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THE PEST CONTROL PRODUCTS BILL, 2025

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 organic function of plants; to establish and provide for the powers and functions of the Pest Control Products Authority; and for connected purposes

ENACTED by the Parliament of Kenya as follows—

PART I—PRELIMINARY PROVISIONS

1. This Act may be cited as the Pest Control Products Act, 2025.

Short title.

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

Interpretation.

“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;

“agro-dealer” refers to any person or company who deals in pest control products and includes manufacturers, formulators, importers, exporters, re-packers, distributors, retailers, warehousing, pest control service providers, commercial spray service providers, agents, and wholesalers;

“analyst” means a person appointed under section 23;

“Authority” means the Pest Control Products Authority established under section 7;

“banned pest control product” means a pest control product where all uses have been prohibited by final regulatory action;

“Board” means the board of directors established under section 10;

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

“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, pre-school coaching or training offered at any institute or establishment which issues any certificate or diploma or degree or any educational qualification recognized by law for the time being in force;

“counterfeit” means a pest control product, label or package which is similar or substantially indistinguishable from pest control product, label or package that is 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, and “counterfeit goods” shall be construed accordingly;

“County Executive Committee Member” means a county executive Committee member responsible for matters relating to pest control;

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

“expired pest control product” means a pest control product whose shelf life as indicated on the label has lapsed;

“Inspector” means a person appointed as an inspector under section 20;

“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 18;

“manufacture” includes any process carried out in the course of making a pest control product including 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 packaging;

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

“obsolete pest control products” means pest control product that can no longer be used for their original purpose or any other purpose and therefore require proper disposal;

“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 troublesome animal or other plant pest; pests of plant products, materials or environments and includes any injurious, noxious or troublesome condition or organic function of a plant or regulating plant growth; and pests and vectors of parasites or pathogens of human causing public health nuisance;

“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;
- (d) products for control of public health pests including mosquitoes, fleas, mites, bugs; and
- (e) any other product for control of pest of public concern;

“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;

“Registrar” means the Registrar of Pest Control Products referred to in section 27;

“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;

“severely restricted pest control product” means a pest control product virtually where All Uses of which have been prohibited by final regulatory action in order to protect human health or the environment, but for which certain specific uses remain allowed; and

“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.

3. (1) This Act shall apply to the following—

Application.

- (a) pest control products for use in plants and plant products, forestry, construction, paint and wood;
- (b) pest control products for control of pests that pose a risk to public health;
- (c) 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;
- (d) any technical grade active ingredient used for the manufacture of a pest control product;
- (e) plant growth regulators and defoliators;
- (f) biocides;
- (g) other pest control products and devices not covered by any other law;
- (h) importers, exporters, manufacturers, formulators, re-packers, wholesalers, distributors, retailers, local agents, users, commercial trainers on pest

control products, spray service providers and any other persons dealing with pest control products;

- (i) premises dealing with pest control products and disposal of pest control product waste, used containers or contaminated materials;
- (j) research on unregistered pest control products;
- (k) persons conducting pre-registration trials of pest control products;
- (l) transportation of pest control products; and
- (m) monitoring and surveillance of formulated products and residues in food and environmental samples.

(2) Unless provided otherwise in this Act or the Constitution, no other authority or law may regulate the items regulated under this law.

4. (1) Where there is a conflict between the provisions of this Act and the provisions of any other written law with regard to matters concerning regulation of pest control products under this Act, the provisions of this Act shall prevail.

Conflict with other laws.

(2) This act shall not apply to pest control products regulated under the Veterinary Surgeons and Veterinary Paraprofessionals Act.

Cap. 366.

5. The purpose of this Act is to—

Purpose of the Act.

- (a) safeguard human health and the environment from risks associated with pest control products;
- (b) provide a legal framework for the issuance, suspension and cancellation of certificates and permits;
- (c) facilitate research into pest control products; and
- (d) regulate all matters related to pest control products.

6. The guiding principles of this Act are—

Guiding principles.

- (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—THE PEST CONTROL PRODUCTS AUTHORITY

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

Establishment of the 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 other things or acts necessary for the proper performance of its functions under this Act, which may be lawfully done by a body corporate.

8. (1) The Headquarters of the Authority shall be in Nairobi City County.

Headquarters of the Authority.

(2) The Authority shall establish county offices outside Nairobi City County.

9. The functions of the Authority shall be to—

Functions of the Authority.

- (a) assess and evaluate pest control products in accordance with this Act;
- (b) register pest control products;
- (c) safeguard human health and the environment from risks associated with pest control products by, among other things—
 - (i) evaluating pest control products before registration;
 - (ii) advising on the maximum residue limits for pest control products;
 - (iii) monitoring and conducting surveillance of pest control products and residues in the environment and in food commodities; and

- (iv) establishing minimum intervals between the application of pest control products and harvest of crops;
- (d) prescribe and oversee the enforcement of standards and regulations in respect of pest control products;
- (e) advise the Government on international treaties and conventions relating to pest control products which Kenya has ratified;
- (f) implement international treaties and conventions relating to pest control products which Kenya has ratified;
- (g) conduct periodic reviews of registered pest control products;
- (h) sample and analyse pest control products, and residues thereof in produce and the environment;
- (i) conduct research on pest control products and related articles;
- (j) develop guidelines relating to pest control products;
- (k) develop guidelines for the disposal of obsolete and expired pest control products, pest control product waste and used pest control product containers;
- (l) oversee and supervise the disposal of obsolete and expired pest control products, pest control product wastes and empty pest control product containers;
- (m) safeguard the environment from risks associated with pest control products through risk assessment;
- (n) offer technical assistance to the county government on safeguarding the environment from risks associated with pest control products; and
- (o) perform any other functions as may be prescribed by the Act or any other written law.

10. (1) The Authority shall be managed by a Board of Directors which shall be responsible for overseeing and supervising the operations of the Authority.

Management of
the Authority.

- (2) The Board shall consist of—
- (a) a non-executive chairperson appointed by the President;
 - (b) the Principal Secretary in the Ministry for the time being responsible for matters relating to agriculture;
 - (c) the Principal Secretary in the Ministry for the time being responsible for matters relating to finance;
 - (d) the Principal Secretary in the Ministry for the time being responsible for matters relating to health;
 - (e) the Attorney-General;
 - (f) one person with knowledge in pest control products nominated by the Council of County Governors;
 - (g) three 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; and
 - (iii) one person nominated by a registered national organization, representing persons trading in agricultural produce; and
 - (h) the Managing Director of the Authority, who shall be an *ex officio* member without the right to vote at meetings of the Board.
- (3) The Board may co-opt any person with requisite expertise for such duration as may be required to assist the Board in the performance of its functions.
- (4) A person co-opted by the Board under subsection (3) may attend the meetings of the Board and participate in the Board's deliberations but shall not have a right to vote on any decision of the Board.

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

Powers of the Board.

- (a) formulate policies pertaining to the organization, management and implementation of the objects of the Authority;
- (b) suspend or cancel certificates 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, on behalf of the Authority, 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 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 Cabinet Secretary responsible for matters relating to finance may approve;
- (i) establish such committees as it may deem appropriate, to perform such functions as it may determine and such committees may consist partly or wholly of members of the Board;
- (j) delegate 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 Authority under this Act;
- (k) prescribe fees for services rendered by the Authority; and
- (l) advise the Government on all matters relating to the enforcement of the provisions of this Act.

12. A person shall be qualified to be appointed as the chairperson of the Board if that person—

Qualifications for appointment of the Chairperson.

- (a) holds a degree from a university recognized in Kenya;
- (b) has at least ten years' experience in a relevant scientific field; and
- (c) satisfies the requirements of Chapter Six of the Constitution.

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

Appointment of the Board.

(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 only one further term of three years.

14. The office of the chairperson or a member of the Board shall become vacant if the Chairperson or member—

Vacancy in the Board.

- (a) resigns by notice in writing to the appointing authority;
- (b) is absent from three consecutive meetings of the Board without just cause;
- (c) ceases to be a member of the organization nominating such person to the Board;
- (d) conducts himself or herself in a manner that is inconsistent with membership of the Board;
- (e) is incapacitated by prolonged physical or mental illness from performing the duties of the office;
- (f) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months without the option of a fine;
- (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 Authority.

15. (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.

Common seal of the Authority.

(2) The common seal of the Authority 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 Authority when affixed 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.

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

Business and affairs of the Board.

17. The Authority shall pay the members of the Board such remuneration or allowances as the Cabinet Secretary may, in consultation with the Salaries and Remuneration Commission, determine.

Remuneration of the members of the Board.

18. (1) There shall be a Managing Director of the Authority who shall be responsible to the Board for the day-to-day management of the affairs of the Authority.

Appointment of the Managing Director.

(2) The Managing Director shall be competitively recruited and appointed on such terms and conditions of service as the Board may determine.

(3) A person shall be qualified for appointment as the Managing Director if that person—

(a) holds at least a Masters' degree from a university recognized in Kenya in any relevant discipline relating to the functions of the Authority;

(b) has at least ten years' relevant experience; and

(c) has served in a senior management position for at least five years.

(4) The Managing Director shall hold office for a term of three years and shall be eligible for reappointment for only one more term of three years.

(5) The Board may remove the Managing Director from office on any of the following grounds—

- (a) breach of the Code of Conduct of the Authority;
- (b) inability to perform the functions of the office for reasons of mental and physical infirmity;
- (c) conviction of a criminal offence; or
- (d) any other sufficient cause to the satisfaction of the Board.

(6) Before being removed from office, the Board shall afford the Managing Director sufficient opportunity to make representations against his or her removal.

19. The Board may appoint such other officers and staff of the Authority as may be necessary for the performance of the Authority's functions under this Act.

The staff of the Authority.

PART III—INSPECTORS AND ANALYSTS

20. (1) The Authority or County Executive Committee Member may appoint such inspectors as may be required for the performance of the Authority's or county government's functions under this Act.

Appointment and designation of inspectors.

(2) The Cabinet Secretary, on the advice of the Authority, shall prescribe the qualifications and duties of inspectors under this Act.

21. (1) An inspector appointed under this Act may, at all reasonable times in the performance of the functions or in exercise of the powers conferred by this Act—

Powers of inspectors of the Authority.

- (a) enter and inspect any premises—
 - (i) in which the inspector reasonably believes a pest control product to which this Act applies is or has been manufactured, stored, sold or used;
 - (ii) in which the inspector 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 the inspector 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;
- (d) issue certificate in respect of a premises or business upon compliance with the provisions of this Act or Regulations made thereunder;
- (e) order any person to present any pest control product or other thing for inspection in any manner and under any condition that the inspector considers necessary to conduct an inspection; and
- (f) issue a stop order and or recommend withdrawal of a certificate issued to any person operating any business in pest control product where there is a violation of this Act.

(2) The Authority or county government, as the case may be, shall issue each inspector with a certificate of appointment as an inspector, and shall on entering any place or premises referred to in subsection (1) and 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 (1) and every person found therein shall give an inspector all reasonable assistance to enable the inspector to carry out his or her duties and functions under this Act, and shall furnish the inspector with such information with respect to enforcement of the provisions of this Act as he or she may reasonably require.

(4) Any person who—

- (a) wilfully refuses entry to an inspector acting under this section; or
- (b) knowingly obstructs an inspector in making an entry or making an inspection,

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.

(5) Any person who without reasonable excuse, fails to produce any pest control product or material for examination, any document the production of which is required under this section, commits an offence and is liable on conviction to a fine not less than fifty thousand shillings and not exceeding two hundred and fifty thousand shillings or imprisonment of a term not exceeding six months or both.

22. For the purposes of exercising the powers under section 21, an inspector of the Authority may—

Role of inspectors
of the Authority.

- (a) disseminate information on matters relating to pest control products;
- (b) assist county governments in building capacity of technical staff on pest control products through training;
- (c) oversee and supervise the disposal of obsolete and expired pest control products and used pest control products containers;
- (d) inspect and issue certificates to pest control products business operators upon compliance with this Act or Regulations made thereunder;
- (e) seize and detain any complying pest control product that is not in compliance with this Act or Regulations made thereunder; and
- (f) collect samples of pest control products or materials suspected to be contaminated with pest control products for analysis.

23. (1) The Authority may appoint analysts, as may be necessary for the performance of its functions under this Act.

Analysts.

(2) An analyst appointed under subsection (1) may collect or receive samples of pest control products or articles for analysis.

(3) Upon analysis, the analyst shall issue a certificate of analysis stating that the analyst has analysed an article or a sample of pest control product and the result of the analysis.

(4) Where the pest control product sample or article is subject to a court process the certificate of analysis shall be admissible as evidence in a prosecution for the contravention of any provision of this Act or Regulations made thereunder and shall be evidence of the statements contained therein.

(5) The party against whom a certificate of analysis is produced under subsection (3) may, with leave of the court, require the attendance of the analyst for the purposes of cross-examination.

(6) A certificate shall not be received in evidence under subsection (3) unless the party intending to produce it has given to the party against whom it is intended to be produced reasonable notice of that intention together with a copy of the certificate.

24. Each county government shall, for the purposes of this Act and in collaboration with the Authority, undertake the following functions relating to pest control products—

Role of county governments.

- (a) promote good agricultural practices in the control of pests including integrated pest management;
- (b) training and awareness creation of agro-dealers, farmers and the public on responsible use of pest control products;
- (c) implement guidelines relating to pest control products;
- (d) designate and establish pest control products waste collection and disposal sites in collaboration with National Environment Management Authority;
- (e) implement measures to safeguard the environment from risks associated with pest control products;
- (f) implement guidelines relating to pest control products; and
- (g) regulate pest control products premises by issuing trade licenses.

25.(1) An inspector appointed by a county government under this Act shall, in consultation with the Authority—

Role of inspectors appointed by county governments.

- (a) report cases of suspected counterfeit pest control

products and other non-conforming products to the Authority;

- (b) keep and maintain a record of pest control products premises in the county;
- (c) monitor the management of empty pesticide container collection sites and disposal of pest control products wastes;
- (d) train, advise and create awareness to agro-dealers and farmers on responsible use of pest control products;
- (e) at all reasonable times and upon producing certificates of appointment, enter premises for evaluation and collection of samples of suspected unregistered or counterfeit products and report to the Authority for further action;
- (f) stop and inspect any consignment containing suspected unregistered or counterfeit pest control products within the county and report to the Authority for further action; and
- (g) prevent the sale of pest control products in unlicensed places or premises.

(2) Without prejudice to subsection (1), an inspector appointed by a county government shall not perform the functions or exercise the powers of an inspector outside the jurisdiction of the inspector's county.

26. (1) Whenever an inspector appointed by the Authority believes, on reasonable grounds, that this Act or the Regulations made thereunder has or have been contravened, the inspector 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 under subsection (1) shall not be detained—

- (a) after such time, exceeding fourteen days, as in the opinion of the inspector the provisions of this Act and Regulations made thereunder have been complied with; or
- (b) after the expiration of six months from the date of

Seizure, forfeiture and disposal of pest control of products.

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 that convicts a person for an offence under this section or Regulations made thereunder 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 convicted person of any fees and other expenses incidental to the analysis and disposal of the 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 be disposed of in such manner as may be prescribed by this Act or Regulations made thereunder.

(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 wilfully hinders or obstructs an inspector acting in exercise of the inspector's powers under this section commits an offence.

PART IV—REGISTRATION OF PEST CONTROL PRODUCTS

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

Registrar of Pest
Control Products.

(2) The Registrar may delegate to an officer of the Authority the exercise of any power or performance of any function of the Registrar conferred by this Act.

(3) Any decision made or instruction issued by an officer of the Authority acting under a delegation made 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 or issuing of such instruction.

28. (1) Any person intending to manufacture, sell or introduce for use a pest control product in Kenya shall apply to the Authority for registration.

Registration of
pest control
products.

(2) An application under subsection (1) shall be made in accordance with Regulations made under this Act.

(3) Each applicant under subsection (1) shall supply or make available to the Registrar such samples and particulars of the pest control product as the Registrar may require.

(4) The Registrar may require the applicant to conduct pre-registration and post-registration studies in Kenya to generate data for the purposes of the application.

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

(a) the pest control product in respect of which the application is made is—

- (i) safe for human health and the environment;
- (ii) suitable and sufficiently effective for the purposes for which it is intended; and
- (iii) complies with such requirements as may be prescribed under any Regulations made under this Act; and

(b) the establishment where the pest control product is intended to be manufactured is suitable for such manufacture,

the Registrar shall register and publish the registration of the pest control product.

(6) The Registrar may refuse an application for registration under subsection (1) if any previous registration of the pest control product has been suspended or cancelled under this Act.

(7) The Authority shall keep and maintain a database of pest control products registered under this Act.

(8) The Board shall appoint a technical advisory committee to assist the Registrar in the consideration of applications made under this section.

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

29. (1) The Registrar shall upon evaluation of the toxicity and intended use of a pest control product assign a class for the product as follows—

Classification of pest control products.

- (a) severely restricted;
- (b) restricted;
- (c) commercial and agricultural use;
- (d) domestic;
- (e) any other class as the Registrar may prescribe.

(2) The Registrar shall assign a registration number and a certificate of registration to the pest control product upon payment of prescribed fee by the applicant.

(3) The Authority may assign a mark of quality to registered pest control products.

30. (1) Any registration under section 27 may be renewed at least one month before the lapse of the period specified under subsection (9) thereof.

Renewal of registration.

(2) The Board may, by Regulations, prescribe a penalty for the late renewal of a certificate of registration of a pest control product if the application of renewal is made more than three months after expiry of the certificate.

(3) The provisions of section 27 shall apply, with the necessary modifications, to an application for renewal of registration.

31. The registration of pest control product shall take into account East African Community guidelines on registration of Pest Control Products and East African Community Council of Ministers Decisions issued in this regard.

East African Community guidelines to apply.

32. The Registrar may register a pest control product manufactured for export or re-export where the Registrar is satisfied with the safety and quality of the pest control product.

Manufacturing for export or re-export.

33. The Authority may initiate the re-evaluation of a registered pest control product in accordance with Regulations made under this Act.

Re-evaluation of registered pest control products.

34. A person who sells or uses a pest control product which is not registered in accordance with this Act commits an offence and shall upon conviction be liable to a fine not exceeding one million shillings or to a term of imprisonment not exceeding two years or both.

Sale or use of unregistered pest control products.

35. (1) A person who provides the Authority with false or misleading information with respect to the registration of a pest control product 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.

Provision of false or misleading information.

(2) 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 a 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.

36. (1) The Registrar may suspend or cancel the registration of a pest control product at any time if satisfied that—

Cancellation of registration.

- (a) the person to whom the registration was granted has in connection with the registration, contravened or failed to comply with any provision of this Act or Regulations made thereunder;
- (b) the person to whom the registration was granted has contravened or failed to comply with a condition to which the certificate is subject;
- (c) the person to whom the registration was granted by notice in writing, voluntarily applies for cancellation of the registration; or

- (d) new scientific evidence demonstrates that the registered pest control product no longer fulfils the conditions of registration.

(2) A holder of a registration certificate that has been cancelled under this section may apply for re-registration upon complying with the provisions of this Act or Regulations made thereunder.

37. The Registrar shall, in writing, furnish the applicant or the holder of a registration certificate as the case may be, with reasons for—

Registrar to give reasons.

- (a) refusal to issue a certificate of registration;
- (b) 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.

38. (1) The Authority may ban the use of a pest control product, where—

Banned, restricted and severely restricted pest control products.

- (a) an active substance or formulation has been reported under any convention relating to pest control products ratified by Kenya to have severe, adverse effects on human and or the environment;
- (b) scientific risk evaluation by the Authority demonstrates that the exposure to an active ingredient or formulation in Kenya poses unacceptable risk to humans and environment while considering—
 - (i) weight of scientific evidence;
 - (ii) availability of safer alternatives;
 - (iii) previous application of mitigation measures did not reduce the risk;
 - (iv) the risk does not arise from intentional misuse of the product.

(2) The Authority may list a product or formulation as severely restricted, where—

- (a) the product or formulation has been listed in international conventions relating to pest control products such as Rotterdam Convention Annex III, to have adverse effects on humans and the environment;
- (b) the Authority has determined from its evaluation process taking into account weight of evidence and effect on the socio-economic interest that the exposure to adverse effects from certain uses of a product cannot be mitigated in Kenya.

(3) The procedures and conditions for listing severely restricted products and formulations, their use, the persons handling and their availability in the market shall be in accordance with the provisions of this Act and regulations made thereunder.

(4) In this section, "Rotterdam Convention Annex III" means the list of chemicals set out in Annex III of the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade.

39. (1) A person commits an offence if that person adulterates, counterfeits, or offers for sale a pest control product or label or package for a pest control product.

Control of counterfeit products.

(2) A person commits an offence if that person reuses a label or container or package of a registered product without authority from holder of the certificate of registration.

(3) A person who is convicted of an offence under subsection (1) or (2) shall 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 pest control product, whichever is higher, or to imprisonment for a term not exceeding seven years.

40. (1) The Board shall, with the assistance of the technical advisory committee appointed under section 27(8), designate competent institutions and researchers to conduct studies on pest control products on the Authority's behalf and shall publish the list of the designated institutions and researchers in the *Gazette*.

Designation of competent persons.

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

(3) The suspension or cancellation of an institution or researcher designated under subsection (2) shall be notified in the *Gazette*.

(4) The Cabinet Secretary shall, in consultation with the Authority, prescribe, by Regulations, the procedures for the designation of institutions and researchers, their roles, rights and obligations, and fees payable to the Authority under this section.

(5) The designation of institutions or persons under this section shall take into account the East African Community guidelines on official recognition.

PART V—IMPORTATION, EXPORTATION AND RESEARCH

41. (1) No person shall import into, or sell any pest control product in Kenya unless that product has been registered, packaged and labelled in accordance with Regulations made under this Act.

Control of imports and exports.

(2) No person shall import any expired or obsolete pest control product.

(3) No person shall export or re-export out of Kenya any pest control product unless that person has complied with the relevant requirements specified in Regulations made under this Act.

(4) Any person taking possession or control of pest control products in transit through Kenya shall cause the products to be declared to the Authority at the ports of entry into and exit out of Kenya.

(5) Any person importing commodities treated with a pest control product shall ensure that the pest control product has not been banned or restricted for use in Kenya unless the Authority has authorised the use of that pest control product in respect of that commodity.

(6) Any person who imports an unregistered pest control product commits an offence and is liable on

conviction to a fine of not less than one million shillings and not exceeding five million shillings, or to imprisonment for a term not exceeding two years, or both.

(7) Any person who contravenes subsections (2), (3), (4) or (5) commits an offence and is liable on conviction to a fine of not more than two million shillings, or to imprisonment for a term not exceeding two years, or both.

42. (1) No person shall—

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

any pest control products except in accordance with conditions prescribed in Regulations under this Act.

(2) No person shall package, repackage, 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 the pest control product's character, value, quality, composition, merit or safety.

(3) No person shall distribute, offer or display for sale or use any expired, unregistered or obsolete pest control product.

(4) Any person who manufactures 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 shillings, or to imprisonment for a term not exceeding two years, or both.

(5) 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.

Control of
manufacture,
distribution, sale,
and use of pest
control products.

(6) Any person who uses a pest control product contrary to the label instructions commits an offence and is liable on a conviction to a fine not exceeding fifty thousand shillings or imprisonment of a term not exceeding six months, or both.

(7) Any person who contravenes subsection (2) and (3) 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.

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

Authorisation of research.

(2) An application for authorization under subsection (1) shall include any information required by the Authority, and shall be accompanied by 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 conduct of research on the pest control product including permitting the use of the pest control product in controlled conditions.

(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 may be necessary.

(5) This section shall not apply to research on an active ingredient or active agent of a pest control product derived from or isolated in Kenya for basic research.

(6) Any person who conducts research on an unregistered pest control product without authorization in accordance with 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.

44. (1) The Authority shall establish measures to encourage and recognise local innovation in the development and management of pest control products.

Local innovation and development of pest control products.

(2) Any person who intends to commercialise any local innovation on the development and management of pest control products shall notify the Authority in writing.

45. (1) No person shall transport, offer to transport or handle any 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 unless the pest control product complies with this Act or Regulations made under this Act.

Transportation of pest control products.

(2) Any person who contravenes the provisions of subsection (1) 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.

46. (1) Each certified agro-dealer shall declare to the Authority stocks of obsolete and expired pest control products held by that dealer by the 31st December every year in accordance with regulations under this Act.

Control of disposal of pest control products.

(2) The Cabinet Secretary shall make Regulations for—

- (a) the disposal of obsolete and expired pest control products by agro-dealers; and
- (b) collection from farmers and users of pest control products and disposal of used containers of pest control products by agro-dealers.

(3) Any person who contravenes the provisions of subsection (1) commits an offence and shall on conviction be liable to a fine not exceeding two hundred and fifty thousand shillings, or to imprisonment for a term not exceeding six months, or both.

47. Each person certified under this Part shall keep proper records as may be prescribed in Regulations made by the Cabinet Secretary in consultation with the Authority.

Stock records.

**PART VI—MANUFACTURE, CERTIFICATION,
TRANSPORTATION AND DISPOSAL OF PEST
CONTROL PRODUCTS**

48. (1) Any person who intends to deal in pest control products shall apply to the Authority for a certificate in the prescribed form accompanied by the prescribed fee.

Procedure for certification.

(2) The Authority shall evaluate the application, conduct inspection of the premises of the applicant and if satisfied issue the applicant with a certificate.

(3) The Cabinet Secretary shall, in consultations with the Authority, make Regulations for the better carrying out of the provisions of this section.

49. (1) No person shall manufacture, formulate, repackage, distribute, retail, wholesale, sell, store, dispose, provide commercial spray services, offer pest control services, or be an agent of a dealer in pest control products, without a certificate issued by the Authority.

Classification of certificates.

(2) The following certificates shall be issued under this Act—

- (a) manufacturing certificate;
- (b) formulator's certificate;
- (c) re-packing certificate;
- (d) distributor certificate;
- (e) retailer's certificate;
- (f) warehousing certificate;
- (g) disposal certificate;
- (h) pest control services certificate;
- (i) commercial training certificate;
- (j) commercial spray service provider's certificate;
- (k) agency certificate;
- (l) wholesaler's certificate; and
- (m) storage and use certificate.

(3) The Cabinet Secretary shall, in consultation with the Authority, make Regulations for the better carrying out of the provisions of this section.

(4) The Authority shall keep and maintain register of persons issued with certificates under this section.

(5) Any person who contravenes provisions of subsection (1) commits an offence.

50. (1) No person shall use any premises or, being the owner or occupier thereof, permit or allow the premises to be used for the manufacture, formulating, packaging, selling or storing of pest control products in the course of a trade or business unless that person is in possession of certificate issued under this Act.

Conditions for certification of premises.

(2) No person shall offer an online platform for the sale, advertisement or marketing of pest control products unless that person ensures that persons using the platform are certified by the Authority and the pest control products are registered by the Authority in accordance with this Act.

(3) Any person who contravenes the provisions of subsection (1) or (2), 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.

51. (1) No person shall undertake commercial training in relation to pest control products unless that person has been issued with a certificate by the Authority in accordance with the provisions of this Act.

Commercial training in pest control products.

(2) Any person who contravenes subsection (1) commits an offence.

(3) The Cabinet Secretary shall, in consultation with the Authority, make Regulations for the better carrying out of the provisions of this section.

52. (1) Every certificate issued under this Act shall lapse on the 31st December following the date of issue and shall be renewable annually.

Issue and expiry of certificate.

(2) A certificate issued under this Act shall not be transferable from one person to another or one premises to another.

(3) An application for renewal shall be submitted to the Authority on or before the 31st March of each year, and any application submitted after the 31st March shall be

accompanied by a late fee as provided for in Regulations made by the Cabinet Secretary, in consultation with the Authority, in that regard.

53.(1) The Authority may suspend or revoke a certificate 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 certificate is subject.

Suspension and cancellation of a certificate.

(2) An owner whose certificate has been suspended or revoked under this section may apply to the Authority for re-certification upon compliance with the provisions of this Act.

(3) Where the Authority intends to suspend or cancel a certificate, the Authority shall afford the holder of the certificate sufficient opportunity to make representations against the suspension or cancellation.

PART VII—LABORATORY ANALYTICAL SERVICES

54.(1) The Authority shall establish laboratories to undertake analysis of pest control products, residues in produce and environmental samples, monitor product quality for compliance and other analyses necessary for the Authority's functions under this Act.

Establishment, designation and authorization of laboratories.

(2) The laboratories designated under subsection (1) may be used to conduct research on pest control products and related articles regulated under this Act.

(3) The Authority laboratories shall be the designated laboratories to undertake analysis and testing for the performance of its functions under this Act.

(4) The Authority may charge fees for the services offered in its analytical laboratories.

(5) The Authority may authorize a public or private laboratory to undertake analytical services on behalf of the Authority under this section.

(6) A laboratory authorized under subsection (5) above shall provide on request all relevant information related to analytical services conducted for the purposes of this Act.

PART VIII—FINANCIAL PROVISIONS

55. The funds of the Authority shall consist of—

Funds of the Authority.

- (a) monies appropriated by the National Assembly;
- (b) such monies, fees and levies as may be payable to the Authority in accordance with 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.

56. 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.

Retention of surpluses.

57. The Authority may invest any funds not immediately required for its purposes in such a manner as the Cabinet Secretary responsible for matters relating to finance may approve.

Investment of surplus funds.

58. The financial year of the Authority shall be the period of twelve months ending on the 30th June in every year.

Financial year.

59. (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.

Annual estimates.

(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.

60. (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 Public Finance Management Act.

Accounts and audit.

Cap. 412A.

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

Cap. 412B.

61. Any activity outside the approved budget shall only be undertaken with the approval of the Cabinet Secretary and the Cabinet Secretary responsible for matters relating to finance.

Expenditure outside budget.

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

Financial and annual reports.

(a) Public Finance Management Act; and

Cap. 412A.

(b) Public Audit Act.

Cap. 412B.

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

(3) The report of the Authority under subsection (2) 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.

63. (1) The Authority may, with the approval of the Cabinet Secretary and the Cabinet Secretary responsible for matters relating to finance, borrow money required for the performance of its functions and for meeting its obligations.

Authority may borrow.

(2) The approval under subsection (1) shall be given in writing and—

(a) may be general or limited to a particular transaction; and

(b) may be conditional or unconditional.

PART IX—MISCELLANEOUS PROVISIONS

64. (1) No matter or thing done by a member of the Board of the Authority or any officer, employee or confirmed 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.

Protection from personal liability.

(2) The provisions of subsection (1) shall not relieve the Authority of the liability to pay compensation 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.

65. Any person who, in the exercise of any power or performance of any function conferred by this Act, discloses confidential information to an unauthorised person, except for the purpose of the exercise of his or her powers or performance of his or her functions or when required to do so by a court or under any written law, commits an offence.

Confidentiality.

66. Any person who—

Passing confidential information without authorization.

(a) being in possession of confidential information obtained in accordance with this Act—

(i) divulges such information; or

- (ii) attempts, offers or threatens to divulge such information; or
- (b) willfully obtains or seeks to obtain confidential information to which that person 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.

67. 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 or her knowledge or consent and that he or she exercised all due diligence to prevent its commission.

Vicarious liability.

68. (1) Each user of or dealer in pest control products shall report any health and environmental incident involving a pest control product to the Authority.

Health and environment incident reporting.

(2) Any person who, in undertaking any activity involving a pest control product, causes a risk of imminent death or bodily harm to another person or animals or harm to the environment by—

- (a) transporting, handling or storing pest control products in contravention to the provisions of this Act and Regulations made under this Act;
- (b) using pest control products for purposes and manner not prescribed in the label;
- (c) disposing of pest control products in contravention of provisions of this Act and Regulations made under this Act; and
- (d) knowingly or unknowingly exposing other persons, animals or the environment,

commits an offence.

(3) Any person who commits an offence under subsection (2) 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.

69. A person who contravenes any provision of this Act or commits an offence for which no penalty is prescribed, shall be liable, on conviction, to a fine not exceeding thirty thousand shillings, or to imprisonment for a period not exceeding one year, or to both.

General penalty.

70. (1) The Cabinet Secretary may, in consultation with the Authority, make Regulations generally for the better carrying out of the purpose and provisions of this Act.

Regulations.

(2) Without prejudice to the generality of subsection (1), the Regulations may provide for the following—

- (a) the forms in which applications for certification shall be made, premises in which any pest control products are handled by manufacturers or dealers, the information to be provided and conditions to be furnished therewith;
- (b) the form in which application for registration and re-registration of pest control products and information to be provided and conditions furnished thereof;
- (c) conditions for emergency use authorization;
- (d) authorization for research on pest control products;
- (e) procedures for suspension and revocation of premises and business certificates and certificates for registration of pest control products;
- (f) fees to be paid under this Act;
- (g) procedures for appointment, membership, roles and responsibilities of the technical advisory committee;
- (h) conditions for banning and restricting pest control products;
- (i) relating to the management of accidents involving pest control products and their wastes;
- (j) the conditions for certification of commercial spray service providers and pest control operators;
- (k) the conditions for certification of commercial trainers on pest control products;

- (l) notification of poisoning associated with pest control products;
- (m) the manufacture, storage, distribution, transportation, display and use of any pest control product;
- (n) the form, composition, and all other standards relating to the safe use of pest control products, including toxic residue effects;
- (o) the manufacture, denaturation or testing of any pest control product to facilitate its recognition by change in colouration or other means;
- (p) the standards for efficacy and safety of any pest control product;
- (q) standards for designating competent persons to conduct studies on pest control products;
- (r) the packaging, labeling and advertising of pest control products;
- (s) the disposal of pest control products and associated waste;
- (t) the taking of samples and the making analyses for the purposes of this Act;
- (u) the conditions under which pest control products maybe imported, exported or re-exported;
- (v) the circumstances and manner of trans-boundary movement of hazardous wastes of pest control products;
- (w) relating to the transit and value addition of pest control products for export; and
- (x) requirements for appointment of inspectors under this Act.

PART X—REPEAL, SAVINGS AND TRANSITIONAL PROVISIONS

71. (1) The Pest Control Products Act is repealed.

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

Repeal.
Cap. 346.

72. All premises and business 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. Savings.

73. The Second Schedule shall apply to transitional matters relating to the repeal of the repealed Act and commencement of this Act. Transitional provisions.

FIRST SCHEDULE

(s. 16)

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

Meetings of the Board **1.** (1) The Board shall meet at least four times in every financial year and not more than three months shall elapse between the date of one meeting and the date of the next meeting.

(2) Despite subparagraph (1), the Chairperson may, or on request 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.

(3) Unless three-quarters of the total members of the Board otherwise agree, at least ten days' written notice of every meeting of the Board shall be given to every member of the Board.

Quorum. **2.** The quorum for a meeting of the Board shall be five persons.

Chairperson to
preside. **3.** The Chairperson shall preside over all meetings of the Board, and in the absence of the Chairperson, the members present may elect one of the members to act as Chairperson for purposes of the meeting.

Conflict of interest. **4.** (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.

(2) In any meeting where subparagraph (1) 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.

Voting. **5.** 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 Chairperson or person presiding shall have a casting vote.

Procedure **6.** The procedure for the Board shall be guided by the Code of Governance for State Corporations or any other approved code of conduct issued by the Government in this regard.

SECOND SCHEDULE**(s. 71(2))****TRANSITIONAL AND SAVING PROVISIONS****1. In this Schedule—**

“former Act” means the Pest Control Products Act repealed by section 71(1) 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 5 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 or 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:

(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 principal object of the Pest Control Products Bill, 2024, is to regulate the importation, exportation, manufacture, acquisition, distribution, advertising, use and disposal of products used for the control of pests and organic function of plants; to establish and provide for the powers and functions of the Pest Control Products Authority; and for connected purposes.

Part I of the Bill deals with preliminary matters including the short title, the definitions of key terms used in the Bill, the scope of the application of the Bill, the purposes of the Bill, and the guiding principles.

Part II of the Bill makes provision with respect to the establishment, headquarters, and functions of the Pest Control products Authority; the composition and powers of the Board of Directors of the Authority; the qualifications and appointment of the Chairperson of the Board; the procedure for the filling of a vacancy in the Board; the common seal of the Board; the conduct of the business and affairs of the Board; the remuneration of the members of the Board; and the appointment of the Managing Director and staff of the Authority.

Part III of the Bill deals with the appointment and designation of inspectors, and their powers and roles. Part III also provides for the appointment of analysts, their functions, the role of county governments, the role of inspectors appointed by county governments, the powers of inspectors to seize pest control products, and the applicable procedure on the forfeiture and disposal of seized pest control products.

Part IV of the Bill deals with the registration of pest control products. Part IV provides for the keeping and maintenance of a register of pest control products; the procedure for registration and renewal of registration of pest control products; the procedure for the classification of pest control products; the application of certain East African Community Guidelines; the manufacturing of pest control products for re-export; the prohibition on the sale or use unregistered pest control products; and the prohibition of the provision of false or misleading information relating to pest control products.

Part IV of the Bill also provides for the procedure for the cancellation of registration; the procedure for the banning and restriction of pest control products; the power to control the counterfeit products; and the designation of competent persons to conduct research and studies on pest control products.

Part V of the Bill provides for importation, exportation and research into pest control products. Part V provides for the manner of controlling import and export of pest control products into and out of Kenya; the manufacture, distribution, sale and use of pest control products; the procedure for authorisation of research in pest control products; the role of the Authority in encouraging local innovation and development of pest control products; transportation of pest control products in Kenya; the process of safely disposing of pest control products; and the requirement to maintain stock records by certified persons.

Part VI of the Bill deals with the manufacture, certification, transportation and disposal of pest control products. It sets out the procedure for certification; the issuance of classification certificates; the conditions necessary for the certification of premises under the Act; commercial training in pest control products; the issuance and expiry of certificates; and the procedure for the suspension or cancellation of certificates.

Part VII of the Bill deals with the establishment, designation and authorisation of laboratories by the Authority.

Part VIII of the Bill deals with financial matters relating to the Authority including the sources of its funds; the retention of surpluses; the investment of surplus funds; the financial year of the Authority; the budget process for the Authority; the preparation and submission of annual financial and non-financial reports; and the power of the Authority to borrow money.

Part IX of the Bill deals with miscellaneous matters including the protection from personal liability of members of the Board, and officers and staff of the Authority, in the performance of their functions or exercise of their powers under the Act; the duty of confidentiality; the penalty for unauthorised disclosure of confidential information; the manner of reporting of health and environmental incidents involving pest control products; and a general penalty; the power to make Regulations.

Part X of the Bill deals with the repeal of the Pest Control Products Act (Cap. 346) and savings and transitional matters.

The **First Schedule to the Bill** makes specific provisions for the conduct of the Business and affairs of the Board, while the **Second Schedule** deals with transitional matters.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

The Bill delegates legislative powers to the Cabinet Secretary but does not limit fundamental rights and freedoms.

Statement on how the Bill concerns county governments

Paragraph 1 of Part 2 of the Fourth Schedule to the Constitution designates agriculture including: crop and animal husbandry; livestock sale yards, county abattoirs; plant and animal disease control; and fisheries. as a function of county governments. The Bill seeks to regulate products used for the control of pests and organic function of plants.

The Bill therefore concerns county governments in terms of Articles 110(1) (a) of the Constitution.

Statement that the Bill is not a money Bill, within the meaning of Article 114 of the Constitution

The Bill is not a money Bill within the meaning of Article 114 of the Constitution.

- Dated the 29th October, 2025.

AARON CHERUIYOT,
Senate Majority Leader.