

Enforcement of the Pesticides Act

The Ontario Ministry of the Environment is responsible for enforcing the regulations under the **Pesticides Act**.

Appointment of Directors

The Minister of the Environment appoints a Director or Directors to administer the Act. In addition to other powers, all licences and permits are issued or revoked by the authority of the Director (in this manual, the Director under the **Pesticides Act**).

Provincial Officers

Provincial officers are designated by the Minister of the Environment to enforce the **Pesticides Act** and Regulation 914. Provincial officers have the power to inspect pesticide use and have the right to:

- ▶ inspect premises,
- ▶ stop and inspect vehicles or vessels,
- ▶ take samples,
- ▶ seize records, equipment and pesticides,
- ▶ use necessary force,
- ▶ ask for assistance from the Ontario Provincial Police or local police force
- ▶ exclude persons,
- ▶ secure things or places
- ▶ make excavations, and issue tickets and/or provincial officer orders without a warrant or court order.

If you have any questions about pesticide use in Ontario, contact a provincial Pesticides Specialist at a regional office of the Ontario Ministry of the Environment. A list of the offices is in the appendix of this manual.

Prohibition

Prohibition (Section 4 of the Pesticides Act)

No person shall allow a pesticide to enter the environment so that it:

- ▶ impairs the quality of the environment
- ▶ damages property, animals, plants
- ▶ harms or causes material discomfort to anyone
- ▶ causes adverse health effects
- ▶ impairs safety
- ▶ makes any property, animal or plant unfit for use

to a greater degree than would necessarily result from the proper use or storage of the pesticide.

If you are responsible and cause or are likely to cause any of these things, you are subject to prosecution under the **Pesticides Act**. In order to stop or prevent violation of Section 4, you may be issued a Stop Order or Control Order.

A director or officer of a corporation must ensure that an employee of the corporation does not permit an unlawful effect with a pesticide.

Orders

There are three types of orders:

1. Provincial Officer Order
2. Control Orders, and
3. Stop Orders.

Provincial Officer Order

A Provincial Officer may issue an order to any person that the Provincial Officer reasonably believes is contravening or has contravened:

1. the Act or the regulations,
2. an order,
3. a term or condition of a licence or a permit issued under the Act.

The order specifies the provision, term or condition that the Provincial Officer believes is being or has been contravened, briefly describes the nature and, where applicable, the location of the contravention and states that a review of the order may be requested by the Director under the Act. The order may require a person, within a specified time, to:

- ▶ comply with a provision, term or condition;
- ▶ prevent the continuation or repetition of the contravention;
- ▶ secure, whether through locks, gates, fences, security guards or other means, any land, place or thing;
- ▶ do anything that is itemized under the provisions of a Control Order as prescribed in the Act;
- ▶ remove a pesticide or a substance or thing contaminated by or containing a pesticide;
- ▶ provide alternate water supplies, where the contravention has caused damage to or endangered or is likely to cause damage to or endanger existing water supplies;
- ▶ submit a plan for achieving compliance with the provision, term or condition, including the engagement of contractors or consultants satisfactory to a Provincial Officer;
- ▶ submit an application for a licence or permit;
- ▶ monitor and record in relation to the environment and report on the monitoring and recording; and
- ▶ post notice of the order.

A person to whom an order is directed may, within 7 days of receiving the order, submit a request for review to the Director Under the **Pesticides Act** in writing or orally with written confirmation.

Stop Order (Section 27 of the Pesticides Act)

A Stop Order is issued by the Director Under the **Pesticides Act** or by a Provincial Officer. It can be issued to prevent a person or company from handling or using a pesticide. They must stop as soon as they receive the order, and may not handle or use the pesticide again for the time period shown or until conditions of the Stop Order are met. A Stop Order can be permanent.

A Stop Order can be given if there is an **emergency** which:

- ▶ endangers the health and safety of any person,
- ▶ affects the quality of the environment,
- ▶ injures or damages plants or animals, or
- ▶ makes any property, plant or animal unfit for use.

The emergency may occur while handling, storing, using, disposing, transporting or displaying pesticides.

You can **appeal** a Stop Order in writing, by agent, or by telephone, or otherwise to the Director Under the **Pesticides Act** within 15 days of the Stop Order being issued. However, the Stop Order is in effect during the appeal process.

Control Order (Section 28 of the Pesticides Act)

A Control Order is used to limit, stop or change the use of a pesticide. This kind of order may be given to a person or company if they are handling, storing, using, disposing, transporting or displaying a pesticide in a way that causes, or may cause:

- ▶ impairment of the quality of the environment,
- ▶ injury or damage to property, plant or animal,
- ▶ harm or material discomfort to any person,
- ▶ health effects to any person,
- ▶ impairment to the safety of any person, or
- ▶ any property, animal or plant to be unfit for use.

A Control Order can be appealed by writing to the Director Under the **Pesticides Act** and the Environmental Review Tribunal within 15 days of issue of the order.

Penalties

Offences (Section 43 of the Pesticides Act)

Every person who contravenes the Pesticide Act is guilty of an offence. That means that you can be charged if you do not follow all of the requirements of the Act.

The penalties can be as follows:

A person can be fined a maximum of \$20,000 per day for a first conviction and a maximum of \$50,000 for following convictions. A person convicted may be ordered to pay for the repair of any damage caused to the environment while breaking the law.

A corporation can be fined a maximum of \$100,000 per day for a first conviction and a maximum of \$200,000 for following convictions.

In addition to these penalties, **a person** who “pollutes” (under Section 4) or has been given a Stop Order (Section 27) may go to prison for a maximum term of one year.

A person charged under Section 4 or Section 27 may be fined for each day the offence **continues** to a maximum of \$50,000 for a first conviction and to a maximum of \$100,000 on each following conviction.

A corporation charged under Section 4 or Section 27 may be fined for each day the offence **continues** to a maximum of \$250,000 for a first conviction and to a maximum of \$500,000 for following convictions.

Monetary penalties under Regulation 914

Monetary penalties may also be issued for noncompliance with Regulation 914 for certain offences. These fines may be as high as \$355 and include a victim surcharge.

Duty of Director or Officer of a Corporation

Directors or officers in corporations may be charged if an employee is charged. A Director or officer of a corporation must take all reasonable care to prevent the inappropriate or illegal use of pesticides by employees of the corporation and must ensure that an employee of the corporation does not permit an unlawful effect with a pesticide.

Review Questions



1. For an offence under the **Pesticides Act**, what is the maximum fine for a first conviction against:

a) a person

b) a corporation