;

(g) if the direction or recommendation relates to the use of the chemical for the purpose of destroying or preventing the spread of any plant—the chemical is used for the purpose of destroying or preventing the spread of any other plant unless, in the case of a direction appearing on a label, the

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direction states that the chemical must not be used for any other purpose;

- (h) the method used by a person to apply the chemical is different from that specified in the direction or recommendation unless, in the case of a direction appearing on a label, the direction states that the method must not be used;
- (i) the chemical is mixed with another chemical, fertilizer or other substance unless, in the case of a direction appearing on a label, the direction states that the chemical must not be mixed with that other chemical or that fertilizer or other substance or with any other chemical or any fertilizer or other substance.

**5. Officers.** (1) There may be appointed for the purposes of this Act such number of analysts and inspectors as is necessary for the proper administration of this Act.

(2) Every inspector shall be furnished with proof of his identity as such inspector which he shall carry on his person at all times while he is exercising his powers or authorities or discharging his functions or duties under this Act and which he shall produce to a person in respect of whom he is exercising any such power or authority or discharging any such function or duty upon demand made by the person.

**6. Maximum residue limit.** The maximum residue limit prescribed under this Act in respect of any agricultural produce or manufactured stock food may be zero.

**7. Delegation.** (1) The Minister may, either generally or otherwise as provided by the instrument of delegation, by instrument in writing under his hand delegate to the chief executive of the department within which this Act is administered all or any of his powers, authorities, functions or duties under this Act.

(2) A delegation may be made subject to such terms or limitations as the Minister thinks fit including a requirement that the delegate shall report to him on the exercise or discharge of the delegated power, authority, function or duty.

(3) A power, authority, function or duty so delegated, if exercised or discharged by the delegate, shall be exercised or discharged in accordance with the instrument of delegation.

(4) An act or thing done or suffered by a delegate acting in accordance with a delegation has the same force and effect as if the act or thing had been done or suffered by the Minister.

(5) A delegation does not prevent or prejudice—

- (a) the exercise of a delegated power or authority or the discharge of a delegated function or duty by the Minister;

or

- (b) the exercise by the Minister of supervision of the carrying out by the delegate of the terms of the delegation to the extent of countermanding the delegate's exercise of a power or authority or discharge of a function or duty under the delegation.

(6) A delegation is revocable at the will of the Minister.

## PART II—USE OF CHEMICALS AND SUBSTANCES HAVING CHEMICAL RESIDUES

**8. Person not to use chemicals in certain circumstances.** (1) A person shall not use a chemical unless the chemical is registered under Part III of the *Agricultural Standards Act 1952-1981* or, pursuant to that Act, is exempted from the requirement to be registered under that Part.

Penalty: 40 penalty units.

(2) A person shall not use a chemical registered under Part III of the *Agricultural Standards Act 1952-1981*—

- (a) in a manner or for a purpose that is not in accordance with a direction or recommendation—
  - appearing on the label registered under that Act in respect of the chemical;
  - or
  - approved by the Board under that Act in respect of the chemical;
- or
- (b) that is taken from a package to which was not affixed, at the time immediately prior to the taking, the label registered under that Act in respect of the chemical.

Penalty: 40 penalty units.

(3) A person shall not be convicted of an offence defined in subsection (1) if he proves—

- (a) that the chemical was registered under Part III of the *Agricultural Standards Act 1952-1981* at some time during the period of 24 months immediately preceding its use by him;
- (b) that the chemical's registration under that Part has—
  - expired;
  - or
  - been cancelled under section 24 of that Part;
- (c) that his use of the chemical was in accordance with a direction or recommendation that, immediately prior to the expiration of the chemical's registration under that Part—
  - (i) appeared on the label registered under that Act in respect of the chemical;

- or
- (ii) was approved by the Board under that Act in respect of the chemical;
- and
- (d) that the chemical was taken from a package to which was affixed, at the time immediately prior to its being taken, the label referred to in paragraph (c) (i).
- (4) Subsection (1) or (2) does not apply—
- (a) to the bona fide experimental use of a chemical carried out with the approval of and in accordance with the terms and conditions (if any) imposed by the standards officer;
- (b) to the bona fide use of a chemical by a veterinary surgeon registered under the *Veterinary Surgeons Act 1936-1986* in the course of the practice of his profession;
- or
- (c) to the use by a person of a chemical that was lawfully supplied to the person by, or pursuant to a prescription given to the person by, a veterinary surgeon registered under the *Veterinary Surgeons Act 1936-1986* in the course of the practice of the veterinary surgeon's profession, if the person uses the chemical as directed by the veterinary surgeon.

**9. Person not to possess or use proscribed chemical.** A person shall not have in his possession or use a proscribed chemical unless he has the written permission of the Minister to do so and his possession or, as the case may be, use of the chemical is in accordance with the terms and conditions of the permit.

Penalty: 100 penalty units.

**10. Person not to dispose of package or chemical in improper manner.** A person shall not dispose of or discard a chemical, or a package that contains or has contained a chemical, in a manner—

- (a) such that harm is caused or is likely to be caused to the property of any other person, any human or animal life, the environment or the State's trade with any other State or a Territory of the Commonwealth or another country;
- or
- (b) that is contrary to the manner (if any) prescribed.

**11. Making of claims etc. in respect of the use of chemicals.** (1) A person shall not, in respect of the use of any chemical, give a direction or make any claim or recommendation or cause or permit a direction to be given or a claim or recommendation to be made that is—

- (a) in the case of a chemical that is registered under Part III of the *Agricultural Standards Act 1952-1981*—not in accordance with a direction or recommendation appearing on the label registered in respect of the chemical under that

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Act unless the direction, claim or recommendation is approved by the Board;

- (b) in the case of a chemical that is not registered under Part III of the *Agricultural Standards Act 1952-1981*—not approved by the Board;

or

- (c) that is false or misleading in any particular.

For the purpose of paragraph (c) a person may give a false or misleading direction or make a false or misleading claim or recommendation by words or otherwise.

(2) Paragraphs (a) and (b) of subsection (1) do not apply—

- (a) to an officer or employee of the Crown in the course of his employment by the Crown;

or

- (b) to a prescribed person, or a person of a prescribed class, in prescribed circumstances.

**12. Use of package that contained chemical.** (1) A person shall not use a package to contain any substance if the package has at any time contained a chemical.

(2) A person shall not be convicted of an offence defined in subsection (1) if—

- (a) he uses the package to contain a chemical and the chemical was in the package at the time at which he acquired the package;

or

- (b) all trace of the chemical previously contained in the package is removed and he uses the package to contain a chemical.

**13. Proscription of certain chemicals.** (1) The Minister may, where he is of the opinion that it is in the public interest to do so having regard to the harm that may be caused by the use of a chemical or a chemical of a particular class to any property, any human or animal life, the environment or the State's trade with any other State or a Territory of the Commonwealth or another country, recommend to the Governor in Council that he proscribe the chemical or all chemicals of a particular class.

(2) The Governor in Council acting on the recommendation of the Minister may, by Order in Council, proscribe a chemical or all chemicals of a particular class.

(3) An Order in Council made under subsection (2) shall take effect—

- (a) where a day is specified in the order for that purpose, on that day;

- (b) where a day is not so specified, 60 days after its publication in the Gazette.

**14. Recall of chemicals etc.** (1) The Minister may, where he is of the opinion that it is in the public interest to do so having regard to the harm that may be caused to any property, any human or animal life, the environment or the State's trade with any other State or a Territory of the Commonwealth or another country by the use of a chemical or prescribed substance, give notice in writing to the wholesale dealer of the chemical or manufacturer or producer of the prescribed substance directing him, within the time specified in the notice, to take the steps and do the acts and things specified in the notice to recall the chemical or prescribed substance from other persons having it in their possession.

(2) A notice given under subsection (1) may direct the person to whom it is given to destroy, denature or otherwise deal with any of the chemical or prescribed substance in or coming into the possession of the person, within the time and in the manner specified in the notice.

(3) In this section the expression "prescribed substance" means—  
any agricultural produce, manufactured stock food or fertilizer  
in or on which is the residue of a chemical;

or

any substance in or on which is the residue of a chemical which substance is used in connexion with any agricultural produce, manufactured stock food or fertilizer.

**15. Chemical residues to be notified.** If the analysis of any agricultural produce or manufactured stock food shows that the residue of a chemical is in or on the produce or stock food in an amount that exceeds the maximum residue limit prescribed for that produce or stock food, the person conducting the analysis shall, within 24 hours of conducting the analysis, notify the standards officer of the result of his analysis and the name and address of the person from whom he obtained the agricultural produce or manufactured stock food.

**16. Agricultural produce etc., containing chemical residues not to be used etc.** (1) The standards officer or an inspector may, by notice in writing given to a prescribed person, direct that person not to use, destroy, dispose of or otherwise deal with any prescribed substance to which the notice relates otherwise than as permitted (if at all) by the notice.

(2) The standards officer or an inspector if he suspects or believes on reasonable grounds that the cultivation of plants in or on any land would be likely to result in the residue of a chemical being present in or on any agricultural produce in an amount that exceeds the maximum residue limit prescribed for that produce may, by notice in writing given to the owner or occupier of the land or both of them, direct that person or those persons not to cultivate any plants or any class or classes of plants in or on the land otherwise than as permitted (if at all) by the notice.

(3) A notice given by an inspector under subsection (1) or (2) shall have effect for the period specified therein but in no case exceeding 3 days.

(4) Subject to subsection (5), a notice given by the standards officer under subsection (1) or (2) may be given without limit to time.

(5) A notice given by the standards officer under subsection (1) or (2) shall specify a time after which it ceases to have effect unless he has received a report of an analysis conducted by an analyst that confirms his suspicion or belief in respect of the matters to which the notice relates.

This subsection shall not be construed to prevent the standards officer from giving successive notices under subsection (1) or (2).

(6) In this section—

“prescribed person” means a person having possession of any prescribed substance or, where the prescribed substance is in transit, the person into whose possession it is to be delivered;

“prescribed substance” means—

- (a) agricultural produce or manufactured stock food in or on which the standards officer or inspector suspects or believes on reasonable grounds that there is the residue of a chemical in an amount that exceeds the maximum residue limit prescribed for that produce or stock food;
- (b) plants from which agricultural produce may be derived in or on which the standards officer or inspector suspects or believes on reasonable grounds that there is the residue of a chemical in an amount such that agricultural produce derived from the plants is likely to have therein or thereon the residue of a chemical in an amount that exceeds the maximum residue limit prescribed for that produce;
- (c) a substance in or on which the standards officer or inspector suspects or believes on reasonable grounds that there is the residue of a chemical in such an amount that the ordinary use of the substance is likely to result, directly or indirectly, in the residue of a chemical being in or on any agricultural produce or manufactured stock food in an amount that exceeds the maximum residue limit prescribed for that produce or stock food.

**17. Approval to use etc. agricultural produce etc. or cultivate plants on land.** (1) Where a person wishes to—

(a) use, destroy, dispose of or otherwise deal with any prescribed substance;

or

(b) cultivate plants on any land,

within a time or in a manner that is contrary to a direction contained in a notice under section 16, the person may apply in writing to the standards officer for approval to use, destroy, dispose of or otherwise deal with the prescribed substance or, as the case may be, cultivate plants on the land, as specified in the application.

(2) The standards officer may, whether pursuant to an application made under subsection (1) or otherwise, approve in writing—

- (a) the use, destruction or disposal of or other dealing with any prescribed substance;
- or
- (b) the cultivation of plants on any land,

within a time or in a manner that is contrary to a direction contained in a notice under section 16 if he is satisfied that such use, destruction, disposal or other dealing or, as the case may be, cultivation—

- (c) is not a breach of any other Act or a law made under any other Act;
- and
- (d) will not cause harm, that in the circumstances is unreasonable, to any property, any human or animal life, the environment or the State's trade with any other State or a Territory of the Commonwealth or another country.

(3) An approval given under this section may be given subject to such terms and conditions as are specified therein.

(4) To the extent that a notice under section 16 is not consistent with an approval given under this section, that notice shall cease to be of force or effect.

(5) A person who uses, destroys or disposes of or otherwise deals with a prescribed substance or cultivates plants on land contrary to an approval given under this section commits an offence.

Penalty: 100 penalty units.

(6) In this section the expression "prescribed substance" means agricultural produce, manufactured stock food, plant or other substance.

**18. Destruction of agricultural produce etc. at direction of Minister.**

(1) If the Minister is notified by the standards officer that the residue of a chemical is in or on—

- (a) a portion or sample of any agricultural produce or manufactured stock food in an amount that exceeds the maximum residue limit prescribed for that produce or stock food;
- (b) a portion or sample of any plants from which agricultural produce may be derived and the Minister forms the opinion that agricultural produce derived from the plants is likely to have therein or thereon the residue of a chemical in an amount that exceeds the maximum residue limit prescribed for that produce;

or

- (c) a portion or sample of any other substance and the Minister forms the opinion that the ordinary use of the substance is likely to result directly or indirectly in any agricultural produce or manufactured stock food having therein or thereon the residue of a chemical in an amount that exceeds the maximum residue limit prescribed for that produce or stock food,

he may by notice in writing given to any person in possession of the agricultural produce, manufactured stock food, plants or other substance from which the portion or sample was taken, direct the person to cause it or them to be destroyed, or otherwise disposed of, in the manner and within the time specified in the notice.

(2) A person to whom a notice is given under subsection (1) shall not use, destroy, dispose of or otherwise deal with the substance to which the notice relates otherwise than as directed by the notice.

**19. Standards officer may cause notice under section 18 to be complied with.** (1) If a person to whom a notice is given under section 18 fails to comply with any direction contained therein within the time specified therein the standards officer may do or cause to be done anything required by the direction to be done.

(2) The expenses incurred by the standards officer acting pursuant to subsection (1) shall be a debt due and owing to him by the person to whom the notice was given.

(3) For the purpose of exercising his powers under subsection (1) the standards officer and any person authorized by him in that behalf may enter any place to which the direction relates together with such vehicles and equipment as the standards officer or other person considers necessary and there do that which is required by the direction to be done.

### PART III—MISCELLANEOUS

**20. Powers of inspectors.** (1) An inspector may—

- (a) enter any place (using such force as is necessary) in, at or on which he has reasonable grounds for suspecting or believing that—
- (i) any chemical is kept, stored, used, made, manufactured, mixed or prepared for use;
  - (ii) there is or may be any equipment used or intended to be used in connexion with the use of a chemical;
  - (iii) any chemical has been, is being or will be used;
- or
- (iv) any prescribed substance is kept, stored, used, made, cultivated, mixed or prepared for sale or sold;
- (b) enter any place (using such force as is necessary) if he has reasonable grounds for suspecting or believing that his entry

- 
- may assist him to ascertain the cause of any prescribed substance having the residue of a chemical in or on it;
- (c) investigate and inquire into any matter for the purpose of ascertaining whether or not this Act is being complied with;
  - (d) search for, inspect and examine any chemical or prescribed substance or any equipment (including an aircraft) used in connexion with the preparation, mixing, loading or use of any chemical;
  - (e) open or break open any package containing or which he believes on reasonable grounds to contain any chemical or prescribed substance;
  - (f) select, take and remove for analysis any chemical or prescribed substance or portions or samples of any chemical or prescribed substance;
  - (g) seize and detain—
    - (i) any prescribed substance that he suspects or believes on reasonable grounds has been dealt with in a manner that is contrary to a direction contained in a notice under section 16 or not in accordance with an approval given under section 17;
    - (ii) any agricultural produce or manufactured stock food derived from a plant to which a notice under section 16 or an approval under section 17 relates where he suspects or believes on reasonable grounds that such plant has been dealt with in a manner that is contrary to a direction contained in the notice or not in accordance with the approval;
    - (iii) any manufactured stock food that he suspects or believes on reasonable grounds has been derived from an animal contrary to any direction given under section 33 of the *Stock Act 1915-1987*;
    - (iv) any proscribed chemical in the possession of or being used by a person where he suspects or believes on reasonable grounds that such possession or use constitutes an offence against this Act;
    - (v) any chemical or package that he suspects or believes on reasonable grounds is being or has been used, stored, disposed of or otherwise dealt with contrary to this Act;
  - (h) remove any chemical or prescribed substance seized by him or allow all or part of the chemical or substance to remain at the place of seizure and, in that case, may fasten, secure, or seal and label, the chemical or substance or any package containing the chemical or substance or any door or aperture affording access to the chemical, substance or package;
  - (i) weigh, count, measure, gauge, brand, label or otherwise mark any chemical or prescribed substance;
  - (j) require a person to produce to him any accounts, books, invoices, records or other documents relating to the sale,

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storage or use of any chemical or prescribed substance and may retain the same for the purpose of making a copy thereof or taking an extract therefrom and may make the copy or take the extract;

- (k) require a person in possession of any chemical or prescribed substance to state the name and address (if known to him) of or otherwise identify the person from whom he acquired the chemical or substance;
- (l) in the exercise of his powers photograph or make such audio or visual recordings as he considers necessary or desirable;
- (m) require a person found by him committing an offence against this Act or who he has reasonable grounds for believing has committed an offence against this Act or whose name and address are in his opinion formed on reasonable grounds required for the purposes of this Act, to state his full name and the address of his usual place of business or residence and, if he suspects on reasonable grounds that a name or address so stated is false, may require him to produce evidence of the correctness thereof;
- (n) stop, detain and search any vehicle—
  - (i) used or that he suspects or believes on reasonable grounds is being or is likely to be used to convey any chemical or prescribed substance or to apply any chemical;  
or
  - (ii) in, on or from which he suspects or believes on reasonable grounds any chemical or prescribed substance is sold or prepared for sale, packed, stored, handled, or supplied for sale or use;
- (o) call to his aid a person who he thinks is competent to assist him in the exercise of his powers and authorities or the discharge of his functions and duties and a person while aiding an inspector shall have the powers and authorities of an inspector;
- (p) for the purpose of exercising his powers, require the owner or occupier of any place entered by him for the purposes of this Act to provide the inspector with all reasonable assistance;
- (q) exercise such other powers or authorities and discharge such functions and duties as are prescribed.

(2) A person shall comply with the requirement of an inspector made under subsection (1).

(3) In this section the expression “prescribed substance” means agricultural produce, manufactured stock food, fertilizer or plant or any substance used in connexion with that produce, stock food, fertilizer or plant.

**21. Warrants.** (1) Before an inspector enters a part of any premises or other place which part is used exclusively as a dwelling-house he

shall, save where he has the permission of the occupier of that part to this entry, obtain from a stipendiary magistrate a warrant to enter.

(2) A stipendiary magistrate who is satisfied upon the complaint of an inspector that there is reasonable cause to suspect—

- (i) that in any premises or other place an offence against this Act has been, is being or is likely to be committed;
- (ii) that there is in any premises or other place any thing in respect of which an offence against this Act has been, is being or is likely to be committed;
- or
- (iii) that there is in any premises or other place anything that will afford evidence of the commission of an offence against this Act,

may issue his warrant directed to an inspector to enter the premises or other place named in the warrant for the purpose of exercising therein the powers and authorities conferred upon an inspector by or under this Act.

(3) A warrant shall be, for the period of one month from the date of its issue, sufficient authority for the inspector and all persons acting in aid of him—

- (i) to enter the premises or other place specified in the warrant; and
- (ii) to exercise therein the powers and authorities conferred upon an inspector by or under this Act.

(4) For the purposes of this section, premises that are used as a dwelling-house do not include the curtilage of those premises.

## **22. Appeal.** (1) A person aggrieved by—

- (a) a direction contained in a notice under section 16;
- (b) the refusal of an application made under section 17;
- or
- (c) the seizure of anything under section 20,

may within such time as is prescribed in respect of an appeal of that kind appeal to the Minister against the direction, refusal or seizure in writing identifying the direction, refusal or seizure and setting out the grounds of appeal.

(2) The Minister may hear the appeal or refer the matter to any one or more persons for the purpose of his or their enquiring into and investigating the matter and furnishing to the Minister a report thereon.

(3) After himself hearing the appeal or, as the case may be, after receiving and considering the report referred to in subsection (2), the Minister may, in his absolute discretion, dismiss or allow the appeal and where he allows the appeal give such written directions as he considers just and proper in the circumstances and such decision shall be final and given effect to.

(4) Where directions given by the Minister require or allow anything to be done by the appellant he shall cause notice in writing of those directions to be given to the appellant.

(5) The Minister may refuse to determine an appeal or to proceed further to the determination of an appeal if he is of the opinion that the appeal is frivolous or vexatious.

**23. Failure to comply with notice.** A person who fails to comply with a direction contained in a notice given to him under this Act commits an offence.

Penalty: 100 penalty units.

**24. Production of records.** (1) When required to do so by the standards officer, an inspector or a person authorized by the standards officer in that behalf, a person shall produce to that officer, inspector or other person any record made or kept by the person pursuant to this Act.

(2) A person to whom a record is produced pursuant to subsection (1) may inspect the record and make a copy of or take extracts from the same and for that purpose may retain it for such time as he considers necessary.

**25. Obstruction of inspector.** A person shall not—

- (a) obstruct any inspector in the exercise of his powers or in the discharge of his duties under this Act, or attempt so to do;
- (b) refuse to allow to be taken, removed, seized or detained under this Act any chemical, agricultural produce, plant, manufactured stock food, fertilizer or other substance, or any portion or sample thereof;
- or
- (c) take, retake, remove or otherwise deal with, or attempt to take, retake, remove or otherwise deal with, any chemical, agricultural produce, plant, manufactured stock food, fertilizer or other substance, or any portion or sample thereof taken, removed, seized, or detained under this Act.

**26. Tampering with seals, samples, etc.** A person shall not—

- (a) without the permission (the proof whereof shall lie upon him) of the standards officer or an inspector to do so open, break, alter, remove, or erase any mark, label, signature, seal, or fastening placed by an inspector in pursuance of this Act upon any chemical, agricultural produce, plant, manufactured stock food, fertilizer or other substance, or upon any package, or portion or sample, or part of a portion or sample, or upon any door or aperture affording access to the same;
- (b) knowingly or fraudulently tamper with any chemical, agricultural produce, plant, manufactured stock food, fertilizer

or other substance or package containing the same so as to procure that any portion or sample taken under this Act does not correctly represent the chemical, agricultural produce, plant, manufactured stock food, fertilizer or other substance or the contents of the package;

or

- (c) tamper with any portion or sample or part of a portion or sample taken under this Act.

**27. Analyst's report.** (1) In any proceedings for an offence against this Act—

- (a) a report of the result of an analysis purporting to be under the hand of the standards officer or an analyst shall, upon its production by or on behalf of the complainant, be evidence of the facts stated therein unless the defendant gives notice to the complainant at least three days prior to the date set down for the hearing of the proceedings that he requires the person who made the report to be called to give evidence on behalf of the complainant;
- (b) a report of the results of an analysis purporting to be under the hand of a person competent to make the analysis shall, upon its production by or on behalf of the defendant, be evidence of the facts stated therein unless the complainant informs the defendant that he requires the person who made the report to be called to give evidence on behalf of the defendant.

A copy of a report referred to in paragraph (b) shall be given to the complainant at least three days prior to the date set down for the hearing of the proceedings and if not so given the court may adjourn the hearing on such terms as it thinks fit.

**28. Offences.** (1) Any person who contravenes or fails to comply with any provision of this Act, whether by act or omission, commits an offence against this Act.

(2) A person who commits an offence against any provision of this Act shall be liable, if no specific penalty is otherwise prescribed for that offence, to a penalty not exceeding 40 penalty units.

(3) A prosecution for an offence against this Act shall be by way of summary proceedings under the *Justices Act 1886-1988* on complaint by—

an inspector;

or

other person authorized in writing in that behalf by the Minister.

(4) A prosecution for an offence against this Act may be instituted at any time within one year after the commission of the offence or within one year after the commission of the offence comes to the knowledge of the complainant.

(5) The summons in any proceeding in which a report of the result of any analysis (hereinafter in this subsection termed "report") is to be

used on behalf of the complainant shall not be made returnable in less than seven days from the day on which it is served.

There shall be served with the summons a copy of the report.

**29. Expenses of analysis to be paid by offenders on conviction.** In proceedings in which a person is convicted of an offence against this Act the court shall on application made by or on behalf of the complainant order that all fees, charges, costs, and other expenses incidental to the analysis of any chemical or other substance whatsoever in respect of which the conviction is obtained shall be paid by the person convicted, and all such fees, charges, costs and other expenses shall be deemed to be part of the costs in the proceedings.

**30. Liability for offence by body corporate.** Where a body corporate commits an offence against this Act then, without derogating from section 7 of *The Criminal Code*, the person who at the time the offence is committed was the managing director, manager or other governing officer by whatever name called of the body corporate shall be deemed to have committed the offence and, notwithstanding section 23 of *The Criminal Code*, to be criminally responsible for the act or omission concerned therein and may be charged with the offence and punished accordingly.

**31. Protection of Crown etc.** Liability at law shall not attach to the Crown or any person on account of any act or thing—

(a) done or omitted to be done pursuant to this Act;  
or

(b) done or omitted to be done bona fide for the purposes of this Act and done or omitted to be done without negligence.

**32. Forfeiture to Crown.** (1) Anything seized under this Act shall—

(a) where no appeal is instituted under section 22 in respect of the seizure—upon the expiration of the time limited for such appeal, be forfeited to the Crown;

(b) where an appeal under section 22 is instituted in respect of the seizure and the appeal is dismissed or withdrawn—upon that dismissal or, as the case may be, upon the appeal being withdrawn, be forfeited to the Crown.

(2) Anything forfeited to the Crown under this Act shall be disposed of as prescribed or, if the manner of disposal is not prescribed, as the Minister either generally or in a particular case directs.

**33. Supervision by inspector.** A direction given under this Act that requires or allows anything to be done by a person may require that the thing be done under the supervision of an inspector.

**34. Evidence, etc.** In any proceedings under or for a purpose of this Act—

(a) the appointment of a person to an office and the authority of an officer to do any act or give any direction shall be presumed in the absence of evidence to the contrary;

(b) a certificate purporting to be under the hand of the standards officer—  
stating that any chemical specified therein is or is not registered or is or is not registered for a particular purpose

under the *Agricultural Standards Act 1952-1981* or at any specified time was or was not so registered;

stating that a label is or is not registered under the *Agricultural Standards Act 1952-1981* or at any specified time was or was not so registered;

purporting to set out the directions and recommendations appearing on a label that is or was at any time registered under the *Agricultural Standards Act 1952-1981*;

stating as to whether or not any directions or recommendations are or at any time have been approved by the Board in respect of the use of a chemical;

purporting to set out the directions and recommendations approved by the Board in respect of the use of a chemical;

stating that a notice was given under this Act, the person to whom it was given and identifying the notice,

shall be evidence and in the absence of evidence to the contrary conclusive evidence of the matters contained therein;

- (c) a document purporting to be a copy of a notice given under this Act shall be evidence and in the absence of evidence to the contrary conclusive evidence of the matters contained in the original of which it purports to be a copy;
- (d) a document purporting to be a copy or extract of any account, book, invoice, record or other document relating to the sale or use of any chemical, agricultural produce, manufactured stock food, plant, fertilizer or other substance shall be evidence and in the absence of evidence to the contrary conclusive evidence of the matters contained in the original of which it purports to be a copy or extract;
- (e) any photograph, film or audio or visual recording purporting to record any things, words or actions in respect of the sale or use of any chemical, agricultural produce, manufactured stock food, plant, fertilizer or other substance shall be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters recorded;
- (f) the allegation or averment in any complaint that—
  - (i) any chemical was used by or was in possession of a specified person;
  - or
  - (ii) any substance is a chemical,
 shall be evidence and, in the absence of evidence to the contrary conclusive evidence of the matter alleged or averred;
- (g) proof that a person has caused an advertisement to be inserted in a newspaper circulating in the State or in a circular, catalogue, leaflet, pamphlet or other document published or distributed in the State which advertisement contains any direction, claim or recommendation in respect of a chemical shall be evidence and in the absence of

evidence to the contrary conclusive evidence that the person caused the direction to be given or the claim or recommendation to be made;

- (h) a direction, recommendation or claim in respect of the use of a chemical appearing on a label affixed to or inserted in a package containing a chemical shall be taken to have been given or made by the person who affixed the label to or inserted it in the package or who caused it to be so affixed or inserted;
- (i) a certificate purporting to be signed by the standards officer that any costs, charges, or expenses of an amount stated have been incurred by him or an inspector under and for the purposes of this Act or are due for supervision by an inspector, shall be evidence that the costs, charges, or expenses were duly incurred or are so due and that the amount thereof so stated is the correct amount;
- (j) evidence that any agricultural produce or manufactured stock food or any portion or sample thereof has therein or thereon the residue of a chemical registered under the *Agricultural Standards Act 1952-1981* in excess of the maximum residue limit prescribed for that produce or stock food shall be evidence and in the absence of evidence to the contrary conclusive evidence that the chemical was used in a manner that is not in accordance with the directions and recommendations appearing on the label registered under that Act in respect of that chemical and the directions and recommendations (if any) approved by the Board under that Act.

**35. Exemption.** (1) The Minister may exempt a person from compliance with any provision of this Act.

(2) An exemption under subsection (1) shall be in writing, may be given subject to such terms and conditions as are specified therein and is revocable at the will of the Minister.

**36. Giving of notice.** A notice or other document authorized under this Act to be given to any person may be given—

- (a) by delivering the same to such person personally;
- (b) by leaving the same at or by forwarding the same by post to such person at his place of residence or business last known to the person giving it.

**37. Liability for offence by servant.** (1) An employer shall ensure that his servant (acting as such) does not commit an offence against this Act and if the servant does commit such an offence then, without derogating from section 7 of *The Criminal Code*, his employer shall be deemed to have committed the offence and, notwithstanding section 23 of *The Criminal Code*, to be criminally responsible for the act or

omission concerned therein and may be charged with the offence and punished accordingly.

It is a defence if the employer proves that he took reasonable precautions and exercised due diligence to avoid the commission of the offence by his servant.

(2) A person is not liable to be convicted of an offence against this Act committed by him as a servant if he satisfies the court that the offence was committed while the business of his employer was being conducted under the personal supervision of that employer or of a manager or any other representative of that employer and that the offence was committed with the knowledge of that employer, manager or representative.

(3) Save as provided by subsection (2) this section applies so as not to prejudice liability imposed under this Act on any person by whom an offence against this Act is actually committed.

**38. Regulations.** (1) The Governor in Council may make regulations not inconsistent with this Act for or with respect to all matters and things that are necessary or convenient for the administration of this Act or for carrying this Act into effect.

(2) Without limiting the generality of subsection (1) regulations may be made for or with respect to the following—

- (a) regulating the use, storage and possession of chemicals generally or having regard to—
  - their location;
  - the time of year;
  - meteorological conditions;
  - the equipment or method to be used to apply the chemicals;
  - the quantity of the chemicals to be used, stored or possessed;or
  - the qualifications had by the person using, storing or having possession of the chemicals;
- (b) prescribing maximum residue limits for agricultural produce and manufactured stock food;
- (c) regulating the use, storage and possession of agricultural produce or manufactured stock food that contains the residue of a chemical in an amount that exceeds the maximum residue limit prescribed for that produce or stock food;
- (d) the taking and dealing with of samples, the quantity or weight of samples and the marking or labelling of samples;
- (e) the analysis of samples;

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- (f) the records to be made and kept for the purposes of this Act and the persons by whom they are to be made and kept;
  - (g) prescribing matters and things in respect whereof fees, charges and expenses shall be payable, the amounts of such fees, charges or expenses, the persons liable to pay the same and time at which they become payable and providing for the manner of payment and the manner of recovering an amount not paid;
  - (h) prescribing forms to be used for the purposes of this Act, the purposes for which they are to be used and the persons by whom they are to be completed;
  - (i) providing for offences against the regulations and prescribing the amount of any penalty (not exceeding 40 penalty units) for an offence;
  - (j) prescribing all matters and things that are required or permitted to be prescribed by this Act.

(3) The power to regulate includes the power to prohibit.

(4) Regulations may be made to apply generally throughout the State or within any locality in the State or with respect to any class of person, matter or thing to apply generally or to be of such limited application as is indicated therein.

(5) The regulations—

- (a) may provide that in cases specified therein, whether on conditions so specified or unconditionally, persons, acts, articles, matters or things or a class of persons, acts, articles, matters or things may be exempted from the provisions of the regulations either wholly or to such extent as is so specified;
- (b) may adopt wholly or partly and specifically or by reference and with any alteration, amendment, modification or variation any of the standards, rules, codes, specifications or methods of any association, body or institution whether as in force at the time of adoption or as amended from time to time;
- (c) may provide for the approval of the Minister to be the standard to be applicable in respect of a particular matter or thing.