

Naghti l-kunsens tiegħi.

(L.S.)

GUIDO DE MARCO
President

23 ta' Marzu, 2001

ATT Nru. XI ta' l-2001

Att li jipprovdi għall-kontroll tal-pestiċidi u għal għanijiet oħra konnessi ma' l-istess suġġett.

IL-PRESIDENT bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità ta' l-istess, hareġ b'liġi dan li ġej:-

1. (1) It-titolu ta' dan l-Att hu l-Att ta' l-2001 dwar il-Kontroll tal-Pestiċidi.

Ti f' l-Att u bidu fis-schh.

(2) Dan l-Att għandu jibda' jsehh f'dik id-data li l-Ministru responsabbli għall-Agricoltura jista' b'avviż fil-Gazzetta jistabbilixxi, u dati differenti jistgħu jiġu hekk stabbiliti għal disposizzjonijiet differenti u għal għanijiet differenti ta' dan l-Att.

2. F'dan l-Att, sakemm ir-rabta tal-kliem ma' tehtiegħ xort'oħra -

Tifisir.

"ambjent " tinkludi ilma, arja, art u speċi selvaġġi ta' pjanti u bhejjem u kull interrelazzjoni ta' bejniethom kif ukoll kull relazzjoni ma' organiżmi hajjin;

"antidote" tfisser trattament terapewtiku speċifiku wżat f'każi ta' avvelenament;

"awtorizzazzjoni" tfisser att amministrattiv li permezz tiegħu id-direttur jista' jippermetti, wara li tiġi sottomessa applikazzjoni, it-tqegħid ta' pestiċida fis-suq;

"Bord" tfisser il-Bord għall-Kontroll tal-Pesticidi stabbilit bl-artikolu 10;

"C.A.S. Number" tfisser in-numru tal-*Chemical Abstract Service* li jiġi wżat minn awtoritajiet internazzjonali li jissorveljaw *standards*;

"Dipartiment" tfisser id-dipartiment responsabbli għas-saħha tal-pjanti;

"Direttur" tfisser id-Direttur tad-Dipartiment u, sal-limitu tal-funzjonijiet mogħtija, tinkludi kull uffiċjal pubbliku awtorizzat mid-Direttur għal hekk bil-miktub għal xi wieħed mill-għanijiet ta' dan l-Att;

"fdalijiet" tfisser sustanza wahda jew iżjed li jkunu preżenti fi jew fuq pjanti jew prodotti li joriġinaw minn pjanti, prodotti li jittieklu magħmulin minn annimali jew x'imkien ieħor fl-ambjent u li jirriżultaw mill-użu ta' pesticida, u jinkludu l-prodotti metabolici tagħhom u prodotti li jirriżultaw mid-degradazzjoni jew reazzjoni tagħhom;

"formulazzjoni" tfisser il-kompożizzjoni finali ta' pesticida kif provdut lill-utent, li tkun tikkonsisti fit-tqabbil ta' sustanzi attivi u oħrajn, u l-proporzjon tagħhom, f'dak il-pesticida, maħsuba biex tagħmel dak il-prodott effettiv fl-għan originali tiegħu;

"funġi" tfisser kull pjanta tal-grupp *thallophyta* li ma jkollhomx klorofilla u tinkludi s-sadid, tebġhat, ħmiriet, mellijiet, moffa u bakterja, hliet dawk l-għamliet ġewwa jew fuq l-iġsma ta' bnedmin jew bhejjem hajjin;

"*growth regulator*" tfisser kull sustanza jew tahlita ta' sustanzi maħsuba, permezz ta' azzjoni fiżjoloġika, biex tibdel ir-rata ta' tkabbir jew ir-rata ta' maturazzjoni, jew b'mod ieħor biex tibdel il-qagħda ta' pjanta jew tal-prodott tagħha iżda ma tinkludix sustanzi safejn ikunu maħsuba bħala nutrijenti ta' pjanti, tilqim tal-pjanti jew tiswija tal-ħamrija;

"ħaddiem" tfisser kull min ikun attwalment okkupat fil-maniġġ jew fl-applikazzjoni tal-pesticidi, sew jekk minn jeddu kif ukoll taħt it-tmexxija jew fl-impieg ta' persuna oħra;

"hlejjaq li jagħmlu hsara" tfisser dik il-forma ta' pjanta jew ta' bhejjem, *virus*, patoġeniku ieħor li jitqiesu li għandhom effett negattiv għal kollox fuq il-bniedem u fuq l-attivitajiet tiegħu, hliet dawk l-għamliet fuq jew ġewwa l-iġsma ta' bnedmin jew bhejjem

hajjin;

"sustanza attiva" tfisser sustanza kimika jew mikro-organizmu inkluż *viruses*, li ghandhom azzjoni ġenerali jew speċifika kontra organiżmi qerrieda jew fuq pjanti jew prodotti magħmulin minn pjanti;

"insett" tfisser kull animal invertebrat tal-klassi *Insecta* u kull forma oħra bhala tal-grupp *artropoda*, u inkludi brimb, dud, qurdien, ċentipidi u hnieżer l-art, hlief dawk l-għamliet fuq jew ġewwa l-iġsma ta' bnedmin jew bhejjem hajjin;

"isem komuni" tfisser l-isem mogħti lis-sustanza attiva ta' pestiċida mill-International Standards Organisation (ISO) jew, fin-nuqqas ta' dak l-isem mogħti, l-isem komuni aċċettat bhala l-isem ġeneriku u mhux kummerċjali għal dik is-sustanza attiva partikolari;

"kimika" tfisser sustanza miksuba bi proċess kimiku jew li tintuża fi proċessi kimiċi;

"kontroll integrat" tfisser l-applikazzjoni razzjonali ta' għaqda ta' miżuri bijoloġiċi, bioteknoloġiċi, kimiċi, kulturali jew ta' tnissil ta' pjanti, fejn l-użu ta' pestiċidi kimiċi hu limitat għall-minimu strettament neċessarju biex jillimita l-popolazzjoni ta' hlejjaq li jagħmlu l-ħsara għal-livelli taht dawk li jistgħu jagħmlu ħsara ekonomika inaċċettabbli jew qirda totali;

"Malta" għandha l-istess tifsira kif mogħtija lilha bl-artikolu 124 tal-Kostituzzjoni ta' Malta;

"manifattura" tinkludi l-istadji kollha ta' kull stadju ta' produzzjoni ta' pestiċida minn materja prima sal-prodott finali kif provdut lill-utent;

"marka" tirreferi għall-isem li bih il-pestiċida jiġi tikkettjat, registrat u provdut mill-manifattur jew distributtur u li, jekk ikun protett taht leġislazzjoni eżistenti, jkun jista' jiġi użat esklussivament mill-manifattur jew distributtur sabiex jiddistingwi l-prodott minn pestiċidi oħra;

"miġjub fis-suq" tfisser kull importazzjoni jew provvista ta' pestiċida, segwita mill-konsenja jew mid-disponiment, sew jekk bi hlas jew b'xejn, hlief għall-ħażna;

"Ministru" tfisser il-Ministru responsabbli għall-Agricoltura wara li jikkonsulta l-Ministru jew Ministri responsabli għas Sahha u għall-Ambjent;

"molluskiċidi" tfisser sustanzi li jintużaw biex jinqerdu bebbux, bugħarwien u speċi ta' l-istess familja;

"*nematode*" tfisser bhejjem invertebrati tal-klassi *Nematoda* li jgħixu fil-ħamrija, fl-ilma, fil-pjanti jew f'partijiet tal-pjanti ħlief dawk l-għamliet fuq jew ġewwa l-iġsma ta' bnedmin jew bhejjem hajjin u "nematodi" għandha tinftiehem skond hekk;

"organizmi qerrieda" tfisser pjanti, bhejjem, *viruses*, bakterja u patoġeni oħra li l-preżenza tagħhom ma tkunx mixtieqa jew li għandhom effett detrimentali fuq il-bnedmin, l-attivitajiet tagħhom jew il-prodotti li jużaw jew li jipproduċu, jew għall-bhejjem, pjanti u l-ambjent;

"pjanti" tfisser pjanti hajjin u partijiet ta' pjanti hajjin, inkluzi frott u żrieragħ;

"pakkjar" tfisser it-trasferiment jew pakkjar mill-ġdid ta' pestiċidi minn kontenitur għal xi kontenitur ieħor;

"persuna" tinkludi kull soċjetà kummerċjali jew assoċjazzjoni ta' persuni jew enti legali oħra;

"pestiċida" tinkludi kull prodott għal protezzjoni tal-pjanti u prodotti bioċidali;

"preparazzjonijiet" tfisser taħlitiet jew soluzzjonijiet komposti minn żewġ sustanzi jew aktar li minnhom għallanqas waħda hi sustanza attiva, intenzjonati għall-użu bħala pestiċidi;

"prinċipal" tfisser kull min ikollu fl-impieg tiegħu jew taht id-direzzjoni, superviżjoni jew kontroll, persuna jew persuni li jkunu okkupati fil-maniġġ jew fl-applikazzjoni tal-pestiċidi;

"prodotti bioċidali" tfisser is-sustanza attiva u preparazzjonijiet li fihom sustanza waħda jew aktar, magħmulin fl-għamla li jiġu provduti lill-utent, li għandhom l-għan li jeqirdu, jipprevedu, jirrendu bla periklu, jwaqqfu l-azzjoni jew b'xi mod ieħor jeżerċitaw effett ta' kontroll fuq organizmi li jagħmlu l-ħsara permezz ta' mezzi kimiċi jew bijoloġiċi;

"prodotti għall-protezzjoni tal-pjanti" tfisser sustanzi attivi u preparazzjonijiet li fihom sustanza attiva waħda jew aktar, magħmulin fl-għamla li jkunu provduti lill-utent, intenzjonati biex -

- (a) jiproteġu pjanti jew prodotti tal-pjanti kontra kull organizmu li jagħmel il-ħsara jew iharsu kontra l-azzjoni ta' organizmi bħal dawk, sakemm dawk is-sustanzi jew

preparazzjonijiet mhumiex imfissra mod ieħor hawn aktar 'l isfel;

(b) jinflenzaw il-proċessi tal-ħajja tal-pjanti, ħlief dawk ta' nutriment;

(ċ) jippreżervaw il-prodotti tal-pjanti, sakemm dawk is-sustanzi jew prodotti ma jkunux suġġetti għal disposizzjonijiet speċjali dwar il-preservattivi;

(d) jeqirdu pjanti mhux mixtieqa; jew

(e) jeqirdu partijiet minn pjanti, jikkontrollaw jew iwaqqfu t-tkabbir mhux mixtieq tal-pjanti;

"prodotti magħmulin minn pjanti" tfisser prodotti derivati minn pjanti, li jkunu fi stat mhux ipproċessat jew li għaddew minn proċess preliminarju sempliċi;

"reġistrazzjoni" tfisser il-proċess li bih id-Direttur japprova t-tqegħid fis-suq u l-użu ta' pestiċida wara li tkun saret evalwazzjoni ta' tagħrif xjentifiku komprensiv, li turi li l-prodott ikun effettiv għall-ghan tiegħu maħsub u li ma jkunx perikoluż iż-żejjed għas-saħħa tal-bniedem jew ta' l-bhejjem jew għall-ambjent;

"reklamar" tfisser il-promozzjoni tal-bejgħ u, jew l-użu ta' kull pestiċida bl-istampa, mezzi awdjo jew viżivi, sinjali, wirjiet, rigali, dimostrazzjoni jew kliem bil-fomm;

"rodenti" tfisser il-firien u l-ġrieden kollha li jagħmlu schem mill-ġeneru *Rattus* u *Mus*;

"rodentiċidi" tfisser sustanzi wżati biex joqtlu r-rodenti;

"sid" tinkludi kull min jista' jiddisponi minn, jew ikun fdat fil-kariga tiegħu li jiddisponi minn, xi prodott li jittiekel jew pestiċida;

"sustanzi" elementi kimiċi u l-komponenti tagħhom, kif jinsabu fin-natura jew manifatturati, inklużi kull impurità inevitabbli li tirriżulta mill-proċess tal-manifattura;

"tikketta" tfisser il-kitba, grafika jew stampat fuq, jew imwahhal ma', il-pestiċida jew il-kontenitur ewlieni tiegħu kif ukoll il-kontenitur jew kisja ta' barra tal-pakkett tal-pestiċida li jinbiegħ bl-imnut;

"venditur" tfisser kull persuna li tbiegħ jew tiddisponi b'mod ieħor minn xi pestiċidi.

Dmirijiet tad-Direttur.

3. Id-Direttur ghandu, fuq il-parir tal-Bord, jipproċessa l-applikazzjonijiet għall-awtorizzazzjoni biex prodotti jiġu mqieghdha fis-suq, iżomm regjistru għar-registrazzjoni tal-pestiċidi, u jwettaq id-disposizzjonijiet ta' dan l-Att u ta' kull regolamenti magħmul tahtu; id-Direttur, fuq il-parir tal-Bord, ikun responsabbli għat-thejjija u ż-żamma ta' programm annwali ta' sorveljanza għat-testjar ta' residwi ta' pestiċidi fuq prodotti ġejjin mill-pjanti.

Awtorizzazzjoni.

4. (1) Il-Ministru jista' b' regolamenti jippreskrivi il-mod li bih għandhom jiġu registrati pestiċidi awtorizzati, u l-limitu ta' żmien sa meta tiegħaf dik ir-registrazzjoni; meta jiskadi dak il-limitu ta' żmien, l-applikant għandu jerga' jissottometti l-applikazzjoni rilevanti mill-ġdid, flimkien ma' l-informazzjoni tossoloġika li tkun fis-sehh f'dak iż-żmien għall-pestiċida in kwistjoni.

(2) Id-Direttur, fuq il-parir tal-Bord, għandu jiżgura li l-awtorizzazzjoni għar-registrazzjoni ma tingħatax għal ebda pestiċida sakemm -

(a) tkun suffiċjentement effettiva; u

(b) ma jkollhiex effetti qerrieda fuq is-sahha tal-bniedem jew ta' l-annimali u ma jkollhiex effett negattiv li mhux aċċettabbli fuq l-ambjent.

Setgħa li jsiru regolamenti.

5. (1) Il-Ministru jista' jagħmel regolamenti biex jimponi kondizzjonijiet għall-kontroll fuq l-importazzjoni, l-esportazzjoni, il-manifattura, il-bejgħ jew l-użu ta' kull pestiċida inklużi:

(a) dwar ir-restrizzjoni ta' l-importazzjoni, il-manifattura, il-bejgħ, id-distribuzzjoni u l-użu ta' xi sustanza attiva jew prodott ta' pestiċida u ż-żamma ta' regjistru tal-pestiċidi;

(b) biex jinżamm regjistru tal-pestiċidi;

(ċ) biex jistabilixxi l-kondizzjonijiet u l-htigiet għall-awtorizzazzjoni għall-importazzjoni, il-manifattura, il-bejgħ, id-distribuzzjoni u l-użu ta' xi pestiċida inklużi dawk użati fil-maniggar ta' kontroll integrat;

(d) biex jistabilixxi l-kondizzjonijiet u l-htigiet li għandhom x'jaqsmu mat-tikkettjar u r-reklamar ta' xi pestiċida;

(e) biex jistabilixxi l-htigiet għal, u d-dmirijiet ta', impjegati, haddiema u bejjiegha f'dak li għandu x'jaqsam mal-bejgħ u l-użu ta' pestiċidi, inklużi dawk użati fil-maniggar ta' kontroll integrat;

(f) biex jistabbilixxi l-kondizzjonijiet għad-disponiment ta' l-iskart ta' pestiċidi u kontenituri ta' pestiċidi;

(g) biex jimponi kondizzjonijiet biex jiġu kontrollati jew projbiti l-importazzjoni, il-manifattura, l-ippakkjar, ir-reklamar, il-bejgħ jew l-użu ta' xi sustanza attiva li jkun f'xi pestiċida;

(h) biex jistabbilixxi livelli massimi ta' fdalijiet u biex jistabbilixxi l-metodi ta' teħid ta' kampjuni u analiżi u metodi ta' kif jiġu magħmula testijiet xjentifiċi fuq żrieragħ, xitel, uċuħ u prodotti tal-pjanti; u

(i) għal kull haġa oħra li tista' tiġi regolata taħt dan l-Att.

(2) Ir-regolamenti msemmija fis-subartikolu (1)(h) jistgħu jagħtu d-dritt lid-Direttur biex jiġbor l-ispejjes magħmula għall-ghan ta' teħid ta' kampjuni, ittestjar u analiżi hemmhekk imsemmija.

(3) Kull regolament li jsir taħt dan l-Att għandu jispeċifika l-isem komuni u C.A.S. Number, fejn dan jkun japplika, tal-pestiċidi rispettivi.

6. (1) Jekk id-Direttur, fuq il-parir tal-Bord, jkollu raġuni tajba għaliex jemmen li xi prodott, sew jekk jitkabbar jew jitrabba, jew jiġi importat, f'Malta jkun fih xi fdalijiet ta' pestiċida li jkunu aktar mill-oghla livelli preskritti, huwa jista' b'avviż bil-miktub li jiġi notifikat lis-sid ta' dawk il-prodotti, jeħtieġ li dak is-sid jiżgura li l-ebda parti minn dak il-prodott ma għandha tinhasad, tingabar jew tiġi użata mod iehor, sabiex ikunu jistgħu jittieħdu u jiġu analizzati kampjun jew kampjuni ta' dak il-prodott.

Avviż mid-Direttur.

(2) Jekk id-Direttur, fuq il-parir tal-Bord, jkollu għaliex jahseb li xi marka ta' pestiċida ma tkunx konformi ma' xi regolament li jsir skond dan l-Att dwar il-formulazzjoni tiegħu, huwa jista' b'avviż bil-miktub li jiġi notifikat lis-sid ta' dik il-marka ta' pestiċida, jeħtieġ li dak is-sid jiżgura li l-ebda parti mill-ħażniet li jkollu ta' dik il-marka ta' pestiċida ma għandu jsir disponiment minnha jew tiġi wżata, sabiex ikunu jistgħu jittieħdu u jiġu analizzati kampjun jew kampjuni ta' pestiċida ta' dik il-marka.

Kap. 9.

(3) Kull avviż li jiġi notifikat skond is-subartikoli (1) u (2) jiskadi malli jghaddu għaxart ijiem tax-xoghol minn mindu jiġi notifikat, kemm-il darba fl-istess żmien ma jkunux inbdew proċedimenti kriminali skond dan l-Att jew taht regolamenti magħmulin bis-sahha tiegħu għar-rigward ta' dak il-prodott jew pestiċida, u s-sid jkun ġie mgharraf bil-miktub mid-Direttur li jkunu inbdew daww il-proċedimenti, f'liema każ, bla hsara għad-disposizzjonijiet ta' l-artikolu 24 tal-Kodiċi Kriminali, l-avviż għandu jibqa' jsehh sakemm daww il-proċedimenti jkunu gew finalment deċiżi.

(4) Meta d-Direttur johroġ avviż skond is-subartikolu (1) jew (2) huwa jista', filwaqt li johroġ dak l-avviż jew waqt li dak l-avviż ikun fis-sehh, jiehu daww il-passi, li jistgħu jinkludu l-qbid ta' kull prodott jew pestiċida jew l-impożizzjoni ta' restrizzjonijiet fuq l-aċċess għal kull post, kif huwa jista' jiddetermina li jkun xieraq għall-iskop li jassigura l-konformità ma' tali avviż.

(5) It-tehid ta' kull passi skond is-subartikolu (4) ma jeżonerax lil xi persuna li dwarha jkun fis-sehh xi avviż mahruġ skond is-subartikolu (1) jew (2) mill-obbligu li tikkonforma ma' xi tali avviż.

Disposizzjonijiet rigward dhul, spezzjonijiet u tehid ta' kampjuni.

7. Kull uffiċjal pubbliku li jkun ġie hekk awtorizzat mid-Direttur għal dak il-ghan jkun jista' fil-hinijiet kollha jidhol u jispezzjona kull art, post jew bini, jew kull mezz ta' trasport sabiex jiżgura li d-disposizzjonijiet ta' dan l-Att, jew ta' kull regolament magħmul bis-sahha tiegħu, jkunu ġew imharsa jew ikunu qed jiġu mharsa u dak l-uffiċjal jista' jiehu kampjuni ta' kull pestiċida jew ta' kull prodott ikkurat jew mahsub li qed jiġi kkurat b'pestiċida. Din id-disposizzjoni għandha wkoll tapplika għal kull oġġett li seta' ġie f'kuntatt ma' xi pestiċida.

Dritt li jittiehdu mizuri neċessarji wara r-riżultati ta' l-analiżi.

8. Jekk, wara li tkun saret l-analiżi ta' kampjun ta' prodott jew pestiċida mehud u analizzat bis-sahha tad-disposizzjonijiet ta' dan l-Att, id-Direttur jkun tal-fehma li dak il-prodott ikun ta' periklu għall-konsumaturi ta' dak il-prodott jew għal min jista' jiġi f'kuntatt miegħu jew li dik il-marka ta' pestiċida ma tkunx taqbel ma' xi regolament magħmul bis-sahha ta' dan l-Att dwar il-kompożizzjoni tiegħu, inklużi x-xorta u l-kwantitajiet tas-sustanzi tiegħu, huwa jista', minghajr preġudizzju għal kull proċediment kriminali li għalih jista' jkun suġġett l-akkużat, jiehu daww il-mizuri li jqis mehtieġa sabiex jiżgura li dak il-prodott jinżamm mill-konsum jew mill-użu jew li dik il-marka ta' pestiċida tinżamm milli tiġi importata, manifatturata, ippakkjata, mibjugħa jew użata.

Pieni.

9. (1) Kull min jikser jew jonqos milli jħares xi wahda mid-disposizzjoni ta' dan l-Att jew xi regolamenti jew ordni magħmula jew mogħtija bis-sahha tiegħu jew ifixkel uffiċjal pubbliku

fl-eskuzzjoni tas-setgħat jew dmirijiet tiegħu skond dan l-Att jew xi regolamenti magħmula bis-saħħa tiegħu jkun hati ta' reat u jchel, meta jinsab hati, fil-każ ta' l-ewwel kundanna, multa ta' mhux iżjed minn hames mitt lira jew priġunerija għal żmien ta' mhux aktar minn tliet xhur jew dik il-multu u priġunerija flimkien, u, fil-każ tat-tieni kundanna jew ta' kundanna sussegwenti, multa ta' mhux iżjed minn elf lira jew priġunerija ta' mhux iżjed minn sitt xhur jew dik il-multu u priġunerija flimkien.

(2) Kull persuna li, hliet kif provdut jew permess taħt dan l-Att jew għall-finijiet tiegħu, tikkomunika jew tittenta tikkomunika lil xi persuna oħra xi materja jew haġa oħra li tkun għet għall-attenzjoni tagħha jew li kienet fil-pussess tagħha fil-qadi ta' dmirijietha bħala membru tal-Bord, tkun hatja ta' reat u meta tinstab hatja tehel multa ta' mhux anqas minn mitejn lira u mhux iżjed minn elfejn lira, jew priġunerija għal żmien ta' mhux iżjed minn sena, jew dik il-multu u priġunerija flimkien.

10. (1) Għandu jkun hemm Bord għall-Kontroll tal-Pestiċidi li jitwaqqaf mill-Ministru u li jkun responsabbli biex -

Bord għall-Kontroll tal-Pestiċidi.

(a) jagħti parir lid-Direttur dwar kull haġa li jkollha x'taqsam mar-registrazzjoni, ir-restrizzjoni, l-importazzjoni, il-manifattura, il-bejgħ jew l-użu ta' pestiċidi inklużi dawk użati fil-manigġar ta' kontroll integrat;

(b) jirrapporta lid-Direttur dwar kull haġa li għandha x'taqsam mar-regolamentazzjoni, it-twertiq u s-sorveljar ta' kull liġi li jkollha x'taqsam mal-pestiċidi jew dwar kull haġa li toqot il-pestiċidi;

(ċ) jagħti parir dwar il-miżuri li għandhom jittiehdu dwar kull haġa li tohrog mit-thaddim ta' regolamenti li jkunu saru bis-saħħa ta' dan l-Att;

(d) jirrevedi u jagħmel proposti għar-reviżjoni ta' leġislazzjoni u regolamenti eżistenti li jkollhom x'jaqsmu mal-pestiċidi; u

(e) iwettaq kull funzjoni oħra li għandha x'taqsam ma' pestiċidi, kif il-Ministru jista' jippreskrivi.

(2) Il-Bord għall-Kontroll tal-Pestiċidi għandu jkun magħmul minn -

(a) *Chairman* li jiġi maħtur mill-Ministru;

(b) erba' membri, li jiġu maħtura mill-Ministru, u li ta'

l-anqas wiehed minnhom, ghandu jkun rappreżentant tal-bdiewa;

(c) id-Direttur jew ir-rappreżentant tiegħu; u

(d) rappreżentant mill-qasam ta' l-edukazzjoni, u rappreżentant minn kull wiehed mid-Dipartiment tas-Saħħa Pubblika, id-Dipartiment ta' l-Ambjent, l-Awtorità Maltija dwar l-Istandards, l-Awtorità għas-Saħħa u s-Sigurtà fuq il-Post tax-Xogħol, u il-Korporazzjoni dwar is-Servizzi ta' l-Ilma.

(3) Il-membri maħtura mill-Ministru għandhom jibqgħu fil-kariga skond il-kondizzjonijiet stabbiliti fl-ittra tal-hatra tagħhom. Fejn ma jiġux preskritti regoli ta' proċedura mill-Ministru, il-Bord għandu jirregola l-proċedura tiegħu stess.

(4) Kull membru tal-Bord għandu jqis u jittratta kull dokument u informazzjoni dwar hwejjeġ maħsubin fi jew li jsiru taht id-disposizzjonijiet ta' dan l-Att bħala li huma sigrieti u konfidenzjali u għandu jagħmel u jissottoskrivi dikjarazzjoni bil-gurament fuq il-formola preskritta għaldaqstant quddiem Kummissjunarju għall-Guramenti li għandha tiġi depozitata għand l-Avukat Ġenerali.

Użu ta' pestiċida għal riċerka xjentifika.

11. Bla ħsara għad-disposizzjonijiet ta' xi regolament magħmul skond dan l-Att li jirrestringi l-użu ta' xi sustanza attiva, id-Direttur jista', fuq il-parir tal-Bord, jippermetti l-użu ta' kull tip ta' sustanza attiva misjuba f'pestiċida għar-riċerka xjentifika ristretta, esperimentazzjoni jew żvilupp, u għall-użu ġenerali meta dawn is-sustanzi attivi jinsabu fi kwantitajiet żgħar ħafna fi prodotti u m'għandhomx effetti ta' ħsara fuq il-bnedmin, bhejjem jew l-ambjent; id-Direttur jista' wkoll jippermetti l-użu ta' kull pestiċida f'ċirkostanzi eċċezzjonali, li jistgħu jeħtieġu l-użu ta' dawk il-pestiċidi.

Revoka ta' l-Att dwar il-Pestiċidi (Importazzjoni, Bejgħ u Użu). Kap. 192.

12. (1) Bla ħsara għad-disposizzjonijiet tas-subartikolu (2), l-Att dwar il-Pestiċidi (Importazzjoni, Bejgħ u Użu) għandu jiġi revokat.

(2) Ir-Regolamenti ta' l-1967 dwar Pestiċidi (Importazzjoni, Bejgħ u Użu), magħmulin taht l-Att dwar il-Pestiċidi (Importazzjoni, Bejgħ u Użu) għandhom jibqgħu jsehħu bħallikieku saru taht id-disposizzjonijiet ta' dan l-Att, u jistgħu jiġu emendati u revokati skond hekk.

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 516 ta' 1-20
ta' Marzu, 2001.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

GUIDO DE MARCO
President

23rd March, 2001

ACT No. XI of 2001

AN ACT to provide for the control of pesticides, and for other purposes connected therewith or incidental thereto.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:-

Short title and commencement.

1. The short title of this Act is the Pesticides Control Act, 2001.

(2) This Act shall come into force on such date as the Minister responsible for Agriculture may by notice in the Gazette appoint, and different dates may be so appointed for different purposes and for different provisions of this Act.

Interpretation.

2. In this Act, unless the context otherwise requires -

"active substances" means chemical substances or micro-organisms including viruses, which have a general or specific action against harmful organisms or on plants or plant products;

"advertising" means the promotion of the sale and, or, use of any pesticide by print, audio or visual media, signs, displays, gifts, demonstration or word of mouth;

"antidote" means the specific therapeutic treatment used in cases of poisoning;

"authorisation" means an administrative act by which the Director may permit, following a submitted application, the placing on the market of a pesticide;

"biocidal products" means the active substances and preparations containing one or more active substances, in the form in which they are supplied to the user, intended to destroy, deter, render harmless, prevent the action of, or otherwise exert a controlling effect on any harmful organism by chemical or biological means;

"Board" means the Pesticides Control Board established under article 10;

"brand" refers to the name under which the pesticide is labelled, registered and provided by the manufacturer or supplier and which, if protected under existing legislation, can be used exclusively by the manufacturer or supplier to distinguish the product from other pesticides;

"C.A.S. Number" means the Chemical Abstract Service number as used by International Standard Authorities;

"chemical" means a substance obtained by or used in chemical processes;

"common name" means the name assigned to the active substance of a pesticide by the International Standards Organisation (ISO) or, in the absence of such assigned name, the name commonly accepted as the generic and non-propriety name for that particular active substance;

"Department" means the Department responsible for plant health;

"Director" means the Director of the Department and includes, to the extent of the authority given, any officer authorised by him, in writing, to act in that behalf for any of the purposes of this Act;

"employer" means any person having in his employment or under his direction, supervision or control, one or more persons engaged in the handling or application of pesticides;

"environment" includes water, air, land, wild species of fauna and flora, and any inter-relationship between them, as well as any relationship with living organisms;

"formulation" means the final composition of a pesticide as provided to the user consisting in the combination of active and other

substances, and the proportion thereof, in such pesticide, designed to render the product effective for the purpose claimed;

"fungi" means all non-chlorophyll bearing thallophytes and includes rusts, smuts, yeasts, mildews, moulds and bacteria, other than those forms in or on the bodies of living humans or animals;

"growth regulator" means any substance or mixture of substances intended, through physiological action, to alter the rate of growth or the rate of maturation, or otherwise to alter the behaviour of a plant or the produce thereof; but does not include substances to the extent that they are intended as plant nutrients, plant inoculants or soil amendments;

"harmful organisms" means plants, animals, viruses, bacteria and other pathogens which have an unwanted presence or a detrimental effect for humans, their activities or the products they use or produce, or for animals, plants and the environment;

"insect" means any invertebrate belonging to the class Insecta, and any other allied arthropod forms, including spiders, mites, ticks, centipedes and woodlice, other than those forms on or in the bodies of living humans or animals;

"integrated control" means the rational application of a combination of biological, biotechnological, chemical, cultural or plant-breeding measures whereby the use of chemical pesticides is limited to the strict minimum necessary to maintain the pest population at levels below those causing economically unacceptable damage or loss;

"label" means the written, graphic or printed matter, on or attached to, the pesticide or the immediate container thereof and the outside container or wrapper of the retail package of the pesticide;

"manufacture" includes all of any of the stages of production of a pesticide from raw materials to the final product as supplied to the user;

"Malta" has the same meaning as is assigned to it in article 124 of the Constitution of Malta;

"Minister" means the Minister responsible for Agriculture, in consultation with the Minister or Ministers responsible for Health and the Environment;

"molluscicides" means substances employed to kill snails, slugs and species of the same family;

"nematode" means invertebrate animals of the class Nematoda inhabiting soil, water, plants or plant parts other than those forms on or in the bodies of living humans or animals, and "nematodes" shall be construed accordingly;

"owner" includes any person who may dispose of, or is entrusted in any capacity with the disposal of, any consumable produce or pesticide;

"packing" means the transfer or re-packing of pesticides from any package into any other container;

"person" includes any commercial partnership or association of persons or any other legal entity;

"pest" means such form of plant or animal life, viruses or other pathogens considered to have a net negative effect on man and his activities, other than those forms on or in the bodies of living humans or animals;

"pesticide" includes all plant protection and biocidal products;

"placing on the market" means any importation or supply of a pesticide, followed by consignment or disposal, whether in return for payment or free of charge, other than for storage;

"plant products" means products derived from plants, which are in an unprocessed state or have undergone a simple, preliminary processing;

"plant protection products" means active substances and preparations containing one or more active substances, in the form in which they are supplied to the user, intended to -

(a) protect plants or plant products against all harmful organisms or prevent the action of such organisms, in so far as such substances or preparations are not otherwise defined below;

(b) influence the life processes of plants, other than as a nutrient;

(c) preserve plant products, in so far as such substances or products are not subject to special provisions on preservatives;

(d) destroy undesired plants; or

(e) destroy parts of plants, check or prevent undesired growth of plants;

"plants" means live plants and parts of live plants, including fruit and seeds;

"preparations" means mixtures or solutions composed of two or more substances of which at least one is an active substance, intended for use as pesticides;

"registration" means the process whereby the Director approves the placing on the market and use of a pesticide following the evaluation of comprehensive scientific data, demonstrating that the product is effective for the purpose intended and is not unduly hazardous to human or animal health or the environment;

"residues" means one or more substances present in or on plants or products of plant origin, edible animal products or elsewhere in the environment and resulting from the use of a pesticide, including their metabolites and products resulting from their degradation or reaction;

"rodenticides" means substances employed to kill rodents;

"rodents" means all rats and mice belonging to the genera *Rattus* and *Mus*;

"substances" means chemical elements and their compounds, as they occur naturally or by manufacture, including any impurity inevitably resulting from the manufacturing process;

"vendor" means any person who sells or otherwise disposes of any pesticide;

"worker" means any person actually engaged in the handling or application of pesticides, whether on his own account or under the direction or employment of another person.

Duties of
Director.

3. It shall be the duty of the Director, acting on the advice of the Board, to process applications for authorisation to place products on the market, to keep a register for the registration of pesticides, and to implement the provisions of this Act and of any regulations made thereunder; the Director shall also, on the advice of the Board, be responsible for the drawing up and execution of an annual monitoring programme for the testing of pesticides' residues on plant produce.

Authorisation.

4. (1) The Minister may by regulations prescribe the manner in which authorised pesticides are to be registered, and the time-limit for the expiry of such registration; at the expiration of such

time-limit, the applicant is to re-submit the relevant application, together with the then current toxicological data for the pesticide in question.

(2) The Director, acting on the advice of the Board, shall ensure that authorisation for registration shall not be granted to any pesticide unless -

(a) it is sufficiently effective; and

(b) it has no harmful effects on human and animal health and has no unacceptable negative effect on the environment.

5. (1) The Minister may make regulations to impose conditions for the control of the importation, exportation, manufacture, sale or use of any pesticide, including:

Power to make regulations.

(a) the restriction of the importation, manufacture, sale, distribution and use of any active substance or pesticide product and the keeping of a pesticide register;

(b) the keeping of a pesticide register;

(c) the establishment of conditions and requirements for the authorisation for the importation, manufacture, sale, distribution and use of any pesticide including those employed in integrated control management;

(d) the establishment of conditions and requirements regarding labelling and advertising of any pesticide;

(e) the establishment of requirements for, and duties of, employers, workers and vendors in connection with the sale and use of pesticides including those employed in integrated control management;

(f) the establishing of the conditions for the disposal of pesticides' waste and pesticides' containers;

(g) the imposition of conditions to control or prohibit the importation, manufacture, packing, advertising, sale or use of the active substance found in any pesticide;

(h) the establishing of the maximum residue levels, and the establishing of methods of sampling and analysis and methods for the carrying out of any scientific tests on any seeds, seedlings, plant produce or plant products; and

(i) for any other matters which may be regulated under this Act.

(2) The regulations referred to in subarticle (1)(h) may empower the Director to recover the expenses incurred in conducting the sampling, testing and analysis therein referred to.

(3) Any regulation made under this Act shall specify the common name and the C.A.S. Number, where applicable, of the pesticides concerned.

Notice by
Director.

6. (1) Where the Director, on the advice of the Board, has reasonable cause to believe that any produce, whether grown or bred in, or imported into, Malta contains any residue of any pesticide in excess of the prescribed maximum levels, he may by notice in writing served on the owner of such produce, require him to ensure that no part of such produce be harvested, gathered or otherwise disposed of, to enable a sample or samples thereof to be taken and analysed.

(2) Where the Director, on the advice of the Board, has reason to believe that any brand of any pesticide is not in conformity with any of the regulations made under this Act in respect of its formulation, he may, by notice in writing served on the owner of such brand of pesticide, require him to ensure that no part of his stocks of such brand of pesticide be disposed of or used, to enable a sample or samples thereof to be taken and analysed.

Cap. 9.

(3) Any notice served under the provisions of subarticles (1) and (2) shall expire on the termination of ten working days from the service thereof, unless within the same period criminal proceedings under this Act or any regulations made thereunder have been taken in respect of such produce or pesticide, and the owner has been informed in writing by the Director that such proceedings have been taken, in which case, saving the provisions of article 24 of the Criminal Code, the notice shall continue in force until such proceedings are finally determined.

(4) Where the Director issues a notice under subarticle (1) or (2) he may, in issuing such notice or whilst such notice is in force, take such measures, which may include the seizure of any produce or pesticide or the imposition of restrictions on access to any place, as he may deem appropriate for the purpose of securing compliance with any such notice.

(5) The taking of any measures under subarticle (4) shall not exonerate any person, in respect of whom any notice issued under subarticle (1) or (2) is in force, from the duty to comply with any such notice.

7. Any public officer duly authorised by the Director for that purpose shall have power at all times to enter on and inspect any land, site or building, or any means of transport to ascertain that the provisions of this Act, or of any regulations made thereunder, have been or are being complied with and such officer may take samples of any pesticide or of any produce treated or suspected of being treated with a pesticide. This provision shall also apply to any article which may have been in contact with a pesticide.

Provisions as to entry, inspections and taking of samples.

8. If, following analysis of any sample of produce or pesticide taken and analysed under the provisions of this Act, the Director deems that such produce presents a hazard to consumers of such produce or anyone coming in contact with that produce or that such brand of pesticide is not in conformity with any of the regulations made under this Act in respect of its composition, including the nature and amounts of its substances, he may, without prejudice to any criminal liability to which the offender may be liable, take such measures as he may deem necessary to ensure that such produce is withheld from consumption or use or that such brand of pesticide is withheld from importation, manufacture, packing, sale or use.

Power to take necessary measures on results of analysis.

9. (1) Any person who contravenes or fails to comply with any of the provisions of this Act or of any regulation or order made or given thereunder or who obstructs any public officer in the execution of his powers or duties under this Act or any regulation made thereunder shall be guilty of an offence and shall, on conviction, be liable, in the case of a first conviction, to a fine (*multa*) not exceeding five hundred liri or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment, and, in the case of a second or subsequent conviction, to a fine (*multa*) not exceeding one thousand liri or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

Penalties.

(2) Any person who, except as provided for or allowed under this Act or for the purposes thereof, communicates or attempts to communicate to any other person any matter or thing coming to his notice or being in his possession in the performance of his duties as a member of the Board shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) of not less than two hundred liri and not more than two thousand liri or to imprisonment for a period not exceeding one year, or to both such fine and imprisonment.

10. (1) There shall be set up a Pesticides Control Board to be appointed by the Minister which shall be responsible for -

Pesticides Control Board.

(a) advising the Director on any matter relating to the

registration, restriction, importation, manufacture, sale or use of pesticides including those employed in integrated control management;

(b) reporting to the Director on any matter relating to the regulating, enforcing and monitoring of all legislation relating to pesticides or on any matter regarding pesticides;

(c) advising on measures to be taken on any matter arising from the application of any regulations made under this Act;

(d) reviewing and making proposals for revision of existing legislation relating to pesticides; and

(e) such other function in connection with pesticides as the Minister may prescribe.

(2) The Pesticides Board shall consist of:

(a) a Chairman to be appointed by the Minister;

(b) four members, to be appointed by the Minister, at least one of whom shall be a farmers' representative;

(c) the Director, or his representative; and

(d) a representative from the educational sector, and a representative from each of the Public Health Department, the Department of Environment, the Malta Standards Authority, the Occupational Health and Safety Authority and the Water Services Corporation.

(3) The members nominated by the Minister shall hold office in accordance with such terms as established in their letter of appointment. Where rules of procedure are not prescribed by the Minister, the Board shall regulate its own procedure.

(4) Every member of the Board shall regard and deal with all documents and information relating to matters contemplated by or pursuant to the provisions of this Act as secret and confidential and shall make and subscribe before a Commissioner for Oaths a declaration on oath to this effect in the form prescribed which shall be deposited with the Attorney General.

Use of pesticide
for scientific
research.

11. Notwithstanding the provisions of any regulation made under this Act restricting the use of any active substance, the Director may, on the advice of the Board, allow the use of any type of active

substance found in a pesticide for restricted scientific research, experimentation and development and for general use when these active substances are contained in negligible quantities in products and have no harmful effect on humans, animals or the environment; the Director may also permit the use of any pesticide in exceptional circumstances, which may make the use of such pesticides necessary.

12. (1) Saving the provisions of subarticle (2), the Pesticides (Control of Importation, Sale and Use) Act is hereby repealed.

Repeal of
Pesticides
(Control of
Importation,
Sale and Use)
Act.
Cap. 192.

(2) The Importation, Sale and Use of Pesticides Regulations, 1967 made under the Pesticides (Control of Importation, Sale and Use) Act shall continue in force as if made under the provisions of this Act, and may be amended and revoked accordingly.

Passed by the House of Representatives at Sitting No. 516 of the 20th March, 2001.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives