

PROPOSED DRAFT PESTICIDES DECREE-LAW for TIMOR-LESTE

CHAPTER I PRELIMINARY

Article 1 Purpose

The purpose of this Pesticides Decree-Law is to regulate pesticides at all stages of their life cycle, including the disposal of pesticide waste, with the objective of protecting human, animal and plant health and the marine and terrestrial environment and promoting sustainable agricultural production in Timor-Leste.

Article 2 Definitions

In this Decree-Law, unless the context otherwise requires:

“active ingredient” means the part of the product that provides the pesticidal action;

“adulterate” as applied to a pesticide, means:

- (a) any constituent has in whole or in part been omitted or abstracted;
- (b) damage or inferiority has been concealed in any manner;
- (c) any substance has been substituted wholly or in part;
- (d) any substance has been added to it or mixed or packed with it so as to increase its bulk or weight or reduce its quality or strength or make it appear better or of greater value than it is;
- (e) any constituent exceeds the amount stated on the label or permitted in the regulations; or
- (f) its nature, substance or quality has been injuriously affected;

“advertising” means the promotion of the sale and use of pesticides by printed and electronic media, signs, displays, gifts, demonstration or word of mouth;

“concentration” means the proportion of the active ingredient in a pesticide;

“container” means any object used to hold a pesticide product;

“formulation” means the combination of various ingredients designed to render the product useful and effective for the purpose claimed and for the envisaged mode of application;

“inspector” means any person appointed or designated as an inspector under article 30;

“label” means the written, printed, or graphic matter on, or attached to, a pesticide product or the immediate container thereof and also to the outside container or wrapper of the retail package of the pesticide;

“Ministry” means the ministry responsible for agriculture in accordance with its organic law, and includes any structure, department or directorate thereof, and “Minister” has the corresponding meaning;

“operating license” means the document issued under article 18 for pesticides-related business activities;

“packaging” means the container together with the protective wrapping used to carry pesticide products;

“person” means a natural or legal person;

“pest” means any species, strain or biotype of plant, animal or pathogenic agent injurious to plants and plant products, materials or environments and includes vectors of parasites or pathogens of human and animal disease and animals causing public health nuisance;

“pesticide” means any substance, or mixture of substances of chemical or biological ingredients intended for repelling, destroying or controlling any pest, or regulating plant growth;

“Pesticide Department” means the Ministry department so designated under article 3.2;

“Pesticides Registration Board” or “Board” means the body provided for in article 4;

“Pesticides Register” means the register provided for in article 8;

“product” (or pesticide product) means the formulated product (pesticide active ingredient(s) and co-formulants), in the form in which it is packaged and sold;

“quality” means the degree of conformity to established standards;

“Registrar” means the person so designated in the Pesticide Department under article 3.3;

“registration” means the process whereby the Pesticides Registration Board established under this Decree-Law approves the sale and use of a pesticide following the evaluation of scientific data aimed at demonstrating that the product is effective for its intended purposes and does not pose an unacceptable risk to human or animal health or the environment under conditions of use in the country;

“regulation” means, generically, any secondary instrument issued to implement this Decree-Law including, but not limited to, regulations, government decrees and ministerial orders;

“risk” means the probability and severity of an adverse health or environmental effect occurring as a function of a hazard and the likelihood and the extent of exposure to a pesticide;

“sell” means to offer or expose for sale or to have in possession for sale;

“store” means to keep for distribution, sale or use;

“trade name” means the name under which a pesticide product is labeled, registered, and promoted by the person granted registration of the pesticide under this Decree-Law.

CHAPTER II ADMINISTRATION

Article 3 Implementing Authority

- 1. The primary responsibility for the administration and implementation of this Decree-Law lies with the Ministry.**
- 2. The Ministry department responsible for pesticide management (hereinafter Pesticide Department) shall be the competent service for executing the Ministry’s functions related to pesticides management as provided in this Decree-Law and implementing instruments.**
- 3. The Minister shall designate a Registrar from among Pesticide Department staff to be responsible for handling registration applications and keeping the Pesticides Register.**
- 4. The Minister may call upon other government units or officials as he or she deems appropriate to assist in the implementation of this Decree-Law.**

Article 4 Pesticides Registration Board

- 1. A Pesticides Registration Board is hereby created as an inter-ministerial body under the coordination of the Ministry for the registration of all pesticides in Timor-Leste.**
- 2. The Board shall carry out the following functions:**
 - (a) evaluate and decide on applications to register pesticides in accordance with article 9;**
 - (b) consider, advise on, and propose the content of regulations to be issued pursuant to article 34;**
 - (c) upon request, advise the Minister, the Pesticide Department and other relevant authorities in connection with matters relating to pesticide management in Timor-Leste; and**
 - (d) assume other tasks as defined in this Decree-Law.**
- 3. The Board shall have the following composition:**

- (a) **Ministry staff, to be designated by the Minister:**
 - (i) **one from the department responsible for crop protection;**
 - (ii) **one from the department responsible for veterinary medicine;**
 - (iii) **one from the department responsible for quarantine;**
 - (iv) **one from the department responsible for extension services;**
 - (b) **staff of other ministries or authorities, to be designated by the head of the institution:**
 - (i) **one with responsibilities for vector control from the ministry responsible for health;**
 - (ii) **one with responsibilities for chemical contaminants and/or hazardous waste management from the authority responsible for the environment;**
 - (iii) **one with responsibilities for pesticides residues appointed by the authority responsible for food safety.**
4. The Board may seek consultation from relevant independent experts with knowledge on certain technical aspects of pesticides, either on an *ad hoc* basis or by establishing working groups.
5. The Board shall regulate its own proceedings in accordance with the requirements set forth by regulation, which shall include:
- (a) decision-making processes, including for the functions set forth in paragraph 2 of this article;
 - (b) conflict of interest definition, disclosure requirements and disqualification rules for internal members and external experts;
 - (c) procedure for selecting the chairman;
 - (d) rules on information sharing and access to data; and
 - (e) procedures and rules for the treatment of confidential information as prescribed under article 6.

Article 5 Advisory Committee

1. **The Minister shall establish a standing advisory committee consisting of government and non-government stakeholder representatives with expertise in agriculture (crops and animal production), human health, environmental protection, labor law and worker safety, including vulnerable groups and the pesticides industry, to advise the Board on matters relating to the exercise of its functions.**

2. **Neither the advisory committee nor any of its members shall be permitted to have any decision-making role in matters before the Pesticides Registration Board.**
3. **The Pesticides Registration Board may alter the composition of the advisory committee as needed to address different needs and to accommodate member availability, provided that a diverse stakeholder representation is maintained.**

Article 6 Confidential Information

1. The information that shall be deemed confidential, including trade secrets, and the rules for its treatment shall be prescribed by regulation in accordance with applicable national legislation.
2. The Registrar, other Pesticide Department staff and members of the Board shall not disclose to any third party the confidential information they come into contact with during the course of executing their duties under this Decree-Law, except as required by law or judicial order.

CHAPTER III REGISTRATION

Article 7 Registration Requirement

No person may import, export, re-export, manufacture, formulate, keep, store, sell, distribute, apply, possess, or use a pesticide in Timor-Leste unless:

- (a) **it is on the List of Permitted Pesticides in the Pesticides Register; or**
- (b) **a temporary permit has been granted under article 15 of this Decree-Law.**

Article 8 Pesticides Register

1. **The Pesticide Department shall establish a Pesticides Register to be kept by the Registrar. The contents of the Register shall be published on the Ministry's website and in a newspaper with national distribution.**
2. **The Pesticides Register shall comprise a List of Permitted Pesticides and a List of Banned Pesticides. The Board may approve other lists including, but not only, a List of Severely Restricted Pesticides.**
3. **Each entry in the Pesticides Register shall include the name and address of the registrant and at least the following information:**
 - (a) common name (scientific name of the active ingredient);

- (b) formulation;
 - (c) concentration;
 - (d) trade name;
 - (e) country of origin;
 - (f) purpose(s) and use(s) for which the pesticide is approved (crop/animal pest or disease vector); and
 - (g) any conditions or restrictions on registration, including a reduction in duration imposed under article 10.6, or on the manufacture, storage, transport, import, packaging, repackaging, labeling, distribution, sale, use, or disposal imposed under article 10.3.
4. **Each pesticide in the Pesticides Register shall have an accompanying product file containing the supporting materials prescribed pursuant to article 9.**

**Article 9
Applications for Registration**

1. **Any person wishing to register a pesticide in Timor-Leste shall apply to the Pesticide Department in the manner and form, and with such supporting materials, as shall be prescribed by regulation.**
2. **Applications for registration shall be received by the Registrar, who shall ensure they are complete and prepare the pesticide dossier for the consideration of the Pesticides Registration Board.**

**Article 10
Decisions on Registration Applications**

1. **In evaluating an application for the registration of a pesticide, the Pesticides Registration Board shall apply the criteria set forth by regulation, which shall include at least the following:**
 - (a) **characteristics of the pesticide:**
 - (i) **hazards to human and animal health, both acute and chronic;**
 - (ii) **environmental factors, including the effect on beneficial organisms and other non-targeted species and the toxicity to fish and the marine environment;**
 - (iii) **social factors, including potential application by, or exposure to, vulnerable groups, including women and children, potential need for personal protective equipment and the availability and likelihood that the such gear is used appropriately in the local conditions;**
 - (iv) **ability to move through soil and potential to contaminate ground water;**

- (v) **efficacy in relation to pest control needs and risk for causing pest resurgence and resistance;**
 - (vi) **relative level of hazard in relation to other products on the List or that are available;**
 - (vii) **product persistence in the soil or water and subsequent risk of pesticide residues on or in food crops above established Maximum Residue Level values;**
 - (viii) **product volatility and potential for drift;**
 - (ix) **potential uses as antimicrobials, with special attention to antimicrobials of critical use for human health purposes;**
 - (x) **status on the lists of Rotterdam and Stockholm Conventions and other relevant international agreements pertaining to pesticides;**
 - (xi) **compliance with relevant international standards and the status of registration in other countries.**
- (b) **proposed container (description, photograph or exemplar);**
 - (c) **proposed label, which shall:**
 - (i) **be written in, or include a full translation into, Tetum,**
 - (ii) **include pictograms, and**
 - (iii) **otherwise comply with the Globally Harmonized System of Classification and Labelling of Chemicals; and**
 - (d) **extent to which the concentration, formulation, and package size reduce risks to the user.**
2. Within the time period specified by regulation, the Board shall complete its evaluation under paragraph 1 and either:
- (a) approve the application, in which case it shall:
 - (i) assign a registration number to the pesticide, or for re-registration, re-assign the same number;
 - (ii) instruct the Registrar to enter the pesticide in the Register;
 - (iii) publish the registration on the Ministry website and in a newspaper with national distribution; and
 - (iv) send the certificate of registration or re-registration to the applicant; or
 - (b) reject the application and notify the applicant in writing of the reason(s), which may include, *inter alia*, that:

- (i) the application is incomplete or provides insufficient information;
 - (ii) the information contained in the application is false in any material respect;
 - (iii) the residues are too persistent or are toxic and/or bioaccumulative when metabolized;
 - (iv) the pesticide is not effective for its intended purpose;
 - (v) the pesticide is too hazardous to human or animal health or the environment to permit its use or there is insufficient information on its potential short- and long-term risks;
 - (vi) the product is overly prone to drift or volatilisation;
 - (vii) other products or practices are available which are equally or more effective and are less hazardous;
 - (viii) another country with a reputable registration scheme has refused registration of, or has banned, the pesticide; or
 - (ix) the risks outweigh the benefits under local socio-economic, climatic or other conditions.
3. For any pesticide approved under paragraph 2(a), the Board may impose conditions or restrictions on the manufacture, storage, transport, import, packaging, repackaging, labeling, distribution, sale, use, or disposal.
4. Where an application is rejected under paragraph 2(b)(i), the Registrar shall notify the applicant in writing, specifying the additional information needed and advising that the application may be supplemented within [xx days]. If an applicant does not supplement the application within the time period specified, the rejection will become final.
5. An applicant whose application was rejected for any reason may submit a new application with new information or data that responds to the reason(s) for the rejection.
6. Pesticide registration shall have a validity of [2] years. The Board may establish a reduced validity period for products in view of the hazards posed to humans, animals or plants, or any other circumstance that may justify a limitation in time, according to criteria prescribed by regulation.

Article 11 **Permit Required for Non-Registrants**

Where any person other than the registrant intends to import, manufacture, distribute, pack, repack, or label a pesticide, he or she shall, prior to seeking any applicable license or permit under this Decree-Law, apply to the Pesticide Department for a permit from the registrant on such terms as may be agreed or established by regulation.

Article 12
Changes to Registered Pesticides

1. Any registration holder who wishes to change the formulation, trade name, active ingredient, concentration or permitted usage of the pesticide shall submit a new registration application in accordance with article 9.
2. Any registration holder who wishes to change the container, label or use of the pesticide shall submit a written request to the Pesticide Department specifying such change(s) in the manner prescribed by regulation. Within 30 days of receipt, and after consulting the Board, the Pesticide Department shall approve or reject the request or inform the applicant if additional time and/or data are required to undertake an appropriate risk analysis.
3. If the change requested in paragraph 2 is approved, the Registrar shall amend the Pesticides Register accordingly, publish notice on the Ministry website and notify any operating license and permit holders of the change.

Article 13
Board Registration of New Pesticides

1. The Board may on its own initiative register a new pesticide that meets the prescribed criteria if it determines that:
 - (a) the currently registered pesticides are not sufficient to enable effective control of a new or existing pest; or
 - (b) other products have become available which are more effective, less hazardous, and/or more economical.
2. Decisions on registration undertaken pursuant to paragraph 1 shall be based on a pesticide dossier prepared by the Pesticide Department.

Article 14
Deregistration of Pesticides

1. The Pesticides Registration Board may, at its own initiative or that of any person, deregister a pesticide at any time if it determines that:
 - (a) the registration was secured in violation of any of the provisions of this Decree-Law;
 - (b) monitoring of the pesticide's use or new scientific information indicates that
 - (i) it is no longer effective for the intended purpose;
 - (ii) it causes unwanted health or environmental impacts, or there is high risk of such impact; or
 - (iii) the risks outweigh the benefits under local socio-economic conditions.
 - (c) other products or practices have become available which are equally or more effective, but less hazardous, and the Board has proceeded to register such product under article 13;

- (d) the pesticide or relevant pesticide product has been banned under international conventions on pesticides, or regulatory action to that effect has been taken in other countries;
 - (e) the manufacturer has withdrawn the pesticide from the market;
 - (f) any of the conditions subject to which the registration was granted have been breached; or
 - (g) the Board has become aware of new facts or changes in circumstances which, if known or existing at the time the registration application was made, would have caused its rejection.
2. Before effecting any deregistration, the Pesticide Department shall give the registrant 60 days to submit in writing the reasons against such action.
 3. Deregistration under this section shall be published on the Ministry website and in a newspaper with national distribution and notified directly to all operating license holders and relevant government authorities, and the Registrar shall amend the Register accordingly.
 4. The Pesticides Registration Board shall periodically review the List of Permitted Pesticides to assess whether any of the conditions for deregistration have occurred.

Article 15 **Temporary Permits for Unregistered Pesticides**

1. Notwithstanding the registration requirement in article 7, the Pesticide Department, upon consultation with the Pesticides Registration Board, may grant a temporary permit for the import and use of an unregistered pesticide:
 - (a) to a research or academic institution for specific research purposes; or
 - (b) for a specific emergency purpose, to deal with a new pest, or to resolve temporary problems of availability or affordability of products in the market.
2. Each temporary permit shall specify the grantee, specific research or emergency purpose, permitted amount, period of validity and any conditions to ensure the pesticide is used safely and only for the purpose specified.
3. Where the request is made under paragraph 1(b), the Pesticide Department shall take a decision within 5 working days.
4. The Pesticide Department may at any time, by written notice to the holder:
 - (a) revoke any research or emergency permit before the period of validity expires; or
 - (b) change the conditions to which the permit is subject;if any of the bases on which the permit was granted have changed or if unforeseen adverse effects have arisen.

**CHAPTER IV
OPERATING LICENSES**

**Article 16
Operating License Requirement**

1. No person shall, in respect of any pesticide:
 - (a) manufacture, formulate, pack or repack;
 - (b) distribute, sell, transport or store;
 - (c) import, including storage upon arrival, export or re-export; or
 - (d) apply for profit as a pest control operator;unless such person holds an operating license duly issued by the Ministry in accordance with article 18 of this Decree-Law, in addition to any commercial license or authorization from the national licensing authority as may be required by law.
2. In addition to the requirements in paragraph 1, a restricted use license shall be required for any person to use a pesticide whose use has been restricted by the Board under article 10.3.
3. The operating license requirement in paragraph 1(a) shall not apply to individual farmers or farmers' groups in respect of botanical or microbial pesticides with a history of safe use when applied for private, non-commercial purposes.
4. The Pesticide Department may establish special requirements for the issuance of operating licenses to regulate the use of specified pesticides, or specific modes of pesticide application, including aerial fumigation.

**Article 17
Applications for Operating Licenses**

1. The Pesticides Registration Board shall develop, and the Pesticide Department shall approve, the requirements for obtaining and renewing each type of operating license under paragraphs 1 and 2 of article 16, taking into account such factors as the necessary skills, training, facilities, equipment and other aspects of the activity in question, and in accordance with applicable national legislation.
2. The requirements developed under paragraph 1 shall be established by regulation.
3. Any person wishing to obtain or renew an operating license to engage in any of the activities listed in paragraphs 1 or 2 of article 16 shall apply in the prescribed manner and form and accompanied by the prescribed fee.

**Article 18
Decisions on Operating License Applications**

1. The Pesticide Department shall evaluate each application for an operating license based on the requirements established pursuant to article 17.2 and either:

- (a) approve the application and issue the license; or
 - (b) deny the application, notifying the applicant in writing of the reasons for that decision, which may include, *inter alia*, that the Board has reason to believe:
 - (i) the application relates to a pesticide which is not currently registered under the Decree-Law;
 - (ii) the information contained in the application is incomplete or false in a material respect;
 - (iii) the applicant does not meet the prescribed requirements; or
 - (iv) the premises in question are not appropriate for the intended purpose, or use of those premises presents a likely hazard to human or animal health or the environment.
2. Operating licenses shall be valid for an initial period of [xx] years and are renewable for [xx]-year periods thereafter, unless otherwise provided in the license.
 3. Renewals are subject to the applicant's demonstration of compliance with the applicable requirements at the time of application, and shall include proof of record keeping as provided in article 19 and, where relevant, cooperation in inspection and enforcement actions carried out under this Decree-Law.
 4. Where an application is rejected for incompleteness under paragraph 1(b)(ii), the Pesticide Department shall notify the applicant in writing of the respect(s) in which the information is insufficient, and that the application may be supplemented within a specified time period.
 5. If an applicant does not supplement the application within the time period specified under paragraph 3, the application will lapse and a new application must be submitted.

Article 19
Record Keeping

1. Every person who holds a license for any of the activities listed in article 16 shall keep records of all quantities of pesticides so dealt with and of any other information that may be prescribed, for at least [5 years].
2. Records kept in accordance with paragraph 1 shall be made available, upon request, to any inspector, the Pesticides Registration Board, the Pesticide Department or any other public authority.

Article 20
Revocation of Operating Licenses

1. The Pesticide Department may revoke a pesticides operating license at any time in light of new information, a material change in circumstances or a violation of any condition, any of which would have resulted in the denial of the license application.
2. Prior to effecting any revocation under paragraph 1, the Pesticide Department shall give the license holder [60 days'] advance notice to submit a written justification as to why the license should not be revoked.
3. Where a pesticide has been deregistered under article 14, all relevant operating licenses shall be revoked with respect to such pesticide following [60 days'] advance notice to the holders in question.

CHAPTER V
PESTICIDES LIFE CYCLE

Article 21
Import and Export

1. Any person wishing to import a pesticide into Timor-Leste shall obtain an import permit issued by the Pesticide Department based on requirements prescribed by regulation.
2. Applications for import permits shall be made to the Pesticide Department in the prescribed manner and form, and shall be accompanied by the prescribed documentation and fee.
3. The Pesticide Department shall either:
 - (a) issue the permit if:
 - (i) the pesticide is on the List of Permitted Pesticides in the Pesticides Register, or has received a temporary permit pursuant to article 15 of this Decree-Law;
 - (ii) the applicant holds a valid operating license to import pesticides issued under article 18; and
 - (iii) any additional requirements issued under paragraph 4 are met; or
 - (b) deny the application and notify the applicant in writing of the reasons, which may include:
 - (i) the conditions in paragraph 3(a) are not met;
 - (ii) the information contained in the application is incomplete or false in a material aspect;
 - (iii) the importation of such pesticide is planned for or in the process of deregistration under article 14;

- (iv) the presence in the country of sufficient or excessive quantities of the pesticide; or
 - (v) such other reason as the Pesticide Department may determine in accordance with the criteria established by regulation.
4. The Pesticide Department may develop additional requirements for the importation of pesticides to the extent necessary to achieve the objectives of this Decree-Law and within the scope of applicable regulations, including limits on quantities, which requirements shall be published on the Ministry website and notified to pesticides importers.
 5. Any person wishing to export a pesticide manufactured or formulated in Timor-Leste shall hold the requisite operating license and shall apply for an export permit demonstrating, among such other requirements as may be established by regulation, that the applicable requirements of the importing country have been met.

Article 22 Manufacture and Formulation

1. No person shall manufacture, formulate or repackage a pesticide unless such person holds an operating license duly issued by the Ministry under article 18 of this Decree-Law, except as provided under article 16.3.
2. The operating license requirements for the manufacture or formulation of pesticides prescribed under article 17.2 of this Decree-Law shall include an environmental impact assessment issued by the environmental authority in accordance with applicable national legislation.
3. A facility with an operating license to manufacture or formulate pesticides shall only operate with respect to the pesticide(s) specified in the operating license.
4. The Ministry shall provide farmers and/or farmers' groups with training and awareness on the safe formulation of botanical or microbial pesticides undertaken pursuant to article 16.3.

Article 23 Handling and Use

1. No person shall use, require an employee to use, or recommend the use of a pesticide in any manner other than as prescribed, or contrary to any conditions attached to the issuance of the registration and/or operating license relating to that pesticide.
2. The prohibition in paragraph 1 expressly includes the use of pesticides to catch fish by adding any amount, in any concentration, to a pond, lake, stream, river, estuary, or other body of water.
3. Every employer who requires or permits an employee to apply or formulate pesticides during the course of employment shall provide the employee with such:

- (a) instruction as is necessary to enable that person to achieve the required standard of competence, including information on potential hazards;
- (b) appropriate personal protective equipment and access to hand washing and other facilities;
- (c) periodic medical check-ups; and
- (d) access to medical assistance in the event of adverse health effects resulting from exposure to the pesticide;

as may be prescribed in the relevant operating license requirements issued under article 17.2 of this Decree-Law.

- 4. Every employer who requires or permits an employee to work with a pesticide in any capacity other than application or formulation under paragraph 3 shall provide the facilities, equipment and protective clothing required for safe handling of the pesticide, which shall be established by regulation, and shall require the employee to use them.
- 5. The Ministry shall issue regulations on required measures to be taken by both non-organic and organic farms aimed to prevent, or minimize to the extent possible, the risk of pesticide contamination of organic crops, taking into account the size and type of organic farm, the topography and climatic conditions, available application methods, physical barriers, and other relevant factors, as well as applicable national legislation.

Article 24 Presentation

- 1. No person shall pack, repack, store, sell, or distribute any pesticide unless it is in a container which:
 - (a) is safe for storage, handling, or use and is adequate to prevent harm to human or animal health and to the environment;
 - (b) prominently displays a legible label which has been approved by the Board and established by regulation and which cannot easily be detached; and
 - (c) otherwise meets the standards developed by the Board and established by regulation.
- 2. Where a pesticide product is held in more than one container, the requirements of paragraph 1(b):
 - (a) shall not apply to the container in contact with the pesticide, where the pesticide could not be sold if it were solely contained in that inner container;
 - (b) shall apply to the container which represents the smallest unit of the pesticide which can be sold separately; and

- (c) shall apply to a container containing more than one retail unit, where no bill of lading is attached and where a reasonable person would expect such a container to be seen by consumers in Timor-Leste.
3. It shall be prohibited to sell any pesticide in different packaging or repackaging than the form(s) approved for registration, unless approved under article 12.2.

Article 25
Storage

1. It shall be prohibited for any person to store pesticides on the same premises as food products, medicines or other consumables, feedstuffs, or animals other than as prescribed by regulation.
2. Any facility or other premises in which pesticides are stored in excess of prescribed quantities:
 - (a) must be located at least 1 kilometer from hospitals, schools, shops, densely populated urban areas, protected areas, waterways or the shoreline; and
 - (b) shall be surrounded by a security fence with signs clearly indicating the presence of hazardous materials and strictly prohibiting entry by all non-authorized personnel.
3. Pesticides, obsolete pesticides, used containers and contaminated materials shall be stored in accordance with the requirements set forth in, and prescribed under, this Decree-Law and other applicable legislation. The specifications under such regulations shall take into account the characteristics of, and risks presented by, the pesticide in question.

Article 26
Transport

1. No person shall transport any pesticide, pesticide container or material contaminated with pesticides in the same vehicle as food products, medicines or other consumables, feedstuffs, or animals in a manner other than as prescribed by regulation.
2. No person shall transport pesticides in excess of such maximum amounts as shall be prescribed in any public or private vehicle without a valid operating license issued in accordance with article 18 of this Decree-Law and other applicable national legislation.

Article 27
Advertising

It shall be prohibited for any person to advertise any pesticide:

- (a) that is not included in the List of Permitted Pesticides;
- (b) for a purpose or use other than as approved;

- (c) with safety claims not supported by scientific evidence, or unaccompanied by a qualifying phrase such as “*when used as directed*”;
- (d) with an offer of gifts or other incentives to encourage purchases; or
- (e) in a manner that:
 - (i) is false or misleading in any material particular or is intended to deceive;
 - (ii) compares the effectiveness, risk, hazard or safety of different pesticides or pesticide products;
 - (iii) visually depicts potentially dangerous practices; or
 - (iv) is contrary to the conditions of registration of the pesticide.

Article 28
Adulterated, Counterfeited and Substandard Pesticides

1. It shall be prohibited for any person to adulterate or counterfeit a pesticide, or to sell a pesticide that is known or reasonably believed to be adulterated, counterfeited or otherwise substandard in any way.
2. Any person who has reason to believe that an adulterated, counterfeited or otherwise substandard pesticide is being sold shall immediately notify a Ministry, local government or law enforcement official.

Article 29
Disposal of Pesticides

1. It shall be prohibited for any person to dispose of any pesticide or pesticide waste, including pesticide containers, obsolete pesticides or pesticide leftovers, in a manner that may harm human or animal health or the environment, or in a manner other than prescribed.
2. The applicable requirements and instructions for the disposal of pesticides shall be established by regulation, including the circumstances in which the owner shall be liable for the associated costs and those in which such costs shall be borne by the government.

CHAPTER VI
INSPECTIONS, OFFENSES AND PENALTIES

Article 30
Appointment of Inspectors

1. **Without prejudice to the powers of the national inspections authority, the Minister shall appoint or designate from time to time qualified staff members of the Ministry, and, with the concurrence of the relevant officials, staff members of other relevant ministries, to be pesticides inspectors for the purposes of this Decree-Law.**

2. **The Pesticide Department shall, in consultation and coordination with the national inspections authority and relevant ministries, develop a common framework for inspections covering the entire life cycle of pesticides, to be set forth in regulations.**
3. **All pesticides inspectors shall be issued official identification certificates and provided training in, *inter alia*, what to look for and how to handle pesticides during inspections, including sample taking.**

**Article 31
Powers and Duties of Inspectors**

1. **Without prejudice to the powers of the national inspections authority, and with or without the presence of any of its agents, a pesticides inspector under this Decree-Law may, during regular business hours, without a warrant and upon production of his or her identification certificate:**
 - (a) **carry out periodic inspections of all establishments which import, manufacture, pack, repack, label, store, sell, distribute, use commercially, dispose of, or advertise pesticides, to determine whether the provisions of this Decree-Law and its accompanying regulations are being complied with;**
 - (b) **require the production of, inspect, examine, and copy certificates, licenses, records, or other documents under this Decree-Law;**
 - (c) **take samples of any substances to which this Decree-Law relates and submit such samples for analysis;**
 - (d) **seize any equipment, pesticide, document, record, or other item which the inspector believes has been used in, or which appears to provide evidence of, a contravention of this Decree-Law, provided that:**
 - (i) **the inspector gives a receipt in the prescribed form to the person from whose custody the item was taken; and**
 - (ii) **the item is promptly returned to that person once the necessary inquiry, prosecution or administrative process has been completed, except in the case of unregistered pesticides, which, if so ordered by the Minister or the national inspections authority, shall be destroyed in the prescribed manner.**
 - (e) **request the assistance of customs agents, police or local government authorities in the exercise of his or her duties under this Decree-Law.**
2. **Pesticides inspectors shall report all violations of this Decree-Law to the Ministry and the national inspections authority.**
3. **The national inspections authority shall be responsible for investigating reported violations and for imposing the applicable fines and any accompanying sanctions as provided under article 33.**

4. **The Minister shall designate one or more official laboratories for analyzing pesticide samples under this Decree-Law, including by contracting public or private third-party laboratories in Timor-Leste or abroad, and shall establish basic sample-taking facilities at the ports of entry where consignments of pesticides are imported.**

**Article 32
Offenses**

Without prejudice to any applicable administrative or criminal offenses, including in the Penal Code, any person who:

- (a) without the authority in writing by the Minister, discloses to any other person, any information relating to:
 - (i) the contents of any application or other document under this Decree-Law;**
 - (ii) the business or activities of any other person;**where that information was acquired in the performance of his or her official duties under this Decree-Law;**
- (b) gives false information on, alters, defaces, or destroys any application, certificate, record or other document under this Decree-Law;**
- (c) obstructs an inspector or other officer exercising his or her duties under this Decree-Law;**
- (d) imports, exports, manufactures, packs, repacks, labels, sells, stores, distributes, possesses, or uses a pesticide which has not been registered in accordance with this Decree-Law, except as provided in article 15;**
- (e) imports, exports, manufactures, packs, repacks, labels, sells, stores or distributes a pesticide without an operating license issued under article 18 of this Decree-Law;**
- (f) carries on the business for profit of applying pesticides without a pest control operating license issued under article 18;**
- (g) imports or exports a pesticide without a valid import or export permit issued under article 21;**
- (h) brings a pesticide into Timor-Leste at any point along the border other than an official port of entry;**
- (i) uses or requires an employee to use a pesticide in anything other than the prescribed manner or contrary to any conditions imposed in connection with the grant of a registration or license;**

- (j) fails to take the required actions *vis-à-vis* his or her employees under article 23;
- (k) disposes of any pesticide or pesticide waste, including pesticide containers, in a manner that may harm human or animal health or the environment, or in a manner other than prescribed;
- (l) advertises any pesticide contrary to the provisions of article 27;
- (m) does not keep records as required under article 19 of this Decree-Law; or
- (n) adulterates a pesticide, or sells or stores a pesticide which he or she has reason to believe may be adulterated;

commits an offense under this Decree-Law.

Article 33 Penalties

1. Without prejudice to any applicable administrative or criminal penalty, including in the Penal Code,
 - (a) Any person who is found to [intentionally or knowingly] commit an offense under paragraphs ____ and _____ of article 32 of this Decree-Law shall be subject to a fine of between ____ and _____.
 - (b) Any person who is found to commit an offense under paragraphs ____ - _____ of article 32 of this Decree-Law shall be subject to a fine of between ____ and ____ and/or imprisonment for up to _____.
2. The penalties ordered under paragraph 1 shall be graduated according to the gravity of the offense. The criteria and procedures for determining and applying penalties shall be set forth in regulations.
3. In addition to any penalties imposed under paragraph 1, one or more of the following may also be ordered:
 - (a) forfeiture to the state of any thing used in the perpetration of the offence or the proceeds of sale thereof;
 - (b) suspension or revocation of the relevant license(s);
 - (c) temporary or permanent closure of the shop, storage facility or other premises used for pesticides-related purposes; and/or
 - (d) payment of compensation to any person who has suffered damage as a result of the offence, considering factors such as:
 - (i) extent of loss or injury to a person or his or her dependents;

- (ii) **seriousness of the offence and the frequency of its occurrence; and**
- (iii) **monetary gains on the part of the offender.**

**CHAPTER VII
REGULATIONS AND TRANSITIONAL PROVISIONS**

**Article 34
Regulations**

The Minister and, where appropriate, the Government shall promulgate such regulations as may be necessary to give effect to the purposes and provisions of this Decree-Law, including on the following matters:

- (a) the applicable requirements and decision-making criteria for the registration of pesticides and the issuance of permits and operating licenses under this Decree-Law;
- (b) the forms and procedures for all applications and requests submitted under this Decree-Law;
- (c) the type of information to be deemed confidential under this Decree-Law and the applicable rules for handling and storing such information;
- (d) establishing a common framework for the inspections conducted under this Decree-Law;
- (e) the procedures to be followed where any equipment, pesticide, document, record, or other thing is seized under this Decree-Law;
- (f) the form and contents of registers, certificates, licenses, permits, receipts, or other documents under this Decree-Law;
- (g) the period of validity of registrations and permits granted or issued under this Decree-Law;
- (i) the fees to be assessed under this Decree-Law;
- (j) the form and manner of request where any change under article 12 is proposed after a pesticide has been registered under this Decree-Law;
- (k) the duties of employers whose employees are required or permitted to use pesticides in the course of their employment as provided in article 23.4;
- (l) the procedures to be followed for taking and submitting samples for analysis and for analyzing samples under this Decree-Law;
- (m) the rules for advertising pesticides in accordance with the requirements in article 27;
- (n) the essential requirements for pesticide containers and labels;

- (o) the prescribed quantities and/or types of pesticides for the application of the storage and transport requirements in articles 25 and 26;
- (p) required measures to be taken by both non-organic and organic farms aimed to prevent, or minimize to the extent possible, the risk of pesticide contamination of organic crops,
- (q) the requirements and instructions for the disposal of pesticides under article 29;
- (r) the criteria and procedures for determining and applying the penalties under article 33; and
- (s) the dates on which different elements of the registration, licensing, and permit schemes of this Decree-Law shall come into force in Timor-Leste.

Article 35
Transitional Provisions

1. Notwithstanding any other provision of this Decree-Law, the Minister may, after this Decree-Law has come into force, publish a notice in the Official Gazette specifying a period of time within which:
 - (a) listed pesticides already in Timor-Leste shall be deemed to be registered pesticides for the purposes of this Decree-Law, *provided that* no further import of those pesticides shall be permitted; and
 - (b) listed persons who shall be deemed to be licensed for the purposes of this Decree-Law.
2. Any registration or license so deemed shall lapse at the end of the time period specified in the notice unless and until a new application is submitted in accordance with this Decree-Law, or, if during the transition period, such provisional procedure as may be prescribed, and the registration is approved or the license granted.
3. Applications submitted during the transition period to register pesticides that are already present in the country shall be given the same level of scrutiny as applications to register a new pesticide.