

1970

## c 104 The Pesticides Amendment Act, 1970

Ontario

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## CHAPTER 104

**An Act to amend  
The Pesticides Act, 1967**

*Assented to November 13th, 1970  
Session Prorogued November 13th, 1970*

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.**—(1) Clause *a* of section 1 of *The Pesticides Act, 1967* is <sup>1967, c. 74, s. 1, cl. *a*, re-enacted</sup> repealed and the following substituted therefor:

(*a*) "Board" means the Pesticides Licence Review Board.

(2) The said section 1, as amended by section 1 of *The* <sup>1967, c. 74, s. 1, amended</sup> *Pesticides Amendment Act, 1968-69*, is further amended by adding thereto the following clauses:

(*aa*) "Committee" means the Pesticides Advisory Committee;

(*ba*) "Director" means an officer of the Department designated by the Minister as Director for the purpose of this Act.

**2.** Section 5, as amended by section 2 of *The Pesticides* <sup>1967, c. 74, ss. 5-7, re-enacted</sup> *Amendment Act, 1968-69*, and sections 6 and 7 of *The Pesticides Act, 1967*, are repealed and the following substituted therefor:

5.—(1) The Lieutenant Governor in Council may <sup>Advisory Committee</sup> appoint a committee consisting of not fewer than ten members to be known as the Pesticides Advisory Committee.

(2) Six members of the Committee constitute a quorum. <sup>Quorum</sup>

(3) The Lieutenant Governor in Council may designate <sup>Chairman and secretary</sup> one member of the Committee as chairman and may appoint a person who is not a member as secretary.

(4)

## Functions

(4) The Committee shall,

- (a) review annually the content and operation of this Act and the regulations and recommend changes or amendments therein to the Minister;
- (b) inquire into and consider any matter the Committee considers advisable concerning the use of substances for exterminations that may affect public health or safety or the environment or produce other adverse effects, and any such matter referred to it by the Minister, and report thereon to the Minister; and
- (c) perform such other functions as the regulations prescribe.

## Issuance of licence

6.—(1) The Director shall issue a licence upon such terms and conditions as are specified in the regulations, to an applicant for the particular class of licence applied for, where this Act and the regulations are complied with.

## Grounds for revocation

- (2) The Director may revoke or suspend the licence where the operator or exterminator,
- (a) contravenes this Act or the regulations;
  - (b) is in breach of a condition of the licence;
  - (c) is found to be incompetent, or grossly negligent;
  - (d) is found to have fraudulently misrepresented his services in performing an extermination or in carrying on the business of extermination.

## Pesticides Licence Review Board

7.—(1) The Lieutenant Governor in Council shall appoint a board, consisting of not more than five members, to be known as the Pesticides Licence Review Board and may designate one member of the Board as chairman.

## Quorum

(2) Three members of the Board constitute a quorum.

## Notice of refusal or revocation

7a.—(1) Where the Director refuses to issue or proposes to revoke or suspend a licence, he shall give notice thereof to the applicant or licensee, together with written reasons for his refusal or proposed revocation

or suspension, and the applicant or licensee may, by written notice given to the Director and the Board within fifteen days after the receipt of the notice of refusal or proposed revocation or suspension, require a hearing by the Board.

- (2) The Board shall fix a date for the hearing and shall serve notice of the hearing on the parties at least ten days before the day fixed. <sup>Time for hearing</sup>
- (3) The notice of hearing shall contain, <sup>Contents of notice of hearing</sup>
- (a) a statement of the time and place of the hearing, which shall not be longer than thirty days after notice is given to the Board under subsection 1;
  - (b) a statement of the statutory power under which the hearing is being held;
  - (c) a reference to the rules of procedure applicable to the hearing;
  - (d) a concise statement of the issues; and
  - (e) a statement that, if a party who has been duly notified does not attend at the hearing, the Board may proceed in his absence and he is not entitled to notice of any further proceedings.
- 7b.—(1) The Director, the applicant or licensee and any other person specified by the Board are parties to the hearing. <sup>Parties</sup>
- (2) If a person who has been duly notified of a hearing does not attend, the Board may proceed in his absence. <sup>Non-appearance</sup>
- 7c.—(1) A hearing may be adjourned from time to time by the Board on reasonable grounds, <sup>Adjournments</sup>
- (a) on its own motion; or
  - (b) on the motion of any party to the hearing.
- (2) The Board may command the attendance before it of any person as a witness. <sup>Subpoenas</sup>
- (3) The Board may require any person, <sup>Oaths</sup>
- (a) to give evidence on oath or by affirmation at a hearing; and

(b)

(b) to produce such documents and things as the Board requires.

Idem

(4) The Board may admit evidence not given under oath.

Offences

(5) Any person who, without lawful excuse,

(a) on being duly summoned as a witness before the Board makes default in attending; or

(b) being in attendance as a witness before the Board, refuses to take an oath or affirmation legally required by the Board to be taken, or to produce any document or thing in his power or control legally required by the Board to be produced by him, or to answer any question to which the Board may legally require an answer; or

(c) does any other thing that would, if the Board had been a court of law having power to commit for contempt, have been contempt of that court,

is guilty of an offence.

Enforce-  
ment

(6) The Board may certify an offence under subsection 5 to the High Court and that court may thereupon inquire into the offence and after hearing any witnesses who may be produced against or on behalf of the person charged with the offence, and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the court.

Right of  
party to  
counsel

7d.—(1) Any party may be represented before the Board by counsel or agent.

Right of  
witness to  
counsel

(2) Any witness may be represented before the Board by counsel or agent, but at the hearing the counsel or agent may only advise the witness and state objections under the provisions of the relevant law.

Rights of  
parties at  
hearing

(3) Any party who is present at a hearing before the Board may call and examine his witnesses, cross-examine opposing witnesses and present his arguments and submissions.

- (4) All hearings shall be open to the public. Hearings  
public
- 7e.—(1) Upon a review, the Board shall hear such evidence as is submitted to it that in its opinion is relevant to the matter in dispute, and all oral evidence submitted shall be taken down in writing and, together with such documentary evidence and things as are received in evidence by the Board form the record. Evidence
- (2) Documents and things put in evidence at a hearing shall, upon the request of the person who produced them, be released to him by the Board within a reasonable time after the matter in issue has been finally determined. Release of  
exhibits
- 7f.—(1) The Board may, after the hearing, confirm or alter the decision of the Director or direct the Director to do any act the Director is authorized to do under this Act and as the Board considers proper and for this purpose the Board may substitute its opinion for that of the Director. Powers of  
Board
- (2) The decision of the Board, including the reasons therefor, shall be in writing. Decision  
to be in  
writing
- (3) The reasons for the final decision shall contain, Content of  
reasons
- (a) the findings of fact on the evidence and any information or knowledge used in reaching the decision;
- (b) any agreed findings of fact; and
- (c) the conclusions of law based on the findings mentioned in clauses *a* and *b*.
- (4) The Board shall serve each party with a copy of its final decision, together with the reasons therefor and a notice stating the right of appeal. Notice of  
decision
- 7g.—(1) Any party to the hearing before the Board may appeal from the decision of the Board to the Court of Appeal and the practice and procedure as to the appeal and proceedings incidental thereto are the same *mutatis mutandis* as upon an appeal from the High Court. Appeal to  
Court of  
Appeal
- (2) The Minister may designate counsel to assist the court upon the hearing of an appeal under this section. Counsel

Decision  
of court

(3) An appeal under this section may be made on questions of law or fact or both and the court may confirm or alter the decision of the Board or direct the Director or the Board to do any act the Director or the Board is authorized to do under this Act and as the court considers proper, and the court may substitute its opinion for that of the Director and the Board and may exercise the same powers as it exercises on an appeal from a judge of the High Court sitting without a jury.

Idem

(4) The decision of the Court of Appeal is final.

Protection  
from  
personal  
liability

7h.—No action or other proceeding for damages shall be instituted against the Director, any member of the Board or of the Committee or anyone acting under the direction of such Director or member for any act done in good faith in the execution or intended execution of his duty or for any alleged neglect or default in the execution in good faith of his duty.

1967, c. 74,  
s. 13,  
amended

3.—(1) Section 13 of *The Pesticides Act, 1967* is amended by adding thereto the following clause:

(aa) providing for the appointment of examiners for applicants for licences, the period for which such appointments may be made and the remuneration of examiners.

1967, c. 74,  
s. 13, cl. p,  
amended

(2) Clause *p* of the said section 13 is amended by striking out "Board" in the second line and inserting in lieu thereof "Committee", so that the clause shall read as follows:

(p) prescribing functions, practices and procedures, tenure of office and remuneration of the Committee.

1967, c. 74,  
s. 13,  
amended

(3) The said section 13 is further amended by adding thereto the following clause:

(ra) governing the storage and disposal of any unused portion of any substance used for extermination.

1967, c. 74,  
s. 14,  
amended

4. Section 14 of *The Pesticides Act, 1967* is amended by striking out "not less than \$25 and not more than \$1,000" in the third and fourth lines and inserting in lieu thereof "not more than \$2,000", so that the section shall read as follows:

Offence

14. Every person who contravenes any provision of this Act or the regulations is guilty of an offence and on

summary conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than three months, or to both.

**5.** This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation. <sup>Commence-</sup>  
<sup>ment</sup>

**6.** This Act may be cited as *The Pesticides Amendment Act, 1970*. <sup>Short title</sup>



