

BILLS SUPPLEMENT

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Bill No. 78

The Forensic Evidence Bill

2024

THE FORENSIC EVIDENCE BILL, 2024

MEMORANDUM

1. Object

The object of the Forensic Evidence Bill, 2024 is to provide for a comprehensive forensic science service for Uganda; to provide for the designation of the Government Analytical Laboratory as the regulatory body for forensic and scientific analytical services and the National Poison Control Centre; to provide for the establishment of the DNA database; to provide for the regulation of industrial and consumer chemicals and for related matters.

2. Defects in the existing laws

The Forensic Evidence Bill, 2024 is designed to address the gaps in the provisions of other laws in Uganda, for example the National Environment Act, Cap. 181 and the Agricultural Chemicals (Control) Act, Cap. 35. The regulation of chemicals in the National Environment Act is restricted to hazardous chemicals. Further, the Agricultural Chemicals (Control) mainly regulates chemicals for agricultural purposes only.

Therefore, the scientific-analytical and forensic services in Uganda have no clear structure of regulation. Whereas the Government Chemist and Analytical Laboratory is the leading provider of independent scientific-analytical and forensic services in Uganda, the laboratory is not the regulatory body for forensic and scientific analytical services in Uganda. The absence of a clear structure relating to the regulation of scientific-

analytical and forensic services in Uganda has made it difficult to regulate the forensic science services including the industrial and consumer chemicals.

3. Remedies

The Forensic Evidence Bill, 2024 therefore seeks to provide for a comprehensive forensic science service for Uganda; to provide for the designation of the Government Analytical Laboratory as the regulatory body for forensic and scientific analytical services and the National Poison Control Centre; to provide for the establishment of the DNA database; and to provide for the regulation of industrial and consumer chemicals.

In this regard, the Bill will enhance the provision of a wide range of general scientific-analytical, forensic and advisory services that facilitate effective legal proceedings to dispense fair justice and safeguard the environmental health and safety of people.

4. Provisions of the Bill

The Bill consists of seven parts and one schedules.

Part I—Preliminary

This Part deals with the interpretation of key words and phrases used within the context of the Bill.

Part II—Administration and Institutional Arrangements

Part II of the Bill provides for the designation of the national referral forensic laboratory, establishment of regional analytical laboratories and functions of the Directorate of Government Analytical Laboratory.

Part II of the Bill also provides for the designation of forensic science or human DNA laboratory inspectors, inspection of premises and powers of the inspectors.

Part III—The National Human DNA Database

Part III establishes the National Human DNA Database and the National Forensic DNA Database.

Part III of the Bill also deals with crime scene index; arrestee index; offenders index; elimination index; missing persons and unidentified human remains index; DNA profiling services; volunteer index; taking of bodily samples for investigation; laboratory analytical report and its effect; access to DNA profile and information; retention, storage and expunging of forensic DNA profiles; destruction and disposal of bodily samples and non-disclosure of information.

Part IV—Analytical Laboratories

Part IV of the Bill deals with the registration of analytical laboratories, certificates of analysis issued by analytical laboratories, cancellation of registration of analytical laboratories and notification of closure or change of ownership of analytical laboratories.

Part V—Management of Chemicals

This Part deals with the functions of the Directorate under chemicals management; application for registration of chemicals; certificates for production, import, export, transport, storage and dealing in chemicals; duration of registration and renewal of registration; cancellation of registration of chemicals; cancellation of registration of certificate holders; variation of certificates; certificates of re-registration; registration of premises and facilities; general requirements for dealers in chemicals; labeling and safe handling; chemicals and chemical waste; disposal of chemical waste; prevention and management of accidents; management of spills and contaminated sites by certificate holder; management of spills and contaminated sites by the Directorate; decommissioning of plants; authorisation to produce, import, export, store, transport, deal in and use of unregistered chemicals; and keeping of records of chemical transactions.


This Part also deals with restrictions, banning and elimination of chemicals; precursor chemicals; use of restricted chemicals; restriction on chemicals; restriction on production, importation, exportation and dealing in chemicals; prohibition of production, dealing in counterfeit or adulterated chemicals and requests for analysis.

Part VI—The National Poison Control Centre

This Part designates the Government Analytical Laboratory as the National Poison Control Centre and deals with the designation of information nodes.

Part VII—Miscellaneous

This Part deals with the quality management system, the power of the Minister to make regulations; reporting; unauthorised use of information; appeals; offences and penalties and power of the Minister to amend the schedule.



MAJ. GEN. KAHINDA OTAFIIRE,
Minister of Internal Affairs

THE FORENSIC EVIDENCE BILL, 2024

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SCHEDULE

CURRENCY POINT

A BILL for an Act

ENTITLED

THE FORENSIC EVIDENCE BILL, 2024

An Act to provide for a comprehensive forensic science service for Uganda; to provide for the designation of the Government Analytical Laboratory as the regulatory body for forensic and scientific analytical services and the National Poison Control Centre; to provide for the establishment of the DNA database; to provide for the regulation of industrial and consumer chemicals and for related matters.

BE IT ENACTED by Parliament as follows:

PART I—PRELIMINARY

1. Interpretation

In this Act, unless the context otherwise requires-

“analytical laboratory” means any facility undertaking testing, analyzing samples or matters related to chemical, forensic science, microbiology, DNA, food safety and environmental safety, and includes a training laboratory;

“authorised officer” means a registered medical practitioner, registered nurse or allied medical professional;

“bodily sample” means any human sample not taken from the swapping of the human mouth;

“chemical” means any industrial chemical, consumer chemical or any chemical which is—

- (a) a substance in any form, whether by itself or in a mixture or preparation;
- (b) either manufactured or produced from herbal products; and
- (c) not hazardous, toxic or an agricultural chemical, not regulated under the National Environment Act, Cap. 181, the Agricultural Chemicals (Control) Act, Cap. 35 or the National Drug Policy and Authority Act, Cap. 198;

“chemical waste” means any excess, unused or unwanted chemicals, especially those that cause damage to human health or the environment;

“currency point” has the value assigned to it in the Schedule to this Act;

“Directorate” means the Directorate of Government Analytical Laboratory;

“DNA” means Deoxyribo Nucleic Acid;

“DNA database” means an electronic depository for human DNA profiles containing forensic DNA analysis results, including any known name of the person who is the subject of the forensic DNA analysis;

“forensic science” means the discipline of forensic toxicology, chemistry and biology used to discover information about

crime by scientifically examining objects or substances involved in a crime;

“inspector” means a forensic science or human DNA laboratory inspector;

“laboratory analytical report” means a laboratory report showing evaluation results of data from an analysis of a sample conducted, and includes a certificate of analysis issued under this Act;

“Minister” means the Minister responsible for internal affairs;

“precursor” means a chemical compound preceding another in a metabolic pathway;

“requesting authority” means a person or institution initiating the process of sample analysis;

“sample” means a specimen or exhibit submitted for laboratory analysis.

PART II — ADMINISTRATION AND INSTITUTIONAL ARRANGEMENTS

2. Designation of national referral forensic laboratory

(1) The Government Analytical Laboratory is designated as the national referral forensic and analytical laboratory.

(2) The Government Analytical Laboratory shall be the regulator for forensic services and advise the Government on matters of forensic and analytical science.

(3) The Government Analytical Laboratory shall be Directorate headed by a Commissioner.

3. Establishment of regional analytical laboratories

There are established regional analytical laboratories, in the Eastern, Northern, Western and Southern parts of the Country.

4. Functions of Directorate

(1) The Directorate shall perform the following functions—

- (a) conduct research activities, laboratory analysis and advise the Government on matters relating to—
 - (i) forensic toxicology;
 - (ii) forensic biology;
 - (iii) DNA;
 - (iv) illicit drugs;
 - (v) ballistics and questioned documents;;
 - (vi) forensic chemistry;
 - (vii) food;
 - (viii) drugs;
 - (ix) occupational health;
 - (x) industrial and consumer chemicals and products;
 - (xi) computer forensics and cybercrime; and
 - (xii) environmental samples for executing health, legal, social well-being and environmental interventions;

- (b) regulate chemical, forensic science and human DNA laboratories to ensure compliance with the standards prescribed by the Minister in Regulations;
- (c) provide, manage and regulate operation of the National DNA Database;
- (d) manage the National Poison Control Centre;
- (e) collect, receive, identify and analyse samples to provide scientific evidence;
- (f) condemn and order the destruction or disposal of articles, chemicals or chemical products;
- (g) take samples for laboratory testing and make laboratory analysis on any matter of national or public interest to which forensic science, product quality or chemicals management may be required; and
- (h) perform any other functions as the Minister may assign.

(2) The Directorate may provide consultancy services on any matter stipulated under this Act.

5. Designation of inspectors

The Minister may, on the advice of the Government Analytical Laboratory and by notice published in the Gazette, designate an officer from the Government Analytical Laboratory or other relevant institution having the necessary qualifications to be an inspector.

6. Inspection of premises

The Government Analytical Laboratory may, for the purpose of ensuring compliance with the provisions of this Act, conduct or cause to be conducted, the inspection of any premises conducting services regulated under this Act.

7. Powers of inspectors

An inspector shall have power—

- (a) to enter into any premises dealing with a service regulated under this Act, at any reasonable time;
- (b) to issue directives, after inspection, on areas requiring correction;
- (c) to order temporary closure of premises pending corrections;
- (d) to seize anything or property used in the commission of an offence as evidence;
- (e) in collaboration with any other authority, to supervise the disposal of samples or any article regulated under this Act;
- (f) where necessary, and with the assistance of the police, to arrest any person who contravenes this Act;
- (g) to provide advice or recommendations on the proper implementation of this Act;
- (h) to adduce evidence before court; and
- (i) to perform any other duty as may be directed by the Directorate.

PART III—THE NATIONAL HUMAN DNA DATABASE**8. The National Human DNA Database**

(1) There is established, within the Directorate, a National Human DNA Database to serve as the central depository for human DNA records in Uganda.

(2) The Government Analytical Laboratory may designate any laboratory as a human DNA laboratory.

(3) Every designated human DNA laboratory shall submit data to the Government Analytical Laboratory in a form prescribed by regulations.

9. National Forensic DNA Database

(1) There shall be a National Forensic DNA Database (NFDD) which shall consist of the following forensic DNA profile indices—

- (a) the crime scene index;
- (b) the arrestee index;
- (c) the offenders index;
- (d) the volunteer index;
- (e) the elimination index;
- (f) the missing persons index and unidentified human remains index; and
- (g) any other index as the Minister may prescribe.

(2) An index under subsection (1) shall contain the suspect's profile, arrestee's profile, victim's profile, elimination profile or volunteer's profile as the case may be.

10. Crime scene index

The crime scene index under section (9)(1)(a) shall contain forensic DNA profiles derived by means of DNA analysis from bodily samples collected from—

- (a) crime scenes;
- (b) places where an offence was or is reasonably suspected to have been committed;
- (c) bodies of victims or suspects, which may be used to identify DNA left by persons who were in contact with the victim during the commission of an offence; or
- (d) anything worn or carried by the victim or suspect at the time the offence was committed, which may be used to identify DNA left by the person who was in contact with the victim during the commission of an offence.

11. Arrestee index

The arrestee index under section 9(1)(b) shall contain forensic DNA profiles derived by means of forensic DNA analysis, from bodily samples taken from persons who are arrested where the DNA profile of the person arrested is not part of the NFDD.

12. Offenders index

The offenders' index under section 9(1)(c) shall contain forensic DNA profiles derived by means of forensic DNA analysis, from bodily samples entered into the arrestee index, of persons who are convicted of offences.

13. Elimination index

The elimination index under section 9(1)(e) shall contain forensic DNA profiles derived from bodily samples taken from persons performing duties under this Act.

14. Missing persons and unidentified human remains index

The missing persons and unidentified human remains index under section 9(1)(f) shall contain DNA profiles and any related information derived from bodily samples or non-intimate samples taken from—

- (a) the body or parts of the body of unidentified deceased persons;
- (b) anything worn or carried by missing persons; or
- (c) the next of kin of missing persons, if so required.

15. DNA profiling services

(1) The Government Analytical Laboratory shall provide DNA profiling services for purposes of—

- (a) detecting crime;
- (b) investigating offences;
- (c) conducting prosecutions;
- (d) identifying unidentified human remains or missing persons;
- (e) identifying beneficiaries for purposes of administering estates of deceased persons;
- (f) research;
- (g) paternity and relationship testing ; and
- (h) livestock and wildlife animals relationship testing.

(2) A person who wishes to have DNA profiling services in subsection (1) shall pay a fee prescribed by the Minister by Regulations.

(3) The DNA profiles from the database may be used for comparison with DNA profiles from crime scenes.

(4) Nothing in this Act shall affect the use of the forensic DNA profiles derived from samples taken in accordance with this Act for comparative searches against forensic DNA profiles derived prior to the coming into operation of this Act.

(5) A person who uses or allows the use of a sample or any forensic DNA profile derived from a sample for any purpose other than the purposes of subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding one thousand five hundred currency points or a term of imprisonment not exceeding fifteen years, or both

16. Volunteer index.

(1) The volunteer index under section 9(1)(d) shall contain forensic DNA profiles derived by means of forensic DNA analysis from bodily samples taken from persons with their informed consent.

(2) A bodily sample taken from a child under this section shall be taken with the informed consent of the child's parent, guardian or legal representative.

(3) An authorised officer who takes a bodily sample from a person who volunteers his or her bodily sample, shall do so in accordance with Regulations prescribed by the Minister.

17. Taking of bodily samples for investigation

(1) An authorised officer may take a bodily sample for purposes of carrying out an investigation where there are reasonable grounds to—

- (a) suspect that the person has committed a criminal offence, and
- (b) believe that the sample or the results of an examination shall be of value in the investigation by excluding or including one or more persons as possible perpetrators of the offence.

- (2) An authorised officer may only take a bodily sample—
- (a) with the consent of the person from whom the sample is to be taken; or
 - (b) if authorised to do so by a warrant issued by court or the Uganda Police Force.
- (3) A court may issue a warrant under subsection 2(b) upon application by an inspector or an authorised officer on the grounds that—
- (a) the person from whom the bodily sample is to be taken has committed an offence; and
 - (b) the sample or the results of the examination shall be of value in the investigation by excluding or including that person as a suspect in the commission of the offence.
- (4) An authorised officer who takes a bodily sample from any person, shall take the bodily sample—
- (a) in compliance with regulations prescribed by the Minister; and
 - (b) subject to any legal requirements relating to the disposal of bio-medical waste.
- (5) The head of a prison, remand home or detention facility may take a bodily sample from a person detained in the facility.
- (6) Where the head of a prison, remand home or detention facility takes a bodily sample, he or she shall—
- (a) inform an authorised officer, within seven days that a bodily sample was taken and is ready for collection; or

- (b) provide to the police, within thirty days the bodily sample that was taken.

(7) Notwithstanding this section, an authorised officer may re-take a sample from any person, where the sample taken from him or her is not suitable for DNA analysis or is insufficient.

18. Laboratory analytical report and its effect

(1) A requesting authority that wishes to get a laboratory analytical report specifying the results where a sample for analysis is submitted to the Directorate, may apply in writing to the Directorate.

(2) The Directorate shall issue to the requesting authority an analytical report specifying the results where a sample for analysis is submitted to the Directorate.

(3) An analytical report issued by the Directorate—

- (a) upon any matter or thing duly submitted for analysis, may be used as evidence in any inquiry, trial or other proceedings;
- (b) shall be admissible and shall be sufficient evidence of the facts or observations stated in the report; and
- (c) for services rendered in relation to forensic science and DNA profiling, shall be final and conclusive.

(4) Where a laboratory analytical report is used in any proceedings in a court of law, the court shall, summon and examine the representative of the Directorate on the veracity of the report.

(5) A person shall not use a laboratory analytical report issued under this Act for the purposes of advertisement without written consent of the Directorate.

19. Access to DNA profile and information

(1) A person who intends to access a DNA profile and information shall—

- (a) apply to the Directorate in a form prescribed by Regulations; and
- (b) pay a fee prescribed by the Minister by Regulations.

(2) A person who intends to access a DNA profile or information for purposes of conducting a criminal investigation shall not pay the fee prescribed in subsection (1).

20. Retention, storage and expunging of forensic DNA profiles

(1) The Directorate shall—

- (a) store a DNA sample collected for investigation purposes, until the investigation is completed; and
- (b) not store a sample permanently.

(2) The Directorate may store on or expunge from the National Forensic DNA Database a forensic DNA profile of a person, with the exception of a sample from a crime scene, as follows—

- (a) a forensic DNA profile in the arrestee index shall be expunged within three years after—
 - (i) a decision is taken not to prosecute a person;
 - (ii) a person is acquitted at his or her trial;
 - (iii) a conviction is set aside on appeal or review;
 - (iv) a person is discharged;

(v) no criminal proceedings with regard to the forensic DNA profiles are instituted against the person concerned in any court; or

(vi) the prosecution declines to prosecute;

(b) a forensic DNA profile in the volunteer index shall be expunged within three months after a case is concluded, unless a volunteer gives consent for his or her forensic DNA profile to be retained on the database.

(3) Upon conviction of a child, the child's forensic DNA profile shall be retained on the database.

(4) Notwithstanding subsection (1), forensic DNA profiles derived from samples taken for purposes of the elimination index shall be stored indefinitely.

21. Destruction and disposal of bodily samples

(1) A forensic DNA profile derived from a bodily sample shall be retained on or expunged from the database in accordance with Regulations prescribed by the Minister.

(2) A bodily sample taken from a person and not relating to a crime scene sample or used to populate the database with forensic DNA profiles shall be destroyed and disposed of within three months after the forensic DNA profile is taken and loaded on the database.

(3) An authorised officer shall—

(a) safely store a crime scene sample; and

(b) keep a record of the destruction of bodily samples in a manner prescribed by Regulations.

22. Non-disclosure of information

A person who has access to any data, record, book, register, correspondence, document, material or information relating to DNA profiles and any related information in the NFDD which he or she acquired in the performance of his or her functions or the exercise of his or her powers under this Act shall not give, divulge, reveal, publish or otherwise disclose to any person the data, record, book, register, correspondence, document, material or information without authorisation by the Government Analytical Laboratory.

PART IV—ANALYTICAL LABORATORIES**23. Registration of analytical laboratory**

(1) A person who intends to operate an analytical laboratory offering services under Part III shall—

- (a) apply to the Directorate for a certificate of registration of the laboratory in a form prescribed by the Minister by Regulations; and
- (b) pay a fee prescribed by the Minister by Regulations.

(2) The Directorate shall register a person who applies and pays the fee as prescribed in subsection (1).

(3) The Directorate shall not register a laboratory unless it has staff who possess the relevant qualifications and premises containing facilities that meet the standards prescribed by the Minister by Regulations.

(4) The Directorate shall keep and maintain a register of registered analytical laboratories.

(5) The Directorate may engage a laboratory registered under this section to offer forensic services.

(6) The Minister may on an annual basis publish in the Gazette, analytical laboratories registered under subsection (2).

24. Certificate of analysis issued by analytical laboratory

(1) Every analytical laboratory registered under this Act shall issue a certificate of analysis stating the results of the analysis of any substances submitted to it by a requesting authority or inspector for purposes of analysis.

(2) The certificate of analysis issued by the analytical laboratory under subsection (1), shall state the method of analysis followed in carrying out the analysis.

(3) A certificate of analysis complying with subsections (1) and (2), shall be sufficient evidence of the facts stated in it, whether produced by the defence or the prosecution.

25. Cancellation of registration of analytical laboratory

(1) The Directorate may cancel a certificate of registration of an analytical laboratory in the manner prescribed by the Minister by Regulations.

(2) The Directorate shall—

(a) before cancelling the certificate of registration of a laboratory under this section, give the owner of the laboratory an opportunity to show cause why the certificate should not be cancelled; and

(b) after cancelling the certificate of registration of a laboratory under this section, publish the cancellation in the Gazette.

26. Notification of closure or change of ownership

The owner of a registered laboratory who intends to close his or her laboratory or to change ownership of the laboratory shall notify and

submit the laboratory closure or change of ownership to the Directorate for approval, supervision or inspection, three months before the closure or change of ownership.

PART V—MANAGEMENT OF CHEMICALS

27. Functions of the Directorate under chemicals management

The Directorate shall—

- (a) maintain and publish annually, a register of all chemicals stating the registered, provisionally cleared, restricted or prohibited chemicals;
- (b) maintain and publish annually, a register of waste disposal facilities, transporters, producers and exporters of chemicals;
- (c) maintain a register of chemicals, producers, importers, exporters, transporters and dealers of chemicals;
- (d) implement international conventions;
- (e) manage and control the importation, production, transportation, dealing, storage and disposal of chemicals and to collect, maintain and publish information related to importation, production, transportation, dealing, storage and disposal of chemicals through approval of registration and issuance of a certificate to import, produce, transport, deal, store and dispose of chemicals;
- (f) conduct public educational campaigns on the management of chemicals;
- (g) train inspectors;
- (h) register inspectors;

- (i) foster cooperation between institutions and organisations, on matters relating to management and control of chemicals;
- (j) evaluate applications for new chemicals for analysis, registration, re-registration or cancellation of any existing registered product;
- (k) order inspection of premises; in which chemicals are produced, stored, sold, dealt in, used by a certificate holder;
- (l) prescribe minimum requirements of quality in respect of chemicals produced, imported into or exported from Uganda;
- (m) coordinate chemicals management policies and programmes nationally and internationally;
- (n) deal with chemical emergencies, spills and accidents;
- (o) provide technical advice to the Government and other institutions on chemicals management and control;
- (p) conduct research related to chemicals and chemicals management; and
- (q) carry out such other functions as may be conferred upon the Directorate by any written law or as are incidental to the performance of its functions under this Act.

28. Application for registration of chemical

(1) The following persons may apply to register chemicals—

- (a) a producer of the chemical;

- (b) a marketing firm, if the chemical is to be marketed for the first time in Uganda; or
- (c) an importer and exporter of that chemical.

(2) A producer of a chemical, a marketing firm, if the chemical is to be marketed for the first time in Uganda, an importer or exporter of a chemical, may apply to the Directorate to register the chemical.

(3) An application for the registration of a chemical under this section shall be submitted to the Directorate in the manner and form prescribed by the Minister by Regulations.

(4) An applicant under this section shall pay an application fee prescribed by the Minister by Regulations.

(5) The Directorate shall not approve the registration of any chemical unless it conforms to the requirements as laid out in this Act.

(6) An application made under this section may, at any time be withdrawn by the applicant but the withdrawal shall not entitle the applicant to the refund of the application fee referred to in subsection (4).

(7) Any information submitted to the Directorate in respect of an application made under this section shall be confidential.

(8) The Minister shall by Regulations prescribe all chemicals requiring registration under this Act.

29. Certificate for production, import, export, transport, storage and dealing in chemicals

(1) A person who intends to produce, import, export, store, transport or deal in a chemical shall apply to the Directorate for a certificate using the procedure and form prescribed by the Minister by Regulations.

(2) The Directorate shall be responsible for the grant, renewal, variation, suspension, cancellation, and revocation of a certificate issued under this section.

(3) The Directorate may, if satisfied that it is in the public interest that a certificate to produce, import, export, transport, store or deal in a chemical is issued, the Directorate shall approve issuance of a certificate.

(5) A separate certificate under this section shall be required in respect of each set of premises in which the business is carried on.

30. Duration of registration and renewal of registration

(1) The registration of a chemical shall be valid for a period of five years.

(2) Upon the application of the person desiring to renew the registration of a chemical, the Directorate may renew the registration for period of five years, provided that, the Directorate is satisfied that the chemical remains safe and effective for use in Uganda, and that payment of the fee prescribed by the Minister by Regulations has been paid.

(3) Where the Directorate refuses to renew the registration of a chemical, the Directorate shall inform the applicant in writing of the refusal and the reasons for the refusal.

31. Cancellation of registration of chemicals

(1) The Directorate may cancel the registration of any chemical and shall give reasons for the cancellation provided that, the Directorate shall, before proceeding with the cancellation, give an opportunity to the holder of the certificate to show cause why the registration of the chemical should not be cancelled.

(2) A cancellation of registration under this section shall be published in the Gazette and amendments to the register of chemicals shall be effected by the Minister.

32. Cancellation of registration of certificate holder

(1) The Directorate may cancel the registration of a certificate holder and shall give reasons for the cancellation provided that, the Directorate shall, before cancelling the registration, gives an opportunity to the person whose certificate applies to show cause why the registration should not be cancelled.

(2) A cancellation under this section shall be published in the Gazette and amendments to the relevant register shall be effected by the Minister.

33. Variation of certificate

(1) A certificate holder may apply to the Directorate for variation of a certificate where the certificate holder intends to change—

- (a) the chemicals under the certificate held; or
- (b) the location or premises where the business is conducted.

(2) Any person applying for variation of a certificate who gives false information in an application commits an offence and is liable on conviction to a fine not exceeding one thousand currency points or to imprisonment for a term not exceeding two years, or both.

34. Certificate of re-registration

(1) Where a certificate of registration is cancelled as a result of voluntary withdrawal of the certificate holder, the certificate holder may apply for re-registration before the initial registration period expires.

(2) The Directorate may issue a certificate of re-registration or other certificate to the applicant, as the case may be after the applicant complies with the prescribed procedures.

35. Registration of premises and facilities

(1) A person intending to produce a chemical or carry on business, practice as a certificate holder or deal in a chemical shall apply to the Directorate for the registration of the premises to be used to produce, store or deal in chemicals in the manner prescribed by the Minister by Regulations.

(2) A person shall not produce a chemical or carry on business or practice as a certificate or facilities holder except in premises or facilities registered by the Directorate under this section.

(3) The Directorate shall maintain and publish on an annual basis a register of all registered premises or facilities.

(4) A person who intends to change ownership of the business carried on in the premises or facilities registered under this section shall notify the Directorate before the change is effected.

(5) The registration of any premises or facilities under this section shall cease to have effect upon the expiration of thirty days from the date of any change of the ownership of the business carried on-in the premises.

(6) An application for registration or renewal of registration of premises or facilities shall be made to the Directorate in a form prescribed by the Minister by Regulations

(7) Any person who contravenes this section, commits an offence and is liable on conviction to a fine not exceeding one thousand currency points or imprisonment for a term not exceeding two years or both.

(8) The Directorate may refuse to register, or may cause to be deleted from the register, any premises or facilities which are or have become unsuitable for the production of chemicals or for dealing in chemicals.

36. General requirements for dealers in chemicals

An application under section 35, shall contain—

- (a) a description of the premises on which the chemicals shall be stored, produced or marketed;
- (b) a description of the equipment and facilities available for distributing, handling, producing, processing and transporting the chemical from those premises;
- (c) the qualifications of the personnel under whose direct supervision those operations shall be carried out;
- (d) the arrangements made or to be made for the safety and health of the environment within and outside the premises;
- (e) contingency plans and procedures for dealing with emergencies; and
- (f) the arrangements made or to be made for securing the safe-keeping of and maintenance of adequate records in respect of chemicals stored in or distributed from those premises.

37. Labeling and safe handling

(1) Any person who produces, distributes, sells, transports, imports, exports, stores or deals in a chemical requiring registration under this Act, shall package the chemical according to recognised and approved standards and the package shall bear a label with specifications prescribed by the Minister by Regulations.

(2) Any person who abandons a chemical or handles a chemical contrary to the provisions of this Act, commits an offence and is liable on conviction to a fine not exceeding two hundred and fifty currency points or imprisonment for a term not exceeding ten years, or both.

38. Chemicals and chemical waste

(1) The Directorate shall, on the basis of scientific research, assess levels of chemical waste and prescribe safety measures for exportation, production, storage, dealing in or disposal of chemical waste.

(2) Any person handling a chemical shall—

- (a) take steps and precautions to avoid accumulation of chemical waste;
- (b) keep records on chemicals and their waste;
- (c) inform the Directorate, about the accumulation of chemical waste; and
- (d) dispose of any chemical waste generated in a safe and environmentally soundly manner.

(3) No person shall dispose of any chemical, chemical waste or chemical container without obtaining a certificate from the Directorate issued after consultation with the National Environment Management Authority or any other competent authority or institution as the Directorate may consider fit.

(4) No person shall unload and repackage chemicals in transit or chemical waste.

(5) Any person who contravenes this section, commits an offence and is liable on conviction, to a fine not exceeding one hundred currency points or to imprisonment for a term not exceeding three years, or both.

39. Disposal of chemical waste

(1) Any person who intends to treat and dispose of chemical waste as defined under this Act shall apply to the Directorate in writing for a certificate of disposal.

(2) Notwithstanding subsection (1), any firm may, treat chemical waste that is not generated from the plant, if a certificate for the plant has been issued under this Act, and if the firm uses only a small portion of the plant for the treatment.

(3) The treatment referred to in subsection (2), shall not commence unless the firm has submitted a notification to the Directorate fourteen days prior to the treatment.

(4) The Directorate shall send a copy of a notification received under subsection (3) to the National Environment Management Authority, local authority and other authorities or institutions engaged in environmental health protection, informing them of the treatment and disposal of the chemical waste.

(5) Any person who contravenes this section, commits an offence and is on conviction liable to a fine not exceeding one thousand currency points or to imprisonment for a term not exceeding three years, or both.

40. Prevention and management of accidents

(1) The holder of a certificate for disposal of chemical waste shall—

- (a) take steps to observe such precautions as are needed to prevent accidents and harm to human health, animal health and the environment including—

- (i) monitoring of safety, through adequate maintenance of operations and inspections;
 - (ii) choice of an adequate route for transportation of the chemical waste avoiding obstacles, peak hours and densely populated areas and have a suitable mode of transporting the chemical waste;
 - (iii) avoiding overloading of chemicals; and
 - (iv) taking precautions commensurate to the properties of the chemical;
- (b) prepare a contingency plan and procedure for managing accidents which shall be presented to the Directorate for approval prior to disposal of the chemical;
 - (c) in the case of an accident, immediately put into effect the approved contingency plan;
 - (d) in case of a spill, respond within eight hours, including notifying, the Directorate and any other relevant authorities the circumstances of the spill and any action taken or proposed to be taken in relation to the spill; and
 - (e) document and report every accident or spill to the Directorate and other relevant authorities, with details as may be prescribed by the Minister by Regulations.

(2) A certificate holder who causes an accident or spill shall do everything practicable to prevent, eliminate, restore and ameliorate the adverse effects of the accident or spill.

(3) Any person or local authority who is informed of a spill and of any contaminated site shall notify the Directorate.

(4) A certificate holder who contravenes this section, commits an offence and is liable, on conviction to a fine not exceeding five hundred thousand currency points or imprisonment for a term not exceeding fifteen years, or both.

(5) Where a certificate holder fails to notify the Directorate and any other relevant authorities as required by this Act or fails to put into effect the approved contingency plan beyond the eight hours, after the accident occurred, shall be considered to be a continuing offence and the certificate holder shall be subjected to a fine of fifty currency points for every hour that the offence continues beyond the eight hours.

41. Management of spills and contaminated sites by certificate holder

(1) A certificate holder shall—

- (a) take all necessary steps to prevent spillages and contamination of the environment;
- (b) prepare contingency plans and procedures for managing spills and contaminated sites, which shall be presented to the Directorate for approval;
- (c) in the case of an accident, immediately respond, including notifying the circumstances of the accident and any action taken or proposed to be taken in relation to the accident to the Directorate and any other relevant authority;
- (d) in the case of a spill, immediately notify the Directorate and other relevant authorities for further action, and put into effect the approved contingency plan;
- (e) document and report every incident of a spill or accident to the Directorate and other relevant authority and the report shall include details on the cause of the spill or accident management and the proposed mitigation measures to be undertaken; and

- (f) be liable for the expenses incurred during cleanup operations and any damages caused by a spill, accident or contaminated site

(2) Where a certificate holder fails to notify the Directorate and other relevant authorities or fails to put into effect the approved contingency plans beyond the eight hours after the spill or accident, the certificate holder's failure to notify the Directorate and other relevant authority shall be considered to be a continuing offence.

42. Management of spills and contaminated sites by Directorate

(1) The Directorate—

- (a) may prescribe measures which may include prevention, elimination and amelioration of adverse effects on restoring and protecting the environment from any harm and reducing ecological and human health from various risks;
- (b) may direct inspection to be undertaken following complaints from the public;
- (c) shall prescribe the procedures for clean-up and removal operations in the event of a spill;
- (d) shall prescribe the method of storage and disposal of any pollutant of any object, plant, animal, or any part of the environment removed in a clean-up or removal operation or otherwise affected by a pollutant; and
- (e) may recover from the certificate holder who causes a spill, accident or contamination of a site, all costs and expenses incurred by the Directorate as a result of—
 - (i) any clean-up or removal operation;
 - (ii) any measures taken to prevent, eliminate and ameliorate the adverse effects of a spill on the environment; and

(iii) any measures taken to deal with the spill and contaminated site.

(2) Any person affected by a spill, accident or contamination shall have a right to damages or compensation from the certificate holder.

(3) A person who contravenes the provisions of this section, commits an offence and is liable on conviction to a fine not exceeding one thousand currency points or to a term of imprisonment not exceeding one year, or both.

43. Decommissioning of plants

(1) A certificate holder may decommission a plant.

(2) A certificate holder who intends to decommission a plant, shall take steps and observe precautions needed to ensure that harm to human health and the environment is prevented.

(3) The steps and precautions to be observed in subsection (2) shall include—

(a) conducting an Environmental Impact Assessment to prior to decommissioning of a plant and disposal of all the remaining stocks of chemicals as well as the equipment; and

(b) 'making good' the plant site.

(4) A person who contravenes subsection (1), commits an offence and is liable on conviction to a fine not exceeding one thousand currency points or imprisonment for a term not exceeding two years, or both.

44. Authorisation to produce, import, export, store, transport, deal in and use of unregistered chemical

The Directorate may authorise the importation, exportation, production, storage, transportation, dealing in and use of a chemical which has not been registered or provisionally cleared if the chemical is to be applied solely for public consumption, scientific and educational purposes.

45. Keeping records of chemical transactions

(1) The Directorate shall keep a record of chemicals produced, imported, exported, transported, sold, dealt in, stored or used in Uganda.

(2) Every person who produces, imports, exports, transports, or deals in chemicals in accordance with the provisions of this Act, shall keep a record of all quantities and qualities of chemicals produced, imported, used, sold, distributed, stored, exported or transported.

(3) All records under this section shall be kept by the Directorate for at least five years.

46. Restrictions, banning and elimination of chemicals

(1) Upon application for the registration of a chemical or where after registration, a chemical—

- (a) is proved to be dangerous to human or animal life or the environment;
- (b) is proved to cause poisoning to humans or animals for which no effective antidote is available;
- (c) is severely restricted by an International Convention or Treaty; or
- (d) is subject to action according to an International Convention or Treaty ratified in Uganda;

(2) The Directorate shall restrict, severely restrict, ban or phase out the use and handling of a chemical applied for in this section.

(3) Notwithstanding the provisions of subsection (1), the Directorate may require a restricted, severely restricted or a banned chemical to be produced, sold, distributed, transported, stored or used subject to conditions the Minister may prescribe by Regulations.

47. Precursor chemicals

Notwithstanding the provisions of this Act, the Minister may by Regulations prescribe additional requirements with which any certificate holder of a precursor chemical or its component shall be required to comply.

48. Use of restricted chemicals

(1) The Directorate shall register restricted chemicals.

(2) A person who wishes to use or possess a chemical, which has been registered as a restricted chemical shall apply to the Directorate for a certificate which shall be issued by the Minister on the advice of the Head of Directorate.

(3) An applicant under subsection (2), shall state in the application how he or she proposes to fulfill the conditions required while using the restricted chemical.

(4) The certificate under this section shall be valid for a period of one year.

(5) Any person who uses a chemical in contravention of this section, commits an offence and is liable on conviction to a fine not exceeding three thousand currency points or to imprisonment for a term not exceeding six years, or both.

49. Restriction on chemicals

(1) The Minister may by Regulations prescribe additional requirements with which any chemical or its component, which the certificate holder shall comply with, including specifications of the composition, purity or other properties and the conditions under which the chemical shall be sold.

(2) The Minister may, by notice in writing, require any person who produces, deals in any chemical or on whose direction any chemical is produced or dealt in to furnish the Directorate with information and particulars which that person has in his or her possession.

50. Restriction on production, importation, exportation and dealing in chemicals

(1) Subject to any exemption conferred by the Minister in this Act, a person shall not sell by retail, offer or expose for sale by retail or supply any hazardous chemical unless—

- (a) the person is lawfully conducting a retail chemical business;
- (b) the product is sold or supplied in premises which are registered; or
- (c) the person is a qualified, or, if the transaction is carried out on his or her behalf by another person, that other person is, or acts under the supervision of a qualified person.

(2) A retailer or user who holds more than a threshold quantity of a chemical prescribed by the Minister by Regulations shall apply for a certificate of registration as specified under this Act.

(3) Where the Minister on advice of the Directorate is satisfied that the use of any chemical is likely to cause adverse

effects on human, animal health or the environment, the Minister may by notice in the Gazette prohibit the production, importation, exportation or dealing in the chemical.

(4) A retailer or user under subsection (2) shall not sell or supply any chemical unless the sale or supply is made from premises or facilities capable of being closed so as to exclude the public.

(5) Subject to the provisions of this section, no person shall sell by retail, or supply in circumstances corresponding to retail sale of a chemical of a description or a class specified by the Minister by Regulations.

(6) Any person who produces or deals in any chemical in contravention of subsection (1) or any notification issued under this section, commits an offence and is liable on conviction to a fine not exceeding three thousand currency points or imprisonment for a term not exceeding six years, or both.

51. Prohibition of production, dealing in counterfeit or adulterated chemicals

(1) A person shall not produce or deal in an adulterated or counterfeit chemical.

(2) For the purposes of this Act, a chemical shall be considered to be counterfeit or adulterated, if it is an imitation of, or is a substitute for another chemical or resembles another chemical likely to deceive, or bears upon its label or container the name of another chemical unless it is plainly and conspicuously marked so as to reveal its true character and its lack of identity with such other chemical.

(3) Subject to this section, no person shall produce or deal in or advertise any chemical produced in contravention of subsection (1).

(4) Any person who contravenes this section, commits an offence and is liable on conviction to a fine not exceeding three thousand currency points or imprisonment for a term not exceeding six years or both.

52. Request for analysis

(1) Any person shall be entitled to request the analysis of a chemical, upon fulfillment of the procedures prescribed by the Minister in regulations

(2) A court of law may order that a chemical be analysed in case of any matter before it.

(3) Notwithstanding subsection (2), any person who requests for analysis, other than one prescribed under this Act, shall bear the actual costs of the analysis.

(4) The Directorate may direct a certificate holder to have any chemical analysed for purposes of implementing this Act.

PART VI—THE NATIONAL POISON CONTROL CENTRE

53. National Poison Control Centre

(1) The Government Analytical Laboratory is designated as the National Poison Control Centre.

(2) The National Poison Control Centre shall coordinate and manage poisoning incidences.

(3) The Government's Analytical Regional Laboratories shall serve as sub centres to the National Poison Control Centre

(4) The National Poison Control Centre shall perform the following functions—

- (a) disseminate information to the public on poisoning;
- (b) cause to be conducted a laboratory analysis of poison;
- (c) collect information from the information nodes on diagnosis and treatment of poisoning incidences;
- (d) conduct training and research on matters related to poisoning; and
- (e) keep a record of poisoning cases and incidences.

54. Designation of information nodes

(1) The Directorate shall designate health facilities and other institutions to serve as information nodes to provide information on poisoning incidences.

(2) Every designated information node shall, on a quarterly basis, submit information on poisoning incidences to the Directorate.

PART VII—MISCELLANEOUS

55. Quality Management System

The Directorate shall develop and recommend standards for quality management, including standards for testing the proficiency of forensic science laboratories and forensic analysts conducting forensic DNA analysis.

56. Power of Minister to make regulations

The Minister may, in consultation with the Directorate make regulations prescribing—

- (a) procedures for sampling and submission of forensic science DNA samples;

- (b) procedures for management, retention and disposal of forensic science DNA samples;
- (c) standards of chemical, forensic science and human DNA laboratory premises, facility and qualifications of staff;
- (d) procedures for registration and certification of forensic science and human DNA laboratories;
- (e) procedures for chemical, forensic science and human DNA laboratories inspection;
- (f) fees and other charges;
- (g) the process for application for certificates to operate analytical laboratories;
- (h) standards for facilities to be registered as analytical laboratories;
- (i) chemicals that shall require registration and the procedure for approval of registration; and
- (j) any other matter for the better carrying out of the provisions of this Act.

57. Reporting

(1) An owner or operator of a registered laboratory shall submit to the Directorate every six months a report in the manner to be prescribed by regulations.

(2) The Directorate shall suspend or cancel the certificate of registration of any person who fails to submit a report under this section.

58. Unauthorised use of information

A person shall not disclose information which he or she obtains in the exercise of his or her powers or the performance of his or her duties under this Act, except—

- (a) to a person who requires it for the performance of his or her functions under this Act or any other relevant law;
- (b) in respect of information which is required in terms of any law or as evidence in any court of law;
- (c) to a competent authority which requires it for the institution, or for an investigation with a view to institute criminal proceedings, including a preliminary investigation or an inquest;
- (d) for purposes of carrying out a criminal investigation; or
- (e) where the accused is a child, to his or her parent or guardian, or his or her legal representative.

59. Appeals

(1) A person aggrieved by the decision of the Directorate may, within ninety days from the date of notification of the decision, appeal to the Minister.

(2) The Minister may, within thirty days of receipt of the appeal, allow the appeal, alter or vary the decision of the Directorate and make any order as he or she considers fit.

60. Offences and penalties

(1) A person who uses or allows the use of a bodily sample or any forensic DNA profile derived from a sample contrary to this Act, commits an offence and is liable on conviction, to a fine not

exceeding one thousand five hundred currency points or to a term of imprisonment not exceeding fifteen years, or both.

(2) A person who—

- (a) gives, divulges, reveals, publishes or otherwise discloses to any person, data, records, book, register, correspondence, documents, material or information without authorisation by the Directorate;
- (b) accesses, disseminates or publishes information contained in the database without written authorisation by the Directorate,

commits an offence and is liable on conviction, to a fine not exceeding five hundred currency points or to a term of imprisonment not exceeding five years, or both.

(3) A person who uses an analytical report issued under this Act for the purposes of advertisement without the written consent of the Directorate commits an offence and is liable on conviction—

- (i) where the offender is a natural person, to a fine not exceeding one hundred currency points or to a term of imprisonment not exceeding one year, or both; or
- (ii) where the offender is a body corporate, to a fine not exceeding two thousand currency points and in addition the court may order cancellation of the registration certificate.

(4) A person who operates an unregistered analytical laboratory, commits an offence and is liable on conviction, to a fine not exceeding three hundred currency points or to a term of imprisonment not exceeding three years, or both.

(5) A person who—

- (a) destroys, varies or alters an analysis report generated in the process of carrying out activities under this Act;

- (b) does not notify and submit the change of ownership to the Directorate three months before the change of ownership;
- (c) fails to give or refuses an inspector access to any article, vehicle or premises;
- (d) obstructs or hinders an inspector in the execution of his or her duties under the Act;
- (e) fails or refuses to give an inspector information that may lawfully be required;
- (f) gives false information in an application; or
- (g) gives an inspector false or misleading information knowing it to be false or misleading,

commits an offence and is liable, on conviction, to a fine not exceeding one hundred currency points or to a term of imprisonment not exceeding one year, or both.

(6) A person who—

- (a) accesses a DNA profile and information without the authorisation of the Directorate; or
- (b) sells a restricted chemical without a certificate, commits an offence and is liable, on conviction, to a fine not exceeding five hundred currency points or to a term of imprisonment not exceeding five years, or both.

(7) A person who produces, imports, exports, stores, transports, or deals in a chemical without a certificate issued by the Directorate, commits an offence and is liable on conviction to a fine not exceeding two thousand currency points or imprisonment for a term not exceeding five years, or both.

(8) A person who commits an offence under this Act, for which a penalty is not specifically provided, is on conviction liable to a fine not exceeding—

- (a) two hundred currency points for a natural person or to imprisonment for a term not exceeding two years, or both; and
- (b) one thousand currency points for a body corporate.

(9) A person shall be personally liable for an offence under this Act, whether committed by him or her on his or her own account or as an agent or servant of the person.

(10) Where an offence is committed by a body corporate or partnership, every Director, chief executive officer of the body corporate, partner or officer of the partnership who had knowledge or should have had knowledge of the offence shall be held liable for the offence.

61. Power of Minister to amend Schedule

The Minister may, with approval of Cabinet by statutory instrument, amend the Schedule to this Act.

SCHEDULE

section 1

CURRENCY POINT

A currency point is equivalent to twenty thousand shillings.

Cross References

Agricultural Chemicals (Control) Act, Cap. 35

National Drug Policy and Authority Act, Cap. 198

National Environment Management Act, Cap. 181