

# THE PEST CONTROL PRODUCTS BILL, 2017

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# THE PEST CONTROL PRODUCTS BILL, 2017

## A Bill for

**AN ACT of Parliament to regulate the importation, exportation, manufacture, acquisition, distribution, advertising, use and disposal of products used for the control of pests and for the organic function of plants and animals, to establish the Pest Control Products Authority, and for connected purposes**

**ENACTED** by the Parliament of Kenya as follows—

### PART I – PRELIMINARY

Short title.                   **1.** This Act may be cited as the Pest Control Products Act, 2017.

Interpretation.               **2.** In this Act, unless the context otherwise requires –

“accident” means an unplanned incident involving loss of life or injuries inside or outside premises, vehicle, plane, ship or release of toxic chemicals or explosion or fire or spillage of pest control products resulting in on-site or off-site emergencies or damage to equipment leading to stoppage of process or adverse effects to the environment;

“active ingredient” means the part of the product that provides pesticidal action;

“adulteration” means the unlawful and deliberate addition of any substance or thing to a pest control product so as to change or alter its character, value, quality, composition, merit, efficacy and safety;

“analyst” means a person appointed under section 15;

“Authority” means the Pest Control Products Authority established under section 5;

“Board” means Pest Control Products Board established under section 8;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to pest control products;

“commercial training” in relation to pest control products means training or coaching for imparting skill or knowledge or lessons on pest control or related fields, with or without issuance of a certificate, and includes coaching or tutorial classes, but does not include government extension services, preschool coaching and or training offered at any institute or establishment which issues any certificate or diploma or degree or any educational qualification recognised by law for the time being in force;

“committee” means a committee appointed under section 19(4);

“counterfeiting” means the manufacturing, formulating, producing or making of any pest control product, label or package which is similar or substantially indistinguishable from one legally authorized under this Act and which is likely to cause confusion or mistake or to deceive or pass off as being a genuine pest control product, label or package of the registrant of that particular product, and “counterfeit goods” shall be construed accordingly;

“disposal” means any operation to recycle, neutralize, destroy or isolate pest control product waste, used containers or contaminated materials;

“distribution” means the process through which pest control products are supplied through trade channels in local or international markets;

“environment” means surroundings, including water, air, soil and their interrelationship as well as all relationships between them and any living organisms;

“hazard” means the likelihood that a pest control product may cause an adverse effect under the conditions in which it is used;

“inspector” means a person appointed as an inspector under section 15;

“label” includes a legend, word, mark, symbol, pictogram or design applied or attached to, included in, belonging to or accompanying any pest control product;

“Managing Director” means the Managing Director of the Authority appointed under section 14;

“manufacture” includes any process carried out in the course of making a pest control product and includes synthesis of active ingredients, formulation, blending, mixing, distillation, processing, changing of form or application of any chemical or physical process in the preparation of a pest control product and repackaging;

“Maximum Residue Limit (MRL)” means the maximum concentration of a residue that is legally permitted or recognized as acceptable in or on a food, agricultural commodity or feedstuff;

“package” includes any container, wrapping, covering or holder in which any pest control product or material is wholly or partly contained, placed or packed;

“pest” means any injurious, noxious or troublesome insect, fungus, nematodes, bacterial organism, virus, weed, rodent or other plant or animal pest; and includes any injurious, noxious or troublesome organic function of a plant or animal;

“pest control product” means a product, device, organism, substance or thing that is manufactured, represented, sold or used as a means for directly or indirectly controlling, preventing, destroying, attracting or repelling any pest and includes –

- (a) any compound or substance that enhances or modifies or is intended to enhance or modify the physical or chemical characteristics of a pest control product to which it is added;
- (b) any active ingredient used for the manufacture of a pest control product;
- (c) plant growth regulators; and
- (d) any effective tick or other ectoparasite-destroying agent on animals.

“place” includes any site, building, vehicle, vessel, railway carriage or aircraft;

“personal protective equipment” means any clothes, materials, or devices that are designed to provide protection from pest control products during the handling or application of;

“premises” means a building, structure, enclosure or open space on which a pest control product business is located;

“registrant” means a person issued with a certificate of registration under this Act in respect of a pest control product;

“Registrar” means the Registrar of Pest Control Products referred to in section 18;

“registration” means the process whereby the Authority approves the sale and use of a pest control product under this Act;

“repackaging” means the transfer of a pest control product from any commercial package into any other, usually smaller, container for subsequent sale;

“residue” means any specified substances in food, agricultural commodities, or animal feeds resulting from the use of a pest control product, and includes a conversion product metabolite reaction product or other derivatives thereof;

“sell” includes barter, exchange, export for or in pursuance of sale, agree to sell, or to offer, advertise, keep, expose, transmit, convey, deliver or manufacture for sale or to exchange or to dispose of to any person in any manner for any consideration whatever, or to transmit, convey or deliver in pursuance of a sale, exchange or disposal as aforesaid; and ‘sale’ shall be construed accordingly;

“the regulations” means regulations made under this Act;

Cap. 358.

“tick-destroying agent” shall have the meaning assigned to it under the Cattle Cleansing Act;

“Tribunal” means the Pest Control Products Appeals Tribunal established under section 62;

“toxicity” means a physiological or biological property which determines the capacity of a pest control product to do harm, or to occasion injury to a living organism by other than mechanical means.

Object and purpose of the Act.

**3. The purpose for this Act is to—**

- (a) safeguard human health and the environment from risks associated with pest control products;
- (b) provide for the issuance, suspension and cancellation of licenses and permits;

- (c) facilitate research into pest control products; and
- (d) provide for the domestication of ratified international conventions or treaties relating to pest control products; and
- (e) regulate all matters related to pest control products.

Guiding principles.

**4.** The guiding principles for the implementation of this Act shall be—

- (a) the national values and principles of governance set out by Article 10 of the Constitution;
- (b) the values and principles of public service set out by Article 232 of the Constitution; and
- (c) the principles of leadership and integrity set out in Chapter Six of the Constitution.

## **PART II – ESTABLISHMENT, POWERS AND FUNCTIONS OF THE AUTHORITY**

Establishment of the Authority.

**5.** (1) There is hereby established an Authority to be known as the Pest Control Products Authority.

(2) The Authority shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (c) borrowing and lending money;
- (d) entering into contracts and;
- (e) doing or performing all such other things or acts necessary for the proper performance of its functions under this Act, which may be lawfully done by a body corporate.

Headquarters of the Authority.

6. The Headquarters of the Authority shall be in Nairobi, but the Authority may establish branches in the Counties.

Functions of the Authority.

7. The functions of the Authority shall be to—

- (a) assess and evaluate pest control products in accordance with the provisions of this Act and regulations made thereunder;
- (b) receive, examine and approve applications for registration of pest control products;
- (c) safeguard human health from risks associated with pest control products by, *inter alia*—
  - (i) advising on maximum residue limits for pest control products in line with international standards;
  - (ii) establishing minimum intervals between the application of pest control products and harvest in respect of various commodities, and withdrawal period for animal products;
- (d) monitor and enforce the provisions of this Act and the regulations for quality compliance to set standards;
- (e) promote good agricultural practices and other practices on matters related to pest control products;
- (f) disseminate information on matters relating to pest control products;
- (g) implement ratified international conventions relating to pest control products;
- (h) safeguard the environment from risks associated with pest control products;
- (i) periodically review registered pest control products;
- (j) regulate the handling of pest control products by issuing licenses and permits; and
- (k) carry out such other functions as are related to any of the functions conferred by the Act and the regulations.

Establishment  
and  
Composition of  
the Board of  
Directors.

**8.** (1) There shall be a Board of Directors of the Authority, which shall consist of—

- (a) a non-executive chairperson appointed by the President;
- (b) the Principal Secretary in the department for the time being responsible for matters relating to Agriculture;
- (c) the Principal Secretary in the department for the time being responsible for matters relating to Finance;
- (d) the Director-General of the National Environmental Management Authority;
- (e) five persons appointed by the Cabinet Secretary as follows-
  - (i) one person nominated by the Agrochemicals Association of Kenya;
  - (ii) one person nominated by a registered national organization representing farmers engaged in crop farming;
  - (iii) one person nominated by a registered national organization for farmers engaged in livestock farming;
  - (iv) one person nominated by a registered national organization representing the interests of consumers; and
  - (v) one person nominated by a registered national organization, representing persons trading in produce;
- (f) the Managing Director appointed under section 14.

(2) The appointment of the members of the Board shall take into account the principles of gender parity and non-discrimination.

(3) The members of the Authority under subsection (1) (b), (c), and (d) may designate suitable persons in writing to represent them on the Board.

Qualification for appointment of chairperson.

**9.** A person shall be qualified for appointment as the chairperson of the Board if such person holds a degree from a university recognized in Kenya and has at least ten years' experience in a relevant scientific field.

Manner of appointment of the Board.

**10.** (1) Every appointment under section 8 shall be by name and by notice in the Gazette.

(2) A person appointed as the chairperson or a member of the Board shall hold office for a term of three years and shall be eligible for reappointment for one further term.

(3) The office of the chairperson or a member of the Board shall become vacant if the chairman or member-

- (a) resigns by notice in writing to the President or the Cabinet Secretary, as the case may be;
- (b) is absent from three consecutive meetings without the permission of the chairperson or the Board;
- (c) ceases to be a member of the organization nominating such person to the Board;
- (d) conducts himself in a manner deemed by the Cabinet Secretary, in consultation with the State Corporations Advisory Committee, to be inconsistent with membership of the Board;
- (e) is incapacitated by prolonged physical or mental illness from performing his duties as a member of the Board;
- (f) is convicted of criminal offence and sentenced to imprisonment for a term exceeding six months;
- (g) is adjudged or otherwise declared bankrupt under any written law; or
- (h) is otherwise unable or unfit to continue as a member of the Board.

Powers of the Board.

**11.**(1) The Board shall have all powers necessary for the proper performance of its functions under this Act, and in particular, and without prejudice to the generality of the foregoing, the Board shall have powers to –

- (a) formulate, with approval of the Cabinet Secretary,

policies pertaining to the organization, management and implementation of the objects of the Authority;

- (b) suspend or cancel licenses or permits issued under this Act;
- (c) control, supervise and utilize the assets of the Authority in such manner as best promotes the purposes for which the Authority is established;
- (d) determine the provisions to be made for capital and recurrent expenditure and for reserves for the Authority;
- (e) receive grants, gifts, donations or endowments and make legitimate disbursement therefrom;
- (f) enter into association with such other bodies or organizations within or outside Kenya as the Authority may consider desirable or appropriate and in furtherance of the purposes for which the Authority is established;
- (g) open a banking account or banking accounts for the funds of the Authority;
- (h) invest any funds of the Authority not immediately required for its purposes in such a manner as Treasury may approve from time to time;
- (i) establish such committees as it may deem appropriate, to perform such functions and responsibilities as it may determine and such committees may consist partly or wholly of members of the Board;
- (j) delegate to any committee of the Board or to any member, officer, employee or agent of the Authority the exercise of any of the powers or the performance of any of the functions or duties of the Board under this Act; and
- (k) charge fees for services rendered by the Authority;
- (l) advise the Cabinet Secretary on all matters relating to the enforcement of the provisions of this Act and the Regulations; and

(m) coordinate and supervise fully the implementation of the provisions of this Act and the regulations at the national and county levels.

First Schedule to apply. **12.** The First Schedule shall apply to the conduct of the business and affairs of the Board.

Remuneration of Board Members. **13.** The Board shall pay its members such remuneration or allowances for expenses as it may, in consultation with the Salaries and Remuneration Commission, determine.

Appointment of the Managing Director. **14.** (1) There shall be a Managing Director of the Authority who shall be appointed by the Board on such terms and conditions of service as may be determined by the Board in the instrument of appointment or otherwise in writing from time to time.

(2) A person shall be qualified for appointment under this section if such person has –

- (a) at least a Masters’ degree from a university recognized in Kenya in any relevant discipline relating to the functions of the Authority;
- (b) at least ten years of relevant experience; and
- (c) has served in a senior management position for at least five years.

(3) The Managing Director shall be the chief executive officer of the Authority and responsible to the Board for the day-to-day management of the affairs of the Authority, and shall be Secretary to the Board.

Appointment of other staff. **15.** (1) The Board may appoint such other officers and staff of the Authority, including inspectors and analysts, as may be necessary for the performance of its functions under this Act.

(2) Inspectors and analysts appointed under this Act shall be gazetted by the Cabinet Secretary

Powers of inspectors. **16.** (1) An inspector appointed under this Act may, at all reasonable times in the performance of the functions under this Act –

- (a) enter and inspect any premises –
  - (i) in which he reasonably believes a pest control product to which this Act applies is

or has been manufactured, stored, sold or used;

(ii) in which he reasonably believes there is material that is contaminated by a pest control product; or

(iii) which is or are being used in the manufacture of a pest control product;

(b) examine any pest control product or material found in any place or premises, or open any package found therein that he has reason to believe contains any pest control product or material and take samples thereof;

(c) require any person to produce for inspection or for the purpose of obtaining copies thereof or extracts therefrom, any books, shipping bills, bills of lading, documents containing instructions, or other documents or papers concerning any matter relevant to the administration of this Act or any regulations made thereunder.

(2) An inspector shall be issued with a certificate of appointment as an inspector, and shall on entering any place or premises referred to in subsection (1), if so required by the person in charge thereof, produce the certificate as proof of identification.

(3) The owner or person in charge of any place or premises referred to in subsection (2) and every person found therein shall give an inspector all reasonable assistance to enable the inspector to carry out his duties and functions under this Act and the regulations, and shall furnish the inspector with such information with respect to enforcement of the provisions of this Act and regulations made thereunder as he may reasonably require.

(4) Any person who-

(a) willfully refuses entry to an inspector acting under this section;

(b) knowingly obstructs an inspector in making an entry or making an inspection;

(c) without reasonable excuse, fails to produce any pest

control product or material for examination, any document the production of which is required of

him under this section, commits an offence.

Seizure,  
forfeiture and  
disposal of  
pest control  
products

**17.** (1) Whenever an inspector believes, on reasonable grounds, that this Act or the regulations has or have been contravened, he may seize and detain the pest control product in relation to which he reasonably believes the contravention was committed.

(2) Any pest control product seized and detained pursuant to subsection (1) shall not be detained-

(a) after such time, not exceeding fourteen days, as in the opinion of the inspector, the provisions of this Act and the regulations have been complied with;  
or

(b) after the expiration of six months from the date of seizure, or such longer period as may be prescribed with respect to any pest control product,

Unless, before that time, proceedings have been instituted in respect of the contravention, in which case the pest control product may be detained until the proceedings are finally concluded.

(3) A court convicting a person for an offence under this section or the regulations may-

(a) order that any pest control product in relation to which the offence was committed shall be forfeited to the Government; and

(b) make such order as the court may deem proper as to the payment by the defendant of any fees and other expenses incidental to the analysis and disposal of pest control product in respect of which the conviction is obtained.

(4) Where an inspector seizes a pest control product, and the person in whose possession the pest control product was at the time of the seizure consents in writing to the disposal thereof, the pest control product shall thereupon be forfeited to the Government and shall be disposed of in such manner as may be prescribed by this Act and the regulations.

(5) Any cost incurred by the Authority in connection with the

disposal of any pest control product under subsection (4) shall be recovered from the owner or importer thereof.

(6) Any person who willfully hinders or obstructs an inspector acting in exercise of his powers under this section commits an offence.

### **PART III – REGISTRATION OF PEST CONTROL PRODUCTS**

Designation  
of a Registrar.

**18.** (1) The Managing Director shall be the Registrar of Pest Control Products.

(2) Any power function or duty of the Registrar under this Act may be exercised, performed or carried out by an officer under a delegation from or under the control or direction of the Registrar.

(3) Any decision made or instruction issued by any officer under subsection (2) shall be deemed to have been made or given by the Registrar unless such decision or instruction is withdrawn or amended by the Registrar prior to the making of such decision.

Application  
for registration

**19.** (1) An application for registration of a pest control product shall be made to the Registrar in the prescribed manner and shall be accompanied by the prescribed fee.

(2) Any person applying for registration under subsection (1) shall supply or make available to the Registrar at the headquarters of the Authority within working hours, such samples and particulars of the pest control product as the Registrar may require.

(3) If, after consideration of any application and after such investigation and enquiry as he may deem necessary, the Registrar is satisfied that—

(a) the pest control product, including any effective tick-destroying agent, in respect of which the application is made-

(i) is suitable and sufficiently effective for the purposes for which it is intended;

(ii) complies with such requirements as may be prescribed; and

(iii) is not contrary to the public interest.

- (b) the establishment where it is manufactured is suitable for such manufacture;

the Registrar shall register and publish the registration of such pest control product:

Provided that the Registrar may refuse an application for registration of a pest control product if any previous registration of such a pest control product has been suspended or cancelled under this Act.

(4) The Board shall appoint an advisory committee to work with the Registrar in the consideration of applications made under this section.

(5) Any registration under this section shall be subject to the prescribed conditions and any additional conditions determined by the Registrar, and shall be valid for such period as may be specified.

(6) The Registrar shall issue a certificate of registration to the applicant.

(7) Any registration under this section may be renewed at least one month before the lapse of the period specified under subsection (5).

(8) The provisions of subsections (1), (2) and (3) shall apply *mutatis mutandis* to the application for renewal of registration.

Accreditation of institutions.

**20.** (1) The Board shall assess and accredit competent institutions or researchers to conduct studies on pest control products, and shall publish the list of the institutions or researchers so accredited in the Gazette.

(2) The Board may suspend or cancel the accreditation of any institution or researcher which has contravened or failed to comply with any provision of this Act.

(3) A suspension or cancellation of accreditation under subsection (2) shall be published in the Gazette.

Cancellation of registration.

**21.** The Registrar may suspend or cancel the registration of a certificate of registration at any time if satisfied that-

- (a) the registrant has in connection with the registration concerned, contravened or failed to comply with

any provision of this Act;

- (b) the registrant has contravened or failed to comply with a condition to which the certificate is subject;
- (c) it is contrary to the public interest that the pest control product in respect of which the certificate is issued should remain registered; or
- (d) new scientific evidence demonstrates that the registered pest control product no longer fulfills the conditions of registration.

Registrar to give reasons.

**22.** The Registrar shall, in writing, furnish the applicant or the registrant as the case may be, with reasons for-

- (a) refusal to issue a certificate of registration;
- (b) suspension or cancellation of accreditation of an institution; or
- (c) suspension or cancellation of a certificate of registration,

within a period of thirty days from the date of the decision to undertake such suspension or cancellation, and shall give the person adversely affected an opportunity to be heard.

#### **PART IV – IMPORTATION, EXPORTATION, MANUFACTURE, RESEARCH, TRANSPORT AND DISPOSAL OF PEST CONTROL PRODUCTS**

Control of imports and exports.

**23.** (1) No person shall import into, or sell any pest control product in Kenya unless that product has been registered, packaged and labeled in accordance with the regulations.

(2) No person shall export or re-export out of Kenya any pest control product out of Kenya unless he has complied with the relevant requirements specified in the regulations.

(3) Every person taking pest control products in transit shall cause such products to be declared at the port of entry and exit.

Control of manufacture etc. of pest control products.

**24.** (1) No person shall-

- (a) manufacture or formulate;

- (b) store, distribute, use, display or sell;
- (c) transport, or possess; or
- (d) advertise, package or label,

any pest control products except in accordance with conditions prescribed under the regulations.

(2) No person shall package, repack, label or advertise any pest control product in a manner that is false, misleading or deceptive or is likely to create an erroneous impression regarding its character, value, quality, composition, merit or safety.

Authorization  
for Research.

**25.** (1) A person who wishes to conduct research on an unregistered pest control product shall apply to the Board for authorization for such research.

(2) An application for authorization under subsection (1) shall include any information required by the Board, and shall be accompanied by all of the following-

- (a) a copy of the proposed experimental label;
- (b) a copy of the research protocol;
- (c) information on any health and environmental risks likely to be posed by the proposed research; and
- (d) any other information that the Authority may require.

(3) If the Authority considers that health and environmental risks identified under subsection (2) are manageable, the Authority may authorize the use of the pest control product to conduct the research.

(4) Where the Authority authorizes the use of a pest control product to conduct research, the Authority shall issue a research authorization certificate subject to such conditions as it may deem necessary.

(5) The Authority shall put in place measures to encourage and recognize local innovation on the development and management of pest control products.

Transportation  
of pest control  
products.

**26.** No person shall transport, offer to transport or handle any pest control product unless it complies with the regulations made under this Act.

Control of disposal of pest control products.

**27.** No person shall dispose or cause any pest control product, empty container thereof or material contaminated therewith except in accordance with conditions prescribed by regulations made under this Act.

## **PART V – LICENSES**

Classification of Licenses.

**28.** No person shall commence, undertake or conduct any of the activities referred to hereunder except in accordance with the following relevant licenses issued under this Act and the regulations-

- (a) a sales license;
- (b) a distributor's license;
- (c) a commercial spray service provider license;
- (d) a manufacturing license;
- (e) a storage and use license;
- (f) a pest control services license;
- (g) a commercial training license;
- (h) a disposal license; or
- (i) an agency license.

Premises not to be used unless licensed.

**29.** No person shall use any premises, or, being the owner or occupier thereof, permit or allow the premises to be used for the purposes of manufacturing, formulating, packaging, selling or storing pest control products unless that person is in possession of a license issued under this Act and regulations therein in respect of those premises.

Commercial training in pest control products.

**30.** No person shall undertake commercial training in relation to pest control products except in accordance with conditions prescribed by regulations made under this Act.

Application for licensing.

**31.** An applicant for a license shall on request by the Authority supply any information that may be required for the purposes of licensing. A person who pays late, shall attract a late fee as provided in the regulations.

Issue and expiry of license.

**32.** (1) Every license issued under this Act shall expire on the 31<sup>st</sup> December following the date of issue and shall be renewable annually.

(2) No person to whom a license has been issued under this Act shall lend, hire, sell, transfer or otherwise dispose of such license without the approval of the Authority, which approval shall be endorsed on the license prior to such transaction.

(3) No license shall be transferred to a person to operate from premises other than those in respect of which it is issued.

Cancellation, revocation of a license.

**33.** The Board may suspend or cancel a license at any time if satisfied that the holder thereof has contravened or failed to comply with any provision of this Act or any condition to which the license is subject.

(1) Every person licensed under this Act shall keep records indicating:

Stock records

- a. name and address of supplier and license number
- b. name and quantity of product
- c. date and place of sale

failure to keep records may result in suspension or cancellation of license.

## **PART VI—OFFENCES AND PENALTIES**

Contravention causing risk or harm.

**34.** (1) A person commits an offence under this Act if, in undertaking any activity involving a pest control product, such person causes-

(a) a risk of imminent death or bodily harm to another person; or

(b) a risk of harm to humans, animals or the environment.

(2) Any person who commits an offence under subsection (1) is liable on conviction to a fine of not exceeding five hundred thousand shillings or to imprisonment for a term of not exceeding two years, or both.

Offences by institutions.

**35.** If an institution commits an offence under this Act, any officer, director or agent of the institution who directed, authorized, assented to, acquiesced to or participated in the commission of the offence shall be deemed to have committed the offence and liable on conviction to the punishment provided for the offence, whether or not the institution has been prosecuted or convicted.

Failure to report information.

**36.** Any person who fails to report any information as required by this Act commits an offence and is liable on conviction to a fine not exceeding fifty thousand shillings or imprisonment of a term not exceeding six months or both.

False or misleading information.

**37.** A person who provides the Authority with false or misleading information commits an offence, and is liable on conviction to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding six months or to both.

Non-compliance with conditions of registration.

**38.** A holder of a registration certificate who fails to comply with the conditions of registration commits an offence and is liable on conviction to a fine not exceeding fifty thousand shillings or imprisonment for a term not exceeding six months or to both.

Wilfully obstructing or impeding a person.

**39.** Any person who wilfully obstructs or impedes an officer or other employee or an agent of the Authority in the exercise of any of the powers, or the performance of any of the functions conferred or imposed upon him by this Act commits an offence and is liable on conviction to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding six months or to both.

Manufacturing or handling unregistered pest control products.

**40.** (1) Any person who manufactures or imports a pest control product which is not registered under this Act commits an offence and is liable on conviction to a fine of not less than one million shillings, and not exceeding five million Kenya shillings, or to imprisonment for a term not exceeding two years, or both.

(2) Any person who possesses, handles, stores, transports, distributes or uses a pest control product which is not registered under this Act commits an offence and is liable on conviction to a fine not exceeding two hundred and fifty thousand shillings or imprisonment of a term not exceeding two years or to both.

Undertaking research without authorization.

**41.** Any person who undertakes research on pest control products without authorization in accordance with this Act and the regulations commits an offence and is liable on conviction to a fine not exceeding fifty thousand shillings or imprisonment for a term not exceeding six months, or both.

Operating premises not licensed for Pest Control Products.

**42.** Any person who, in the course of a trade or business, operates premises or any business not licensed for pest control products under this Act, commits an offence and is liable on conviction to a fine not exceeding fifty thousand shillings or imprisonment for a term not exceeding six months or both.

Disposal of Pest Control Products in a manner not

**43.** Any person who disposes of a pest control product in contravention of the provisions of this Act or the regulations commits an offence and is liable on conviction to a fine not

prescribed.

exceeding two hundred and fifty thousand shillings or to imprisonment for a term not exceeding two years or to both.

Passing  
confidential  
Information  
without  
Authorization.

**44.** Any person, under this Act, who—

(a) being in possession of confidential information, however obtained—

(i) divulges such information; or

(ii) attempts, offers or threatens to divulge it; or

(b) willfully obtains or seeks to obtain confidential information to which he is not entitled,

commits an offence and is liable on conviction to a fine not exceeding two hundred and fifty thousand shillings or to imprisonment for a term not exceeding two years or to both.

Importing,  
exporting or re-  
exporting  
without  
authorization.

**45.** Any person who imports, exports or re-exports a pest control product in contravention of the provisions of this Act and the regulations therein commits an offence and is liable on conviction to a fine not exceeding two hundred and fifty thousand shillings or imprisonment for a term not exceeding two years or both.

Advertising  
without  
authorization.

**46.** Any person who advertises any pest control product in contravention of the provisions of this Act or the regulations commits an offence and is liable on conviction to a fine not exceeding two hundred and fifty thousand shillings or to imprisonment for a term not exceeding six months or to both.

Falsely  
representing a  
pest control  
product to be a  
registered  
product.

**47.** Any trader or other person who, in the course of a trade or business in connection with the supply or use of pest control products or services, falsely represents that any pest control product is registered, commits an offence and is liable on conviction to a fine not exceeding two hundred and fifty thousand shillings or imprisonment for a term not exceeding two years or to both.

Control of  
Counterfeit  
Products.

**48.** Any person who adulterates or counterfeits or is found in possession of adulterated or counterfeit pest control products, labels or packages commits an offence and shall, on conviction, be liable to a fine of not less than two million shillings, and not

exceeding ten million shillings, or a fine equal to five times the value of the counterfeited product, whichever is higher, or to imprisonment for a term not exceeding seven years.

Transportation of Pest Control Products.

**49.** Any person who transports a pest control product, a mixture containing a pest control product, contaminated soil or a container that has been used to hold a pest control product in a manner other than the manner prescribed in the regulations commits an offence and is liable on conviction to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding six months or to both.

Misuse of pest control product.

**50.** Any person who uses a pest control product contrary to the label instructions commits an offense and is liable on a conviction to a fine not exceeding two hundred and fifty thousand Kenya shillings or imprisonment of a term not exceeding two years, or both.

General penalty.

**51.** Any person who commits any offence under this Act or the regulations for which no penalty is provided shall be liable on conviction to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding six months or to both.

## **PART VII — FINANCIAL PROVISIONS**

Funds of the Authority.

**52.** (1) The funds of the Authority shall consist of—

- (a) monies provided by the National Treasury for the purposes of the Authority;
- (b) such moneys as may be payable to the Authority pursuant to this Act or any other written law;
- (c) such monies or assets as may accrue to the Authority in the course of the exercise of its powers or the performance of its functions under this Act; and
- (d) all monies from any other lawful source provided or donated or lent to the Authority.

(2) The receipts, earnings or accruals of the Authority and the surplus balances at the end of each financial year shall be retained for the purposes for which the Authority is established.

(3) The Authority may invest any funds not immediately required for its purposes in such a manner as National Treasury may approve from time to time.

Borrowing powers.

**53.**(1) Subject to subsection (2), the Authority may, with the approval of the Cabinet Secretary and the Cabinet Secretary responsible for finance, borrow money required for the exercise of its functions and for meeting its obligations.

(2) The approval under subsection (1) may be either general or limited to a particular transaction and may be either conditional or unconditional.

Financial year.

**54.** The financial year of the Authority shall be the period of twelve months ending on the thirtieth of June in every year.

Annual estimates.

**55.** (1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the Authority for that year.

(2) The annual estimates shall make provision for all the estimated expenditure of the Authority for the financial year concerned and in particular shall provide for the—

- (a) payment for the infrastructural developments and provision of services;
- (b) payment of salaries, allowances and other charges in respect of the staff of the Authority and the members of the Board;
- (c) payment of pensions, gratuities and other charges in respect of retirement benefits which are payable out of the funds of the Authority;
- (d) acquisition, maintenance, repair and replacement of the equipment and other movable property of the Authority; and creation of such funds to meet future or contingent liabilities in respect of benefits, insurance and the replacement of buildings or equipment.

(3) The annual estimates shall be approved by the Board at least two months before commencement of the financial year to which they relate and shall be submitted to the Cabinet Secretary for presentation before the National Assembly.

Accounts and  
Audit.

**56.** (1) The Authority shall keep proper books of account of the income, expenditure, assets and liabilities of the Authority, and shall in this regard be subject to the provisions of the law regulating State Corporations.

(2) The annual accounts of the Authority shall be audited and reported upon in accordance with the Public Audit Act.

Expenditure  
outside the  
budget.

**57.** Any activity outside the approved budget shall only be undertaken with the approval of the Cabinet Secretary and the Cabinet Secretary responsible for finance.

Principles of  
operation.

**58.** The Authority shall perform its functions in accordance with sound financial principles and shall ensure, as far as reasonably practicable, that its expenditure is properly chargeable to its revenue.

Charges and  
fees to be  
gazetted.

**59.**(1) Where the Authority, under this Act stipulates levies, charges or fees for any of its services or for use of its facilities, the schedule thereof shall be published in the Gazette.

(2) The levies, charges or fees published under subsection (1) shall come into force on a date specified therein, which shall be at least thirty days following gazettelement.

(3) If any amount due and payable under this section is not paid by any party after demand by the Authority, and remains unpaid beyond the time specified for payment thereof, the outstanding debt shall accrue penalties as prescribed by the regulations.

Recovery of  
debts.

**60.** All debts owed to the Authority under this Act shall be recoverable summarily.

Financial and  
annual Reports.

**61.** (1) The Authority shall ensure that its financial statements are prepared in accordance with the—

(a) State Corporations Act; and

(b) Public Finance Management Act.

(2) The Authority shall prepare an annual report for each financial year.

(3) The report of the Authority under subsection (1) shall, in respect of the financial year to which it relates, contain-

- (a) the financial statements of the Authority;
- (b) a description of the activities of the Authority;
- (c) such other statistical information as the Authority considers appropriate relating to the Authority's functions; and
- (d) any other information relating to its functions that the Authority considers necessary.

(4) The Authority shall publish and publicize the annual report in such accessible manner as it may consider appropriate.

### **PART VIII - PEST CONTROL PRODUCTS TRIBUNAL**

Establishment of  
the Pest Control  
Products  
Tribunal

**62.** (1) There is established a tribunal to be known as the Pest Control Products Tribunal which shall exercise the functions conferred upon it by this Act.

(2) A person who is aggrieved by any decision of the Board may within the period and in the manner prescribed and upon payment of the prescribed fees, appeal to the Pest Control Products Tribunal.

Composition of  
the Tribunal

**63.** (1) The Tribunal shall be composed of—

- (a) a chairman nominated by Judicial Service Commission, who shall be a person who holds or is qualified to hold the office of judge of the High Court of Kenya;
- (b) three members, being persons who have not less than seven years experience and sufficient knowledge regarding pest control products appointed by the Cabinet Secretary;
- (c) an advocate of the High Court nominated by the Law Society of Kenya to be Secretary to the Tribunal.

(2) The members of the Tribunal shall be appointed by name and by notice in the Gazette issued by the Cabinet Secretary.

(3) The Tribunal shall sit at such times as it may appoint for

the discharge of the functions of the Tribunal.

(4) There shall be paid to the Chairman and the members of the Tribunal remuneration and allowances in accordance with the relevant Government regulations.

(5) The Chairman and every member appointed under this section shall hold office for a period of three years and shall be eligible for re-appointment for one further term.

(6) Any member appointed under subsection (1) shall cease to hold office if the member-

(a) resigns by notice in writing addressed to the Cabinet Secretary;

(b) is absent from three consecutive meetings of the Tribunal without leave or good cause;

(c) is adjudged bankrupt or enters into a composition or a scheme of arrangement with his creditors;

(d) is sentenced by a court to imprisonment for a term of six months or more; or

(e) is convicted of an offence involving dishonesty, fraud or moral turpitude.

(7) In the event of vacation of office of any member appointed under this section, the Cabinet Secretary may appoint another person to hold such office for the unexpired period of the term of office of the member in whose place he is appointed.

(8) If any member of the Tribunal appointed under this section is temporarily unable to perform his duties, the Cabinet Secretary may appoint another person to act in his place during the period of incapacity.

Quorum for  
determination  
by Tribunal

**64.** (1) For the purposes of hearing and determining any cause or matter under this Act, the Chairman and two members of the Tribunal shall form a quorum.

(2) A member of the Tribunal who has a direct interest in any matter which is the subject of the proceedings before the Tribunal shall not take part in those proceedings.

Appeals to the

**65.** (1) Any person who is aggrieved by—

Tribunal

- (a) a refusal to grant a license, permit or registration certificate;
- (b) the imposition of any condition, limitation or restriction on a license under this Act;
- (c) the revocation, suspension or variation of a license, permit or registration certificate under this Act;
- (d) the amount of money which he is required to pay as a fee under this Act;

may within sixty days after the occurrence of the event against which he is dissatisfied, appeal to the Tribunal in such manner as may be prescribed by the Tribunal.

(2) Unless otherwise expressly provided in this Act, where this Act empowers the Managing Director, the Authority or committees of the Authority to make decisions, such decisions may be subject to an appeal to the Tribunal in accordance with such procedures as may be established by the Tribunal for that purpose.

(3) Upon any appeal, the Tribunal may—

- (a) confirm, set aside or vary the order or decision in question;
- (b) exercise any of the powers which could have been exercised by the Authority in the proceedings in connection with which the appeal is brought; or
- (c) make such other order, including an order for costs, as it may deem just.
- (d) upon any appeal to the Tribunal under this section, the status quo of any matter or activity, which is the subject of the appeal, shall be maintained until the appeal is determined.
- (e) make such other order as it may deem just, including an order as to costs of the appeal or of earlier proceedings in the matter before the Tribunal.

Awards of the  
Tribunal

**66.** (1) The Tribunal may in the exercise of its powers and the performance of its functions under this Act—

- (a) make such orders for purposes of securing the attendance of any person at any place where

the Tribunal is sitting, discovery or production of any document concerning a matter before the Tribunal or the investigation of any contravention;

(b) take evidence on oath and may for that purpose administer oaths; or

(c) on its own motion summon and hear any person as a witness.

(2) Any person who—

(a) fails to attend the Tribunal after having been required to do so under subsection (1)(a);

(b) refuses to take oath or affirmation before the Tribunal or, being a public officer, refuses to produce any article or document when lawfully required to do so by the Tribunal;

(c) knowingly gives false evidence or information which he knows to be misleading before the Tribunal;

(d) at any sitting of the Tribunal –

(i) wilfully insults any member or officer of the Tribunal;

(ii) wilfully interrupts the proceedings or commits any contempt of the Tribunal; or

(e) fails or neglects to comply with a decision, order, direction or notice confirmed by the Tribunal,

commits an offence under this Act.

Appeals to the High Court

**67.** (1) Any person aggrieved by a decision or order of the Tribunal may, within thirty days of such decision or order, appeal against such decision or order to the High Court;

(2) No decision or order of the Tribunal shall be enforced until the time for lodging an appeal has expired or, where the appeal has been commenced, until the appeal has been determined.

(3) Upon the hearing of an appeal under this section, the High

Court may—

- (a) confirm, set aside or vary the decision or order in question;
- (b) remit the proceedings to the Tribunal with such instructions for further consideration, report, proceedings or evidence as the court may deem fit to give;
- (c) exercise any of the powers which could have been exercised by the Tribunal in the proceedings in connection with which the appeal is brought.

Assessors.

**68.** The Chairman of the Tribunal may appoint any person with relevant expert knowledge to act as an assessor in an advisory capacity in any case where it appears to the Tribunal that such knowledge is required for the proper determination of the case.

Immunity.

**69.** (1) The Chairman or members of the Tribunal shall not be liable to be sued in a civil court for an act done or omitted to be done or ordered to be done by them in the discharge of their duty as members of the Tribunal, where, at the time, they in good faith, believed themselves to be acting pursuant to their mandate under this Act.

(2) No officer of the Tribunal or other person bound to execute the lawful warrants, orders or other process of the Tribunal shall be liable to be sued in any court for the execution of a warrant, order or process which he would have been bound to execute if within the jurisdiction of the Tribunal.

(3) It shall be an offence for any person to engage in acts or make omissions amounting to contempt of the Tribunal and the Tribunal may punish such person for contempt in accordance with the provisions of this Act.

Rules and procedures of the Tribunal.

**70.** The Chief Justice shall in consultation with the Tribunal make rules for regulating the practice and procedures of the Tribunal.

Reference to the Tribunal by the Managing Director.

**71.** (1) When any matter to be determined by the Managing Director under this Act appears to him to involve a point of law or to be of unusual importance or complexity, he may, after giving notice to the parties, refer the matter to the Tribunal for a general direction and shall, thereafter, in relation to such matter, act in accordance with the general direction of the Tribunal or any direction substituted thereafter on appeal to the High Court.

(2) Where any matter has been referred to the Tribunal in terms of subsection (1), the Managing Director and the parties thereto shall be entitled to be heard by the Tribunal before any decision is made in such matter and may appear or be represented by an advocate.

## **PART IX– MISCELLANEOUS PROVISIONS**

The common seal of the Authority.

**72.** (1) The common seal of the Authority shall be kept in such custody as the Board may direct and shall not be used except upon the direction of the Board.

(2) The common seal of the Board shall be authenticated by the signatures of the Managing Director together with any other person duly authorized by the Board.

(3) The common seal of the Board when fixed to any document and duly authenticated shall be judicially and officially noticed, and unless and until the contrary is proved, any order or authorization by the Board under this paragraph shall be presumed to have been duly given.

(4) All documents other than those required by law to be under seal, made on behalf of the Board and all decisions of the Board may be signed under the hand of the Managing Director or any other person duly authorized by the Board.

Protection from personal liability.

**73.** No matter or thing done by a member of the Board of the Authority or any officer, employee or agent of the Authority shall, if the matter or thing is done in good faith for executing the functions, powers or duties of the Authority, render the member, officer, employee or agent or any person acting on his directions personally liable to any action, claim or demand whatsoever.

Liability of the Authority for damages.

**74.** The provisions of section 73 shall not relieve the Authority of the liability to pay compensation or damages or damages to any person for an injury to him his property or any of his interest caused by the exercise of the powers conferred on the Authority by this Act or by any other written law or by the failure, whether wholly or partially, of any works.

Vicarious liability.

**75.** In any prosecution for an offence under this Act, it shall be sufficient proof of the offence to establish that it was committed by an employee or agent of the accused, whether or not the employee or agent is identified or has been prosecuted for the offence, unless the

accused establishes that the offence was committed without his knowledge or consent and that he exercised all due diligence to prevent its commission.

Regulations.

**76.** (1) The Cabinet Secretary may make regulations for the better carrying out of the purposes of this Act.

(2) Without prejudice to the generality of the foregoing, the Cabinet Secretary may make regulations-

- (a) prescribing for the purposes of this Act, the nomenclature of pests, classes and kinds of pests and pest control products;
- (b) prescribing the forms in which applications for registration shall be made and the information to be furnished therewith;
- (c) relating to the registration of pest control products and establishments in which any pest control products are handled by manufacturers or dealers and prescribing the fees therefor, and respecting the procedures to be followed for the review of cases involving the refusal, suspension or cancellation of the registration of any such product or establishment;
- (d) prescribing fees for licenses, certificates and permits which may be issued under the Act;
- (e) for the prohibition of pest control products to safeguard human health and environment;
- (f) relating to the management of accidents involving pest control products and their wastes;
- (g) relating to notification of poisoning associated with pest control products;
- (h) relating to the manufacture, storage, distribution, transportation, display and use of any pest control product;
- (i) prescribing the form, composition, and all other standards relating to the safe use of pest control products, including toxic residue effects;
- (j) relating to the manufacture or testing of any pest control product to facilitate its recognition by

change in colouration or other means;

- (k) prescribing the standards for efficacy and safety of any pest control product;
- (l) relating to the packaging, labelling and advertising of pest control products;
- (m) relating to the disposal of pest control products and associated waste under section 46;
- (n) relating to the taking of samples and the making analyses for the purposes and provisions of this Act;
- (o) prescribing the information to be supplied and the form of such information in respect of any pest control product that is to be imported into Kenya;
- (p) prescribing the circumstances and manner of trans-boundary movement of hazardous wastes of pest control products;
- (q) relating to the domestication and implementation of articles of regional and international conventions, protocols, agreements and treaties on pest control products that Kenya has ratified;
- (r) prescribing the circumstances and conditions under which pest control products that have met the requirements of the Cattle Cleansing Act, may be deemed to be registered under this Act;
- (s) relating to the transit and value addition of pest control products for export;
- (t) on research and surveys relating to pest control products; and
- (u) prescribing data protection and intellectual property rights with respect to pest control products.

Cap 358

## **PART X- REPEALS AND SAVINGS**

Repeal of Cap  
346

**77.** (1) The Pest Products Control Act, is repealed.

(2) Notwithstanding subsection (1) the transitional and savings provisions set out in the Second Schedule shall have effect upon the commencement of this Act.

Cessation of the application of Community law Cap. 4, E.A. Cap 3

**78.** (1) Notwithstanding the Treaty for East African Co-operation Act (Cap. 4), as from the date of commencement of this Act, the Control of Pesticides Act (E.A. Cap. 3) of the Community shall cease to have the force of law in Kenya

(2) Notwithstanding subsection (1), any proceedings under the Control of Pesticides Act (E.A. Cap. 3) of the Community ongoing before the commencement of this Act may be continued and concluded in accordance with that Act as though it still had the force of law in Kenya.

Cessation of Application of provisions Cap 244 No. 29 of 2011.

**79.** Notwithstanding the provisions of the Pharmacy and Poisons Act, and Veterinary Surgeons and the Veterinary Paraprofessionals Act, 2011 relating to pest control products, all matters relating to pest control products shall be administered under this Act.

Savings.

**80.** All licenses, permits, certificates and other authorizations in force immediately before the commencement of this Act shall upon such commencement continue in operation until their expiry, and shall thereafter be renewed in accordance with this Act.

**FIRST SCHEDULE**

**(S.12)**

**CONDUCT OF THE BUSINESS AND AFFAIRS OF THE BOARD**

- |                       |  |
|-----------------------|--|
| Meetings of the Board | <p><b>1.</b> (1) The Board shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.</p> <p>(2) Notwithstanding subparagraph (1), the Chairman may, or on requisition in writing by at least five members, convene a special meeting of the Board at any time for the transaction of the business of the Board.</p> <p>(3) Unless three quarters of the total members of the Board otherwise agree, at least fourteen days' written notice of every meeting of the Board shall be given to every member of the Board.</p> |
| Quorum.               | <p><b>2.</b> The quorum for a meeting of the Board shall be five persons.</p>  |
| Chairman to preside.  | <p><b>3.</b> The Chairman shall preside over all meetings of the Board at which he is present, but in his absence the members present may elect one of their number to act as Chairman for purposes of the meeting.</p>  |
| Conflict of interest. | <p><b>4.</b> (1) No member of the Board shall take part in the discussion of or taking a decision on any matter in which that member or any of the member's relations has an interest.</p> <p>(2) In any meeting where subsection (1) of this section applies, every member referred to therein shall inform the meeting of any person or other direct interest, and to the extent that the discussion or decision concerns any matter in which such member has an interest, such member shall be excluded from further attendance at that meeting.</p>  |
| Voting.               | <p><b>5.</b> The decisions of the Board shall be carried by a majority of the members present and voting and in the case of a tie the chairman or person presiding shall have a casting vote.</p> <p><b>6.</b> Subject to this Schedule, the Board may regulate its own procedure.</p>   |

## SECOND SCHEDULE

### TRANSITIONAL AND SAVING PROVISIONS

Cap. 346

1. In the Schedule -

“**former Act**” means the Pest control Products Act repealed by section 84 of this Act;

“**former office**” means the Pest Control Board’s Office existing immediately before the commencement of this act.

2. Where a Pest Control Product was registered in Kenya under the former Act or where it was saved under that Act, and the privileges and rights conferred by the registration were effective immediately before the commencement of this Act, then, subject to this Schedule –

(a) the registration of such Pest Control Product shall be treated in Kenya as if it had been granted under this Act;

(b) the privileges and rights attending such registration shall expire at the time they would have expired if this Act had not been enacted;

(c) registration of such a Pest Control Product may be revoked or invalidated only where those privileges and rights could be declared as not having been acquired in Kenya if this Act had not been enacted.

(d) the certificate of registration, or a certified copy of registration of such pest control product, shall be admissible as *prima facie* evidence of the date and the fact of registration; and

(e) an action for infringement of such Pest Control Product shall lie under this Act only if the alleged infringement occurred on or after the commencement of this Act, and in other cases may be instituted and disposed of as if this Act had not been enacted.

3. As far as is necessary for the purposes of paragraph 2, the Register of Pest Control Product under the former Act shall continue to be maintained and shall be deemed to be part of the register established under this Act.

4. Applications for registration of Pest Control Products in Kenya between the date of the commencement of the former Act and the date of the commencement of this Act, shall be processed in

accordance with the provisions of this Act and shall retain or be accorded the filing date or validly claimed priority date which was or would have been accorded under the former Act.

5. All the funds, assets and other property, movable and immovable, which immediately before the coming into operation of this Act, were held by the Government on behalf of the former Office shall, by virtue of this paragraph and without further assurance, vest in the Authority.
6. Every public officer having the power or duty to effect or amend any entry in register relating to registering of a pest control product, or to issue or amend any certificate or other document effecting or evidencing title to registering of a pest control product, shall, without payment of any fee or other charge and upon request by or on behalf of the Authority, do all such things as are by law necessary to give final effect to the transfer of any property mentioned in paragraph 7 to the Authority.
7. All rights, powers, liabilities and duties, whether arising under any written law or otherwise, which immediately before the coming into operation of this Act were vested in, imposed on or enforceable by or against the Government in respect of the former Office shall by virtue of this paragraph, be transferred to, vested in, imposed on, or be enforceable by or against the Authority.
8. On and after the coming into operation of this Act, all actions, suits or legal proceedings by or against the Government pending in respect of the former Office shall be carried on or prosecuted by or against the Authority and no such suit, action on legal proceedings shall abate or be affected by the coming into operation of this Act.
9. The annual estimates approved for the former Office in respect of the financial year in which this Act comes into operation shall be deemed to be annual estimates of the Authority for the remainder of the financial year but those estimates may be varied by the Authority in such manner as the Cabinet Secretary and the treasury may approve.
10. (1) Any person who is an officer or employee of the former office immediately before coming into operation of this Act shall be deemed to be an officer or employee of the Authority:

Provided that any such officer or employee may within a period of twelve months from the date the of coming into operation of this Act exercise his option to enter into a written contract of service with the Authority within a period of

eighteen months from the date of coming into operation of this Act, whereupon his service with the Government shall be deemed to have terminated without right to severance pay but without prejudice to all other remuneration and benefits payable upon the termination of his employment with the Government:

- (2) Any officer or employee who does not exercise his option under this subparagraph (1) shall be deemed to have been seconded to the Authority for a further period of twelve months at expiry of which such officer or employee may exercise the option as provided or be redeployed elsewhere in the Public Service.
- (3) The terms and conditions of the contract referred to in subparagraph (1) shall not be to the disadvantage of the employee exercising the option.

## MEMORANDUM OF OBJECTS AND REASONS

The object of this Bill is to repeal and replace the Pest Control Products Act (Chapter 346 of the Law of Kenya) which regulates the preparation and handling of pest control products.

Many developments in Pest Control Products law have taken place on the international scene, including a number of treaties and agreements to which Kenya has been a party. This Bill therefore seeks to modernize the law and bring it into conformity with these developments.

Kenya is a party to the following International Conventions-

- (1) The Basel Convention that deals mainly with the control of trans boundary movements of hazardous waste as well as the environmentally sound management and minimization of hazardous waste.
- (2) The Rotterdam Convention on the Prior Informed Consent (PIC) procedure for certain hazardous Chemicals and Pest control products in international trade. The Convention is designed to help prevent the unwanted import of banned, severely restricted or extremely hazardous pest control products and chemicals to developing countries.
- (3) The Safety and Health Agriculture Convention which addresses the issue of protection of workers in the agricultural sector.
- (4) The Stockholm Convention which aims to stop the production and use of chemicals that are included in the Convention.
- (5) The International Maritime Dangerous Goods Code which was developed as a uniform international code for the transport of dangerous goods by sea.
- (6) Minimata Convention on Mercury.

The Bill establishes an Authority be known as an autonomous office. Under this new status, the Authority will recruit and retain the caliber of staff it requires to discharge its functions effectively and efficiently and it is expected to raise adequate revenue to enable it to remunerate its staff well and meet all its other financial obligations.

The enactment of the Bill, particularly the establishment of the Authority and the tribunal, will occasion additional expenditure of public funds which will be provided for in the estimates.

It is however expected that the Authority will gradually fund its operations through the funds that it will generate in the course of the exercise of its powers or the performance of its functions under the proposed Act.

Dated this ..... day of ..... 2017

**WILLY BETT,**  
**Cabinet Secretary, Ministry of Agriculture, Livestock and Fisheries.**