

The Pesticides Act, 2048 (1991)

Date of Authentication

2048.2.21.3 (Tuesday, 5 June 1991)

Act number 11 of the year (2048)

An Act Made to Provide for Pesticides

Preamble: Whereas, it is expedient to make provisions on the import, export, production, purchase, sale and use of the pesticides used to destroy fatal pests (*kitanu*) in various seeds, plants, trees, animals, birds etc.;

Be it enacted by His Majesty King Birendra Bir Bikram Shah Dev, with the advice and consent of the Council of Ministers, in accordance with Article 129 of the Constitution of the Kingdom of Nepal, 1990 (2047).

1. Short title and commencement: (1) This Act may be called as the "Pesticides Act, 2048 (1991)".

(2) It shall come into force in such area and on such date as Government of Nepal may, by notification in the Nepal Gazette, appoint.¹

2. Definitions: In this Act, Unless the subject or the context otherwise requires;

(a) "Pesticides" means the pesticides to be used to destroy fatal pests in seeds, plants, trees, animals, birds etc.

(b) "Committee" means the Pesticides Committee formed pursuant to Section 3.

(c) "notified pesticides" means such Pesticides as specified by Government of Nepal by a notified order pursuant to Section 10.

(d) "Prescribed" or "as Prescribed" means prescribed or as prescribed in the Rules or Orders framed or issued under this Act.

3. Formation of Pesticides Committee: (1) A Pesticides Committee shall be formed to render necessary advice to Government of Nepal on the

¹ By a notification in the Nepal Gazette dated 2050.10.25 (7 February 1994), this Act has come into force on 2051.4.1 (16 July 1994).

formulation of a national policy on Pesticides and implement the national policy on Pesticides.

(2) The Committee shall consist of the following members:

- (a) Secretary, Ministry of Agriculture -Chairperson
- (b) Chief, Central Pest Science Division -Member
- (c) Chief, Central Crops Disease Science Division -Member
- (d) Chief Malaria Eradication Project -Member
- (e) Representative, Nepal Bureau of Standards -Member
- (f) Representative, Food Crops and Fisheries Development Department, Crops Protection Section -Member
- (g) Three scientists related with agriculture, livestock and forest science, as nominated by Government of Nepal -Member
- (h) One Pesticides entrepreneur and one consumer farmer, as nominated by Government of Nepal -Member
- (i) A person designated by Government of Nepal secretary -Member

(3) The tenure of the members nominated by Government of Nepal pursuant to Clauses (g) and (h) of Sub-section (2) shall be two years; and after the completion of their tenure, they may be eligible to be re-nominated.

(4) Notwithstanding anything contained in Sub-section (3), Government of Nepal may remove any member nominated by it pursuant to Clauses (g) and (h) of Sub-section (2) prior to the completion of his tenure.

(5) Government of Nepal may, if it considers necessary, make necessary alteration in the members of the Committee, by a Notification published in the Nepal Gazette.

(6) The Committee may, if it considers necessary, invite any native or foreign expert or consultant to take part in its meeting as an observer.

4. Meeting and decision of Committee: (1) A meeting of the Committee shall be held at such place, date and time as may be appointed by the chairperson.

(2) The presence of fifty percent members of the total number of members of the Committee shall be considered to constitute a quorum for the meeting.

(3) The chairperson shall preside over the meeting of the Committee; and in his absence, the member selected by the meeting attending members from amongst themselves shall preside over it.

(4) A majority opinion shall prevail at the meeting of the Committee; and in the event of a tie, the chairperson shall exercise the casting vote.

(5) The member secretary shall authenticate the decisions of the Committee.

(6) The other procedures relating to the meeting of the Committee shall be as determined by the Committee on its own.

5. Functions, duties and powers of Committee: The functions, duties and powers of the Committee shall be as follows:

(a) To give advice to Government of Nepal to formulate a national policy on Pesticides.

(b) To maintain coordination between the private and government sector in the production and distribution of Pesticides.

(c) To encourage the private sector to make investment in the Pesticides industry.

(d) To maintain or control, or cause to be maintained or controlled, the standards of Pesticides produced by the Pesticides industries being operated in the private or governmental sector.

(e) To fix the standards of Pesticides.

6. **Powers to form sub-committees:** (1) The Committee may, as per necessity, form various sub-committees to smoothly carry out the import, export, production, sale and distribution of Pesticides.
- (2) The functions, duties and powers of the sub-committees and their meeting procedures shall be as prescribed.
7. **Establishment of Pesticides registration body:** Government of Nepal may, by a Notification in the Nepal Gazette, establish a Pesticides registration body to carry out the Pesticides registration related activities.
8. **Functions, duties and powers of Pesticides registration body:** (1) The functions, duties and powers of the Pesticides registration body shall be as follows:
- (a) To examine the applications received for the registration of Pesticides, register such Pesticides as held appropriate and issue the certificate.
- (b) To establish prerequisites for the efficient, rationale and proper use of Pesticides.
- (2) The other functions, duties and powers of the Pesticides registration body and the procedures to be followed in the registration of Pesticides shall be as prescribed.
9. **License to be obtained by having registration of Pesticides:** Any person, organization or body who imports, exports, produces, uses, purchases or sells the Pesticides shall compulsorily get the Pesticides registered with the body established under Section 7 and obtain the certificate, by paying the prescribed fees, prior to such acts.
10. **Notified Pesticides:** Government of Nepal shall, on recommendation of the Committee, publish the names of the Pesticides registered pursuant to Section 9 in the Nepal Gazette.

11. **Prohibition on use of Pesticides other than Notified Pesticides:** The import, export, production, use, purchase and sale of any Pesticides other than the Pesticides notified by Government of Nepal pursuant to Section 10 are hereby prohibited.
12. **License to be obtained:** A person who makes formulation of, sells, distributes, or makes commercial use of, the Notified Pesticides shall obtain the license from the Committee, by making payment of the prescribed fees.
13. **Appointment of Pesticides Inspector:** Government of Nepal may, as *per* necessity, appoint Field Inspectors for the purposes of this Act. Where the Pesticides Inspector is not so appointed, Government of Nepal may appoint any other employee to carry out the functions of such Inspector.
14. **Functions, duties and powers of Pesticides Inspector:** The functions, duties and powers of the Pesticides Inspector shall be as prescribed.
15. **Punishment:** (1) Any person who violates Section 9 of this Act shall be punished with a fine not exceeding Two Thousand Rupees, and such Pesticides shall also be forfeited.
(2) Any person who violates Section 11 or 12 this Act shall be punished with a fine not exceeding Five Thousand Rupees, and such Pesticides shall also be forfeited.
(3) Any person who commits, or causes the commission of, any act contrary to this Act and the Rules framed hereunder, other than the act as mentioned in Sub-sections (1) and (2) above, shall be punished with a fine not exceeding One Thousand Rupees.
16. **Government to be the Plaintiff:** Government shall be plaintiff in a case under this Act.
17. **Investigation and filing of case:** (1) The Pesticides Inspector shall investigate a case related with the offense under this Act and, upon completing the investigation, shall file the case before Adjudicating Authority.

(2) In investigating and filing the case pursuant to Sub-section (1), the Pesticides Inspector may seek opinion of the Government Attorney.

- 18. Power to frame Rules:** Government of Nepal may frame necessary Rules to implement the objectives of this Act.

Nepal Law Commission