

LAW NO.2003/20

ON PESTICIDES

The Assembly of Kosovo,

Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 2001/9 of 15 May 2001 on the Constitutional Framework for Provisional Self-Government, articles 9.1.26 (a) and 5.1 (n).

For the purpose of regulating the manufacture, import, export, , distribution, sale and use of pesticides in Kosovo,

Hereby approved the following:

LAW ON PESTICIDES

**Section 1
DEFINITIONS**

For the purposes of the present Law:

- (a) "Active substance" its mean any chemical substance or micro-organism including viruses, which is the biologically active part of the pesticide present in the formulated product;
- (b) "Advertising" shall mean the promotion of the sale or use of any pesticide by print, audio or visual media, signs, displays, gifts, demonstration or word of mouth;
- (c) "Analyst" shall mean any person appointed or designated under this law for examination of pesticides;
- (d) "Biocidal products" shall mean the active substances and formulated products containing one or more active ingredients, 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;
- (e) "Common Name" shall mean the name assigned to a pesticide by the International Standards Organization (ISO) to be used as a generic or non-proprietary name for that particular active ingredient only;
- (f) "Container" shall mean any thing in which or by which pesticides may be encased, covered, enclosed, contained, or packed, including material in contact with the pesticide;
- (g) "Employer" shall mean any person who employs, directs, supervises or controls one or more persons engaged in the handling or application of pesticides;
- (h) "Environment" includes water, air, land, wild species of flora and fauna, climate, and any inter-relationship between them, as well as any relationship with living organisms;
- (i) "Export" is distribution of pesticides outside Kosovo. Export shall include re-export;
- (j) "Import" is entry of pesticides in Kosovo. Import shall include transit through Kosovo to a final destination outside Kosovo

- (k) "Formulated product" is the combination of various substances (active and inert) designed to render the product useful and effective for the purpose intended in the form as supplied to the user;
- (l) "Harmful Organism" mean plants, animals, insects, fungus, viruses, bacteria and other pathogens the presence of which is harmful or which has a detrimental effect on humans, their activities or the products they use or produce, or on animals, plants and the environment;
- (m) "Inspector" shall mean the person appointed or designated under this Law for inspection of pesticides;
- (n) "Instructions of use" are written or graphic Instructions for the use of, or description of a pesticide, which is found inside the container or attached to the pesticide container, not given in the label;
- (o) "Integrated Protection " shall mean 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;
- (p) "Label" shall mean the written, graphic or printed matter on, or attached to, the pesticide, or the immediate container thereof and the outside container and retail package of the pesticide;
- (q) "Manufacture" shall mean preparation, compound, formulation, mix, make, or otherwise process a pesticide in order to supply it to users, including packaging and repackaging;
- (r) "Packaging" or "repackaging" is the transfer or repackaging of pesticides from any container into other container;
- (s) "Pest" shall mean every animal, organism including insects, nematodes, mites, rodent, etc. harmful to humans , animals, plants and their activities;
- (t) "Pesticide" shall include all plant protection and biocidal products including rodenticides, molluscicides, nematocides ;
- (u) "Professional Pesticides Applicator" shall mean any authorized person who applies or uses pesticides;
- (v) "Pesticides Retailer" shall mean any registered person to the authorized body who places pesticides on the retail market;
- (y) "Pesticides Wholesaler" shall mean any registered person to the authorized body who places pesticides on the wholesale market in order to distribute them unchanged, in bulk;
- (z) "Placing on the market" shall mean any importation, sale, distribution, use, storage or supply of a pesticide to a user in Kosovo, whether in return for payment or free of charge;
- (aa) "Plant protection product" shall mean active substance and formulated product containing one or more active substances, in the form in which it is supplied to the user, intended to –
- (i) protect plants or plant products against all harmful organisms or prevent the action of such organisms
 - (ii) influence the life processes of plants, other than as a nutrient;
 - (iii) preserve plant products
 - (iv) destroy undesired plants
 - (v) destroy parts of plants, deter or prevent undesired growth of plants;
- (bb) "Registration" shall mean the approval by the competent authority for the placing on the market and use of a pesticide.
- (cc) "Registering authority" shall mean the authority conducting the registration of pesticides in Kosovo.
- (dd) "Licensing authority" shall mean the authority conducting licensing of persons dealing with pesticides.

(ee) "Store" shall mean to store pesticides for sale, distribution and use; and

(ff) "Trade Name" shall mean the name under which a pesticide is labeled, registered, and advertised by the person granted registration of the pesticide under this Law and which can be used exclusively by that person to distinguish the product from other pesticides containing the same ingredient.

(gg) "Banned pesticide" shall mean a chemical which have been prohibited by MAFRD's final decision upon proposal by the registration authority in order to protect human or animal health or the environment and includes a pesticide that has been refused approval for first-time use, withdrawn by industry from the market in Kosovo.

(hh) "Severely restricted pesticide" shall mean a chemical virtually which have been prohibited by MAFRD's final decision upon proposal by the registration authority in order to protect human or animal health or the environment although certain specific uses are still allowed;

(ii) "Severely hazardous pesticide" shall mean a chemical formulated for pesticide use with a potential to cause severe health or environmental effects which can be observed under conditions of scope use.

Section 2 REGISTRATION OF PESTICIDES

2.1. No person shall manufacture, import, export, pack, repack, label, store, sell, distribute, apply, possess, use or otherwise place on the market in Kosovo any pesticide unless:

- (a) it has been registered in accordance with this Law;
- (b) it is intended for purposes of scientific research or evaluation, and the designated authority has granted a special permit for use under controlled conditions in limited quantities and for limited period and uses;
- (c) it is otherwise deemed to be registered or exempted under this Law.

2.2. Application for the registration or re-registration of a pesticide shall be made in the manner and form set out in an Administrative Instruction .

2.3. The registration authority shall base its pesticide registration decision on the procedure set out in the Law and to the extent practical, on harmonized regional and international standards for pesticide registration.

2.4. The registration or re-registration of a pesticide shall be valid for the specified use(s) for the period specified with Law.

Section 3 REQUIREMENT FOR LICENSES

3.1. Any person who wishes to engage in one or more of the following activities shall first obtain a license from the competent authority responsible for plant protection hereinafter "the licensing authority " for:

- a. Manufacture of pesticides;
- b. Export of pesticides;
- c. Import of pesticides;
- d. pesticides wholesale;
- e. pesticides retail;
- f. professional pesticides applicator.

3.2. Licenses granted under section 3.1 shall be valid unless revoked, suspended or otherwise terminated by the designated licensing authority, or as otherwise provided under this Law.

3.3. Licenses issued under section 3.1 (a); (b) or (f) shall be shown to any authorized person who asks to see this authorization.

3.4. Licenses issued under section 3.1 (c-f) shall be visibly displayed on the relevant premises at all times.

3.5. Licenses under section 3.1 (a-d, f) shall be issued by Department of Plant Production and Protection, MAFRD.

3.6. Licenses under section 3.1(e) shall be issued by the competent municipal-level licensing authority.

Section 4 LICENSE FEES

4.1. Levy fees for licenses issued under the present Law in amounts and under conditions shall be set out by the Ministry.

4.2. Revenue derived from license fees shall be deposited in the fund of Kosovo Budget.

Section 5 LICENSE TO IMPORT PESTICIDES

5.1. Person who wishes to import a registered pesticide shall apply to the designated licensing authority for a license in accordance with the requirements and procedures set out into Section 19 of the Law.

5.2. Person who wishes to import an unregistered pesticide under section 3.1(a) shall apply to the designated licensing authority for a license in accordance with the requirements and procedures set out into Section 19 of the Law.

5.3. The shelf life of any imported pesticide shall be at least one (1) year from the date of delivery into Kosovo. In special cases, as determined by the licensing authority, a shorter shelf life may be acceptable.

5.4. License issued under sections 5.1 and 5.2 shall include conditions to notify appropriate border control authorities of the time period for each import and to confirm delivery of each import to the final destination.

Section 6 LICENSE TO EXPORT PESTICIDES

6.1. Person who wishes to export a pesticide shall apply to the designated licensing authority for a license in accordance with the requirements and procedures set out into Section 19 of the Law.

6.2. License issued under section 6.1 shall include conditions to notify appropriate border control authorities of the time period for each export.

Section 7 LICENSE TO MANUFACTURE PESTICIDES

7.1. Person who wishes to manufacture pesticides in Kosovo shall apply to the designated licensing authority for a license in accordance with requirements and procedures that shall be set out into Section 19 of the Law.

7.2. Any change or a relocation of the business to a different premises shall be brought to the notice of the designated licensing authority. In the event that the business is moved to a different location, a new license shall be applied for.

Section 8 LICENSE TO OPERATE AS A PESTICIDES WHOLESALER OR RETAILER

8.1. Person who wishes to operate as a pesticides wholesaler or retailer shall possess a license issued by the licensing authority showing that the person has fulfilled the conditions set out in Section 19 of the Law.

8.2. Change in responsible agronomist or a relocation of the business to a different premises shall be brought to the notice of the licensing authority. In the event that the business is moved to a different location, a new license shall be applied for.

8.3 For the purpose of this law, a responsible wholesaler or retailer shall be a person who, possesses relevant education of an agronomist, training, knowledge and experience as set out in section 19 of the Law.

Section 9 LICENSE TO OPERATE AS A PROFESSIONAL PESTICIDES APPLICATOR

9.1. Person who wishes to operate as a professional pesticides applicator shall possess a license issued by the designated licensing authority in accordance with requirements and procedures.

9.2. Ministry shall designate the Referent Institution in order to carry out the education of interested persons on pesticides circulation.

Section 10 AGRICULTURAL PHARMACIES

10.1. The designated authority in the municipality shall issue a pesticides retailer license in the form set out in the Law.

10.2. The designated authority in the municipality shall ensure that the pesticides retailer's premises (agricultural pharmacy) are sited in areas of less human and animal density consistent with applicable land use law, including planning ordinances and this Law.

Section 11 Distribution of pesticides

11.1. No person shall distribute pesticides which do not conform to designated conditions and quality of the pesticide. In case of suspicion that the pesticide do not meet the designated criteria, the inspector shall block sales, take and send the samples to the Competent Institution.

11.2. Pesticides can be solely distributed inside original package with the label attached.

11.3. Instruction of use written in the language of user should be attached to the pesticides for distribution.

11.4. Pesticide should not be distributed in case that usage term given in the label expired.

11.5. Persons younger than 18 are prohibited to sell, distribute or supply pesticides in any other form.

Section 12 ADVERTISING OF PESTICIDES

12.1.. Importers, manufacturers, wholesalers, retailers and applicators of pesticides, when advertising their products, shall comply with the law and, in the absence of the law, with relevant European Community legislation on the subject.

Section 13 BANNED AND SEVERELY RESTRICTED PESTICIDES

13.1. Pesticides and active ingredients banned from import, export, or manufacture and placing on the market in Kosovo shall be set out in the Law.

13.2. Pesticide donations shall be distributed in compliance with all applicable laws in Kosovo and shall only be accepted after prior approval by the registration authority.

13.3. The registration authority shall exchange information with other countries on banned, severely restricted or severely hazardous pesticides subject to the Prior Informed Consent procedures under relevant international agreements such as the International Code of Conduct on the Distribution and Use of Pesticides and the provisions of the 1998 Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade.

13.4. Stocks of banned, severely restricted or severely hazardous pesticides set out in the Law remaining in Kosovo after the entry into force of this Law shall be:

- (a) Notified to the MAFRD and collected within the time limits and in accordance with the procedures ;
- (b) If not notified and collected under subsection (a), confiscated, without compensation, and disposed of according to applicable laws on hazardous wastes and administrative instruction made under this Law. The costs of disposal under this section shall be borne by the owner or possessor of such pesticide stocks

13.5. The MAFRD upon proposal by the registration authority shall allow for phasing out of the stock of the banned or severely restricted or severely hazardous pesticides set in the Law a reasonable period, depending on the merits of each case, but not exceeding two (2) years after entry into force of the Law;

Section 14 REGISTRATION AUTHORITY

14.1. Registration authority is responsible for registering pesticides and canceling registrations of pesticides in Kosovo, for advising the Minister on the control and management of all pesticides in Kosovo, and for performing all other functions assigned to it under this Law.

14.2. The registration authority shall carry out its duties and functions independently.

14.3. The Ministry shall appoint members of the registration authority, based on their technical competence in pesticides or pesticides-related matters, including education and experience in psychopathology, entomology, biology, chemistry, agronomy, toxicology and other related areas of expertise. Registering authority, comprises:

- a) two members from the Ministry of Agriculture, Forestry, and Rural Development, one of which the Registrar who shall chair the registration authority ;
- b) two members from the Ministry of Health, and a member from the Ministry of Environment and Spatial Planning to be nominated by relevant authority;
- c) one member representing the Association of agricultural input traders nominated by the association. ; and
- d) two members from scientific or research institutions.

14.4. Appointed members of the registration authority, shall serve for terms of three years and all members shall serve at levels of compensation as specified in an Administrative Instruction.

14.5. The designated registration authority shall function in accordance with the rules of procedure that shall be developed and adopted by registration authority. These rules of procedure shall be fair, impartial, based on the law internationally accepted. The Ministers shall decide for appeals against the decisions made by the registration authority.

14.6. The registration authority shall establish procedures and rules, consistent with regional and international standards, relating to which information in the pesticide registration application shall be considered confidential, how

confidential records shall be maintained and stored, and who shall have access to them.

14.7. The registration authority, as required, may request such qualified persons to take part, without voting, in its meetings, or to form Commissions on specific issues.

14.8. The registration authority:

(a) shall assess and evaluate application for registration of a pesticide, using the risk assessment procedures described in the Section 19 of the Law considering at least the following:

- (i) pesticide distribution side effects to environment and beneficial organisms;
- (ii) human and animal health hazards;
- (iii) efficacy;
- (iv) quality of declared specification of the technical material and composition of the formulated product;
- (v) the label and instructions, and, if required, a description, photograph, or exemplar of the proposed package(s);
- (vi) residues; and
- (vii) alternatives such as integrated control and clean technology of the pesticide;

(b) pursuant to the decision-making procedure set out in the Section 19 of the Law shall inform the applicant of its decision accordingly.

14.9. Upon the decision of the registration authority, the Registrar shall:

- (a) register pesticides and issue certificates
- (b) cancel or withdraw a registration
- (c) collect fees to be assessed.
- (d) apply or, in certain cases based on considerations of the public interest, waive, the conditions for granting, waive the conditions for granting a renewal, suspension, or revocation of any registration granted previously under this Law.

14.10 . The registration authority shall be funded from the budget of the Ministry of Agriculture, Forestry and Rural Development. The revenues derived under this Law shall be deposited in the Kosovo Consolidated Budget.

Section 15 REGISTRAR OF PESTICIDES

15.1. The Ministry shall appoint a Registrar of Pesticides who shall be a staff member of the Ministry of Agriculture, Forestry, and Rural Development which is a member of registration authority

15.2. The Registrar shall keep a Register of Pesticides in which shall be registered the trade name, common name, chemical name, and concentration of each registered pesticide, and the name and address of the applicant which, if a legal person, shall be the name and address registered by the competent authority for the registration of businesses in Kosovo.

Section 16 APPEALS

16.1. The Minister or the Ministry's authorized body shall hear and decide on appeals by any applicant against a refusal of the registration or licensing authority to grant a registration or to issue a license or a decision to cancel a registration or to suspend, revoke or terminate a license. The Minister or the Ministry's authorized body may uphold, modify or rescind any decision of the authority concerned.

16.2. Appeal against a decision of the registration authority could be made within fifteen (15) days of the issuance of such decision. The appeal shall be made in writing and may be accompanied by relevant documents.

16.3 The Minister or the Ministry's authorized body shall decide upon the appeal within 30 days of the day of receiving the appeal and notify the responsible person in writing

16.4 Nothing in this section shall preclude an applicant from seeking redress against the decision of the Minister from a competent court in Kosovo.

Section 17 INSPECTORS

17.1. The inspectors designated by the Ministry shall oversee enforcement of the present law and Administrative Instructions and Decisions issued under the present law.

17.2. An inspector may, at all reasonable times and upon production of his or her identification card:

- (a) enter any land, premises, aircraft, vessel, or vehicle, at or in which he or she reasonably suspects that any provision of this Law is being violated, except for any premises used exclusively as a dwelling;
- (b) require the production of, inspect, examine, and copy certificates, licenses, records, or other documents kept under this Law;
- (c) take samples of any substances to which this Law relates and, as may be set out by the Law, submit such samples for analysis;
- (d) carry out periodic inspections of all establishments which import, manufacture, pack, label, store, sell, distribute, use, advertise or otherwise place a pesticide on the market in Kosovo.
- (e) confiscate any equipment, pesticide, document, record, or other thing which the inspector believes has been used in violation of this Law, so long as:-
 - (i) the inspector gives a receipt in the prescribed form to the person from whose custody the thing was taken; and
 - (ii) the thing is promptly returned to that person once the necessary inquiry and/or prosecution has been completed, except for unregistered pesticides, which, if so ordered by the designated licensing authority, shall be destroyed in the manner set out by the Law.
- (f) request the assistance of Customs, Police Officers or the Kosovo Protection Corps in the exercise of his or her duties under this Law.
- (g) Denunciate violation of this Law to competent Courts.

17.3. The decision of any court instituted under this Law shall prevail over that of any inspector, in regard to the disposition of any item confiscated under Section 17.2 (e).

Section 18 VIOLATIONS AND PENALTIES

18. For civil violation with a fine of 5.000 to 50.000 € shall be punished the person who:

- (a) manufacture, pack, label, sell, store, distribute, possess or use a pesticide in Kosovo which has not been registered in accordance with this Law;

- (b) engage or be involved in any of the activities specified in section 3.1 above without first obtaining a license from the designated licensing authority, or to continue to so engage or be involved, pending the suspension, revocation, or termination of any such license;
- (c) alter, tamper with or break the seal on the original package or container of a pesticide if the person is not the user of the pesticide in the package or container;
- (d) use or require an employee to use a pesticide in any manner in violation of this Law or in violation of any conditions imposed on a registration or license;
- (e) dispose of any pesticide or pesticide waste in a manner that may harm human or animal health or the environment, or is in violation with the Law.
- (f) Distribute pesticides which do not meet the conditions and qualities from registration license.
- (g) Distribute pesticides in non-original package, without label and without instructions.
- (h) Distribute expired dated pesticides.
- (i) Sell to, grand or supply a persons younger than 18 years old.
- (j) In unauthorized manner repackage pesticides.

**Section 19
IMPLEMENTATION
ADMINISTRATIVE INSTRUCTIONS**

19.1. The Ministry may issue administrative instructions for the implementation of the present Law on:

- (a) the restriction of the import, manufacture, export, sale, distribution, handling, use, or placing on the market of any active ingredient or pesticide;
- (b) pesticide register;
- (c) the establishment of conditions and requirements for the licenses for import, manufacture, export, sale, distribution, handling, use or placing on the market of any pesticide, including those used in integrated control management;
- (d) the establishment of conditions and requirements for the packaging, labeling, instructions of use and advertising of any pesticide.
- (e) the establishment of requirements for, and duties of, employers, workers and retailers and wholesaler in connection with the sale and use of pesticides, including those used in integrated pest management;
 - (i) Shall designate the Referent Institution in order to carry out the education of interested persons on pesticides circulation.
- (f) the establishment of the conditions for the disposal and liquidation of pesticides' waste and pesticides' containers;
- (g) the imposition of conditions to control or prohibit the import, manufacture, export, sale, distribution, handling, use, advertising or placing on the market of the active ingredient found in any pesticide;
- (h) the establishment of maximum residue levels for pesticide residues, consistent with international specifications
- (i) the establishment 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;
- (j) the designation of licensing authorities, authorized laboratories and analysts under this Law as well as authorized sampling methods and analytical procedures; and

(k) for other matters which this Law regulates.

19.2. Any administrative instruction made under this Law shall specify the common name and the Chemical Abstract Service (C.A.S.) Number as used by International Standard Authorities, of the pesticide concerned.

Section 20 TRANSITIONAL PROVISIONS

20.1. The present Law after entry into force shall supersede any provision in the pesticide related applicable law.

Section 21

21.1. Any person who is currently importing, exporting, manufacturing, wholesaling, retailing and otherwise placing any pesticide on the market in Kosovo shall apply for the licenses provided for in section 3.1 not later than thirty (30) days after the entry into force of the present Law.

Section 22 ENTRY INTO FORCE

The present Law shall enter into force after approval by Kosovo Assembly and promulgation by Special Representative of Secretary General of United Nations.

08.12.2003
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