

# Legislative Brief

## The Pesticide Management Bill, 2020

The Pesticide Management Bill, 2020 was introduced in Rajya Sabha on March 23, 2020 by the Minister of Agriculture and Farmers Welfare, Mr. Narendra Singh Tomar. It replaces the Insecticides Act, 1968.

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**Madhunika Iyer**  
madhunika@prsindia.org

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### Highlights of the Bill

- ◆ The Bill regulates pesticides to ensure availability of safe and effective pesticides and minimise risk to human beings and the environment. It also seeks to promote biological pesticides.
- ◆ The Bill sets up a Registration Committee at the central level to register pesticides and thereafter, amend, suspend or cancel registration. The Committee cannot register a pesticide if its maximum residue limit on crops has not been specified under the Food Safety and Standards Act, 2006.
- ◆ The Registration Committee is empowered to periodically review registered pesticides. It is also required to perform such a review on reference from the central or state government.
- ◆ States are responsible for issuing licenses for manufacture, storage and sale of pesticides. States (and the centre) will appoint Pesticide Inspectors and Analysts to monitor compliance of licensees with provisions of the Bill.
- ◆ The Bill constitutes a Compensation Fund to make payments to persons who suffer harm due to pesticide poisoning.

### Key Issues and Analysis

- ◆ It may be questioned whether the Ministry of Agriculture should regulate pesticides. The Ministry of Agriculture has the mandate to increase productivity of agriculture and ensure availability of effective pesticides. This may be in conflict with the need for pesticide regulation to prevent risk to health and the environment.
- ◆ The Bill does not implement certain recommendations of the Standing Committee on Agriculture (2008) such as imposing penalties on misuse of powers by Pesticide Inspectors, specifying a one-year timeline for registration of pesticides and providing data protection for registration of new pesticides. Registration of a new pesticide requires the applicant to submit safety and efficacy data generated over a number of years. Data protection provides that the data generated would not be relied upon to grant registration for the same pesticide to any other person for a specified time.
- ◆ There is no limit on validity of pesticide registration and the onus is on the Registration Committee or the government to identify pesticides for review. The question is who should be responsible to ensure periodic review of registered pesticides. Limited validity of registration places the onus on the registration holder to ensure periodic generation of safety data to renew the registration.
- ◆ While the Bill seeks to ensure availability of safe pesticides, challenges of inadequate monitoring and testing capacity could limit the impact of the legislation.

## PART A: HIGHLIGHTS OF THE BILL

### Context

The Report of the Committee on Doubling Farmer's Income (2018) estimated that 15% to 25% of crop yield is lost to weeds, pests, diseases and rodents.<sup>1</sup> Pesticide is any chemical or biological substance intended to prevent, destroy or control damage from pests which has both agricultural and non-agricultural uses. It includes insecticides, fungicides, weedicides and rodenticides. Pesticides are used in between 40-50% of cultivated land (net sown area).<sup>2</sup> The Report on Doubling Farmer's Income, highlighting the role of pesticides in increasing productivity of agriculture, identified the prevalence of spurious pesticides as one of the biggest challenges faced by the agriculture sector.<sup>1</sup>

Currently, insecticides used for agricultural and non-agricultural purposes are regulated under the Insecticides Act, 1968. In 2008, the Pesticide Management Bill was introduced to replace the Insecticides Act.<sup>3</sup> The Standing Committee on Agriculture, examining the 2008 Bill, highlighted issues with the 1968 Act including: (i) restrictive definition of insecticide that only includes formulations specified in the Schedule of the Act, (ii) absence of tolerance limits for pesticide residue as a pre-condition for registration and (iii) inadequate penalties for contravention of provisions of the Act.<sup>4</sup> The 2008 Bill defined pesticides to include any chemical or biological substance intended to control pests in agriculture, required the specification of residue tolerance limits for pesticides and made punishments more stringent. This Bill was withdrawn when the Pesticide Management Bill, 2020 was introduced.

The Pesticide Management Bill, 2020 regulates the manufacture, import, distribution, and sale of pesticides to ensure availability of safe and effective pesticides, and minimise risk to human beings, animals and the environment. It covers pesticides for agricultural and non-agricultural uses (such as industry and household).

### Key Features

#### Registration of Pesticides

- Any person seeking to manufacture or import pesticides must apply for registration of the pesticide. Registration may be of three types: (i) provisional registration, or (ii) (original) registration, or (iii) registration of a generic pesticide. Provisional registration may be granted for up to three years for a pesticide being introduced in India for the first time to facilitate generation of data related to safety, bio-efficacy, toxicity and chemistry. Original registration requires the applicant to submit complete scientific data as specified. Registration for a generic pesticide is granted on the basis of scientific data submitted for the relevant original registration.
- The Registration Committee, constituted by the central government, is responsible for registering pesticides and stipulating conditions of such registration. Pesticides will not be registered if the maximum residue limit of the pesticide on crops and commodities under the Food Safety and Standards Act, 2006 is not specified. The Committee may amend, suspend or cancel registration in certain situations.
- The Committee must periodically review registered pesticides and may initiate a review on its own. Further, it is required to perform such a review on reference from the central or state government.

#### Licensing

- Any person seeking to manufacture, distribute or sell pesticides or undertake pest control operations must apply for a license to a Licensing Officer appointed by the state government. Licenses may be granted if the applicant meets the prescribed requirements relating to infrastructure, premises, storage and transport. A license may be amended or revoked if conditions of the license or other provisions of the Act are violated. State governments may provide for sale of highly toxic pesticides by prescription.

#### Monitoring

- Pesticide Inspectors appointed by the central and state governments will be responsible for implementing provisions of the Bill. Inspectors will have the power to: (i) enter and search any premises, (ii) inspect, examine and seize relevant records, (iii) make an inquiry, (iv) take samples for analysis, and (v) issue an order to stop the distribution, sale, use or disposal of a pesticide for a period up to 60 days pending analysis.
- Samples collected by the Inspectors will be analysed by Pesticide Analysts appointed by the central and state governments and tested in central or state government laboratories or a recognised private laboratory.

#### Prohibition on manufacture, sale and distribution of pesticides

- The central or state government may prohibit the distribution, sale or use of pesticides by notification for one year if it is in the interest of the public, or poses a risk to health or the environment. During this period, the Registration Committee must review the pesticide and decide whether the prohibition should continue.

## Compensation

- Consumers of pesticides may claim compensation for any loss or injury in respect of a pesticide under the Consumer Protection Act, 1986. The central government will set up a fund to provide ex gratia payment to persons or their legal heirs who have suffered hurt, grievous hurt, or died due to pesticide poisoning.

## Regulation of price

- If it is considered necessary to secure the distribution and availability of pesticides at fair prices, the central government may constitute an authority to regulate the price of pesticides.

## Central Pesticides Board

- The Bill sets up a Central Pesticides Board to advise the central and state governments on scientific and technical matters such as: (i) criteria for good manufacturing practices for pesticide manufacturers, (ii) procedure for recall of pesticides, (iii) criteria for disposal of pesticides and packages in an environmentally sound manner, (iv) standards for pesticides testing laboratories, and (v) standards for advertisement of pesticides. The Board will also frame model protocols for hospitals to deal with cases of pesticide poisoning, monitor pesticide residues in food, and undertake research on safety of registered pesticides.

## Offences and penalties

- Offences including: (i) import/export of pesticides in contravention of provisions of the Bill, (ii) dealing in unregistered, unlicensed or banned pesticides, (iii) misrepresentation of pesticides or (iv) causing grievous hurt or death, are punishable with both a fine or imprisonment ranging from two to five years, or both.

# PART B: KEY ISSUES AND ANALYSIS

## Administration of pesticide legislation

While (agricultural) pesticides are an important input for agriculture, they present a risk to human health and the environment. The Bill, introduced by the Ministry of Agriculture, regulates pesticides to ensure availability of safe and effective pesticides and seeks to minimise risk to human beings, animals and the environment. The question is whether the Ministry of Agriculture should regulate pesticides. The mandate of the Ministry of Agriculture to increase the productivity of agriculture creates an interest for them to ensure availability of effective pesticides. This could lead to trade-offs that adversely impact health and environment safety.

In some countries (such as US and Canada), where the primary objective of pesticide legislation is to prevent the risk to health and environment, pesticides are regulated by the Health or Environment Ministry.<sup>5,6</sup> In other countries (such as China and Malaysia) pesticides are regulated by the Agriculture Ministry.<sup>7,8</sup> In China, pesticide legislation is administered by the Ministry of Agriculture and it contains dual objective of ensuring both effective pesticides and safety of health and the environment.<sup>7</sup>

It is also unclear why pesticides used for non-agricultural purposes (public health, household) should be regulated by the Ministry of Agriculture. In Brazil, pesticide regulation is jointly administered by the ministries of agriculture, health and environment.<sup>9</sup> Agricultural pesticides are registered by the Ministry of Agriculture. Other pesticides such as those used in public health are registered by the Ministry of Health or Environment.

## Recommendations of the Standing Committee

The Standing Committee on Agriculture (Chairperson: Mr. Mohan Singh) when examining the Pesticide Management Bill, 2008 had made some suggestions that have not been included in this Bill.<sup>4</sup> We summarise them below:

### Accountability of Pesticide Inspectors and Analysts

Under the 2020 Bill, Pesticide Inspectors have the power to enter premises, search and seize records, collect and send samples for analysis and stop the distribution of pesticides. Pesticide Analysts analyse pesticide samples and submit their reports to the Inspector. The Standing Committee had recommended that Inspectors and Analysts who exercise their powers without reasonable grounds or test samples without following the prescribed protocols should be liable for punishment with a fine. The 2020 Bill does not provide for punishment for Inspectors or Analysts.

Note that the Food Safety Officer under the Food Safety and Standards Act, 2006 and the Inspector under the Drug and Cosmetics Act, 1940, with similar powers to enter premises and search and seize records, are liable to be punished for misuse of powers.<sup>10,11</sup> The Food Safety and Standards Act prescribes a fine of up to one lakh rupees, and the Drugs and Cosmetics Act prescribes a fine of up to Rs 1,000 for frivolous search and seizure by relevant authorities under the Acts.

### Protection for data used in registration

*Bill:*  
Clause 19

The 2020 Bill allows for registration of a pesticide introduced for the first time and registration of a generic pesticide (based on an already registered pesticide). The 2008 Bill (which has been withdrawn) provided that data submitted to register a new pesticide, which is often expensive and time consuming to generate, would not be relied upon to grant registration of the same pesticide to any other person for a period of three years. The Committee had recommended a five-year period of data protection for new pesticide registrations in order to encourage the introduction of new formulations. The Satwant Reddy Committee on Data Protection Provisions (2007) had also made a similar recommendation for data protection for pesticide registration.<sup>12</sup> The Report cited potential benefits of data protection in encouraging the development of environmentally friendly, safer and more effective pesticides. The 2020 Bill does not provide for protection of registration data.

### Time limit for registration of pesticides

To ensure speedy registration, transparency and efficiency in the functioning of the Registration Committee, the Standing Committee had recommended that the certificate of registration must be granted within one year of application. However, the 2020 Bill does not specify a time limit for registration. Note that the Insecticides Act, 1968, specifies a time limit of 12 months for registration of pesticides.

### Responsibility for periodic review of registered pesticides

*Act:*  
Section 9

Under the 1968 Act, once an insecticide is registered, the registration can be cancelled only if the insecticide is referred for review by the central or state government. If such referral is not carried out by the concerned entities, there could be lifetime registration of pesticides under the Bill. The Report on Doubling Farmers' Income (2018) had identified lifetime validity of registration as an issue with the Act.<sup>13</sup>

*Bill:*  
Clauses 16 to  
22

The Bill adds that the Registration Committee must conduct periodic review of registered pesticides and may review any pesticide at any time. However, it does not specify the frequency of such reviews. Further, the holder of a registration certificate must intimate the Committee if there is a change in safety or efficacy information after registration. However, there is no corresponding penalty clause if a person fails to intimate the Committee. The responsibility to identify pesticides for review continues to be on the central or state government, and in addition will also be on the Registration Committee. However, if these entities do not review pesticides, the issue of lifetime validity of pesticides may persist.

In 2015, the Food and Agriculture Organisation (FAO) observed that unlimited registration period makes it difficult to determine the pesticides currently in use and to review their risk regularly.<sup>14</sup> FAO's Guidelines on Pesticide Regulation (2015) recommend limited validity of registration of pesticides with a system for re-registration as a means of ensuring periodic review.<sup>15</sup> This could create a system where the registration holder is responsible for periodically conducting tests on safety and efficacy for renewal of registration.

### Implementation challenges in monitoring pesticides

The 1968 Act and the Bill empower Inspectors to undertake monitoring, including the collection of pesticide samples for testing. The Report on Doubling Farmer's Income (2018), noted the inadequacy of Inspectors and the lack of capacity to test pesticide samples.<sup>1</sup> As of 2019, 10,946 Inspectors were notified and the capacity for testing pesticide samples was 80,000 as against 2.4 lakh pesticide dealers.<sup>16,17</sup> While the Bill seeks to ensure availability of safe pesticides, challenges of inadequate capacity could limit the impact of the legislation.

## ANNEXURE

**Table 1: Key changes in the 2020 Bill as compared to the Insecticides Act, 1968**

Topic	The Insecticides Act, 1968	The Pesticide Management Bill, 2020
Definition of insecticide/pesticide	<ul style="list-style-type: none"> <li>Anything included in the Schedule of the Act, updated regularly.</li> </ul>	<ul style="list-style-type: none"> <li>Chemical or biological formulation intended for preventing, destroying, attracting, repelling, mitigating and controlling pest in agriculture, industry, pest control operations, public health, storage or for ordinary use.</li> </ul>
<b>Registration</b>		
Time limit for registration	<ul style="list-style-type: none"> <li>Registration to be granted/rejected within 12 months (may be extended by 6 months).</li> </ul>	<ul style="list-style-type: none"> <li>No limit specified.</li> </ul>
Maximum residue limit pre-condition for registration	<ul style="list-style-type: none"> <li>No provision.</li> </ul>	<ul style="list-style-type: none"> <li>Pesticides will not be registered if the application does not meet the maximum limit for pesticide residue on crops specified by the Food Safety and Standards Act, 2006.</li> </ul>
Review of registered pesticides	<ul style="list-style-type: none"> <li>Registered insecticides may be reviewed if the central or state government refers an insecticide for such review or if the insecticide was banned for reasons of public safety.</li> </ul>	<ul style="list-style-type: none"> <li>In addition, the Registration Committee (RC) must periodically review registered pesticides and may initiate suo moto review of a pesticide.</li> </ul>
Amend, suspend or cancel registration	<ul style="list-style-type: none"> <li>The RC may cancel the registration of an insecticide if upon review it is found to pose health and safety risks.</li> </ul>	<ul style="list-style-type: none"> <li>The RC may amend certain conditions of registration if an application is received for such amendment.</li> <li>The RC may suspend or cancel registration of a pesticide if upon review the pesticide: (i) is found to violate conditions of registration, or (ii) poses health and safety risks.</li> </ul>
<b>Licensing</b>		
Grant of license	<ul style="list-style-type: none"> <li>A person wanting to manufacture, distribute or sell insecticides must apply for a license. The Act does not specify technical requirements or time period for grant of license.</li> </ul>	<ul style="list-style-type: none"> <li>If the applicant meets requirements relating to infrastructure, premises, storage and transport, the related license may be granted by the xx within 90 days.</li> </ul>
Validity of license	<ul style="list-style-type: none"> <li>License is valid for a specified period and may be renewed from time to time for the prescribed period.</li> </ul>	<ul style="list-style-type: none"> <li>The Bill does not specify any validity period or renewal requirements for a license.</li> </ul>
<b>Offences and penalties</b>		
Punishment for certain offences	<ul style="list-style-type: none"> <li>Offences such as: (i) dealing in misbranded insecticides, (ii) manufacture, import, distribution without registration or license, or (iii) dealing in prohibited insecticides, may lead to imprisonment of up to two years for a first offence (three years for a second offence). A fine of between Rs 5,000 to Rs 75,000 may also be imposed.</li> <li>Contravention of provisions of the Act may lead to imprisonment up to one year for a first offence (two years for a second offence).</li> </ul>	<ul style="list-style-type: none"> <li>These offences may lead to imprisonment of up to three years and fine of between Rs 10 lakh to Rs 40 lakh.</li> <li>Contravention of provisions of the Bill causing death may lead to imprisonment of up to five years.</li> </ul>
Removal of imprisonment for certain offences	<ul style="list-style-type: none"> <li>Offences such as obstructing an Insecticide Inspector in performing his duties and using insecticides in violation of conditions of registration and license may result in a fine, imprisonment, or both.</li> </ul>	<ul style="list-style-type: none"> <li>Punishment of imprisonment has been removed for these offences.</li> </ul>
<b>Other provisions</b>		
Prohibition by the central or state government	<ul style="list-style-type: none"> <li>For reasons of public safety, the central or state government may prohibit the sale, distribution and use of an insecticide for 60 days, extendable by 30 days.</li> </ul>	<ul style="list-style-type: none"> <li>The Bill extends the government's power to prohibit a pesticide for a period up to one year.</li> </ul>
Compensation	<ul style="list-style-type: none"> <li>No provision.</li> </ul>	<ul style="list-style-type: none"> <li>A consumer may seek recourse for loss or injury under the Consumer Protection Act, 1986.</li> <li>The central government will constitute a fund to compensate persons who suffer hurt or die due to pesticide poisoning.</li> </ul>
Regulation of price	<ul style="list-style-type: none"> <li>No provision.</li> </ul>	<ul style="list-style-type: none"> <li>The central government may constitute an authority to regulate the price of pesticides to ensure availability of pesticides at fair prices.</li> </ul>

Sources: The Pesticide Management Bill, 2020; the Insecticides Act, 1968; PRS.

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