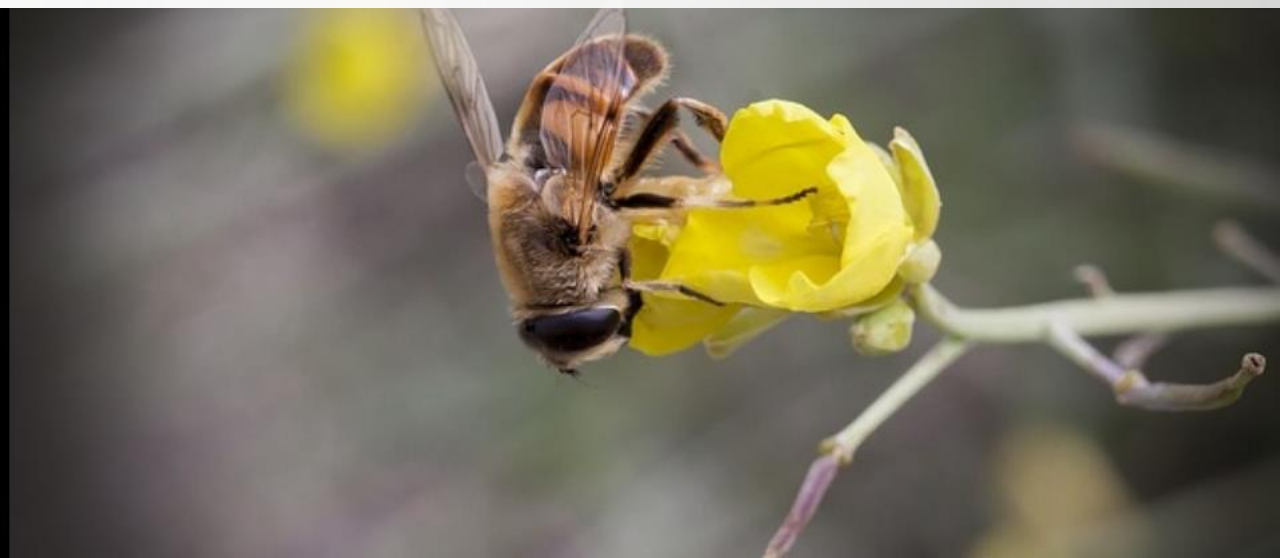




# COMPLIANCE WITH THE HAZARDOUS SUBSTANCES ACT, 1973 (ACT NO. 15 OF 1973)



## INDEX

- 3 Introduction
- 3 Enforcement of the Act
- 4 Synergy with the Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1936 (Act No. 36 of 1947) and national standards
- 5 Requirements for the sales of Group I, Category A hazardous substances
- 5 Conditions for the sales of Group I, Category A hazardous substances
- 6 Group I, Category A hazardous substances
- 9 Application for a license to trade with Group I, Category A hazardous substances

The Hazardous Substances Act, 1973 (Act No. 15 of 1973) (available on [www.croplife.co.za](http://www.croplife.co.za) under knowledge centre) governs all substances that may be classified or categorized as hazardous to human health or the environment. The Minister (of Health) has the powers to declare any substance “hazardous” and to place it in a group and category under the Act. The Minister may also sanction certain requirements in terms of sales of hazardous substances.

### **Enforcement of the Act**

The Act is enforced at different levels of government namely national, provincial and local. Most of the powers of the Act are delegated down to local government level, meaning municipal health inspectors that are registered with the Health Professionals Council of South Africa, are responsible for enforcement of the Act and its regulations.



Act 36/1947 regulates agricultural remedies and in terms of hazard classification of pesticides, it uses the WHO classification of hazardous materials. Pesticides are therefore classified as Group IA (Red), Group IB (Red), Group II (Yellow), Group III (Blue) or Group IV (Green) according to primarily acute oral toxicity. SANS 10228 (identification and classification of dangerous goods for transportation) classifies substances for transportation and also categorizes substances according to, amongst others, toxicity while flammability and other parameters are also used in the standard.

Act No. 15 and Act No. 36 classifications **are not always the same**. For example, trichlorfon is a blue band product (WHO Group II) but it is Group I, Category A hazardous substance under Act 15 of 1973 due to it being listed on Annex III of the Rotterdam Convention on Prior Informed Consent (PIC). Group I pesticides (red band products) will in most cases be classified as Group I, Category A hazardous substances under Act 15 of 1973.

Act No. 15 of 1973 requires in terms of Section 4 (1) (a) that a person (natural person or director of a company if the “person” is a legal person namely the company) that trades in such substances must be licensed for such trade. That means that every company from where such substances are sold must have someone at the premises who is licensed in terms of the abovementioned article. That person may be the owner or a director of the company and is responsible for compliance with the Sections and regulations of Act 15/1973.

## **Conditions for the sales of Group I, Category A hazardous substances (Regulation 7, hazardous substance regulations available on [www.croplife.co.za](http://www.croplife.co.za) under knowledge centre)**

A person who is licensed to sell Group I, Category A hazardous substances must keep a register (“poison book”) of the sales of all such products and the following information shall be recorded:

- Date of sales
- Name of hazardous substance and quantity sold
- Trade name of product containing the hazardous substance
- Full names of the person who buys the substance (not just initials)
- Full address of the person who buys the substance
- Purpose for which the person buys the substance

The Minister of Health published a notice on 21 October 2016 of his intention to declare any substance listed in Annexure C of the SANS 10228 (as mentioned earlier on) as Group I, category A hazardous substance by virtue of:

- 1) its acute toxicity (category 1 or 2), carcinogenicity (category 1A or 1B), reproductive toxicity (category 1A or 1B), germ cell mutagenicity (category 1A or 1B), specific target organic toxicity for single or repeated exposure (category 1) as described in SANS 10234 (globally harmonized system of classification and labeling of chemicals); as well as
- 2) all substances listed under Annexure III of the Rotterdam Convention on Prior Informed Consent; and
- 3) all substances as listed under Annexures A, B or C of the Stockholm Convention on Persistent Organic Pollutants; and
- 4) all mercury containing compounds

Although to our knowledge, this notice has not been promulgated as yet, it is likely to be promulgated in the near future with a much broader scheduling than that of the schedule of Notice No. 15907, Regulation R1381 of 12 August 1994 (available on [www.croplife.co.za](http://www.croplife.co.za) under knowledge library) (that will be repealed by the promulgation of this new notice).

What the agrochemical industry must take note of is the pesticides (agriculture remedies) that will be scheduled as Group I, Category A hazardous substances. The following can be assumed to be pesticides that will be scheduled as such:

- 1) Rotterdam Convention Annexure III: carbofuran, EDB, methamidophos, parathion and trichlorfon (acephate and acetochlor may be added soon).
- 2) Stockholm Convention Annexures A, B or C: DDT.
- 3) Pesticides listed under Annexure C of SANS 10228 based on the criteria as given above or simply by virtue of their nature:
  - a. All phosphides of aluminium, zinc and magnesium
  - b. All arsenical pesticides (the only ones remaining in SA are calcium arsenate and MSMA)
  - c. All bipyridilium pesticides labeled as TOXIC; this includes paraquat dichloride and diquat dibromide formulations labeled as TOXIC
  - d. Carbamate pesticides labelled as TOXIC.
  - e. Chloropicrin or formulations of chloropicrin and methylbromide.
  - f. Copper based pesticides labelled as TOXIC.
  - g. Coumarin based rodenticides labelled as TOXIC in liquid or solid formulations.
  - h. 1,3-Dichloropropene.
  - i. Furaldehydes (furfural).
  - j. Maneb.
  - k. All organochlorine pesticides (last remaining one is DDT).

- l. Organotin pesticides.
- m. Metaldehyde.
- n. Phosphoric acid.
- o. Pyrethroid insecticides labelled as TOXIC.
- p. Sodium hexafluorosilicate.
- q. Nitrophenol pesticides labelled as TOXIC.
- r. Sulfur.
- s. Thiocarbamate pesticides labelled as TOXIC.
- t. Triazine pesticides labelled as TOXIC.

The SANS 10228 Annexure C seems incomplete as there are classes of pesticides that are not listed; however, one should also look into the future pending the outcome of the GHS implementation for pesticide labelling in South Africa. GHS may very well change the hazard classification of certain pesticides as it takes more parameters than simply human toxicity into account.

**Recommendation:** Regard all WHO Group IA and IB pesticides as Group I, category A hazardous substances irrespective of whether they are listed in Annexure C of SANS 10228. Also take into account that some pesticides such as sulfur and metaldehyde that are not necessarily WHO Group IA or IB products are still classified as Group I, category A hazardous substances. The Rotterdam Annex III pesticides are *de facto* Group I, category A hazardous substances. That means a license issued by the Department of Health is required to trade in such substances (available on [www.croplife.co.za](http://www.croplife.co.za) under knowledge centre).



It is the responsibility of the person (legal or natural person) who trades with Group I, Category A hazardous substances, to apply for such a license. The license can be issued (upon payment of a prescribed fee) by the National Department of Health: Environmental Health or by the local environmental health authority (municipal level).

**FOR ANY FURTHER INFORMATION, ADVICE OR SUPPORT CONTACT DR GERHARD VERDOORN ON 082 446 8946 OR [GERHARD@CROPLIFE.CO.ZA](mailto:GERHARD@CROPLIFE.CO.ZA)**