

LEGISLATIVE COUNCIL BRIEF

Pesticides Ordinance (Cap. 133)

Pesticides Ordinance (Amendment of Schedule 2) Notice 2018

Introduction

In exercise of the power under section 19A(1)(a) and (d) of the Pesticides Ordinance (Cap. 133) (the “Ordinance”), the Secretary for Food and Health (“SFH”) has made the Pesticides Ordinance (Amendment of Schedule 2) Notice 2018 (the “Notice”), as set out at **Annex**. The Notice amends Part 1 of Schedule 2 to the Ordinance by adding two pesticides that have become subject to the regulation of the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (the “Rotterdam Convention”)¹ and updating the Chinese name of an active ingredient in one of the pesticide formulations currently stated in that Schedule.

Background and Justifications

2. The Stockholm Convention on Persistent Organic Pollutants (the “Stockholm Convention”)² and the Rotterdam Convention are international treaties that aim at protecting human health and the environment from persistent organic pollutants and hazardous chemicals, including pesticides and other industrial chemicals. The People’s Republic of China is a signatory to both Conventions. In accordance with Article 153 of the Basic Law, the Central People’s Government has applied the Stockholm Convention and the Rotterdam Convention to the Hong Kong Special Administrative Region since 11 November 2004 and 26 August 2008 respectively.

¹ The Rotterdam Convention aims to promote shared responsibility and cooperative efforts among the contracting parties in the international trade of certain hazardous chemicals and pesticides in order to protect human health and the environment from potential harm. The Convention has introduced a mandatory Prior Informed Consent Procedure to monitor and control the import and export of certain hazardous chemicals and disseminate national import decisions to the contracting parties.

² The Stockholm Convention aims to protect human health and the environment from potentially harmful persistent organic pollutants. In implementing the Convention, governments will take measures to restrict the production/use and/or reduction/ultimate elimination of the persistent organic pollutants.

3. The regulation of pesticides, including those regulated under the two Conventions, is governed by the provisions of the Ordinance. Pesticides listed in Schedule 1 and Part 1 of Schedule 2 to the Ordinance (“scheduled pesticides”) are respectively regulated under the Stockholm Convention and the Rotterdam Convention. Pursuant to section 6(ab) of the Ordinance, the Director of Agriculture, Fisheries and Conservation (“DAFC”) may at any time cancel the registration of a pesticide if the pesticide is listed under the Stockholm Convention or the Rotterdam Convention. Pursuant to section 8(1) of the Ordinance, the import, manufacture, sale, supply, possession and use of scheduled pesticides and any other unregistered pesticides are subject to permit control. In addition, section 8(2) of the Ordinance provides that the export of scheduled pesticides is also subject to permit control.

4. At the last (i.e. eighth) biennial meeting of the Conference of the Parties to the Rotterdam Convention held in May 2017 in Geneva, Switzerland, the Parties adopted the decisions to list two additional pesticides, namely *carbofuran* (CAS No: 1563-66-2) and *trichlorfon* (CAS No: 52-68-6), in Annex III to the Rotterdam Convention. The amendments have been effective since 15 September 2017.

5. In line with the general practice of the Parties to the Rotterdam Convention to allow a reasonable time to inform the trade on the proper handling of the pesticides newly added to the Convention, DAFC exercised his power under section 6(ab) of the Ordinance to cancel the registrations of these two pesticides in Hong Kong on 29 December 2017. In accordance with section 8(5) of the Ordinance, the two pesticides will be subject to permit control in respect of their import, manufacture, sale, supply, possession and use after the end of a 3-month period from the date of cancellation, i.e. with effect from the end of March 2018.

6. To complete the final step of implementing fully the latest decisions under the Rotterdam Convention, we need to amend Part 1 of Schedule 2 to the Ordinance to include the two newly added pesticides in that Schedule, such that their export and transshipment (except air transshipment cargo)³ will also be subject to permit control under section 8

³ Transshipment of pesticides involves the import and export of pesticides under section 8(1) and section 8(2) of the Ordinance respectively. Air transshipment cargo means transshipment cargo that is both imported and consigned for export in an aircraft and which, during the period between its import and export, remains within the cargo transshipment area of Hong Kong International Airport.

of the Ordinance (see paragraph 3 above). In addition, to align the latest official Chinese name of *carbofuran* published under the Rotterdam Convention with the one currently listed in the Ordinance, we need to amend the Chinese name of *carbofuran*, which is part of the existing item 30 of Part 1 of Schedule 2 to the Ordinance regarding dustable powder formulations, from the alias “蟲蟊威” to the official common name “克百威”.

The Notice

7. Section 19A(1)(a) and (d) of the Ordinance respectively provide that SFH may by notice published in the Gazette, add any Convention-regulated pesticide to Schedule 1 or 2 and make any amendment to Schedule 1 or 2 that is consequential, incidental or related to the addition. SFH has accordingly made the Notice to –

- (a) add a new item 35 “*Carbofuran 1563-66-2*” to Part 1 of Schedule 2;
- (b) add a new item 36 “*Trichlorfon 52-68-6*” to that Part; and
- (c) amend the Chinese name of *Carbofuran* in item 30 of that Part from “蟲蟊威” to “克百威”.

Legislative Timetable

8. The legislative timetable is as follows –

Publication in the Gazette	23 March 2018
Laying on the table of LegCo	28 March 2018
Commencement of the Notice	1 June 2018

Implications of the Proposal

9. The Notice is in conformity with the Basic Law, including the provisions concerning human rights. It does not affect the current binding effect of the Ordinance. There are no economic, environmental or financial implications.

Public Consultation

10. In May 2017, the Agriculture, Fisheries and Conservation Department (“AFCD”) informed holders of pesticides licences and permits under the Ordinance of the aforesaid decisions of the eighth meeting of the Conference of the Parties to the Rotterdam Convention, and that the registrations of the two pesticides concerned in Hong Kong would be correspondingly cancelled by the end of 2017. In July 2017, AFCD further informed relevant stakeholders, including holders of pesticides licences and permits under the Ordinance, as well as shipping and logistics companies, of the proposed amendments to Part 1 of Schedule 2 to the Ordinance in 2018. No comments or concerns on the above have been raised by the trade.

Publicity

11. The Notice will be published in the Gazette on 23 March 2018. A spokesperson will be available to answer media enquiries.

Enquiries

12. Enquiries on this brief can be addressed to Mr Bill WONG, Principal Assistant Secretary for Food and Health (Food) 3, at 3509 7927.

Food and Health Bureau
Agriculture, Fisheries and Conservation Department
21 March 2018

**Pesticides Ordinance (Amendment of Schedule 2)
Notice 2018**

(Made by the Secretary for Food and Health under section 19A of the
Pesticides Ordinance (Cap. 133))



Secretary for Food and Health

1. Commencement

This Notice comes into operation on 1 June 2018.

2. Pesticides Ordinance amended

The Pesticides Ordinance (Cap. 133) is amended as set out in
section 3.

14 March 2018

**3. Schedule 2 amended (pesticides listed under Rotterdam
Convention and limitations on application of section 8)**

(1) Schedule 2, Chinese text, Part 1, item 30—

Repeal

“蟲蟞威”

Substitute

“克百威”.

(2) Schedule 2, Part 1—

Add

“35. Carbofuran 1563-66-2

36. Trichlorfon 52-68-6”.

Explanatory Note

This Notice amends Schedule 2 to the Pesticides Ordinance (Cap. 133) to add to that Schedule two pesticides, namely Carbofuran and Trichlorfon, that have become subject to the regulation of the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (*Convention*) (see section 3(2)).

2. Further, this Notice also consequentially amends the reference to “蟲蟎威” in that Schedule to “克百威” (both of them are the Chinese names of Carbofuran) to bring it in line with its latest official Chinese common name in the Convention (see section 3(1)).