

Pesticides Ordinance

(Cap. 133)

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To provide for the registration and control of pesticides and for matters connected therewith.

(Amended 79 of 1990 s. 2)

[15 July 1977] *L.N. 166 of 1977*
*(*Format changes—E.R. 2 of 2014)*

Editorial Note:

* The title of the Ordinance has been updated to the current legislative styles.

Part 1

Preliminary

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Editorial Note:

* The format of Part 1 has been updated to the current legislative styles.

1. Short title

This Ordinance may be cited as the Pesticides Ordinance.

(Amended 79 of 1990 s. 3)

2. Interpretation

(1) In this Ordinance, unless the context otherwise requires— *(Amended 14 of 2013 s. 3)*

active ingredient (活性成分), in relation to a pesticide, means any substance, mixture of substances or biological agent in the pesticide which is the biologically active part of the pesticide;
(Added 79 of 1990 s. 4)

authorized officer (獲授權人員) means a public officer appointed to be an authorized officer under section 14; (*Added 14 of 2013 s. 3*)

Director (署長) means the Director of Agriculture, Fisheries and Conservation and the Deputy Director of Agriculture, Fisheries and Conservation; (*Amended L.N. 331 of 1999*)

function (職能) includes duty; (*Added 14 of 2013 s. 3*)

inert ingredient (非主成分), in relation to a pesticide, means any ingredient of the pesticide which is not an active ingredient; (*Added 79 of 1990 s. 4*)

inspector (督察) means any public officer authorized to be an inspector under section 14;

licence (牌照) means a licence to import, manufacture, sell or supply registered pesticides issued under section 9; (*Amended 79 of 1990 s. 4; 14 of 2013 s. 3*)

member of the Customs and Excise Service (海關人員) means any person holding an office specified in Schedule 1 to the Customs and Excise Service Ordinance (Cap. 342); (*Amended 46 of 1977 s. 18; 68 of 1995 s. 2*)

permit (許可證) means—

- (a) a permit to import, manufacture, sell, supply, be in possession of or use a scheduled pesticide or any other unregistered pesticide issued under section 9; or
- (b) a permit to export a scheduled pesticide issued under section 9; (*Replaced 14 of 2013 s. 3*)

pesticide (除害劑) means—

- (a) any insecticide, fungicide, herbicide, acaricide or any substance (whether organic or inorganic) or mixture of substances used or intended to be used for preventing, destroying, repelling, attracting, inhibiting or controlling any insect, rodent, bird, nematode, bacterium, fungus,

weed or other form of plant or animal life or any virus, which is a pest; or

- (b) any substance or mixture of substances used or intended to be used as a plant growth regulator, defoliant or desiccant,

but does not include—

- (i) any purely mechanical device for trapping or catching insects, rodents or other animals;
- (ii) any purely electromagnetic or ultrasonic device for the control of mosquitoes, rodents or other pests;
- (iii) any antiseptic, disinfecting solution or preparation in clinical or sanitary applications that is neither specified in Schedule 1 nor in Part 1 of Schedule 2; (*Amended 14 of 2013 s. 3*)
- (iv) any pharmaceutical product within the meaning of section 2 of the Pharmacy and Poisons Ordinance (Cap. 138); and (*Added 79 of 1990 s. 4. Amended 14 of 2013 s. 3*)
- (v) any insecticide, fungicide, herbicide, acaricide or any substance (whether organic or inorganic) or mixture of substances described in paragraph (a) or (b), if—
- (A) it is neither specified in Schedule 1 nor in Part 1 of Schedule 2;
- (B) it is contained in an individual package or container and does not exceed 10 g or 10 mL; and
- (C) it is used or intended to be used indoors—
- (I) for laboratory research;
- (II) for chemical analysis; or
- (III) as a reference standard; (*Added 14 of 2013 s. 3*)

plants (植物) include trees, bushes and seeds;

register (註冊紀錄冊) means the register of pesticides maintained under section 4; (*Amended 79 of 1990 s. 4*)

registered pesticide (註冊除害劑) means a pesticide which is registered in the register; (*Added 79 of 1990 s. 4*)

Rotterdam Convention (《鹿特丹公約》) means the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade adopted on 10 September 1998 as amended from time to time and as applied to Hong Kong; (*Added 14 of 2013 s. 3*)

scheduled pesticide (附表所列除害劑) means an unregistered pesticide specified in—

- (a) Schedule 1 or Part 1 of Schedule 2; or
- (b) both Schedule 1 and Part 1 of Schedule 2; (*Added 14 of 2013 s. 3*)

Stockholm Convention (《斯德哥爾摩公約》) means the Stockholm Convention on Persistent Organic Pollutants adopted on 22 May 2001 as amended from time to time and as applied to Hong Kong; (*Added 14 of 2013 s. 3*)

unregistered pesticide (未經註冊除害劑) means a pesticide which is not registered in the register. (*Added 79 of 1990 s. 4*)

(Amended 79 of 1990 s. 4; 14 of 2013 s. 3)

- (2) In this Ordinance, a reference to manufacture, in relation to a scheduled pesticide or any other unregistered pesticide, includes causing the pesticide to be manufactured. (*Added 14 of 2013 s. 3*)
- (3) To avoid doubt, a scheduled pesticide or any other unregistered pesticide is not regarded as having been manufactured if it is produced incidentally in the course of the manufacture of another thing. (*Added 14 of 2013 s. 3*)

- (4) For the purposes of this Ordinance, a pesticide is in transshipment if—
- (a) it is consigned on a through bill of lading or air waybill from a place outside Hong Kong to another place outside Hong Kong; and
 - (b) it is or is to be removed from the ship, vehicle, train or aircraft in which it was imported into Hong Kong and—
 - (i) returned to the same ship, vehicle, train or aircraft before being exported from Hong Kong; or
 - (ii) transferred to another ship, vehicle, train or aircraft before being exported from Hong Kong. (*Added 14 of 2013 s. 3*)
- (5) Subsection (4)(b) applies whether—
- (a) the pesticide is or is to be transferred directly between the ships, vehicles, trains or aircraft; or
 - (b) the pesticide is to be landed in Hong Kong after its importation and stored, pending exportation. (*Added 14 of 2013 s. 3*)

3. Application

- (1) This Ordinance does not apply to a pesticide that—
- (a) is in transit;
 - (b) is not a scheduled pesticide and is transhipped in Hong Kong; or
 - (c) is a scheduled pesticide and is air transshipment cargo. (*Replaced 14 of 2013 s. 4*)
- (2) (*Repealed 79 of 1990 s. 5*)
- (3) For the purposes of subsection (1)(a), a pesticide is in transit if it is destined for a place outside Hong Kong and is passing

through Hong Kong on the same ship, aircraft or vehicle without transshipment. (*Amended 14 of 2013 s. 4*)

(4) In this section—

air transshipment cargo (航空轉運貨物) means an article in transshipment that is both imported and consigned for export in an aircraft and which, during the period between its import and export, remains within the cargo transshipment area of Hong Kong International Airport;

cargo transshipment area of Hong Kong International Airport (機場貨物轉運區) has the meaning given by section 2 of the Import and Export Ordinance (Cap. 60). (*Replaced 14 of 2013 s. 4*)

(*Amended 79 of 1990 s. 5*)

3A. Ordinance applies to Government etc.

- (1) This Ordinance applies to the Government.
- (2) Despite subsection (1), the Government—
 - (a) is not liable to be prosecuted for an offence under this Ordinance; and
 - (b) is not required to pay any prescribed fee.
- (3) If the Director has reasonable grounds to believe that there has been or is a contravention by the Government of this Ordinance, the Director must report the matter to the Secretary for Food and Health.
- (4) The report must contain the advice of the Director on—
 - (a) whether the contravention has been terminated; and
 - (b) if the contravention has been terminated, whether it has been terminated to the Director's satisfaction.

- (5) On receiving the report from the Director, the Secretary for Food and Health must enquire into the matter to which the report relates.
- (6) If the enquiry shows that there has been a contravention referred to in subsection (3) and the contravention is likely to be repeated, the Secretary for Food and Health must take the best practicable steps to avoid the recurrence of a like contravention.
- (7) If the enquiry shows that there is a contravention referred to in subsection (3) and the contravention is continuing, the Secretary for Food and Health must take the best practicable steps to stop the contravention.

(Added 14 of 2013 s. 5)

Part 2

Registration of Pesticides

*(*Format changes—E.R. 2 of 2014)*

Editorial Note:

* The format of Part 2 has been updated to the current legislative styles.

4. Register of pesticides

The Director shall maintain a register of pesticides in which—

- (a) Part I shall contain a list of all pesticides which are in a form ready for immediate use without going through any treatment or process and which are for general domestic use; and
- (b) Part II shall contain a list of all other pesticides.

(Replaced 79 of 1990 s. 6)

5. Registration

- (1) Any person may apply to the Director for registration of a pesticide.
- (2) An application under subsection (1) must be made in writing in the prescribed manner. *(Amended 14 of 2013 s. 6)*
- (3) After considering an application under subsection (1) the Director may—
 - (a) register the pesticide in Part I or II of the register; or
 - (b) refuse to register it.
- (3A) The Director must not register—
 - (a) a scheduled pesticide; or

- (b) a pesticide that consists of a scheduled pesticide. (*Added 14 of 2013 s. 6*)
- (4) The Director may register a pesticide in Part I or Part II of the register although an application for registration of the pesticide has not been made under subsection (1).
- (5) The Director may register a pesticide subject to such conditions as he may think fit.

(Amended 79 of 1990 s. 7)

6. Power of Director to cancel or modify registration

The Director may at any time—

- (a) cancel the registration of a pesticide in Part I of the register and register it in Part II of the register;
- (ab) cancel the registration of a pesticide if the pesticide is listed under the Rotterdam Convention or the Stockholm Convention; (*Added 14 of 2013 s. 7*)
- (b) modify or add to, or cancel, any condition imposed by him under this Part in respect of the registration of a pesticide; or
- (c) cancel or suspend the registration of a pesticide if it appears to him to be necessary in the interests of public safety.

(Amended 79 of 1990 s. 8)

Part 3

Control of Pesticides

(*Format changes—E.R. 2 of 2014)

Editorial Note:

* The format of Part 3 has been updated to the current legislative styles.

7. Control of registered pesticides

- (1) Save under and in accordance with a licence, no person shall—
 - (a) import into or cause to be imported into Hong Kong;
 - (aa) manufacture; (*Added 79 of 1990 s. 9*)
 - (b) sell or offer or expose for sale; or
 - (c) supply or offer to supply,
any registered pesticide.
- (2) Subsection (1)(b) and (c) shall not apply to any person who—
 - (a) is not engaged in the trade or business, whether for wholesale, retail or otherwise, of selling, offering or exposing for sale, supplying or offering to supply pesticides; and
 - (b) sells, offers or exposes for sale, supplies or offers to supply any pesticide which he acquired for his own use.
- (3) Subsection (1) does not apply to an authorized officer or a member of the Customs and Excise Service who is—
 - (a) exercising a power or purporting to exercise a power under this Ordinance or doing anything in connection with or incidental to the exercise or purported exercise of the power; or

- (b) performing a function or purporting to perform a function under this Ordinance or doing anything in connection with or incidental to the performance or purported performance of the function. (*Added 14 of 2013 s. 8*)
- (4) Subsection (1) does not apply to a public officer who is—
 - (a) exercising a power or purporting to exercise a power under—
 - (i) the Import and Export Ordinance (Cap. 60);
 - (ii) the Public Health and Municipal Services Ordinance (Cap. 132);
 - (iii) the Dangerous Goods Ordinance (Cap. 295); or
 - (iv) any Ordinance other than this Ordinance; or
 - (b) doing anything in connection with or incidental to the exercise or purported exercise of the power. (*Added 14 of 2013 s. 8*)

(Amended 79 of 1990 s. 9)

8. Control of scheduled pesticides and other unregistered pesticides

- (1) Subject to Part 2 of Schedule 2, except under and in accordance with a permit, a person must not—
 - (a) import into or cause to be imported into Hong Kong;
 - (b) manufacture;
 - (c) sell or offer or expose for sale;
 - (d) supply or offer to supply;
 - (e) be in possession of; or
 - (f) use,a scheduled pesticide or any other unregistered pesticide.

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- (2) Subject to Part 2 of Schedule 2, except under and in accordance with a permit, a person must not export or cause to be exported a scheduled pesticide.
 - (3) Subsections (1) and (2) do not apply to a scheduled pesticide if—
 - (a) it is contained in an individual package or container and does not exceed 10 g or 10 mL; and
 - (b) it is used or intended to be used indoors—
 - (i) for laboratory research;
 - (ii) for chemical analysis; or
 - (iii) as a reference standard.
 - (4) Subsection (1)(e) and (f) does not apply to a person to whom the scheduled pesticide or unregistered pesticide is sold or supplied by a permit holder in accordance with the permit conditions.
 - (5) If the registration of a pesticide is cancelled under section 6(ab) or (c), subsection (1) does not apply to a person in respect of the pesticide—
 - (a) for a period of 3 months from the date of cancellation; or
 - (b) if before the expiry of that period the person applies for a permit for the pesticide under section 9(1), until the permit is issued or refused under section 9(2).
 - (6) If the registration of a pesticide is suspended under section 6(c), subsection (1)(e) does not apply to a person who has been in possession of the pesticide since the time immediately before the suspension.
 - (7) If a person is in possession of a pesticide under a permit immediately before the date on which a notice to add the pesticide to Schedule 1 or 2 is published under section

19A(1)(a), subsection (2) does not apply to the person in respect of the pesticide until the permit expires.

- (8) Subsections (1) and (2) do not apply to an authorized officer or a member of the Customs and Excise Service who is—
- (a) exercising a power or purporting to exercise a power under this Ordinance or doing anything in connection with or incidental to the exercise or purported exercise of the power; or
 - (b) performing a function or purporting to perform a function under this Ordinance or doing anything in connection with or incidental to the performance or purported performance of the function.
- (9) Subsection (1) does not apply to a public officer who is—
- (a) exercising a power or purporting to exercise a power under—
 - (i) the Import and Export Ordinance (Cap. 60);
 - (ii) the Public Health and Municipal Services Ordinance (Cap. 132);
 - (iii) the Dangerous Goods Ordinance (Cap. 295); or
 - (iv) any Ordinance other than this Ordinance; or
 - (b) doing anything in connection with or incidental to the exercise or purported exercise of the power.

(Replaced 14 of 2013 s. 9)

9. Licence or permit for pesticides

- (1) An application for a licence or permit must be made in writing to the Director in the prescribed manner. *(Amended 14 of 2013 s. 10)*
- (2) After considering an application under subsection (1) the Director may—

- (a) issue to the applicant a licence or a permit, as the case may be; or
 - (b) refuse to issue a licence or permit.
- (3) Where the Director refuses to issue a licence or a permit, the Director must send to the applicant a notice of the refusal and state in the notice the reasons for the refusal. *(Amended 14 of 2013 s. 10)*
- (4) A licence may authorize the holder in respect of—
- (a) registered pesticides generally;
 - (b) all pesticides registered in Part I of the register or any such pesticides as may be specified in the licence; or
 - (c) all pesticides registered in Part II of the register or any such pesticides as may be specified in the licence. *(Amended 79 of 1990 s. 11)*
- (5) Subject to subsection (6), the Director may issue a licence subject to the conditions that the Director thinks fit. *(Amended 79 of 1990 s. 11; 14 of 2013 s. 10)*
- (6) A licence authorizing the sale of a pesticide is subject to the conditions of registration of that pesticide. *(Replaced 79 of 1990 s. 11. Amended 14 of 2013 s. 10)*
- (7) The Director may issue a permit subject to the conditions that the Director thinks fit. *(Replaced 14 of 2013 s. 10)*
- (7A) A permit must specify the scheduled pesticide or unregistered pesticide to which it relates. *(Added 14 of 2013 s. 10)*
- (8) The Director may at any time vary the particulars of a licence or permit or modify, add to, or cancel, the conditions of a licence or permit.

10. Cancellation or suspension of licence

Subject to section 12, the Director may cancel, or suspend for such

period as he may think fit, a licence—

- (a) for breach of this Ordinance;
- (b) for breach of any of the conditions of the licence; or
- (c) if it appears to him to be necessary in the interests of public safety.

11. Cancellation of permit

Subject to section 12, the Director may cancel a permit—

- (a) for breach of this Ordinance;
- (b) for breach of any of the conditions of the permit; or
- (c) if it appears to him to be necessary in the interests of public safety.

12. Notice of intention to cancel or suspend

- (1) Where the Director intends to cancel or suspend a licence under section 10 or cancel a permit under section 11, he shall give to the holder of the licence or permit 14 days' notice in writing of his intention to cancel or suspend the licence or cancel the permit as the case may be and the notice shall specify the grounds for the intended cancellation or suspension.
- (2) The holder of a licence or permit may, within the 14 day period referred to in subsection (1), make written submissions to the Director as to why his licence or permit should not be cancelled or his licence suspended as the case may be.

13. Directions on disposal of pesticide where licence or permit cancelled

- (1) Where the Director cancels a licence or a permit under section 10 or 11 he may give to the licence holder or permit holder such directions as he thinks fit for the disposal of the

pesticide to which the licence or permit relates and for the disposal of any container containing that pesticide. (*Amended 79 of 1990 s. 12*)

- (1A) When considering whether to give a direction or what directions to give under subsection (1), the Director must have regard to other enactments that govern the disposal of the pesticide. (*Added 14 of 2013 s. 11*)
- (2) A licence holder or permit holder referred to in subsection (1) may apply in writing to the Director for a variation of any direction given under that subsection, stating the grounds of the application and the facts and circumstances relied upon in support of those grounds.
- (3) The Director must—
- (a) consider an application under subsection (2); and
 - (b) within 14 days from receiving the application, advise the licence holder or permit holder in writing of the Director's decision to confirm or vary the directions given under subsection (1). (*Replaced 14 of 2013 s. 11*)
- (4) If a licence holder or permit holder referred to in subsection (2) appeals under section 16A against a decision under subsection (3), a period for compliance specified in the direction referred to in subsection (2) is extended by the period between presentation of the appeal and notification of the Administrative Appeals Board's decision. (*Replaced 14 of 2013 s. 11*)
- (5) Any act done or omitted to be done in the carrying out of any direction given under this section does not constitute an offence under this Ordinance. (*Amended 14 of 2013 s. 11*)

13A. Prohibited or controlled inert ingredients

Where the Director is of the opinion that the use of a particular inert ingredient in the manufacture of pesticides, or that the import,

sale or supply of pesticides containing a particular inert ingredient should, in the interest of public safety, be prohibited or controlled, he may, by notice in the Gazette—

- (a) prohibit the use of the inert ingredient in the manufacture of pesticides;
- (b) prohibit for all or any purposes the import, sale or supply of pesticides containing the inert ingredient;
- (c) control the use of the inert ingredient in the manufacture of pesticides by imposing such conditions on such use as he thinks fit and specifies in the notice;
- (d) control the import, sale or supply of pesticides containing the inert ingredient by imposing such conditions on such import, sale or supply as he thinks fit and specifies in the notice.

(Added 79 of 1990 s. 13)

Part 4

Miscellaneous

*(*Format changes—E.R. 2 of 2014)*

Editorial Note:

* The format of Part 4 has been updated to the current legislative styles.

14. Appointment of inspectors and authorized officers

The Director may appoint in writing a public officer to be an inspector or authorized officer (or both) for the purposes of this Ordinance.

(Replaced 14 of 2013 s. 12)

15. Powers of entry, seizure, etc.

- (1) If it appears to a magistrate upon the oath of any person that there is reasonable cause to suspect that there is in any place or premises any pesticide in respect of which an offence under this Ordinance is being or has been committed, the magistrate may by warrant authorize any inspector or member of the Customs and Excise Service with such assistants as may be necessary to enter the place or premises, by force if necessary, and search the place or premises named in the warrant.
- (2) In any premises or place entered pursuant to subsection (1) an inspector or member of the Customs and Excise Service may—
 - (a) seize and detain any article, document or thing which appears to him to be or to contain evidence of an offence under this Ordinance;

(b) open and examine any article, document or thing specified in paragraph (a).

(3) *(Repealed 14 of 2013 s. 13)*

(Amended 46 of 1977 s. 18; 79 of 1990 s. 14)

15A. Power to enter premises, etc. without warrant

(1) Any of the powers in this section may be exercised for the purpose of ascertaining whether this Ordinance has been or is being complied with.

(2) An inspector or a member of the Customs and Excise Service may without a warrant enter, at any reasonable time, a relevant premises on which the inspector or member reasonably suspects a pesticide is being manufactured, used, kept, stored, sold, offered or exposed for sale, or supplied or offered to be supplied.

(3) After entering the relevant premises, the inspector or member may—

(a) require the production of, inspect and examine—

(i) a thing that is or the inspector or member reasonably believes to be a pesticide; or

(ii) a thing that contains or the inspector or member reasonably believes to contain a pesticide, including a thing that the inspector or member reasonably believes to have a pesticide as its part;

(b) require the production or provision of, inspect and examine—

(i) a licence, permit or any other document to which a pesticide relates, including a document relating to the pesticide's origin or nature; and

- (ii) any other document, information or thing that the inspector or member reasonably believes to be relevant to an offence under this Ordinance;
 - (c) take and make copies of a licence, permit, document and information referred to in paragraph (b); and
 - (d) take a sample of a thing that the inspector or member may reasonably require for an examination and investigation in order to determine whether an offence has been committed against this Ordinance.
- (4) The inspector or member may take a sample without payment, but must issue a receipt for it.
- (5) After completing an examination and investigation in relation to a sample, the Director may direct that the sample or remaining part of the sample be—
 - (a) returned to its owner or the relevant premises from which it was taken; or
 - (b) disposed of in any other way that the Director considers appropriate.
- (6) An inspector must produce written evidence of his or her authority as an inspector before exercising a power under this section.
- (7) In this section—

relevant premises (有關處所) means—

 - (a) any premises or place (whether domestic or not) the address of which is stated in an application under regulation 6(c) of the Pesticides Regulations (Cap. 133 sub. leg. A); or
 - (b) any other premises or place (other than domestic premises).

(Added 14 of 2013 s. 14)

16. *(Repealed 14 of 2013 s. 15)*

16A. Appeals to Administrative Appeals Board

- (1) A person aggrieved by any of the following decisions of the Director may appeal to the Administrative Appeals Board against the decision within 28 days after receiving notice of the decision—
- (a) a decision to refuse to register a pesticide under section 5(3)(b);
 - (b) a decision to register a pesticide subject to conditions under section 5(5);
 - (c) a decision to cancel or suspend the registration of a pesticide, or to modify, add to or cancel any condition, under section 6;
 - (d) a decision to refuse to issue a licence or permit under section 9(2)(b);
 - (e) a decision to issue a licence subject to conditions under section 9(5);
 - (f) a decision to issue a permit subject to conditions under section 9(7);
 - (g) a decision to vary the particulars of a licence or permit, or to modify, add to or cancel the conditions of a licence or permit, under section 9(8);
 - (h) a decision to cancel or suspend a licence under section 10;
 - (i) a decision to cancel a permit under section 11;
 - (j) a decision to confirm or vary under section 13(3)(b) the directions given under section 13(1).

- (2) Subject to section 13(4), a decision referred to in subsection (1) has immediate effect, or has effect from a date specified in the decision (if applicable), despite any appeal against the decision.

(Added 14 of 2013 s. 16)

17. Offences and penalties

- (1) Any person who contravenes section 7 or 8 commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 1 year.
- (2) Any holder of a licence who contravenes any of the conditions of his licence or any holder of a permit who contravenes any of the conditions of his permit commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 6 months.
- (3) Any person who—
- (a) wilfully obstructs an inspector or member of the Customs and Excise Service in the exercise of any power under section 15 or 15A; *(Amended 46 of 1977 s. 18)*
 - (b) refuses to allow any sample to be taken in accordance with section 15A;
 - (c) fails without reasonable excuse to produce any thing, licence, permit or document, or to give any information, when required to do so under section 15A; or
 - (d) fails without reasonable excuse to obey a direction given by the Director under section 13,
- commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 6 months.
- (4) A holder of a licence or permit who, in the manufacture of pesticides,—

- (a) uses any inert ingredient the use of which is prohibited by notice under section 13A(a); or
 - (b) uses any inert ingredient the use of which is subject to conditions specified by notice under section 13A(c) in contravention of any condition so specified,
- commits an offence and is liable to a fine at level 1 and to imprisonment for 6 months. (*Added 79 of 1990 s. 15*)
- (5) A holder of a licence or permit who imports or causes to be imported, sells or offers or exposes for sale, supplies or offers to supply for use in Hong Kong—
- (a) any pesticide the import, sale or supply of which, as may be appropriate, is prohibited by notice under section 13A(b); or
 - (b) any pesticide the import, sale or supply of which, as may be appropriate, is subject to conditions specified by notice under section 13A(d) in contravention of any condition so specified,
- commits an offence and is liable to a fine at level 1 and to imprisonment for 6 months. (*Added 79 of 1990 s. 15*)
- (Amended 14 of 2013 s. 17)*

18. Forfeiture

- (1) A magistrate may, on application by the Government, order to be forfeited any pesticide, or any container containing any pesticide, with respect to which any offence under this Ordinance has been committed, whether or not any person has been convicted of such offence and upon the making of an order of forfeiture such pesticide or container shall be deemed to be the property of the Government free from all rights of any person. (*Amended 60 of 2000 s. 3*)

- (2) In any proceedings under subsection (1), any statement or other indication of the nature of any pesticide written upon or indicated on the container, or on any box or other covering of whatever nature enclosing the pesticide or the container, shall, until the contrary is proved, be deemed to be a true description of the pesticide or of the contents of the container, as the case may be.

(Amended 79 of 1990 s. 16)

18A. Director may exercise powers for implementing requirements of Rotterdam Convention or Stockholm Convention

The Director may exercise the Director's powers under this Ordinance for the purpose of implementing the requirements of the Rotterdam Convention or the Stockholm Convention.

(Added 14 of 2013 s. 18)

19. Regulations

(For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.)

- (1) The Director of Agriculture, Fisheries and Conservation may by regulation provide for— *(Amended 80 of 1997 s. 4; L.N. 331 of 1999)*
- (a) applications for registration of pesticides including the information to be supplied by applicants therefor; *(Amended 79 of 1990 s. 17)*
 - (b) the imposition of conditions on registration; *(Amended 79 of 1990 s. 17)*
 - (c) *(Repealed 80 of 1997 s. 4)*
 - (d) the form and contents of the register;
 - (e) the proof of matters relating to registration by the production of certificates;

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- (f) the issue of licences and permits including—
 - (i) the information to be supplied by applicants therefor;
 - (ii) the imposition of conditions thereof;
 - (iii) the cancellation and suspension for any period thereof;
 - (g) the duration of licences and permits and the renewal of licences;
 - (h) the surrender of licences and permits;
 - (i) the issue of duplicate licences and permits;
 - (j) the containers for pesticides or classes or types of pesticides including— (*Amended 79 of 1990 s. 17*)
 - (i) the shape and size;
 - (ii) the design and colour;
 - (iii) the composition; and
 - (iv) the labelling and marking,
of such containers;
 - (k) the storage of pesticides and conditions under which they are to be kept; (*Amended 79 of 1990 s. 17*)
 - (l) the approval of premises for the storage, repackaging or sale of pesticides; (*Amended 79 of 1990 s. 17*)
 - (m) the sale and supply of pesticides; (*Amended 79 of 1990 s. 17*)
 - (n) the advertisement of pesticides; (*Amended 79 of 1990 s. 17*)
 - (o) the forms to be used. (*Amended 80 of 1997 s. 4*)
 - (p)-(r) (*Repealed 80 of 1997 s. 4*)

- (1A) The Chief Executive in Council may by regulation provide for— (*Amended 60 of 2000 s. 3*)
- (a) fees and charges;
 - (b) exemption by the Director from compliance with any regulation made under this Ordinance, either generally or in a particular case. (*Added 80 of 1997 s. 4*)
- (1B) The Secretary for Food and Health may by regulation provide for— (*Amended 78 of 1999 s. 7; L.N. 106 of 2002; L.N. 130 of 2007*)
- (a) the cancellation and suspension for any period of registration of a pesticide;
 - (b) generally, the better carrying out of the provisions of this Ordinance. (*Added 80 of 1997 s. 4*)
- (1C) Subsection (1B) shall not be construed as enabling the Secretary for Food and Health to make regulations as regards any matter in relation to which regulations may be made under subsection (1) or (1A). (*Added 80 of 1997 s. 4. Amended 78 of 1999 s. 7; L.N. 106 of 2002; L.N. 130 of 2007*)
- (2) Regulations made under this section may provide that a contravention of specified provisions thereof shall be an offence and may provide penalties therefor not exceeding a fine at level 3 and imprisonment for 1 year. (*Amended 14 of 2013 s. 19*)

19A. Power of Secretary for Food and Health to amend Schedules

- (1) The Secretary for Food and Health may by notice published in the Gazette—
- (a) add any Convention-regulated pesticide, including its Chemical Abstracts Service (**CAS**) registry number or other description, to Schedule 1 or 2;

- (b) remove any specified pesticide, including its CAS registry number or other description, from Schedule 1 or 2;
 - (c) make any amendment to Part 2 of Schedule 2 that only relates to a Convention-regulated pesticide or the removal of a specified pesticide; and
 - (d) make any amendment to Schedule 1 or 2 that is consequential, incidental or related to an addition, removal or amendment made under paragraph (a), (b) or (c).
- (2) For the purposes of subsection (1)—
- (a) a pesticide is a Convention-regulated pesticide if the pesticide is subject to the regulation of the Rotterdam Convention or the Stockholm Convention on the publication day; and
 - (b) a pesticide is a specified pesticide if, at some time before the publication day, the pesticide has been subject to the regulation of the Rotterdam Convention or the Stockholm Convention but is no longer subject to the regulation on that day.
- (3) In subsection (2)—
- publication day** (刊登日期) means the day on which a notice to add or remove the pesticide concerned is published under subsection (1)(a) or (b).

(Added 14 of 2013 s. 20)

19B. Protection of public officers

- (1) A public officer is not personally liable for an act done or omitted to be done by the public officer in good faith—
- (a) in the exercise of a power or purported exercise of a power under this Ordinance; or

(b) in the performance of a function or purported performance of a function under this Ordinance.

(2) Subsection (1) does not affect the liability of the Government for the act or omission.

(Added 14 of 2013 s. 20)

20. Trade marks, trade descriptions, patents and copyright not affected

The registration of, or issue of any licence or permit in respect of, a pesticide by the Director under section 5 or 9 respectively shall not grant to any person any proprietary right in respect of that pesticide and shall not confer or affect any rights under the Trade Marks Ordinance (Cap. 559), the Trade Descriptions Ordinance (Cap. 362), the Patents Ordinance (Cap. 514) or the Copyright Ordinance (Cap. 528).

(Amended 25 of 1979 s. 12; 69 of 1980 s. 37; 79 of 1990 s. 18; 52 of 1997 s. 161; 92 of 1997 s. 280; 35 of 2000 s. 98)

21. Pharmacy and Poisons Ordinance not to apply to pesticides

The Pharmacy and Poisons Ordinance (Cap. 138) shall not apply to any pesticide to which this Ordinance applies.

(Amended 79 of 1990 s. 19)

22. Dangerous Goods Ordinance to apply

Nothing in this Ordinance shall derogate from the provisions of the Dangerous Goods Ordinance (Cap. 295).

23. Transitional and savings provisions relating to Pesticides (Amendment) Ordinance 2013

- (1) If a person was in possession of an unregistered pesticide under a permit immediately before the commencement date, section 8(1)(f) or (2) does not apply to the person in respect of the pesticide until the permit expires.
- (2) A right of appeal existing immediately before the commencement date under the repealed section 16 is to be treated as being a right of appeal to the Administrative Appeals Board under section 16A.
- (3) An appeal pending immediately before the commencement date under the repealed section 16 is to be treated and disposed of as if it were an appeal pending under section 16A.
- (4) If an appeal that is pending as referred to in subsection (3) was made by a licence holder or permit holder against a decision under section 13(3), a period for compliance specified in the direction referred to in section 13(2) is extended by the period between presentation of the appeal and notification of the Administrative Appeals Board's decision.
- (5) In this section—

**commencement date* (生效日期) means the date on which the Pesticides (Amendment) Ordinance 2013 (14 of 2013) comes into operation;

repealed section 16 (已廢除的第16條) means section 16 repealed by section 15 of the Pesticides (Amendment) Ordinance 2013 (14 of 2013).

(Replaced 14 of 2013 s. 21)

Editorial Note:

* Commencement date: 27 January 2014.

Schedule 1

[ss. 2, 8 & 19A & Sch. 2]

Pesticides Listed under Stockholm Convention

Item	Pesticide	CAS registry number
1.	Aldrin	309-00-2
2.	Chlordane	57-74-9
3.	DDT	50-29-3
4.	Dieldrin	60-57-1
5.	Endrin	72-20-8
6.	Heptachlor	76-44-8
7.	Hexachlorobenzene (HCB)	118-74-1
8.	Mirex	2385-85-5
9.	Toxaphene	8001-35-2
10.	Alpha hexachlorocyclohexane	319-84-6
11.	Beta hexachlorocyclohexane	319-85-7
12.	Chlordecone	143-50-0
13.	Lindane	58-89-9
14.	Pentachlorobenzene	608-93-5

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15. Technical endosulfan and its related isomers 115-29-7;
 959-98-8;
 33213-65-9

(Schedule 1 added 14 of 2013 s. 22. Amended L.N. 43 of 2014)

Schedule 2

[ss. 2, 8 & 19A]

**Pesticides Listed under Rotterdam Convention and
Limitations on Application of Section 8****Part 1****Pesticides Listed under Rotterdam Convention**

Item	Pesticide	CAS registry number
1.	2, 4, 5-T and its salts and esters	93-76-5 (for parent compound only)
2.	Alachlor	15972-60-8
3.	Aldicarb	116-06-3
4.	Aldrin	309-00-2
5.	Azinphos-methyl	86-50-0
6.	Binapacryl	485-31-4
7.	Captafol	2425-06-1
8.	Chlordane	57-74-9
9.	Chlordimeform	6164-98-3
10.	Chlorobenzilate	510-15-6
11.	DDT	50-29-3

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12.	Dieldrin	60-57-1
13.	Dinitro-ortho-cresol (DNOC) and its salts (such as ammonium salt, potassium salt and sodium salt)	534-52-1; 2980-64-5; 5787-96-2; 2312-76-7
14.	Dinoseb and its salts and esters	88-85-7 (for parent compound only)
15.	1, 2-dibromoethane (EDB)	106-93-4
16.	Endosulfan	115-29-7
17.	Ethylene dichloride	107-06-2
18.	Ethylene oxide	75-21-8
19.	Fluoroacetamide	640-19-7
20.	HCH (mixed isomers)	608-73-1
21.	Heptachlor	76-44-8
22.	Hexachlorobenzene (HCB)	118-74-1
23.	Lindane (gamma-HCH)	58-89-9
24.	Mercury compounds, including inorganic mercury compounds, alkyl mercury compounds and alkyloxyalkyl and aryl mercury compounds	
25.	Monocrotophos	6923-22-4
26.	Parathion	56-38-2
27.	Pentachlorophenol and its salts and esters	87-86-5 (for parent compound only)
28.	Toxaphene	8001-35-2
29.	All tributyltin compounds including—	
	– Tributyltin oxide	56-35-9
	– Tributyltin fluoride	1983-10-4
	– Tributyltin methacrylate	2155-70-6

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	– Tributyltin benzoate	4342-36-3
	– Tributyltin chloride	1461-22-9
	– Tributyltin linoleate	24124-25-2
	– Tributyltin naphthenate	85409-17-2
30.	Dustable powder formulations containing a combination of—	
	– Benomyl at or above 7%	17804-35-2
	– Carbofuran at or above 10%	1563-66-2
	– Thiram at or above 15%	137-26-8
31.	<i>(Repealed L.N. 201 of 2015)</i>	
32.	Methyl-parathion (Emulsifiable concentrates at or above 19.5% active ingredient and dusts at or above 1.5% active ingredient)	298-00-0
33.	Phosphamidon (Soluble liquid formulations of the substance that exceed 1000 g active ingredient per litre)	13171-21-6
34.	Methamidophos <i>(Added L.N. 201 of 2015)</i>	10265-92-6
35.	Carbofuran <i>(Added L.N. 55 of 2018)</i>	1563-66-2
36.	Trichlorfon <i>(Added L.N. 55 of 2018)</i>	52-68-6

Part 2

Extent to which Section 8 does not Apply to Pesticides Specified in Part 1 of this Schedule

1. Limitations on application of section 8 to pesticides specified in Part 1 of this Schedule

Section 8 does not apply to a pesticide specified in Part 1 of this Schedule if the pesticide—

- (a) is not specified in Schedule 1; and
- (b) is, or is a part of, any of the following—
 - (i) food as defined by section 2(1) of the Public Health and Municipal Services Ordinance (Cap. 132);
 - (ii) additive as defined by regulation 2(1) of the Food and Drugs (Composition and Labelling) Regulations (Cap. 132 sub. leg. W);
 - (iii) radioactive substance as defined by section 2 of the Radiation Ordinance (Cap. 303);
 - (iv) waste as defined by section 2(1) of the Waste Disposal Ordinance (Cap. 354);
 - (v) chemical weapons as defined by section 2(1) of the Chemical Weapons (Convention) Ordinance (Cap. 578);
 - (vi) a thing listed in Schedule I or II of the Single Convention on Narcotic Drugs, 1961 which was adopted on 30 March 1961, as amended by the 1972 Protocol Amending the Single Convention on Narcotic Drugs, 1961 which was adopted on 24 March 1972;

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- (vii) a thing listed in the Convention on Psychotropic Substances, 1971 which was adopted on 21 February 1971.

(Schedule 2 added 14 of 2013 s. 22)