

Legislative Brief

The Pesticides Management Bill, 2008

The Bill was introduced in the Rajya Sabha on 21st October, 2008.

The Parliamentary Standing Committee on Agriculture (Chairperson: Shri Mohan Singh) submitted its report on February 18th, 2009.

Highlights of the Bill

- ◆ The Bill replaces the Insecticides Act, 1968. It defines a pesticide as a substance used to destroy or control the spread of pests in agricultural commodities or animal feed. The Bill sets criteria by which a pesticide is to be classified as misbranded, sub-standard, or spurious.
- ◆ The Bill establishes a Central Pesticides Board to advise the government on matters related to pesticide regulation, manufacture, use and disposal. It establishes a registration committee to register pesticides.
- ◆ No pesticide can be registered unless tolerance limits for its residues on crops and commodities are specified under the Food Safety and Standards Act, 2006.
- ◆ The Bill establishes a procedure to licence manufacturers, distributors and retailers of pesticides, to be administered by state governments. Pesticide inspectors shall inspect facilities and collect pesticide samples while pesticide analysts shall test the samples collected.

Key Issues and Analysis

- ◆ The Bill defines a pesticide as any substance used to destroy or control pests in agricultural commodities or animal feeds. Pesticides used for non-agricultural purposes, such as health care, are thus excluded from this definition. The Parliamentary Standing Committee has recommended that a broader definition be used.
- ◆ The tolerance limits for pesticides are to be specified according to the provisions of the Food Safety and Standards Act, 2006. However, the relevant provisions of the Food Safety and Standards Act have yet to be brought into force.
- ◆ Pesticides registered under the Insecticides Act, 1968, are automatically deemed to be registered under the Bill. Tolerance limits have not been specified for some of these pesticides.
- ◆ The Bill does not specify penalties for pesticide inspectors or analysts who misuse their powers. The Standing Committee has recommended that penalties be imposed on such government officers along the lines of similar provisions in the Drugs and Cosmetics Act, 1940 or the Food Safety and Standards Act, 2006.

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PART A: HIGHLIGHTS OF THE BILL¹

Context

The import, manufacture, distribution and use of insecticides (including pesticides) in India are currently governed by the provisions of the Insecticides Act, 1968. The Act puts in place a registration system for pesticides, and a licencing regime for manufacturers and distributors of pesticides to be administered by state governments. A procedure for inspection and testing of pesticides is also specified. A total of 217 pesticides have been registered for use in the country and thirty-three pesticides are banned.²

The total consumption of pesticides in the country was around 55,000 tons in 2006-07.³ Four states – Andhra Pradesh, Haryana, Punjab and Uttar Pradesh, account for around half the pesticides consumed.⁴ A Joint Parliamentary Committee, set up in 2003, to probe the issue of pesticide residues in soft drinks, had recommended changes to the Insecticides Act, including the mandatory fixation of tolerance limits for pesticide residues on crops.⁵

The Pesticides Management Bill, 2008 seeks to replace the Insecticides Act, 1968. It establishes a central pesticides board to advise the government on issues relating to pesticide use and regulation. The Bill provides for a registration committee to register pesticides and monitor their use and provides for a system of licencing, inspection and testing administered by state governments.

Key Features

- The Bill replaces the Insecticides Act, 1968. It defines a pesticide as a substance of chemical or biological origin intended to destroy or control the spread of any pests during the production, storage, transport or distribution of agricultural commodities and animal feeds.
- The Bill defines misbranded, sub-standard and spurious pesticides and prescribes a set of penalties for the manufacture or distribution of such pesticides. The Bill provides for a fine of between Rs 5-10 lakh, or imprisonment for up to 5 years, or both, for any one who manufactures, imports, exports, or sells a spurious pesticide.
- The use of pesticides for household purposes, in gardens, or on self-cultivated land, is not covered by the Bill.
- The Bill establishes various authorities and offices to advise the government and administer the Act (see Table 1).

Table 1: Authorities and offices set up under the Bill

Authority / Office	Functions / Powers	Composition / Eligibility
Authorities/ Offices set up under the Central Government		
Central Pesticides Board	To advise the government on standards for the manufacture, sale and distribution of pesticides, and their monitoring and disposal. It shall also advise the government on safety and toxicity standards.	38 members; 10 shall be ex-officio government officials, 18 shall be representatives of various ministries, government bodies and institutions; 10 shall be nominees of the central government.
Registration Committee	To register pesticides, restrict or prohibit their use, and prescribe guidelines for the manufacture and advertising of pesticides.	Total of 10 members ex-officio from different ministries, government departments and institutions.
Central Pesticides Laboratory	To carry out functions under the Act.	Other accredited laboratories may also carry out functions of CPL. Officers of such labs cannot have a financial interest in the pesticides business.
Authorities/ Offices set up under the State Government		
Licensing Officer	To licence manufacture and distribution of pesticides. Can also revoke or suspend licences.	To be appointed by State governments; qualifications to be prescribed.
Pesticide Inspectors	To take samples of pesticides for analysis; to enter / search premises or examine / seize documents or stop the distribution of pesticides if violations are suspected, with the permission of magistrate.	Qualifications to be prescribed by central or state government; cannot have financial interest in manufacture/import/export or sale of pesticides.
Pesticide Analysts	To test samples of pesticides according to provisions of the Act.	Qualifications to be prescribed; no financial interest in pesticides.

Sources: The Pesticides Management Bill, 2008 ; PRS

Registration and Licencing

- Persons who wish to import, manufacture or export a pesticide must register their pesticides with the registration committee. The committee shall evaluate an application based upon the pesticide's effectiveness, safety and the availability of infrastructure to manufacture and stock the pesticide. It has two years to take a decision on an application, extendable by six months.
- Pesticides cannot be registered unless their tolerance limits are specified for residues on crops and commodities under the Food Safety and Standards Act, 2006.

- The data submitted along with an application cannot be used to apply for registration again by another person for a period of three years without permission from the original applicant. In case the pesticide has been patented, this period shall be limited to the period of the patent. The committee may register a pesticide provisionally for two years for the purpose of generating data for a full application.
- The committee may cancel a registration on grounds that the pesticide has an adverse impact on human health or the environment, or that any of the provisions of the Act or conditions for registration have been violated. The registrant may appeal to the central government within 30 days. The government has one year to reach a decision.
- The government may relax provisions related to the non-reliance on data already used, on grounds of national exigency, urgency, public interest or for use by the government for academic and research purposes. If a pesticide has been registered provisionally, the government may, on the recommendation of the committee, and, if no other appropriate pesticide is registered or available, allow its commercialisation on grounds of national exigency.
- A person wishing to manufacture, sell, stock or distribute a pesticide or undertake commercial pest control operations requires a licence from the state government.

Prohibitions on Manufacture, Sale and Distribution

- The Bill bans the import, export, manufacture, sale, transport or distribution of pesticides (a) which are misbranded, sub-standard or spurious (b) whose sale, distribution or use has been temporarily prohibited by the government (c) in violation of conditions of registration, or licence of manufacture, or provisions of the Act. The import or export of pesticides must be in accordance with the provisions of the Prior Informed Consent Procedure.*
- The state or central government can prohibit the use of any pesticide, or a batch of it, in a specified area on grounds risk to human beings or animals. Pending an investigation, such a prohibition will be in force for six months, further extendable for two months. Following the results of the investigation, the government may cancel the registration.

PART B: KEY ISSUES AND ANALYSIS

Comparison between the Bill and the Insecticides Act, 1968

The Bill replaces the Insecticides Act, 1968. While the Bill is similar to the Act, it brings about changes in terms of the types of substances covered, the powers of the registration committee and the conditions of registration (Table 2).

Table 2: Main Changes in the Bill as compared with the Insecticides Act, 1968

Topic	The Insecticides Act, 1968	The Bill
Coverage	Covers insecticides which are defined as any substance included in the Schedule to the Act.	Covers pesticides which are defined as any substance of chemical or biological origin used to control the spread of pests in agricultural commodities or animal feed.
Powers of registration committee	Power to cancel the registration of an insecticide lies with the central government.	Committee can suspend or cancel registration in case of violations of the Act or due to adverse impact on crops, humans or animals.
Conditions and Process of Registration	The Act did not require tolerance limits for pesticide residues to be specified. Tolerance limits are specified under the Prevention of Food Adulteration Act, 1954. There is no protection of data submitted for registration. Same data could be used by multiple applicants.	Bill requires tolerance limits to be specified as a condition for registration. Such limits are specified by the Food Safety and Standards Authority, set up under the Food Safety and Standards Act, 2006. Data submitted for registration by one applicant cannot be used by others for three years, without permission.

Sources: The Insecticides Act, 1968; The Pesticides Management Bill, 2008; PRS

Definition of Pesticides

The Bill defines a pesticide as a substance of chemical or biological origin intended to destroy or control the spread of any pests in agricultural commodities or animal feeds.

Pesticides used to control pests in non-agricultural settings (other than households) may not be covered by this definition, leaving such substances unregulated. The preamble of the Bill aims to regulate pesticides “with a view to control pests”, but does not restrict this to agriculture only. The Insecticides Act, 1968 covers substances used outside agriculture. The Parliamentary Standing Committee on Agriculture has recommended that pesticides used in health care also be covered under the definition.⁶

* The procedure is part of an international convention which regulates the import and export of hazardous chemicals.

Clause 3(s),
Preamble,
Statement of
Objects and
Reasons

Tolerance limits for Pesticide Residues

Clause 12(5) Currently the Insecticides Act does not regulate residue limits. The Prevention of Food Adulteration Act, 1954 provides for residue limits on food items. This Act is being replaced by the Food Safety and Standards Act, 2006, which exempts farmers from its provisions. Under this Act, no article of food can contain pesticide residues in excess of tolerance limits specified by regulations.⁷

According to the Bill, no pesticide can be registered for import or manufacture unless its tolerance limits are specified for residues on crops and commodities under the Food Safety and Standards Act, 2006.⁸ This raises two issues.

Firstly, the relevant sections of the Food Safety and Standards Act, 2006 have not yet been brought into force.

Secondly, all pesticides which are currently registered under the Insecticides Act, 1968, will be deemed to be registered under the provisions of the Bill. Tolerance limits are not specified for some currently registered pesticides (as pointed out by the Joint Parliamentary Committee on Residues in and Safety Standards for Soft Drinks, Fruit Juice and Other Beverages). Thus, some pesticides registered under the Bill will not have tolerance limits fixed for them.

Penalties for Misuse of Powers

The Bill puts in place a regime for the collection of pesticide samples by Pesticide Inspectors, and for the testing of such samples by pesticide analysts. Inspectors can enter and search premises, examine or seize documents, and stop the distribution of pesticides, in case they suspect violations of the Act.

The Parliamentary Standing Committee has recommended that the liability and accountability of pesticide inspectors be fixed in a manner similar to that specified for inspectors under the Drugs and Cosmetics Act, 1940, or Food Safety Officers under the Food Safety and Standards Act, 2006. As of now, the Bill does not specify any penalties for inspectors or pesticide analysts. The Committee recommended that pesticide inspectors who exercise their powers vexatiously or without reasonable grounds be fined Rs 10,000-Rs 25,000, while analysts be fined Rs 25,000-1 lakh for similar reasons.

Some Recommendations of the Standing Committee

The Parliamentary Standing Committee on Agriculture had made certain recommendations with respect to the powers of the registration committee and with respect to the data protection provisions under the Bill.

Clauses 11(2)(ii) and 33 The Bill empowers both the government and the registration committee to prohibit or restrict pesticide use. The Standing Committee had recommended that the power to prohibit the use of a pesticide rest with the government, while the power to restrict its use be with the registration committee.

Clause 12(6) The Bill does not allow data submitted along with an application to be reused by another applicant for 3 years without permission. The Committee recommended that this data protection period be raised to 5 years.

Notes

1. This Brief has been written on the basis of the Pesticides Management Bill, 2008, which was introduced in the Rajya Sabha on February 26th, 2009. on 21st October, 2008. The Parliamentary Standing Committee on Agriculture (Chairperson: Shri Mohan Singh) submitted its report on February 18th, 2009.
2. See <http://cibrc.nic.in/>
3. Adapted from data on pesticide production and imports. See Lok Sabha unstarred question No. 1984 answered on 13th march, 2008.
4. For all India figures see http://www.dacnet.nic.in/eands/At_Glance_2008/ch_15/tb15.3.xls (table 15.2). For state-wise consumption up to 2004-05 see <http://cibrc.nic.in/pestconsum.htm>.
5. Report of Joint Committee on Pesticide Residues in and Safety Standards for Soft Drinks, Fruit Juice and Other Beverages; available at <http://parliamentofindia.nic.in/ls/jpc/jpc-prsfb.htm>
6. "Pesticides Management Bill, 2008", 46th report of the Standing Committee on Agriculture, February 2009.
7. Section 21(1) of the Food Safety and Standards Act, 2006.
8. Section 16(2)(b) of the Food Safety and Standards Act, 2006.
9. See Prevention of Food Adulteration Rules, 1955, Part XIV.

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