

- (b) that becomes payable under that Act, or for which a person becomes eligible pursuant to that Act, on any later day,

is payable, on and after the second day of January 1969, or, as the case may be, on and after that later day, at a rate calculated by adding the sum of twenty-six dollars a year to the rate at which, but for this section, that pension would have been payable.

Treasurer, &c., to pay to the Fund the amounts necessary to give effect to the increased rates of pension.

6 For the purposes of section twenty-six of the Principal Act—

- (a) the Treasurer; and

- (b) every State instrumentality or authority by which the salary of a person to whom or to whose widow a pension to which section five of this Act relates is payable was paid immediately before his retirement or death (not being a salary that was payable out of the Consolidated Revenue),

shall pay to the Fund all such amounts as are necessary to give effect to the alterations to the rates of pensions effected by that section.

PESTICIDES.

No. 86 of 1968.

AN ACT to make fresh provision with respect to the control of the sale and use of pesticides, to amend the *Stock Medicines, Fertilizers, and Pesticides Act 1950*, and to make provision for incidental matters. [13 January 1969.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PART I.
PRELIMINARY.

1—(1) This Act may be cited as the *Pesticides Act 1968*. Short title and commencement.
(2) This Act shall commence on a date to be fixed by proclamation.

2—(1) In this Act, unless the contrary intention appears— Interpretation.

“analyst” means the Government Analyst or an analyst appointed under section six;

“Committee” means the Pesticides Advisory Committee established under section three;

“foodstuff” means any commodity ordinarily used as food for human beings or livestock or capable of being manufactured or processed into such a commodity;

“inspector” means an inspector appointed under section five;

“livestock” means livestock within the meaning of the *Stock Act 1932*, domestic animals, and animals kept in captivity;

“Minister” means the Minister administering the *Public Health Act 1962*;

“officer of the Public Service” includes a person holding office temporarily in the Public Service;

“package”, when used in relation to a substance or commodity, includes every means by which the substance or commodity may, for transport, carriage, storage, or sale, be cased, covered, enclosed, contained, or packed;

“produce”, in relation to any land, includes any foodstuff obtained from, or from the carcasses of, any livestock or other animals that have been on that land;

“Registrar” means the Registrar of Pesticides appointed under section four.

(2) For the purposes of this Act a substance shall be regarded as a pesticide if it is capable of being used—

(a) for killing or destroying, or for attracting, repelling, stupefying, inhibiting the feeding of, or otherwise directly or indirectly controlling the activity of, or for preventing the infestation or attacks of, any insect or any pest, vermin, or other troublesome or destructive form of animal life;

(b) for killing, destroying, or deleteriously affecting the growth or development of any form of plant life or of the seeds, fruit, foliage, or other part of any form of plant life; or

(c) for killing, destroying, or preventing the attacks of fungi and other parasitic plants, bacteria, and viruses that affect or which may affect any form of plant life.

(3) Any power under this Act to make regulations with respect to a pesticide shall be construed as a power to make regulations with respect to any substance that the Governor is satisfied is a pesticide, and, where under this Act the Governor has power to make regulations on being satisfied as to any matter, the fact that regulations are made in relation to that matter is conclusive evidence that the Governor is so satisfied.

(4) For the purposes of this Act a person shall be deemed to sell a substance or commodity if—

(a) he sells, barter, or exchanges that substance or commodity, or agrees to sell, barter, or exchange it; or

(b) he offers or exposes it, or keeps it or has it in his possession, for sale, barter, or exchange,

and references in this Act to the selling or sale of a substance or commodity shall be construed accordingly.

(5) For the purposes of this Act a substance shall be deemed to be sold as a pesticide if it is sold in such circumstances as to indicate that it is intended for use, or capable of being used, as a pesticide, fungicide, vermin destroyer, or weed killer or for any of the purposes referred to in subsection (2) of this section.

(6) References in this Act to the use of a substance as a pesticide shall be construed as references to its use for any of the purposes referred to in subsection (2) of this section.

(7) References in this Act to the handling of a substance by any person shall be construed as including references to the engaging by that person in any process of making, packing, unpacking, mixing, crushing, preparing, or spraying that substance, or any process that involves the exposure of that person, his clothing, or any equipment or appliances he is using to that substance.

PART II.

ADMINISTRATION.

3—(1) There shall be established a committee to be known as the Pesticides Advisory Committee for the purposes of—

(a) advising the Minister on any matter relating to the administration of this Act; and

(b) reporting to him on any matter that he desires to refer to the Committee,

and for the purpose of exercising the other functions conferred on the Committee by this Act.

(2) The Committee shall consist of six persons appointed by the Governor, of whom—

(a) two shall be officers of the Public Service nominated by the Minister;

(b) two shall be officers of the Public Service nominated by the Minister for Agriculture;

- (c) one shall be the Dean of the Faculty of Agricultural Science of the University of Tasmania or some member of that faculty nominated by the Council of the University after consultation with the Minister; and
- (d) one shall be a person nominated by the Minister, after consultation with the Tasmanian Farmers' Council, as a person with extensive practical experience in modern farming.

(3) One of the members of the Committee appointed under paragraph (a) of subsection (2) of this section shall be a legally-qualified medical practitioner

(4) The chairman of the Committee shall be such member thereof as the Committee may appoint.

(5) The members of the Committee hold office on the terms of the instrument under which they are appointed.

(6) Four members of the Committee, of whom one at least shall be a member appointed under paragraph (a) of subsection (2) of this section and one at least shall be a member appointed under paragraph (b) of that subsection, shall constitute a quorum at any meeting of the Committee.

(7) The chairman of the Committee, or, if he is absent or there is no chairman, such one of the members present as they may choose, shall preside at a meeting of the Committee.

(8) The person presiding at a meeting of the Committee has a deliberative vote only, and, in the event of an equality of votes on any matter before the meeting, that matter shall stand adjourned to the next meeting of the Committee.

(9) Subject to this Act, the Committee may regulate its own proceedings.

(10) The Minister shall pay to the person who is a member of the Committee pursuant to paragraph (c) or paragraph (d) of subsection (2) of this section such remuneration and allowances as the Governor determines.

4—(1) The Governor may appoint officers of the Public Service to be the Registrar of Pesticides and the Deputy Registrar of Pesticides. Registrar
of Pesticides.

(2) The Deputy Registrar of Pesticides may, subject to any directions given by the Registrar, exercise any of the functions conferred on the Registrar by this Act, and any act or other thing done by the Deputy Registrar of Pesticides in the exercise of those functions has the same force and effect as if it had been done by the Registrar.

5—(1) The Governor may appoint such persons as he considers suitable to be inspectors for the purposes of this Act. Inspectors.

(2) An officer of the Public Service may hold office as inspector in conjunction with his office as an officer of the Public Service.

Analysts.

6—(1) Subject to this section, the Minister may appoint persons possessing competent knowledge to be analysts for the purposes of this Act.

(2) A person is disqualified from being an analyst if he is directly or indirectly engaged or interested in the manufacture or sale of any pesticide.

(3) Where in respect of an analysis a method is prescribed under this Act in which that analysis is to be carried out and an analyst carries out that analysis otherwise than in accordance with that method, the Minister may, if he is satisfied that the default was committed wilfully, disqualify him from being an analyst for such period as the Minister thinks fit.

(4) No person who is disqualified from being an analyst shall be appointed an analyst under this section, and a person ceases to hold office as an analyst on becoming so disqualified.

(5) A person who, being disqualified from being an analyst, acts as an analyst under this Act is guilty of an offence and liable to a penalty of two hundred dollars.

(6) The Minister shall cause to be published in the *Gazette* notice of an appointment made under this section stating the address of the place of abode, and of the laboratory, of the person so appointed.

(7) On or before the thirtieth day of September in each year an analyst shall submit to the Director-General of Health Services a report stating the number of analyses carried out by him under this Act during the period of twelve months ending on the thirtieth day of June in that year and a summary of results of those analyses.

Annual reports of Advisory Committee.

7—(1) As soon as practicable after the thirtieth day of June in each year the Committee shall submit to the Minister a report on its proceedings and on the administration of this Act during the period of twelve months ending on that day.

(2) As soon as practicable after receiving a copy of a report under this section the Minister shall lay a copy thereof before each House of Parliament.

PART III.

SALE AND ADVERTISING OF PESTICIDES.

Division I—Registration of pesticides.

Registration of pesticides.

8—(1) On an application under this Part in respect of any substance the Committee shall direct that the substance be registered as a pesticide, or if it is registered as a pesticide, that its registration as such be renewed unless it considers—

(a) that it is not sufficiently effective for use as a pesticide in the circumstances or manner envisaged in the documents lodged with the application pursuant to subsection (3) of section ten or furnished to the Committee pursuant to a requirement made under that section;

- (b) that any matter specified in those documents is untrue or misleading or makes claims for the effectiveness of the substance that are not warranted;
- (c) that, on the grounds of the risk of injury to the health of persons handling the substance or of the community generally, it should not be used as a pesticide;
- (d) that before it is allowed to be used as a pesticide, it is desirable for regulations to be made under section twenty-two with respect to the residues likely to result from the use of that substance as a pesticide; or
- (e) that no satisfactory method of analysis is available to detect the presence, or amount, of the residues that may reasonably be expected to be found in foodstuffs as a result of the use of the substance as a pesticide.

(2) On a direction being made by the Committee that a substance be registered as a pesticide, or that its registration as such be renewed, the Registrar shall comply with that direction in accordance with this Act.

(3) Where a substance is directed to be registered as a pesticide it shall be registered in the manner prescribed, and the registration of a substance shall specify the composition or constitution of the substance so registered.

(4) References in this Act to a substance registered as a pesticide shall be construed as references to a substance having the composition or constitution of a substance so registered, and a substance shall be deemed not to be a substance so registered unless it has such a composition or constitution.

9—(1) Unless an appointed day is fixed for the purposes of this section the registration of a substance under this Part ceases to have effect unless it is renewed or further renewed, at the expiration of a period of three years from the date on which the substance was registered or its registration last renewed.

Expiration of registrations.

(2) The Governor may, by order, fix a day (being a day not earlier than twelve months from the making of the order) to be the appointed day for the purposes of this section, and in this section a "registration period" means—

- (a) the period commencing on the making of the order and ending immediately before the appointed day; or
- (b) the period of three years commencing on that day or any period of three years following consecutively after that period.

(3) Where an appointed day is fixed for the purposes of this section, the registration of a substance under this Part ceases to have effect, unless it is renewed or further renewed, on the expiration of the registration period that next comes to an end after the expiration of a period of twelve months commencing on the date on which the substance was registered or its registration was last renewed.

Application
for regis-
tration, &c.,
of pesticides.

10—(1) Application may be made in accordance with this section for the registration of a substance as a pesticide or for the renewal of its registration as a pesticide.

(2) An application under this section shall be in the prescribed form and shall specify—

- (a) the name and the address of the place of business of the person making the application;
- (b) the distinctive name or brand of the substance; and
- (c) such other particulars as may be prescribed.

(3) Subject to this section, an application under this section shall be lodged with the Registrar, together with—

- (a) a specimen copy of the label intended to be used on the packages in which the substance is sold;
- (b) specimen copies of any directions for use that it is intended to issue with respect to the substance;
- (c) a statutory declaration in the prescribed form and setting forth the prescribed particulars;
- (d) such other statements containing such other particulars (if any) as may be prescribed; and
- (e) such fees as may be prescribed.

(4) On an application being lodged with the Registrar under this section, he shall forthwith refer the application to the chairman of the Committee for consideration by the Committee.

(5) For the purpose of considering an application under this section in respect of a substance the Committee may require the person making the application to furnish to the Committee—

- (a) fair average samples of the substance of such amounts and in such packages as the Committee may specify;
- (b) copies of any advertising matter that it is intended to issue in connection with the sale of the substance;
- (c) information with respect to the manufacture, composition, use, and effects of the substance; and
- (d) statutory declarations with regard to any of the matters referred to in the foregoing provisions of this subsection.

(6) In considering an application under this section in respect of a substance the Committee may—

- (a) cause such analyses to be made of the substance as it considers necessary; and
- (b) cause such test and trials to be made with regard to the use and effects of the substance as it considers necessary,

and may have regard to any information that is available to it from any source with respect to the manufacture, composition, use, or effects of the substance.

(7) Where an application has been made under this section the Registrar shall notify the applicant of the decision made by the Committee on the application, and, unless the applicant is so notified within sixty days of the lodging of the application or within such longer period as may be agreed between the Committee and the applicant, the Committee shall be deemed to have refused to direct that the substance be registered as a pesticide, or that its registration as such be renewed, as the case may be.

(8) Where the decision of the Committee is to refuse to direct the registration as a pesticide, or the renewal of the registration as a pesticide, of a substance a notification given under subsection (7) of this section shall state the grounds on which the refusal was made, being one or more of the grounds specified in subsection (1) of section eight.

11—(1) Where a substance has been registered as a pesticide, and since it was so registered, information has come to the knowledge of the Committee that shows that, if an application were then made for its registration as a pesticide, it would refuse to direct that it be so registered, it shall direct the cancellation of its registration as a pesticide.

Cancellation
of registra-
tion of
pesticides.

(2) Where the Committee directs that the registration of a substance as a pesticide be cancelled the Registrar shall comply with that direction in accordance with this Act.

(3) Where the Registrar cancels the registration of any substance as a pesticide he shall—

- (a) notify the person on whose application the registration of that substance as a pesticide was last renewed, or if that registration has not been renewed, on whose application it was registered as a pesticide;
- (b) publish a notice in the *Gazette* stating that the registration of that substance has been cancelled; and
- (c) cause such other publicity to be given to the cancellation of the registration as he considers necessary or desirable to bring it to the attention of persons dealing in the substance.

(4) A notification given under paragraph (a) of subsection (3) of this section in respect of the cancellation of the registration of a substance as a pesticide shall state the grounds on which the Committee directs the cancellation of the registration.

Appeals
against
refusal to
register, &c.

12—(1) Where the Committee, on an application under this Division, refuses to direct the registration, or the renewal of the registration of a substance as a pesticide, the person making the application may appeal to a police magistrate.

(2) Where the registration of a substance as a pesticide is cancelled under this Division, any person—

(a) on whose application the substance was registered as a pesticide or the registration of the substance as a pesticide was renewed; or

(b) who manufactures the substance for sale, or who deals in the substance,

may appeal to a police magistrate.

(3) An appeal under this section shall be made in the prescribed manner and within the prescribed time.

(4) On the hearing of an appeal under this section the police magistrate (unless he dismisses the appeal) may—

(a) if the appeal is made under subsection (1) of this section, direct that the substance be registered as a pesticide, or that its registration as such be renewed; or

(b) if the appeal is made under subsection (2) of this section, direct that the registration of the substance as a pesticide be restored,

and the Registrar shall comply with any such direction.

(5) Upon the hearing of an appeal under this section, a police magistrate may, if he thinks it just so to do, award costs to or against the appellant, and may assess the amount of those costs.

(6) The Minister shall pay to the appellant any costs awarded to the appellant under subsection (5) of this section, and any costs awarded against the appellant under that subsection may be recovered from him as a debt due to the Crown.

Division II—General regulations as to advertising, sale, and composition of pesticides.

Prohibition
on sale, &c.,
of unregis-
tered pes-
ticides.

13 No person shall—

(a) sell any substance as a pesticide;

(b) use any means or device that is calculated to induce any person purchasing a substance to believe that the substance is capable of use as a pesticide; or

(c) pass off, or hold out, any substance as being capable of use as a pesticide, unless that substance is registered as a pesticide under this Act.

Penalty: Two hundred dollars.

14—(1) No person shall sell any substance as a pesticide the package containing which bears or has attached to it— False labelling, &c., of pesticides.

- (a) any false or misleading word, brand, mark, or label purporting to indicate the nature, quality, strength, purity, or composition of the contents of the package; or
- (b) any statement, name, or label claiming directly or by implication for the substance an efficiency that does not, or is not likely to, result from its use, under normal conditions, with the directions for use supplied therewith.

Penalty: Two hundred dollars.

(2) Nothing in this section shall be taken as limiting the power conferred by this Act to make by regulations any such provision as is otherwise authorized by this Act, including further provision with respect to the matters that are the subject of this section.

15—(1) Regulations under this Act may in relation to any pesticide— General regulations as to packaging and labelling of pesticides.

- (a) prescribe the nature of the package in which that pesticide or any commodity containing that pesticide may or may not be sold; and
- (b) prescribe the form and contents of the label of the package in which the pesticide or any such commodity is to be sold.

(2) Regulations made for the purposes of paragraph (b) of subsection (1) of this section may, without prejudice to the generality thereof—

- (a) prescribe the colour and size of the letters, characters, and other markings on the label;
- (b) prescribe that the label is to contain—
 - (i) particulars with regard to the trade name or description of the pesticide or commodity, and the name and address of the manufacturer or seller of the pesticide or commodity;
 - (ii) particulars with regard to the composition of the pesticide or commodity or with regard to any constituent thereof; and
 - (iii) statements, directions, or warnings with regard to the handling or use of the pesticide; and

- (c) prohibit the label containing any specified statement, expression, or other indication of any matter.

(3) No person shall sell any substance or commodity to which regulations made for the purposes of paragraph (a) of subsection (1) of this section relate contrary to the provisions of those regulations.

Penalty: Two hundred dollars.

(4) Where regulations made for the purposes of paragraph (b) of subsection (1) of this section prescribe the form or contents of the label of the package in which any substance or commodity is to be sold, no person shall sell that substance or commodity except in a package that bears a label conforming with those regulations.

Penalty: Two hundred dollars.

Composition
of
pesticides.

16—(1) Regulations under this Act may prescribe standards for the composition of any pesticide, or any class or description of pesticide and, without prejudice to the generality of the foregoing provisions of this subsection, any regulations made for the purposes thereof may—

- (a) prescribe the standards of strength, quality, or quantity to which the pesticide, or any constituent thereof, is to conform; and
(b) prohibit the use of any specified constituent in the pesticide, either absolutely or in excess of a specified quantity or proportion.

(2) No person shall sell as a pesticide any substance to which regulations made for the purposes of this section relate unless the composition of that substance conforms with the standards prescribed by those regulations in relation to that pesticide.

Penalty: Two hundred dollars.

Sale of
commodities
mixed with
pesticides.

17—(1) Regulations under this Act may in relation to any pesticide prohibit the sale of a specified commodity that contains that pesticide or contains the pesticide in any specified quantity, proportion, or form.

(2) No person shall sell any commodity contrary to the provisions of the regulations made for the purposes of this section, except to a person who has written authority under this section to purchase that commodity and delivers that written authority to the person by whom the commodity is sold.

Penalty: Two hundred dollars.

(3) For the purposes of this section, the Registrar may, in any case in which he considers it proper so to do, grant authority in writing to any person to purchase such amount as may be specified in the authority of a commodity so specified that contains a pesticide in such amount, proportion, or form as may be so specified.

(4) Where a commodity is sold to any person in pursuance of an authority granted under this section the person by whom the commodity is sold shall endorse the authority with the word "Cancelled" and forthwith send it to the Registrar.

(5) An authority granted under this section ceases to have effect on such date as may be specified therein and unless before that date it is delivered to a person for the purposes of subsection (2) of this section the person to whom it is granted shall return it to the Registrar within seven days after that date.

(6) Any person who fails to comply with the provisions of subsection (4) or subsection (5) of this section is guilty of an offence and liable to a penalty of two hundred dollars.

18—(1) Every person who carries on business as a whole-sale seller of pesticides, whether in conjunction with any other business or not, shall—

Notices by dealers in pesticides.

(a) within thirty days of commencing such a business; and

(b) during the month of January in each year,

give notice in writing to the Registrar that he carries on such a business.

(2) The notice referred to in subsection (1) of this section shall be in the prescribed form and shall state the name, and the address of the place of business of, the person by whom it is given and such other particulars as may be prescribed.

(3) Any person who contravenes any provision of this section is guilty of an offence and liable to a penalty of two hundred dollars.

PART IV.

REGULATION OF USE OF PESTICIDES.

19—(1) Regulations under this Act may, in relation to any pesticide, prohibit, except in such cases or circumstances as may be specified in the regulations—

Licensing of the use, &c., of certain pesticides.

(a) the manufacture of that pesticide;

(b) the sale of that pesticide;

(c) the employment of any person (in this section referred to as an employee) in work that involves the handling of that pesticide by the employee or in work of a specified nature or description that involves the handling of the pesticide by the employee; or

(d) the use of the pesticide for any specified purpose or in any specified operation,

unless that manufacture, sale, employment, or use is authorized by a licence in force under this section and is carried out in accordance with the conditions (if any) attached to the licence.

(2) Regulations made for the purposes of this section may make provision for—

- (a) the grant, renewal, expiration, cancellation, and suspension of the licences referred to in subsection (1) of this section;
- (b) the attaching of conditions to any such licence, and the revocation and variation of those conditions;
- (c) the manner in which application is to be made for the grant, renewal, or revival of a licence or for the revocation or variation of any of the conditions attached thereto; and
- (d) the keeping of records or registers with respect to any such licences.

Regulations with respect to use, &c., of certain pesticides.

20—(1) Regulations under this Act may, in relation to any pesticide, make provision—

- (a) for regulating the manufacture, storage, conveyance, handling, and use of the pesticide; and
- (b) for the protection of persons from injury or illness, or the risk of injury or illness, arising from the handling or use of the pesticide.

(2) Without prejudice to the generality of the provisions of subsection (1) of this section the regulations referred to therein may, in relation to any pesticide, make provision—

- (a) imposing requirements with respect to the buildings and other premises in which the pesticide is manufactured, stored, handled, or used, the vehicles in which it is conveyed, and the conditions in which it is manufactured, stored, conveyed, handled, or used;
- (b) prohibiting the use of the pesticide for specified purposes or in specified cases or circumstances, and imposing restrictions or conditions as to the purposes for which, the circumstances in which, or the methods or means by which, the pesticide may be used;
- (c) providing for the grant of certificates of competency in relation to handling or use of the pesticide and prohibiting that handling or use or any work or operation in connection therewith except by or under the supervision of a person holding such a certificate;
- (d) requiring the provision and keeping in good order, and requiring and regulating the use of protective clothing and equipment, of facilities for washing and cleaning, and of other things needed for protecting persons, clothing, equipment, and appliances from contamination with the pesticide or the residues thereof, or for removing sources of contamination therefrom;

- (e) requiring the provision and keeping available in good order of facilities for preventive and first aid treatment, and requiring and regulating their use;
- (f) requiring the taking of measures for ascertaining the state of the health or physical condition of persons engaging, or proposing to engage, in the handling or use of the pesticide, and for detecting and investigating cases in which illness or injury has occurred to any such persons, including the undergoing of medical examinations and the taking of blood and other tests, and the giving of notifications of illness, injuries, and absences from work;
- (g) limiting or restricting the periods during which a person may be engaged in any operation or work for or in connection with the handling or use of the pesticide and imposing prohibitions or restrictions on a person engaging in any such operation or work by reason of his age, state of health, bodily condition, or other circumstances;
- (h) requiring, regulating, or prohibiting the carrying out of specified operations on land on which the pesticide has been used; and
- (i) requiring the keeping of records, the giving of notifications, and the furnishing of returns.

(3) The regulations made for the purposes of this section may impose obligations on persons employing persons in any work or operation in the manufacture, conveyance, or use of a pesticide, on persons so employed, and on other persons, and may impose duties and confer powers on inspectors, analysts, and specified officers of the Public Service and of municipalities.

21—(1) No person shall use, or cause or allow to be used, as a pesticide any substance that is not registered as a pesticide except in accordance with an authority in writing granted to him by the Registrar. Control
of new
pesticides.

Penalty: Five hundred dollars.

(2) An authority granted by the Registrar for the purposes of this section may contain conditions—

- (a) specifying the place and time at which the substance may be used;
- (b) specifying the purposes for which, and manner in which, it may be used;
- (c) specifying the precautions to be taken in its use;
- (d) requiring notifications to be given with regard to the use of the substance; and
- (e) regulating or restricting the use of the land on which the substance is used and the disposal of any foodstuff produced from that land.

(3) Where an authority granted for the purposes of this section contains any such conditions as are referred to in subsection (2) of this section, the person to whom the authority is granted is guilty of an offence and liable to a penalty of five hundred dollars if he fails to ensure that those conditions are complied with.

(4) Nothing in this section prohibits the use of a substance that is a registered pesticide diluted by, or mixed with, any substance that is not of itself reasonably capable of use as a pesticide.

PART V.

PESTICIDE RESIDUES IN FOODSTUFFS.

Fixing of tolerances for pesticide residues.

22—(1) In this Part a pesticide residue means any substance that is prescribed as a pesticide residue for the purposes of this Part, being a substance that the Governor is satisfied is a pesticide or is a substance that is likely to be found in foodstuffs as a consequence of the use of a substance as a pesticide.

(2) Regulations under this Act may, for any foodstuff—

(a) prescribe the maximum proportion or amount of any specified pesticide residue that may be contained in the foodstuff, or in any specified part or constituent of the foodstuff; or

(b) prescribe that the foodstuff shall not contain any specified pesticide residue,

and any of that foodstuff that does not, in relation to any pesticide residue, conform with the regulations made pursuant to this section is referred to in this Part as a foodstuff that contains that pesticide residue in excess of the permitted tolerance.

Penalty on sale, &c., of foodstuffs containing pesticide residues.

23—(1) Subject to this Part, no person shall—

(a) sell; or

(b) supply to any person for consumption by human beings or livestock,

a foodstuff that contains a pesticide residue in excess of the permitted tolerance.

Penalty: Five hundred dollars.

(2) It is a defence in any proceedings for an offence under this section in respect of any foodstuff that contains a pesticide residue in excess of the permitted tolerance for the defendant to show—

(a) that he purchased that foodstuff from some other person;

(b) that at the time of the alleged offence he had no reason to believe that the foodstuff contained the pesticide residue in excess of the permitted tolerance; and

- (c) that the foodstuff was, at the time of the commission of the alleged offence, in the same state as when he purchased it.

(3) Except as otherwise provided in this Part, it is a defence in any proceedings for an offence under this section in respect of a foodstuff containing a pesticide residue in excess of the permitted tolerance for the defendant to show—

- (a) that, at the time of the alleged offence, he had no reason to believe that the foodstuff contained the residue in excess of the permitted tolerance;
- (b) that the foodstuff would not have contained the pesticide residue in excess of the permitted tolerance but for the circumstance that a material that was used in the preparation, processing, or manufacture of the food contained that residue;
- (c) that that material was purchased by him for the purpose of being used in the preparation, processing, or manufacture of that foodstuff from a person who was aware of the purpose for which it was purchased; and
- (d) that, at the time of the alleged offence, he had no reason to believe that the circumstance referred to in paragraph (b) of this subsection had existed.

24—(1) Where the Registrar receives from an analyst a report of an analysis made by him on a sample of the foodstuff produced on any land that shows that that sample contains a pesticide residue in excess of the permitted tolerance he may by a notice served in the prescribed manner on the owner or occupier of the land specifying that residue—

Dealing with produce of land that contains pesticide residues.

- (a) prohibit or restrict the removal of all foodstuffs of that kind produced from the land or of such of them as may be specified in the notice; and
- (b) specify the manner in which any of those foodstuffs may be disposed of or dealt with.

(2) Any person who contrary to a notice served under this section removes, or causes or allows to be removed, a foodstuff from any land is guilty of an offence.

Penalty: Five hundred dollars.

(3) It is a defence in any proceedings for an offence under section twenty-three in respect of the sale or supply of any foodstuff to which a notice served under subsection (1) of this section relates that contains the pesticide residue specified in the notice in excess of the permitted tolerance to show that that foodstuff has not been disposed of or dealt with otherwise than in the manner specified in the notice.

(4) Where a notice under this section prohibits or restricts the removal of a foodstuff, it shall specify the land from which it is not to be removed, and references in this section to the removal of that foodstuff shall be construed as references to its removal from such of the land so specified as, at the time the notice was served, was in the ownership or occupation of the person on whom it was so served.

(5) The Registrar may, by notice in writing served on the owner or occupier of the land to which a notice served under subsection (1) of this section relates, at any time revoke or vary the notice.

Pesticide residues in manufactured foodstuffs, &c.

25—(1) Where the Registrar receives from an analyst a report of an analysis made by him on the sample of a foodstuff of any kind prepared, processed, or manufactured on any premises for the purposes of sale that shows that that sample contains a pesticide residue in excess of the permitted tolerance he may by notice served in the prescribed manner on the occupier specifying that pesticide residue—

- (a) give such directions in relation to the carrying on on those premises of the preparation, processing, or manufacturing of foodstuffs of that kind as appear to the Registrar to be necessary or desirable to prevent, or lessen the risk of, the production at, or removal from, those premises of quantities of foodstuffs that contain that pesticide residue in excess of the permitted tolerance; and
- (b) specify the manner in which any foodstuff produced on those premises may be dealt with or disposed of.

(2) So long as a notice is in force under this section in respect of foodstuffs of any kind prepared, processed, or manufactured on any premises subsection (3) of section twenty-three does not apply to those foodstuffs, but it is a defence in any proceedings under that section for an offence in respect of the sale or supply of any of those foodstuffs that contains the pesticide residue specified in the notice in excess of the permitted tolerance to show—

- (a) that the requirements of the notice have been complied with in respect of that foodstuff; and
- (b) that it has not been dealt with or disposed of otherwise than in the manner specified in the notice.

(3) The Registrar may, by notice in writing served on the owner or occupier of the premises to which a notice served under subsection (1) of this section relates, at any time revoke or vary the notice.

Saving for other defences.

26 The provisions of this Part making the showing of any matter a defence in proceedings for an offence shall not be construed as preventing or restricting the availability of any defence otherwise available in those proceedings.

27—(1) A person aggrieved by a notice served by the Registrar under section twenty-four or section twenty-five may, within the prescribed time, appeal to a police magistrate with respect to the provisions of the notice. Appeals
against
notice.

(2) On the hearing of an appeal under this section, the police magistrate, unless he dismisses the appeal, may, as he considers proper in the circumstances, quash the notice or vary its provisions.

(3) Where a police magistrate varies a notice under subsection (2) of this section, the notice thereafter has effect as so varied.

(4) Regulations under this Act may prescribe the procedure for the hearing and determination of an appeal under this section.

(5) Upon the hearing of an appeal under this section, a police magistrate may, if he thinks it just so to do, award costs to or against the appellant, and may assess the amount of those costs.

(6) The Minister shall pay to the appellant any costs awarded to the appellant under subsection (5) of this section, and any costs awarded against the appellant under that subsection may be recovered from him as a debt due to the Crown.

PART VI.

MISCELLANEOUS AND SUPPLEMENTAL.

28—(1) For the purposes of this Act, a person on whose behalf a sale is made shall be deemed to have made that sale, and any person who makes a sale on behalf of another is liable to the same penalties as the person on whose behalf he makes the sale. Liability
for unlawful
sales.

(2) Where a substance or commodity is sold in an unopened package and in respect of the sale thereof there is a contravention of or failure to comply with any provision of this Act the following persons, namely:—

- (a) Any person who appears from the label on the package to have manufactured or prepared the substance or commodity, or to have imported it into the State, or to have enclosed it or caused it to be enclosed in that package, or to have been the wholesale supplier thereof; and
- (b) Any person who has previously sold the substance or commodity in that package,

are, in addition to the person who actually sold the substance or commodity, liable in respect of that contravention or failure as if they had sold the substance or commodity at the time and in the circumstances at and in which it was in fact sold.

(3) The conviction pursuant to this section of any person for an offence against this Act in respect of the sale of any substance or commodity does not affect the liability of any other person in respect of that sale.

Defence that some other person is responsible.

29—(1) A person who is charged with an offence under this Act is entitled, on a complaint made by him, to have brought before the court any other person to whose act or default the contravention that gave rise to the offence he alleges to be due.

(2) The two complaints shall be heard together and if, after the commission of the offence has been proved, the person against whom the original complaint was made satisfies the court that—

- (a) he used due diligence to comply with the provisions of this Act; and
- (b) without his knowledge, consent, or connivance the other person committed the offence,

that other person may be convicted of the offence, and thereupon the person against whom the original complaint was made shall be acquitted of the offence.

(3) Where a complaint may be made against any person for an offence under this Act, and the person by whom the complaint may be made (in this section referred to as “the complainant”) is reasonably satisfied that the offence was due to the act or default of some other person and that that person could be convicted of the offence under subsection (2) of this section, the complainant may cause proceedings for the offence to be taken against that other person without causing proceedings to be taken against the person first-mentioned in this subsection; and, in any such proceedings the defendant may be charged with and, on proof that the contravention was due to his act or default, be convicted of, the offence with which the person first-mentioned in this subsection might have been charged.

Taking and dealing with samples.

30—(1) An inspector may, for the purposes of examination or analysis, take samples of any substance that he has grounds for believing is, or may be, a pesticide or is intended for sale as a pesticide, or of any commodity that he has grounds for believing contains, or may contain, a pesticide or any substance prescribed for the purposes of section twenty-two.

(2) Where an inspector procures a sample of a substance or commodity under this section, he shall forthwith—

- (a) inform the person from whom it was procured of the purpose for which it was procured;
- (b) divide the substance or commodity into three portions of equal, or approximately equal, quantities, securely close or fasten up each portion in a separate package, and seal each package; and

(c) clearly and legibly mark each package with some distinctive mark of identification.

(3) Where a sample has been dealt with by an inspector in the manner specified in subsection (2) of this section he shall—

- (a) forthwith deliver one of the portions, or, if delivery is not taken, tender it, to the person from whom the sample was procured;
- (b) retain one of the portions; and
- (c) deliver or transmit the other portion to an analyst as soon as practicable.

(4) In any case where, by reason of the size, weight, or nature of a substance or commodity, or of any package in which it is contained, it is in the opinion of the inspector, impracticable to divide the contents of one of those packages into three portions, the taking of three of those packages unopened shall be deemed to constitute the taking of a sample of their contents, and each of those packages and its contents shall be deemed to be a portion of the sample complying with the provisions of subsection (2) of this section.

31—(1) Any person who has in his possession any pesticide or any commodity that he believes contains, or may contain, a pesticide or a substance prescribed for the purposes of section twenty-two, or any substance or commodity that has been sold to him as, or as containing, a pesticide is entitled, on the payment of a prescribed fee, to have that substance or commodity analysed by an analyst, and to receive a certificate of that analysis.

*Analysis of
pesticides,
&c.*

(2) Where, under this Act, any substance or commodity is submitted to an analyst by an inspector or by a person who, under subsection (1) of this section, is entitled to have that substance or commodity analysed, the analyst shall, as soon as practicable after receiving the substance or commodity, carry out an analysis thereof and prepare a certificate in the prescribed form of the result of the analysis.

(3) Where a method of analysis is prescribed in respect of any substance or commodity an analysis of that substance or commodity carried out for the purposes of this section shall be carried out by that method and the certificate of that analysis shall state whether or not the analysis has been so carried out.

(4) Where under this Act any substance or commodity has been procured by an inspector and placed by him in a sealed package no person shall, except in so far as is necessary for the purpose of complying with this Act or of carrying out an analysis authorized by this Act, tamper with or destroy the substance or commodity so placed in that package.

Penalty: Two hundred dollars.

(5) Nothing in subsection (4) of this section—

- (a) prohibits the doing of any act in relation to any substance or commodity that has been delivered or tendered by an inspector to the person from whom it was procured that would have been lawful if this section had not been enacted;
- (b) prohibits the destruction or disposal by or at the direction of an inspector, of any substance or commodity that is retained by the inspector and not submitted for analysis; or
- (c) prohibits the destruction or disposal, after the carrying out of an analysis, of any substance or commodity submitted for that analysis.

(6) No person shall submit for analysis any substance or commodity that has been procured as referred to in subsection (4) of this section if, since being so procured, it has been tampered with otherwise than so far as is necessary to comply with the requirements of section thirty.

Penalty: Two hundred dollars.

Evidence
of analysis,
&c.

32—(1) Subject to this section, in any proceedings for an offence under this Act the production of a document purporting to be the certificate of an analysis carried out by an analyst is sufficient evidence—

- (a) of the identity of the thing analysed;
- (b) of the result of the analysis; and
- (c) of the matters relevant to those proceedings that are stated in the certificate,

without proof of the signature of the person appearing to have signed the certificate or that he is an analyst.

(2) Subsection (1) of this section does not apply in respect of any document unless the court is satisfied—

- (a) if the document is tendered by or on behalf of the complainant, that a copy thereof was served on the defendant not later than the time at which a summons was served on him for the offence; or
- (b) if the document is tendered by, or on behalf of, the defendant, that a copy thereof was delivered to the complainant at least seven days before the hearing.

(3) Notwithstanding anything in subsection (1) of this section a certificate referred to therein shall not be regarded as sufficient evidence of any matter other than of the method and results of the analysis and of any other matter that appears from the certificate to be within the knowledge of the person by whom it was signed, unless the court is satisfied that the certificate relates to a sample procured by an inspector and that in relation to the taking of that sample the provisions of section thirty were complied with.

(4) Subsection (1) of this section does not apply in any case in which the party against whom the certificate is tendered has given notice in writing to the other party at least four days before the hearing that he requires the analyst to be called as a witness.

(5) Where at least three days before the hearing of proceedings for an offence against any of the provisions of this Act in respect of any substance or commodity procured by an inspector, of which one portion has been retained pursuant to paragraph (b) of subsection (3) of section thirty the defendant requires that portion to be produced at the hearing no evidence shall be given in those proceedings as to the result of any analysis of that substance or commodity unless that portion is so produced.

33 In proceedings in respect of an offence against this Act, when it is necessary or proper to prove that any substance is a substance of a particular kind, or that any commodity contains any particular substance or any particular substance in a specified quantity, proportion, or form—

Evidence
from
labelling, &c.

- (a) evidence that any substance or commodity commonly sold under the same name or description as the substance or commodity to which the proceedings relate conforms to any description is evidence that the substance or commodity to which the proceedings relate conforms to the same description; and
- (b) evidence that the package in which that substance or commodity is contained bears any label that conforms with the requirements of this Act with regard to the labelling of packages containing any specified substance or commodity, or class of substance or commodity, is evidence that the substance or commodity to which the proceedings relate is that specified substance or commodity, or falls within that specified class of substance or commodity.

34—(1) An inspector may, at any reasonable time, enter and inspect—

Powers of
entry, in-
spection, &c.

- (a) any land, premises, or conveyance that he has reasonable cause to believe is or are kept or used for the sale, storage, delivery, conveyance, manufacture, or preparation for sale of any pesticide or a commodity containing any pesticide;
- (b) any land, premises, or conveyance at, in, or on which he has reasonable grounds for believing there is a pesticide or any commodity containing a pesticide; and
- (c) any land or premises on or in which he has reasonable grounds for believing that a substance has been, is being, or is about to be, used as a pesticide.

(2) Without prejudice to the exercise of any other power he may have under this Act, an inspector may, in relation to any such land or premises as are referred to in paragraph (b) or paragraph (c) of subsection (1) of this section—

- (a) inspect and examine any equipment, appliances, or livestock he finds thereon; and
- (b) inspect, examine, and take samples of soil thereof, of any produce or vegetation he finds thereon or growing or standing thereon, and of any water on, adjacent to, or flowing across, the land or premises.

(3) An inspector may require the production of, and may inspect, examine, and copy, any register, book, record, or document that relates to dealings in a pesticide or is required to be kept under this Act, and any person who, without reasonable excuse, fails or refuses to comply with a requirement made of him under this subsection is guilty of an offence.

Penalty: Two hundred dollars.

Regulations.

35—(1) The Governor may make regulations for the purposes of this Act.

(2) Regulations made under this Act may make provision for—

- (a) the payment of fees in respect of the grant, renewal, or revival of any licence under this Act, the grant of any certificate or authority thereunder, and the making of an application for any such grant, renewal, or revival;
- (b) prescribing the manner in which notices and other documents, notifications, requirements, and directions authorized or required to be served, given, or made under this Act may be, or are to be, so served, given, or made; and
- (c) the imposition of penalties not exceeding two hundred dollars in respect of a contravention of any of the provisions of the regulations.

Consequential amendments.

36—(1) The *Stock Medicines, Fertilizers, and Pesticides Act 1950* is amended as specified in the schedule.

(2) References in any Act to the *Stock Medicines, Fertilizers, and Pesticides Act 1950* shall be construed as references to the *Stock Medicines and Fertilizers Act 1950*, and any Act the construction of which is affected by the foregoing provisions of this subsection is, by force of this section, amended to such extent as may be necessary to give effect to those provisions.

(3) The *Public Health Act 1962* is amended by inserting after subsection (1) of section sixty-three the following subsection:—

“(1A) A food or drug shall not be regarded as being adulterated or falsely described by reason only that it contains a pesticide residue within the meaning of Part V of the *Pesticides Act 1968*.”.

37 Any substance that, immediately before the commencement of this Act, was registered under Part IV of the *Stock Medicines, Fertilizers, and Pesticides Act 1950* shall be deemed to be registered as a pesticide under Division I of Part III of this Act, and for the purposes of subsection (2) of section eight of this Act shall be deemed to have been so registered on the date on which it was last registered under that Act.

Transitory provisions.

THE SCHEDULE.

(Section 36.)

AMENDMENTS TO STOCK MEDICINES, FERTILIZERS, AND PESTICIDES ACT 1950.

1. The title is amended by omitting the words “, *fertilizers, and pesticides*” and substituting therefor the words “*and fertilizers*”.

2. Section one is amended by omitting from subsection (1) the words “, *Fertilizers, and Pesticides*” and substituting therefor the words “*and Fertilizers*”.

3. Section three is amended—

(a) by omitting from the definition of “dealer” the words “, *fertilizers, or pesticides*” and substituting therefor the words “*or fertilizers*”;

(b) by omitting the definitions of “fungicide”, “insecticide”, and “pesticide”;

(c) by omitting from the definition of “Registrar” the words “, *Fertilizers, and Pesticides*” and substituting therefor the words “*and Fertilizers*”;

(d) by omitting the definitions of “vermin destroyer” and “weed-killer”; and

(e) by omitting from the definition of “wholesale dealer” the words “, *fertilizer, or pesticide*” and substituting therefor the words “*or fertilizer*”.

4. Section four is amended by omitting the words “, *Fertilizers, and Pesticides*” (twice occurring) and substituting therefor, in each case, the words “*and Fertilizers*”.

5. Part IV is repealed.

6. Section twenty-five is amended by omitting the word “pesticide,” wherever it occurs immediately following the word “fertilizer,”.

7. Section thirty-five is amended by omitting from paragraph (b) the words “or the word ‘pesticide’”.

8. Section thirty-nine is amended by omitting from subsection (1) the words “, the *Fertilizers Board, or the Pesticides Board,*” and substituting therefor the words “*or the Fertilizers Board*”.

9. The following provisions, namely:—

Subsection (1) of section twenty-five;

Subsections (1) and (2) of section twenty-six;

Section twenty-seven;

Section twenty-nine;

Subsection (1) of section thirty;

Subsections (1) and (2) of section thirty-one;
Section thirty-five;
Section thirty-six; and
Subsection (2) of section forty-one,
are amended by omitting therefrom the words “, fertilizer, or pesticide”
(wherever occurring) and substituting therefor, in each case, the words
“ or fertilizer”.

FLUORIDATION.

No. 87 of 1968.

AN ACT to make provision with respect to the addition of fluoride to public water supplies and matters incidental thereto and to repeal Part VII of the *Public Health Act* 1962.

[13 January 1969.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

Short title
and com-
mencement.

1—(1) This Act may be cited as the *Fluoridation Act* 1968.

(2) This Act shall commence on a day to be fixed by proclamation.