

LAW OF UKRAINE

On Amendments to certain Ukrainian Laws dealing with Pesticides and Agricultural Chemicals

The Supreme Rada of Ukraine **resolves**:

I. To amend the following laws of Ukraine:

1. In the Law of Ukraine “On Pesticides and Agricultural Chemicals” (Vidomosti Verkhovnoji Rady Ukrainy, 1995, No. 14, page 91):

1) Article 1 shall be supplemented with the following paragraph:

“plant growth regulators shall mean chemical substances that impact processes of plant growth and development”;

2) Parts 2 and 3 of Article 4 shall be replaced with three Parts as follows:

“It shall be prohibited to import into Ukraine’s customs territory (except for testing lots to be used for State testing and scientific research), to manufacture (except for manufacturing for export and manufacturing of testing lots to be used for State testing, scientific and technological research and testing), to trade in, to apply and to advertise pesticides and agricultural chemicals prior to their State registration.

Unregistered pesticides and agricultural chemicals, which are used for State testing and scientific research, in scientifically justified amounts, as well as seed (planting) materials processed therewith shall be imported into Ukraine’s customs territory to pursuant to plans on State testing and scientific research under a permit that is issued by the specially authorized central agency of executive power on environmental protection matters, as agreed with the specially authorized central agency of executive power on health protection, pursuant to procedures prescribed by the Cabinet of Ministers of Ukraine.

Remaining pesticides and agricultural chemicals, whose term of registration has lapsed, shall be used within 2 years pursuant to a permit from the specially authorized central agency of executive power on environmental protection matters, as agreed with the specially authorized central agency of executive power on health protection and the specially authorized central agency of executive power on agrarian policies”;

3) Parts 2 and 4 in Article 6 shall be restated as follows:

“The objective of field testing shall be to determine or confirm the biological efficiency of new pesticides and agricultural chemicals in comparison with those that are used, to draft temporary regulations for their application, and to conduct an in-depth study of preparatory forms”;

“Industrial testings shall be carried out in order to confirm the biological efficiency of pesticides and agricultural chemicals in various zones of Ukraine, to specify in more precise terms and justify regulations and methods of their application, sanitary/hygienic and environmental norms, to develop and modify methodologies for determining remaining quantities of such pesticides and agricultural chemicals and their dangerous metabolites”;

4) in Article 7:

Part 3, after the word “application”, shall be supplemented “including a positive conclusion of the State sanitary-hygienic expert examination”;

in Part 5, the word “five” shall be replaced with the word “ten”;

5) the title and Parts 1 and 2 in Article 9 shall be restated as follows:

“Article 9. Licensing of Activities concerned with Manufacturing and Sale of Pesticides and Agricultural Chemicals

Business activities in the area of manufacturing of pesticides and agricultural chemicals (only for plant growth regulators), wholesale and retail sale of pesticides and agricultural chemicals (only of plant growth regulators) shall be carried out on the basis of a license, pursuant to procedures as are specified by law.

Licenses for manufacturing of pesticides and agricultural chemicals (only for plant growth regulators), wholesale and retail sale of pesticides and agricultural chemicals (only of plant growth regulators) shall be issued by specially authorized central agencies of executive power designated by the Cabinet of Ministers of Ukraine”;

6) Article 10, after Part 2, shall be supplemented with the following new Part:

“Pesticides and agricultural chemicals may be packaged only if there is a permit from its [their] manufacturer or the holder of the mark for goods and services”.

In connection therewith, Parts 3 and 4 shall be regarded as Parts 4 and 5 respectively;

7) in Article 11:

in Part 3, the word “Realization” shall be replaced with the word “Sale”;

to supplement with Part 4 as follows:

“Business activities in the area of storage and use of pesticides and agricultural chemicals shall be subject to mandatory insurance, conditions of and procedures for which mandatory insurance shall be determined by law”;

8) Part 2 in Article 12 shall be restated as follows:

“Lists of pesticides and agricultural chemicals permitted for application in Ukraine, including for retail sale and for application with a method involving the use of aircraft, shall be approved by the specially authorized central agency of executive power on environmental protection matters, as agreed with the specially authorized central agency of executive power on health protection and the specially authorized central agency of executive power on agrarian policies”;

9) Articles 13 and 16 shall be restated as follows:

“Article 13. Specifics of Application of Pesticides and Agricultural Chemicals

Pesticides and agricultural chemicals shall be applied on lands of nature protection, spa, recreational and historical-cultural designation as provided by law.

Application of pesticides and agricultural chemicals shall be restricted pursuant to procedures specified by the specially authorized central agency of executive power on agrarian policies on territories affected by radioactive contamination and in zones of environmental emergencies.

In special ‘raw-material supplying’ zones designated for growing of products for children’s and dietetic nutrition, pesticides and agricultural chemicals shall be applied in accordance with special technologies that ensure the obtaining of products that comply with sanitary-hygienic requirements for children’s and dietetic nutrition”;

“Article 16. Agencies that implement State Policies in the Area of Activities concerned with Pesticides and Agricultural Chemicals

State policies in the area of activities concerned with pesticides and agricultural chemicals shall be implemented by the Cabinet of Ministers of Ukraine, the specially authorized central agency of executive power on environmental protection matters, the specially authorized central agency of executive power on agrarian policies, the specially authorized central agency of executive power on health protection and other agencies of executive power according to their competence.

Powers of the agencies of executive power in the area of activities concerned with pesticides and agricultural chemicals shall be prescribed by law”;

10) to supplement the Law with Articles 16¹, 16², 16³ as follows:

“Article 16¹. Competence of the Specially Authorized Central Agency of Executive Power on Environmental Protection Matters in the Area of Activities concerned with Pesticides and Agricultural Chemicals

The competence of the specially authorized central agency of executive power on environmental protection matters in the area of activities concerned with pesticides and agricultural chemicals shall include:

organization of State testing of domestic- and foreign-manufactured pesticides and agricultural chemicals, formation and approval of a plan on the conduct of testing;

performance of State environmental expert examinations of materials submitted for registration of pesticides and agricultural chemicals;

State registration of pesticides and agricultural chemicals in accordance with prescribed procedures;

development and approval, upon confirmation with the specially authorized central agency of executive power on health protection, of methodologies for determinations of compliance by pesticides and agricultural chemicals with quality certificates, and of methodical guidelines for determinations of contents of residual quantities of pesticides in water, soil and agricultural products;

approval of lists of pesticides and agricultural chemicals permitted for application in Ukraine;

issuance of permits for importation, manufacturing and use of testing lots of unregistered pesticides and agricultural chemicals for State testing and scientific research, as well as for seed (planting) materials processed therewith;

performance of State control over compliance by enterprises, institutions and organizations of all forms of ownership and by natural persons with norms and rules on environmental safety in the course of transportation, storage, application, utilization, neutralization, extermination and burial of pesticides and agricultural chemicals, including those that are unsuitable or prohibited for application, by contents of residual quantities of pesticides, agricultural chemicals and heavy metals in the atmospheric air (except for the air in working zones), in sea, surface waters (except for surface waters designated for agricultural needs) and underground waters, soils and lands of nature protection designation.

The competence of the specially authorized central agency of executive power on environmental protection matters may also include other types of activities concerned with pesticides and agricultural chemicals pursuant to law.

Article 16². Competence of the Specially Authorized Central Agency of Executive Power on Agrarian Policies in the Area of Activities concerned with Pesticides and Agricultural Chemicals

The competence of the specially authorized central agency of executive power on agrarian policies in the area of activities concerned with pesticides and agricultural chemicals shall include:

identification of needs for (quantities and an assortment of) pesticides and agricultural chemicals, coordination of their manufacturing for the domestic market;

confirmation of lists of pesticides and agricultural chemicals permitted for application in Ukraine;

performance of State control by contents of residual quantities of pesticides, agricultural chemicals and heavy metals in surface waters intended for agricultural needs, in soils on lands of agricultural designation, fodder, as well as in agricultural products and raw materials.

The competence of the specially authorized central agency of executive power on agrarian policies may include other types of activities concerned with pesticides and agricultural chemicals pursuant to law.

Article 16³. Competence of the Specially Authorized Central Agency of Executive Power on Health Protection in the Area of Activities concerned with Pesticides and Agricultural Chemicals

The competence of the specially authorized central agency of executive power on health protection in the area of activities concerned with pesticides and agricultural chemicals shall include:

prescription of sanitary and hygienic requirements for transportation, storage and application of pesticides and agricultural chemicals;

performance of State sanitary and epidemiological expert examinations of plans on State testings of pesticides and agricultural chemicals, materials of registrations of pesticides and agricultural chemicals;

confirmation of plans on State testings of pesticides and agricultural chemicals and lists of pesticides and agricultural chemicals permitted for application in Ukraine;

performance of State supervision of compliance by enterprises, institutions and organizations of all forms of ownership and by natural persons with State sanitary norms and rules, hygienic normatives and regulations for the safe manufacturing, transportation, storage and application of pesticides and agricultural chemicals, by contents of residual quantities of pesticides and agricultural chemicals in foodstuffs and food raw materials, including imports, in medicinal herbs, water reservoirs, water used for business and drinking supplies, swimming, sport competitions, organized recreation, and for medical treatment purposes, in therapeutic mud, soils, on lands of inhabited settlements, lands of spa and recreational designation, in the air of working zones;

scientific justification for and approval of hygienic normatives and regulations for the safe application of pesticides and agricultural chemicals;

confirmation of permits for importation and application of unregistered pesticides and agricultural chemicals, as well as of permits for manufacturing and use of testing lots of domestic-manufactured pesticides and agricultural chemicals;

determination of a list of institutions that carry out the toxic and hygienic (medical/biological) research of pesticides and agricultural chemicals;

performance of arbitration examinations in respect of toxicological and hygienic estimates of pesticides and agricultural chemicals and of conditions of their safe application.

The competence of the specially authorized central agency of executive power on health protection may include other types of activities concerned with pesticides and agricultural chemicals pursuant to law”;

11) in paragraph 5 of Part 1 in Article 17, the words “realization of pesticides and agricultural chemicals” and “processing and realization of foodstuffs” shall be replaced respectively with the words “sale of pesticides and agricultural chemicals” and “sale of foodstuffs”;

12) in paragraph 5 in Article 23, the word “synthesized” shall be replaced with the word “created”;

13) throughout the text of the Law, the words “Ukrderzhkhimcommission” [State Inter-Departmental Commission of Ukraine for Testing and Registration of Plant Protection Means, Plant Growth Regulators and Fertilizers] and “Ministry of Environmental Protection and Nuclear Security of Ukraine” in all cases shall be replaced with the words “specially authorized central agency of executive power on environmental protection matters” in applicable cases;

14) in the Preamble, Articles 3, 6, 7, 9 - 11, 20, 21, 23, 24 and in the title of Section III of the Law, the words “Ministry of Agriculture and Food of Ukraine”, “Ministry of Health Care of Ukraine”, “preparation” and “preparations”, as well as the word “realization” in all cases shall be replaced respectively with the words “specially authorized central agency of executive power on agrarian policies”, “specially authorized central agency of executive power on health protection”, “pesticides and agricultural chemicals”, as well as the word “sale” in applicable cases.

2. In the Law of Ukraine “On Protection of Plants” (Vidomosti Verkhovnoji Rady Ukrainy, 1998, No. 50 - 51, page 310):

1) paragraph 13 in Article 1 shall be restated as follows:

““plant protection means” shall mean preparations that contain one or several active substances and are used to protect plants or products of plant growth from harmful organisms and destruction of undesirable plants or certain parts of the plants”;

2) in paragraph 5 in Article 6, the words “storage, transportation and” shall be deleted;

3) Part 1 in Article 11 shall be restated as follows:

“Specially authorized agencies of executive power in the area of plant protection shall be:

The Chief State Inspectorate for Plant Protection, which functions within and is subordinated to the specially authorized central agency of executive power on agrarian policies; State plant protection stations of the Autonomous Crimean Republic, oblasts and districts. The Head of the Chief State Inspectorate for Plant Protection simultaneously shall be *ex officio* the Chief State Inspector for Plant Protection of Ukraine, and his deputies shall be deputy Chief State Inspectors for Plant Protection of Ukraine”;

4) in Article 12:

in the title and throughout the text, the words “the Chief Department of the State Plant Protection Service (Chief State Inspectorate for Plant Protection)” in all cases shall be replaced with the words “the Chief State Inspectorate for Plant Protection” in applicable cases;

in Part 1:

in paragraph 7, the words “storage, transportation and” shall be deleted;

in paragraph 8, the words “storage, transportation” shall be deleted;

5) in paragraph 6 in Article 13, the words “storage, transportation and” shall be deleted;

6) Part 2 in Article 18, after paragraph 3, shall be supplemented with the following new paragraph:

“to permit only persons, who have undergone special training pursuant to this Law and have respective authorizations and permits issued by the specially authorized agencies of executive power in the area of plant protection, to carry out work concerned with transportation, storage and application of plant protection means and their sale”.

In connection therewith, paragraphs 4 – 8 shall be regarded as paragraphs 5 – 9 respectively;

7) Part 1 in Article 19 shall be restated as follows:

“Chief State Inspectors for Plant Protection of Ukraine, the Autonomous Crimean Republic, oblasts and districts, their deputies, as well as State inspectors for plant protection shall be independent in their activities and shall be guided by the Constitution of Ukraine, this Law and other legislative acts”;

8) Part 5 in Article 25 shall be restated as follows:

“Training of specialists from the specially authorized agencies of executive power in the area of plant protection shall be paid with monies out of the State Budget of Ukraine, and training of specialists from agricultural enterprises, institutions and organizations, irrespective of their forms of ownership, farms and specialists, who work on an entrepreneurial basis, shall be paid with funds of these enterprises, institutions, organizations and farms, or at the expense of the specialists' own funds”;

9) the text in Article 28 shall be restated as follows:

“The specially authorized agencies of executive power in the area of plant protection shall be funded and provided with logistical support at the cost of monies from the General and Special Funds of the State Budget of Ukraine.

Revenues from paid services concerned with inspections and examinations of agricultural crops and perennial plants, analytical studies of plant protection means as to conformity of their quality certificates, training of workers, who directly carry out work dealing with plant protection, rendering of consulting and other services, selling of biological plant protection means manufactured by them shall serve as sources of funding of and for the specially authorized agencies of executive power in the area of plant protection at the cost of monies from the Special Fund of the State Budget of Ukraine”;

10) throughout the text of the Law, the words “State Inter-Departmental Commission of Ukraine for Testing and Registration of Plant Protection Means, Plant Growth Regulators and Fertilizers (Ukrderzhkhimcommission)” and “environmental protection authorities” in all cases shall be replaced with the words “specially authorized central agency of executive power on environmental protection matters” in applicable cases;

11) throughout the text of the Law, the words “Ministry of the Agro-Industrial Complex of Ukraine” in all cases shall be replaced with the words “specially authorized central agency of executive power on agrarian policies” in applicable cases.

3. Part 1 in Article 7 of the Law of Ukraine “On Insurance” (Vidomosti Verkhovnoji Rady Ukrainy, 2002, No. 7, page 50, No. 8, page 62, No. 14, page 96; 2003, No. 38, page 313; 2004, No. 2, page 6; as amended by Law No. 1414-IV of Ukraine, dated 3 February 2004) shall be supplemented with Item 41 as follows:

“41) insurance of civil liability of business entities for damage that may be caused to the environment or human health in the course of storage and application of pesticides and agricultural chemicals”.

II. This Law shall enter into force as on the date of publication hereof.

L. Kuchma
President of Ukraine

city of Kyiv
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