

2.3. Hazardous Chemicals and Pesticides Control and Management Act, 1994

**HAZARDOUS CHEMICALS AND
PESTICIDES CONTROL AND MANAGEMENT
ACT, 1994**

SECTION

ARRANGEMENT OF SECTIONS

PART - I - PRELIMINARY

1. Short title
2. Interpretation

PART - II - ADMINISTRATION

3. Establishment of the Chemicals and Pesticides Control Management Board and its functions
4. Composition of the Board
5. Meetings of the Board
6. Liability of Members of the Board
7. Technical Committees
8. The Registrar of Chemicals and Pesticides
9. The Chemicals and Pesticides Control and Management Fund

PART - III - REGISTRATION OF PESTICIDES AND CHEMICALS

10. Mandatory Registration of pesticides and Chemicals
11. Application for registration of a chemical or a pesticide
12. Decision of the Board
13. Authorization to import manufacture and use unregistered pesticides and unregistered chemicals
14. Duration of registration and renewal of registration
15. Restriction and subsequent banning of chemicals and pesticides
16. Cancellation of registration

PART - IV - PRESENTATION OF CHEMICALS AND PESTICIDES

- 17. Containers
- 18. Labels
- 19. Advertising of chemical and pesticides

**PART - V - CONTROL OF MANUFACTURE, IMPORT, EXPORT,
DISTRIBUTION AND USE OF CHEMICALS AND PESTICIDES
BY LICENSING**

- 20. Licensing for manufacture import etc chemicals or pesticides
- 21. Licensing of premises
- 22. Use of chemical and pesticides
- 23. Licensing of commercial applicators

PART - VI - HEALTH AND ENVIRONMENTAL MEASURES

- 24. Control of pesticides residues in
- 25. Contamination
- 26. Notification of death and injury
- 27. Inquiry
- 28. Disposal of chemicals, pesticides or their containers

PART - VII - ENFORCEMENT

- 29. Designation of inspectors
- 30. Powers and duties of Inspectors
- 31. Procedures for taking samples of chemicals and pesticides
- 32. Designation of analytical laboratories

No. 1 Hazardous Chemicals and Pesticides Control and Management Act, 1994

- 33. Who may request analysis
- 34. Analysis of chemicals and pesticides residues in food and their effect on the environment
- 35. Certificate of the analyst and its effect
- 36. Keeping records of chemicals and pesticides transactions

PART - VIII - OFFENCES AND PROCEEDINGS

- 37. General penalty
- 38. Specific offences
- 39. Adulterated decomposed and deteriorated chemicals and pesticides and their containers
- 40. Liability of bodies corporate, partnerships, agents, principals and employers
- 41. Forfeiture cancellation and other orders

PART - IX - FINAL PROVISIONS

- 42. Decisions of the Board
- 43. Exemptions for government activities and in cases of pest emergency
- 44. Schedule and list of chemicals and pesticides
- 45. Power to make regulations
- 46. Repeat Cap. 60:01

Schedule

THE GAMBIA

No. 12 OF 1994

Assented to by The President,

This Twenty-Fourth day of May, 1994.

D. K. JAWARA

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President.

**AN ACT to provide for the control
And management of the manufacture,
Distribution and use of hazardous
Chemicals and pesticides and to make
Provision for matters connected therewith**

27th May, 1994

ENACTED by the Parliament of The Gambia Enactment

PART 1 – PREMINARY

1. This Act may be cited as the Hazardous Chemicals and Pesticides Control and Management Act 1994 **Short Title**

No. 1 Hazardous Chemicals and Pesticides 1994
Control and Management Act, 1994

Interpretation

2. In this Act, unless the context otherwise requires,
- “active ingredient” means the biologically active part of pesticide or chemical present in a formulation;
- “adjuvant” means any adhesive, deposit builder, emulsifying agent, spreading agent, synergist or wetting agent intended to be used as an aid to the application of a chemical or pesticide;
- “advertising” means the promotion of the sale and use of the chemical or pesticide by print electronic media, signs, displays, gift, demonstration or word of mouth;
- “Agency” means the National Environment Agency;
- “banned substance” means a chemical or a pesticide for which all registered uses have been prohibited by the Board, or for which all request for registration or equivalent action for all uses have for health and environmental reasons, not been granted;
- “Board” means the Chemicals and Pesticides Control and Management Board established under section 3 (1);
- “Chemical” means a chemical substance in any form whether by itself or in a mixture or preparation whether manufactured or obtained from nature and includes a hazardous chemical and such substances used and industrial chemical but excludes medicines.
- “common name” means the name assigned to a chemical or pesticide active ingredient by the International Standards Organization to be used as a generic or non-proprietary name for that particular active ingredient only;

“formulation” means the combination of various ingredients designed to render the product useful and effective for the purpose claimed and includes the form of the chemical or pesticide as purchased by users;

“hazardous chemical”, means any chemical which has the likelihood of causing adverse effects or injury to human health or the environment and which has been so designated by the Board;

“inspector” means an inspector designated by the Minister under section 29;

“liable” means the written, printed or graphic matter on, or attached to, the chemical or pesticide or the immediate container thereof and the outside container or wrapper of the retail package of the chemical or pesticide;

“manufacture” means the production, by a person or other entity engaged in the business or function (whether directly or through an agent or through and entity controlled by or under contract with it), of a chemical’s or pesticide’s active ingredient or preparation of its formulation or production and includes formulation for the purposes of this Act;

“Minister” means Minister responsible for the administration of this Act; “pesticides” means

- (a) any substance or mixture of substances intended for preventing, destroying or controlling any pest, including vectors of human or animal disease, unwanted species of plants or animals causing harm during or otherwise interfering with the production, processing, storage, transport, or marketing of food, agriculture commodities, wood and wood products, or animals for the control of insects, arachnids or other pests in or on their bodies; and

- (b) includes substances intended for use as a plant growth regulator, defoliant, desiccant, or agent for tinning fruit or preventing the premature fall of fruit, and substances applied to crops wither before or after harvest to protect the commodity from deterioration during storage and transport;

“pictogram” means a symbol which conveys a message without words;

“provisional clearance” means an authority given by the Board to allow us, or sale as the case may be, on a limited basis and under stipulated conditions for the purpose of obtaining information needed before registration will be granted;

“registrar” means the per designated as such by the Minister under section 8;

“registration” means the process whereby the Board approves the import, manufacture, sale and use of a chemical or pesticide following the evaluation of comprehensive scientific data demonstrating that the product is effective for the purposes intended and not unduly hazardous to human or animal health or the environment;

“responsible authority” means the government agency responsible for regulating the manufacture, distribution or use of chemicals or pesticides;

“sell” includes offer for sale and offer to provide goods as part of a service of pest control even if the goods are described as free or included in the service;

“severely restricted chemical or pesticide” means a chemical or pesticide for which virtually all registered regulatory action is restricted by certain specific registered uses or uses remain authorized;

“trade name” means the name under which the chemical or pesticide is labeled, registered and promoted by the manufacturer and which can be used exclusively by the manufacturer to distinguish the product from other chemical pesticides containing the same active ingredient; and

“technical committee” means any committee established under section 7 that advises the Board on any matter pertaining to chemical and pesticides registration and control.

PART II – ADMINISTRATION

Establishment
the Chemicals and
Pesticides Control and
Management Board and
Its functions

3. (1) There is hereby established the Chemicals and Pesticides Control Management Board which shall be responsible for the registration, control and management of all hazardous chemicals and which shall perform the functions assigned to it or the regulations.
 - (2) Without prejudice to the generality of subsection (1) the Board shall
 - (a) monitor and control the import, manufacture, distribution storage, and disposal of chemicals and pesticides in The Gambia and to this end collect, maintain and publish information relating thereto;

- (b) prepare guidelines on the environmentally sound handling and use of chemicals and pesticides;

**No. 1 Hazardous Chemicals and Pesticides 1994
Control and Management Act, 1994**

- (c) conduct public educational campaigns on the wise use of chemicals and pesticides;
 - (d) register pesticides, issue provisional clearances certificates and permits;
 - (e) control the import, manufacture, sale, storage, and use of chemicals and pesticides through licensing;
 - (f) designate by order published in the Gazette any chemical to be a hazardous chemical which shall be subject to the provisions of this Act and the regulations, and register and issue provisional clearance and certificates for such chemicals’
- (3) The Board may in the performance of its functions delegate any of its powers to any public officer subject to the approval of the Minister, provided that the public officer does not sub-delegate the power delegated to him.

Composition

4. (1) The Board shall be composed of the Board
- (a) the Executive Director of the National Environment Agency shall serve as Chairman;
 - (b) the Director of Agricultural Services or his representative
 - (c) the Director of Livestock services or his representative;
 - (d) the Director of Health Services or his representative;

- (e) the Director of Customs and Excise or his representative;

No. 1 Hazardous Chemicals and Pesticides Control and Management Act, 1994

- (f) the Director of Agricultural Research Institute or his representative;
 - (g) the Solicitor general and legal secretary or his representative;
 - (h) a nominee of The Gambia Chamber of Commerce and Industry;
 - (i) the registrar of Chemicals and pesticides who shall serve shall serve as Secretary, and
 - (j) two other persons appointed by the Minister to server for a term of three years.
- (2) A person appointed under subsection (1) (f) may be eligible for re-appointment upon the expiry of his term of office.

Meetings of the Board

- 5.
- (1) The Chairman shall preside at all meetings of the Board at which he is present
 - (2) In the absence of the absence of the Chairman at a meeting of the Board, the members present shall elect one of their number to preside at the meeting
 - (3) All decisions taken at a meeting of the Board shall be determined by a simple majority vote of members present and voting
 - (4) The Chairman or the member presiding at a meeting of the Board shall have a vote and, if upon any question the votes are equally divided, the shall have a casting vote

- (5) The board shall meet at least four times in the year

No. 1 Hazardous Chemicals and Pesticides Control and Management Act, 1994

- (6) At any meeting of the Board, five members including the Chairman or the members presiding shall form a quorum

- (7) The chairman may convene a special meeting of the Board on his own initiative and shall do so upon the written request of three members.

- (8) The Board may invite any person to attend and participate in any of its meetings but the person shall have no right to vote at the meeting.

- (9) Subject to this section, the Board may regulate its own rules of procedure.

Liability of Members of the Board

6. No member of the Board acting in good faith shall be liable for any act done by the Board in the course of its duties

Technical Committees

7. (1) The Board may establish such technical committees as it deems necessary to advise it in implementing the provisions of this Act.
- (2) The Board shall determine the terms of reference for each technical committee.
- (3) A Technical committee shall be chaired by a member of the Board and shall be composed of such number of experts as may be appointed by the Board to serve for such term as may be specified in their appointments.

The Registrar of Chemicals and Pesticides

8. (1) There shall be a registrar of Chemicals and Pesticides who shall be appointed by the

Minister and who shall have such qualifications as the Board may determine

No. 1 Hazardous Chemicals and Pesticides 1994
Control and Management Act, 1994

- (2) The registrar of Chemical and Pesticides shall serve under the direction of the Board and shall perform all duties required under this Act or any regulations and guidelines made thereunder.
- (3) Without prejudice to the generality of subsection (2) the registrar shall
 - (a) maintain and publish periodically a register of pesticides stating registered, provisionally cleared, restricted and banned chemicals;
 - (b) maintain and publish periodically a register of all chemicals stating registered, provisionally cleared, restricted and banned chemicals;
 - (c) issue licences, certificates of registration and provisional clearance as directed by the Board;
 - (d) maintain registers of manufacturers, importers, distributors and commercial applicators of pesticides and chemicals; and
 - (e) implement international notification schemes relating to chemicals and pesticides including the prior informed consent procedure
- (3) For the purposes of this section prior informed consent means the principle that a chemical or pesticide banned or severely restricted for health or environmental reasons should not be shipped in

international trade without the agreement of the importing country.

No. 1 Hazardous Chemicals and Pesticides Control and Management Act, 1994

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| The Chemicals and Pesticides Control and Management Fund | 9. | (1) There is hereby established the chemicals and Pesticides Control and Management Fund, (hereinafter referred to as the “fund”). |
| | | (2) The fund shall be administered by the Board |
| | | (3) All fees and fines payable under this Act, disbursements from other sources for the purpose of chemicals and pesticides control and management shall be paid into the Fund; |
| | | (4) The Fund shall be applied solely for the furtherance of the objectives of this Act including public awareness of the safe and wise handling of chemicals and pesticides. |

PART III - REGISTRATION OF PESTICIDES AND CHEMICALS

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| Mandatory Registration Of Pesticides and Chemicals | 10 | No person shall import, manufacture, formulate, offer, hold stock, sell, use or advertise any chemical or pesticide which has not been registered, provisionally cleared, or authorized in accordance with the provisions of the Act. |
| Application for Registration of a chemical or a pesticide | 11 | (1) An application for the registration of chemical or pesticides shall |
| | | (a) be submitted to the Board in the prescribed form, and |
| | | (b) be accompanied by the fee prescribed in the schedule |

- (2) Information submitted to the board shall be treated as confidential.

No. 1 Hazardous Chemicals and Pesticides 1994
Control and Management Act, 1994

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| Decision of the Board | 12 | <ul style="list-style-type: none">(1) The board shall consider the application submitted in accordance with section 11 and if it is satisfied after any inquiry, investigation test or analysis of the chemical or pesticide, provisionally clear the chemical or pesticide or register or reject the application.(2) Upon the registration or provisional clearance of the chemical or pesticide, the certificate, and assign a registration number upon payment of the prescribed fee in the Schedule. |
| Schedule | | <ul style="list-style-type: none">(3) A provisional clearance of a chemical or pesticide shall be valid for a period of three years.(4) In making its decision under sub-section (1) the Board shall be guided, among other considerations, by whether.<ul style="list-style-type: none">(a) all matters submitted with the application are true in all material particulars,(b) the label is not misleading and complies with the provisions of this Act,(c) the chemical or pesticide which is the subject of the application has not been registered under this Act,(d) the chemical or pesticide does not pose a serious danger to human or animal health and the |

- (e) environment when applied in accordance with the instructions given on the label, and
- (f) the use of the chemical or pesticide has not been restricted or banned in other countries.

**No. 1 Hazardous Chemicals and Pesticides 1994
Control and Management Act, 1994**

- (5) Where the Board rejects an application for the registration of a chemical or pesticide under this section, it shall state its reasons.

Authorization to import, manufacture and use unregistered chemicals

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- (1) Notwithstanding the provisions of sections 10, 11, and 12, the Board may authorize the import, manufacture and use of a chemical or pesticide which has not been registered or provisionally cleared if the chemical or pesticide is to be applied solely for scientific or educational purposes.

- (2) An authorization of the Board under subsection (1) shall be pursuant to an application made in the prescribed form and subject to such conditions, as the Board deems fit. The fee prescribed in the schedule shall be paid for the issuance of such authorization.

- (3) An authorization under this section shall be issued upon payment of the fee prescribed in the Schedule and shall be valid for the period stated therein which shall not exceed three years.

Schedule

Duration of registration and Renewal of registration.

14.

- (1) The registration of a chemical or pesticide shall be valid for a period of five years.

No. 1 Hazardous Chemicals and Pesticides 1994
Control and Management Act, 1994

- Registration and subsequent banning of chemicals and Pesticides.
- (2) The Board may, upon the application of the person desiring to renew the registration of a chemical or pesticide, renew the registration for a further period of five years provided that the Board is satisfied that the chemical or pesticide remains safe and effective for use in The Gambia.
 - (3) Where the Board refuses to renew the registration of a chemical or pesticide in accordance with subsection (2) it shall give its reasons.
15. (1) Upon application for the registration of a chemical or pesticide or where after registration a chemical or pesticide is proved to be dangerous to Human or animal health or the environment, the Board shall restrict the use and handling of such a chemical or pesticide and require that the chemical or pesticide be manufactured, sold, distributed, stored and used subject to such conditions as the Boards deems necessary.
- (2) If, after registration, the chemical or pesticide proves to be dangerous to human or animal health and the environment even when used or handled in accordance with the instructions given on the label, the Board shall prohibit the use of such a chemical or pesticide and declare it a banned chemical or pesticide.

No. 1 Hazardous Chemicals and Pesticides 1994
Control and Management Act, 1994

- Cancellation or registration.
- (3) Where the Board makes a decision in accordance with sub-sections (1) or (2), it shall amend the register of pesticides or the register of hazardous chemicals as the case may be.
16. (1) The Board may cancel the registration, Provisional clearance or authorization of any chemical or pesticide and shall give reasons for such cancellation provided that in any such case the board shall, before proceeding, give an opportunity to the person on whose application the chemical or the pesticide was registered an opportunity to show cause why the registration should not be cancelled.
- (2) Without prejudice to the generality of sub section (1) the Board may cancel the registration of a chemical or pesticide if
- (a) the registration was secured in violation of this Act;
- (b) the chemical or pesticide has been banned in accordance with section 15 (2).
- (c) The chemical or pesticide had been registered subject to conditions and those conditions have not been observed;
- (d) The chemical or pesticide has fallen into disuse; or
- (e) The chemical or pesticide had been withdrawn from the market.

- (3) Where a chemical or pesticide has been withdrawn from the market the person upon whose application the pesticide was registered shall notify the Board in writing of such withdrawal.

No. 1 Hazardous Chemicals and Pesticides 1994
Control and Management Act, 1994

- (4) Where the Board cancels the registration of a chemical or pesticide it shall publish the cancellation in the Gazette and direct the Registrar to effect amendments to the register of chemicals or pesticides as the case may be.

PART IV

**PRESENTATION OF
CHEMICALS AND PESTICIDES**

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| Containers | 17. | <ol style="list-style-type: none">(1) The Board shall, on the registration or provisional clearance of a chemical or pesticide, approve a container suitable for the safe and effective storage, distribution, and handling of the chemical or pesticide.(2) No person shall import, distribute, store or sell a chemical or pesticide in any form other than in a container conforming in all respects to the container approved in subsection (1).(3) A manufacturer, in the case of a chemical or a pesticide manufactured in The Gambia, or importer of a chemical or pesticide, may be required by the Board to be responsible for disposing of the containers of chemicals or pesticides in any manner that may be prescribed. |
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- (4) No person shall use a chemical or pesticide container for a purpose which has not been approved by the Board.

No. 1 Hazardous Chemicals and Pesticides 1994
Control and Management Act, 1994

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| Labels | 18. | <ul style="list-style-type: none">(1) No person shall distribute, sell, offer for sale, or hold in stock any chemical or pesticide unless a label is part of or securely included in or affixed upon its container and the label has been approved by the Board.(2) The label shall be written in English and shall state any particulars as may be prescribed.(3) Pictograms as may be prescribed shall be used in each Label.(4) For the purposes of this Act any publication issued along with a chemical or pesticide containing information that may be in accordance with the provisions of sub-section 2 of this section shall be deemed to be part of the label.(5) No person shall alter the label of any chemical or pesticide in contravention of this sub-section . |
| Advertising of chemicals and pesticide | 19. | <ul style="list-style-type: none">(1) No person shall advertise any chemical or pesticide.<ul style="list-style-type: none">(a) that has been banned or is not registered in accordance with this Act, or(b) in a manner that is false, misleading or intended to deceive. |

- (2) An advertisement of a chemical or pesticide shall.
- (a) be consistent with the statement required under section 18 to be included in the label.

No. 1 Hazardous Chemicals and Pesticides Control and Management Act, 1994

- (b) Not include any false or misleading comparisons with other chemicals or pesticides; and
- (c) Comply with the conditions of registration of the chemical or pesticide and with such other requirements as may be prescribed.

PART V

**CONTROL OF
MANUFACTURE, IMPORT
EXPORT, DISTRIBUTION AND
USE OF CHEMICALS AND
PESTICIDES BY LICENSING**

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| License for manufacture, Import, etc, chemicals or pesticides | 20. | <ul style="list-style-type: none"> (1) No person shall be issued with a license for the manufacture, import, export, use storage, or sale of a chemical or pesticide unless the chemical or pesticide has been registered or pesticide has been registered, or provisionally cleared. (2) An application for a license under sub-sector (1) shall be accompanied by the fee prescribed in the schedule. (3) An application for a license for a chemical or pesticide which has been registered for a restricted use shall be made to the Board stating how the applicant proposes to fulfill the conditions required by the Board for the restricted use of the chemical or pesticide. |
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- (4) Each license granted by the Board shall be subject to a fee prescribed in the schedule.

No. 1 Hazardous Chemicals and Pesticides Control and Management Act, 1994

Licensing of premises	21.	(1)	A license for the manufacture, storage, and sale of a chemical or pesticide shall specify the location and premises in which such manufacture, storage and sale of the chemical, or pesticide shall take place and shall be valid for such place only.
		(2)	The Board shall inspect the premises before directing the issue of a license, under sub-section (1) in order to determine their suitability for the purpose for which the license is required.
Use of chemicals and pesticides	22.	(1)	No person shall use or require another person to use a chemical or pesticide in a manner or for a purpose contrary to the manner or purpose permitted by the Board.
		(2)	A person who requires or permits another person to use a chemical or pesticide shall provide and require that other person to use such facilities and clothing conducive to the safe handling of such chemical or pesticide.
Licensing of commercial applications	23.	(1)	A person desiring to carry on the business of commercial applications of chemicals or pesticides shall apply to the Board for a commercial applicator's license in the prescribed form.
		(2)	In making its decision on whether to grant a commercial applicator's license, the Board

shall be guided by among other considerations,

- (a) the applicant's understanding of chemicals or pesticides, their beneficial use and their possible effects.

No. 1 Hazardous Chemicals and Pesticides Control and Management Act, 1994

- (b) The applicant's ability to compensate any victims of chemical or pesticide use by possessing an adequate insurance policy and resources and
- (c) The applicant's possession of suitable premises, equipment, and protective clothing.
- (3) Subject to the provisions of sub-sections (1) and (2) a commercial applicator's license shall be issued on payment of the fee prescribed in the schedule.

PART VI

HEALTH AND ENVIRONMENTAL MEASURES

Control of pesticide Residues in food.

- 24. (1) The Minister may in consultation with the Board make regulations.
 - (a) to prohibit the use of certain pesticides or certain chemicals in any food products, feedstuffs or food by products for preservation;
 - (b) to prohibit the use of certain pesticides at any period in the growing of food crops; and

- (c) to establish viable standards of maximum residue limits of pesticides in food; food products, feedstuffs and food by-products;
- (2) No person shall manufacture, Import, sell or distribute any food, food products and feedstuffs, or food by-products to which pesticides have been applied in contravention of any regulation made under this Act.

**No. 1 Hazardous Chemicals and Pesticides 1994
Control and Management Act, 1994**

Contravention	25.	<ul style="list-style-type: none"> (1) An inspector designated under section 29 shall have power. <ul style="list-style-type: none"> (a) to enter and inspect premises where food, food products, feedstuffs and food by-products reasonably believed to be contaminated by chemicals or pesticides are kept, (b) to seize, detain, remove and take samples of such food products, feedstuffs and food by-products wherever found; and (c) to submit such samples for analysis. (2) The procedures laid down in section 31, regarding the taking of samples of pesticides samples and analysis of food products, feedstuffs and food by-products under this section.
Notification of dead and injury	26.	<ul style="list-style-type: none"> (1) Any person on whose premises or land, injury or death of another person or animal has occurred as a result of exposure to, use or handling of chemicals or pesticides shall send a notice within twenty-four hours of such death or injury to the Registrar. (2) any registered medical practitioner who has reason to believe, upon examination of a person, that such a person has died or suffered personal injury as a result of

exposure to chemicals or pesticides shall notify the registrar.

- (3) Any public health officer who has reason to believe that certain ailments and death occurring in any area under his charge may be linked to exposure to any chemical or pesticide being handled or used in the area shall notify the Registrar.

No. 1 Hazardous Chemicals and Pesticides Control and Management Act, 1994

- (4) Any livestock officer who has reason to believe that certain ailments and death occurring in any area under his charge may be linked to exposure to any chemicals or pesticide shall notify the Registrar.

Inquiry

27. (1) The registrar may, upon receiving a notification under section 26, appoint a person having legal or special qualifications to hold an inquiry into the cause of death or injury.
- (2) The person appointed to hold the inquiry shall have the power of a first class Magistrate.
- (3) The person holding the inquiry shall within a reasonable time report his findings and recommendations to the Registrar.
- (4) The registrar shall report to the Board on the findings and recommendations of the inquiry and the Board shall take such measures as it deems appropriate.

No. 1 Hazardous Chemicals and Pesticides Control and Management Act, 1994

- Disposal of chemicals, Pesticides and their Containers
28. (1) No person shall dispose of any chemical, or for the storage, distribution or handling of a chemical or pesticide except in accordance with guidelines issued by the Board.
- Cap 72.02
- (2) The provisions of the Environmental Protection (Prevention of Dumping) Act shall apply in addition to the guidelines issued under sub-section (1).

PART VII

ENFORCEMENT

- Designation of Inspectors
29. The Ministry may by notification in the Gazette designate persons to be inspectors within such local limits as may be specified in the notification.
- Powers and duties Of Inspectors
30. An Inspector may, in the performance of his duties pursuant to the provisions of this Act or any regulation made thereunder, at all reasonable times without warrant.
- (a) enter on any land, premises or vehicle where a chemical or pesticide is or may be reasonably suspected to be manufactured, stored, sold, distributed or used to determine whether the provisions of this Act are being complied with;

- (b) require the production of, inspect, examine and copy licenses, registers, records and other documents relating to this Act;
- (c) make examinations and inquiries to discover whether this act is being complied with;
- (d) take samples of any articles and substances to which this Act relates and, as may be prescribed, submit such samples for test and analysis;

No. 1 Hazardous Chemicals and Pesticides Control and Management Act, 1994

- (e) carry out periodic inspections of all establishments within the local limits of his jurisdiction which manufacture, import, store, sell, distribute or use chemicals or pesticides, including any impromptu visits, to determine whether the provisions of this act are being complied with;
- (f) enter and inspect farmers' fields to ensure that only the recommended pesticides are used on specific crops and according to prescribed procedures;
- (g) seize any equipment, chemical, pesticide or other thing which he believes has been used in the commission of an offence against this act or regulations made thereunder; or
- (h) cause a police officer to arrest any person whom he believes has committed an offence against this Act.
- (2) In exercising his powers under this section, the Inspector shall identify himself.

Procedure for taking samples chemicals and Pesticides

31. (1) An Inspector shall, before taking samples of any chemical or pesticide in accordance with section 30 (d) for analysis, inform the person in possession of the chemical or pesticide that the sample shall be taken for analysis.

- (2) In exercising his powers under this section the inspector shall carry with him an Official identification card to identify himself.
- (3) The Inspector shall divide the samples into three parts to be marked, sealed and delivered as their nature will permit, as follows:
 - (a) the sample to be delivered to the person in possession of the chemical or pesticide;

**No. 1 Hazardous Chemicals and Pesticides 1994
Control and Management Act, 1994**

- (b) the sample to be delivered to the designate laboratory for analysis; and
- (c) the sample to be delivered to the Registrar.
- (4) Where the chemical or pesticide is packed in small containers or if the chemical or pesticide is likely to deteriorate or be damaged by exposure, the Inspector may take three containers or packages and after suitable marking the same and sealing them, proceed as provided for in sub-section (2).
- (5) In the event of a dispute the sample delivered to the registrar shall be sent by the Board to a reference laboratory.

Designation
analytical
laboratories

- 32. (1) The Minister may by notification in the of Gazette designate any laboratory to be a laboratory for analysis and reference for the purposes of this Act.
- (2) The notification in sub-section (1) shall specify the functions of the laboratory and the local limits or subject matter which it shall serve, provided that if the designated laboratory is not functioning then any laboratory close to it shall be used.

Who may request analysis	33.	(1)	An Inspector may, in writing, request the designated laboratory to analyse a sample taken in accordance with section 30 (d)
Schedule		(2)	A buyer of a chemical or pesticide may, upon the payment of the fee prescribed in the schedule be entitled to request the analysis of the chemical or pesticide.
		(3)	The Board may order that a chemical or pesticide be analysed.

**No. 1 Hazardous Chemicals and Pesticides 1994
Control and Management Act, 1994**

Analysis of chemicals pesticides residues in food and their effect environment	34.		A designated laboratory may analyze any food, and water, air, soil, or other substance submitted by the Board or an Inspector pursuant to a request in on the writing in order to determine the levels of chemical or pesticide residues in food or the effect of chemicals and pesticides on the quality of water, air, soil and other living and non-living things or to make any such determination as the Board or the Inspector may require.
Certificate of the the analyst and its effect	35.	(1)	The designated laboratory shall issue a of certificate of analysis stating the results of analysis of any substance submitted to it.
		(2)	The certificate of the designated laboratory, or the reference laboratory, as the case may be, shall state the method of analysis followed and such a certificate shall be signed by the person who conducted the analysis.
		(3)	A certificate in accordance with this section shall be sufficient evidence of the facts stated therein.
Keeping records of chemicals and pesticides	36.	(1)	The Board shall keep all records of chemicals and pesticides manufactured, imported, exported, formulated, sold or otherwise distributed in The Gambia.

- (2) Every person who manufactures, imports, exports, formulates, sells or otherwise distributes chemicals or pesticides or is a commercial applicator of chemicals or pesticides in accordance with the provisions of this Act, shall keep a record of all quantities of chemicals or pesticides manufactured, formulated, imported, exported, sold, distributed or used by him.

No. 1 Hazardous Chemicals and Pesticides Control and Management Act, 1994

- (3) The record kept in accordance with subsection (1) of this section shall contain the name and address of persons involved in such transactions and shall contain any other matters that may be prescribed or contained in the conditions of registration of any pesticide or chemical.
- (4) The record kept in accordance with subsection (2) shall be made available to an Inspector, the Registrar or the Board upon request and such record shall be submitted to the Board at the end of each calendar year.

PART VIII

OFFENCES AND PROCEEDINGS

- | | | |
|-------------------|-----|--|
| General penalty | 37. | A person who commits an offence against the provisions of this Act for which no penalty is provided shall be liable, on conviction to a fine not exceeding thirty thousand dalasis or to a term of imprisonment not exceeding three years. |
| Specific offences | 38. | (1) A person who |

- (a) knowingly gives false information in an application for the registration of a chemical or pesticide;
- (b) manufactures, imports, exports or sells an unregistered pesticide or banned chemical or pesticide contrary the provisions of sections 10, 13, 15 and 20;
- (c) contravenes sections 17, 18, and 19; or

No. 1 Hazardous Chemicals and Pesticides 1994
Control and Management Act, 1994

- (d) carries on the business of a commercial chemical or pesticides applicator without a license contrary to section 23 of this Act,

 commits an offence and is liable on conviction to a fine not exceeding one hundred and fifty thousand dalasis or to a term of imprisonment not exceeding five years, or both.
- (2) A person who
 - (a) manufactures, exports, imports, stores, distributes, transports, or sells or offers for sale any chemical or pesticide without a license issued under this Act, or
 - (b) manufactures, exports, imports, stores distributes or sell any chemical or pesticide at premises different from those licensed for the purpose under this Act,

 commits an offence and is liable on conviction to a find not exceeding fifty thousand dalasis or to a term of imprisonment not exceeding four years, or both.

- (3) A person who;
 - (a) sells any food contaminated with a chemical or pesticide contrary to any standards laid down pursuant to this Act;
 - (b) uses or compels an employee to use a chemical or pesticide contrary to its conditions of registration under this Act;
 - (c) fails to notify the registrar of death or injury contrary to section 26;

No. 1 Hazardous Chemicals and Pesticides Control and Management Act, 1994

- (d) obstructs an Inspector in the course of his duties contrary to sections 30 and 31;
- (e) alters a sample delivered to him or the seals placed on such a sample by an Inspector or the Board under sections 31 and 34.

Commits an offence and is liable on conviction to a fine not exceeding twenty thousand dalasis or to a term of imprisonment not exceeding two years or both.

Adulterated, decomposed and deteriorated chemicals and pesticides and their containers

- 39, (1) No person shall manufacture, formulate, import, sell, distribute or store any chemical which
- (a) has been adulterated,
 - (b) has decomposed or deteriorated so as to be ineffective for its purpose or hazardous to human or animal health or to the environment, or

- (c) which is packed in containers which have deteriorated or have been damaged rendering them dangerous to store, handle or use safely.
- (d) Any person who contravenes the provisions of subsection (1) commits an offence and is liable on conviction to a fine not exceeding fifty thousand dalasis or to a term of imprisonment not exceeding four years, or both.

No. 1 Hazardous Chemicals and Pesticides Control and Management Act, 1994

Liability or bodies coperate, partnerships, agent, principals and employers

40. (1) Where an offence under this Act is committed by a body corporate, every director or officer of the body corporate who had knowledge or ought to have had knowledge of the commission of the offence shall be deemed to have committed the offence.
- (2) Where an offence is committed under this Act by a partnership, every partner who had knowledge or ought to have had knowledge of the commission of the offence shall be guilty of the offence.
- (3) A person shall be personally liable for any offence under this Act whether committed by him on his own account or as an agent or servant of another person.
- (4) An employer or principal shall be liable for an offence committed by his employee or agent against this Act unless the employer or principal proves that the offence was committed without his consent, or connivance, and that no neglect is attributable to him.

Forfeiture,
cancellation
and other
orders

41. (1) The court before which a person is prosecuted for an offence against this Act or the regulations made thereunder, may upon conviction of the person and in addition to any order made, order that the substance, equipment and appliances used in the commission of the offence be forfeited to the State and be disposed of as the court directs.
- (2) In making the order to forfeit under subsection (1) the court may also order that the substances, equipment and appliance be borne by the accused.

No. 1 Hazardous Chemicals and Pesticides Control and Management Act, 1994

- (3) The court may further order that the registration or provisional clearance of a chemical or pesticide, or a license or permit issued under this Act be cancelled.

PART IX – FINAL PROVISIONS

Decisions of the
The Board

42. The decisions of the Board under this Act shall be final.

Exemptions for
for government
activities and in
cases of pest
emergency

43. (1) The Board may, if it deems it fit, exempt for certain pesticides imported and distributed in The Gambia by the Government from fees required to be levied by the provisions of this Act.
- (2) In cases of pest emergencies, the Board may exempt, from fees required to be levied under this Act, any pesticides donated, imported or distributed by international aid agencies and programmes.

Schedule

44. (1) The fees payable under this Act are set out in the schedule.
- (2) The Minister may from time to time after consulting with or on the advice of the

Board, by order published in the Gazette, amend the Schedule.

Power to make regulations

45. (1) The Minister may, in consultation with the Board, make regulations for the effective carrying out of the objects of this Act.

No. 1 Hazardous Chemicals and Pesticides Control and Management Act, 1994

- (2) In particular and without prejudice to the generality of subsection (1) the regulations may provide all or any of the following matters,
- (a) the form in which an application for registration of a chemical or a pesticide or renewal of registration shall be made, the procedure for application, and the information that shall be required;
 - (b) the form and content of the label including the use of suitable pictograms;
 - (c) the requirements relating to chemical containers and pesticide containers;
 - (d) the licensing of manufacture, import, export, storage, transport, distribution and sale of pesticides and the form of, and the conditions attached to, such licenses;
 - (e) the form of the certificates of registration and the provisional clearance, licenses, permits and authorizations provided for under this Act;
 - (f) the advertising of chemicals and pesticides;

- (g) the licensing of commercial applicators, the form of and the conditions attached to, such licenses;
- (h) the determination of maximum residue limits of pesticides in food and measures to minimize such residues;
- (i) the environmentally sound disposal of chemicals, pesticides and their containers;
- (j) qualifications and duties of inspectors, analysts and referee analysts;

No. 1 Hazardous Chemicals and Pesticides Control and Management Act, 1994

- (k) the methods of sampling and analysis to be followed;
- (l) the records to be kept and the form in which they shall be kept;
- (m) measures for compensation of workers injured by chemicals and pesticides in the course of employment;
- (n) notification procedures for chemicals and pesticides which are banned or severely restricted in other countries including the implementation of the prior informed consent procedure in accordance with International arrangement;
- (o) methods for safe trials of pesticides in the field;
- (p) secrecy of information submitted to the Board as confidential; and
- (q) the regulation of the chemicals and Pesticides Control and Management Fund.

No. 1 Hazardous Chemicals and Pesticides Control and Management Act, 1994

HAZARDOUS CHEMICALS AND PESTICIDES CONTROL AND MANAGEMENT ACT, 1994

SCHEDULE OF FEE	DALASIS
1. Application for registration of pesticide or chemical (Section 11)	100.00
2. Registration of a pesticide or chemical (Section 12)	5,000.00
3. Provisional clearance of a pesticide or chemical (Section 12)	1,500.00
4. Registration of a restricted pesticide or chemical (Section 13)	2,000.00
5. Authorization to import an unregistered pesticides or chemical (Section 13)	1,000.00
6. Application for renewal of registration (Section 14)	50.00
7. Renewal of registration (Section 14)	6,000.00
8. License for the manufacturer of a pesticide or chemical (Section 20)	1,000.00
9. Licence for an importer of pesticides or chemicals (Section 20)	2,000.00
10. License for an exporter or pesticides or chemicals	

	(Section 20)	2,000.00
11.	License for a distributor of pesticides or chemicals wholesale (Section 20)	1,500.00
12.	License for warehousing pesticides or chemicals (except in cases of distributors) Section 20)	1,000.00
13.	License for a distributor or pesticides or chemicals for general use (retail) (Section 20)	2,000.00
14.	License for a distributor of restricted pesticides or chemicals (retail) (Section 20)	4,000.00
15.	Commercial Applicators license (Section 24)	3,000.00

No. 1 Hazardous Chemicals and Pesticides Control and Management Act, 1994

Passed in the House of representatives this 13th day of April in the year of Our Lord One thousand Nine Hundred and Ninety Four:

**D.S. NJIE
Clerk of the House of Representatives.**

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed in the House of representatives and found by me to be a true and correct copy of the said Bill.

**D.S. NJIE
Clerk of the House of Representatives.**

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