STATUTORY RULES OF NORTHERN IRELAND

1997 No. 470

PESTICIDES

Plant Protection Products (Basic Conditions) Regulations (Northern Ireland) 1997

Made - - - - 28th October 1997
To be laid before Parliament under paragraph 3(3) of Schedule 1 to the Northern Ireland Act 1974

Coming into operation 9th December 1997

The Department of Agriculture, in exercise of the powers conferred on it by sections 16(2), 24(3) and 25(2) of the Food and Environment Protection Act 1985(**1**), and of every other power enabling it in that behalf, having regard to the interests of persons supplying information for the purposes of section 16 of that Act and after consultation with the Advisory Committee on Pesticides for Northern Ireland, established under section 16(7) of that Act(**2**), and, in accordance with section 16(10) of that Act, with the Health and Safety Agency for Northern Ireland hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Plant Protection Products (Basic Conditions) Regulations (Northern Ireland) 1997, and shall come into operation on 9th December 1997.

Interpretation

2.—(1) In these Regulations—

"active substance" has the meaning assigned to it in regulation 2(1) of the Plant Protection Products Regulations;

"aerial application" means the application of a prescribed plant protection product from an aircraft in flight;

"the Department" means the Department of Agriculture for Northern Ireland;

"ground water" means any waters contained in underground strata;

"organism" means any animal, plant, fungus or micro-organism capable of carrying on life processes;

(**1**) 1985 c. 48; sections 16 and 25(2)(*b*) were amended by the Pesticides (Fees and Enforcement) Act 1989 c. 27
(**2**) Established by S.R. 1987 No. 341

"the Plant Protection Products Regulations" means the Plant Protection Products Regulations (Northern Ireland) 1995(**3**);

"prescribed plant protection product" has the meaning assigned to it in regulation 3;

"sell" includes offer or expose for sale or have in possession for the purpose of sale;

"substance" means any chemical element or compound which occurs naturally or by manufacture and includes any impurity which results from the manufacturing process;

"supply" includes offer to supply;

"surface water" means estuarial and coastal waters and any lake, lough, pond, reservoir, river, stream or watercourse including the bottom, channel or bed of any lake, lough, pond, reservoir, river, stream or, as the case may be, watercourse which is for the time being dry.

(2) The Interpretation Act (Northern Ireland) 1954(**4**) shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

Meaning of "prescribed plant protection product"

3.—(1) In these Regulations "prescribed plant protection product" means any plant protection product (as that expression is defined in regulation 2(1) of the Plant Protection Products Regulations) —

(a) the placing on the market and use of which is subject to the prohibitions specified in regulation 3(1) and (2) of the Plant Protection Products Regulations(**5**), or which is approved under regulation 9 of those Regulations(**6**); and

(b) which is a substance, preparation or micro-organism to which paragraph (2) applies.

(2) This paragraph applies to any substance, preparation or micro-organism—

(a) prepared or used for destroying any pest;

(b) prepared or used for protecting plants or plant products from harmful organisms or for rendering harmful creatures harmless;

(c) prepared or used for regulating the growth of plants.

(3) In this regulation—

"pest" means—

(a) any organism harmful to plants or plant products;

(b) any undesired plant; and

(c) any harmful creature;

"preparation" means a mixture or solution composed of two or more substances.

(**3**) S.R. 1995 No. 371, amended by S.R. 1996 No. 456
(**4**) 1954 c. 33 (N.I.)
(**5**) In principle the prohibitions specified in regulation 3(1) and (2) (which provide that a person shall not place on the market nor use any plant protection product within Northern Ireland unless that product has been approved under those Regulations) apply to all plant protection products but Schedule 3 to those Regulations contains transitional provisions whereby plant protection products containing active substances which were on the market of the member States of the European Community and other States of the European Economic Area on or before the dates specified in the definition of "old active substance" in regulation 2(1) of those Regulations do not become subject to the prohibitions specified in regulation 3(1) and (2) until it has been decided, under Article 6 of the Directive, whether the active substances concerned should, or should not, be included in Annex I to the Directive. Until such a decision has been taken such products are subject to the Control of Pesticides Regulations (Northern Ireland) 1987 (S.R. 1987 No. 414)
(**6**) Regulation 9 prohibits the carrying out of any experiment or test for research or development purposes involving the release into the environment of a plant protection product which has not been approved under the Plant Protection Products Regulations unless an approval for trial purposes has been granted by the Department under that regulation; under regulation 3(4) a plant protection product which is so approved is exempted from the prohibitions specified in regulation 3(1) and (2)

Prohibitions as to advertisement, storage, sale, supply and use

4.—(1) A person shall not advertise any prescribed plant protection product unless—

(a) the Department has given an approval under regulation 5 to the advertisement of that plant protection product;

(b) the Department has given a consent under regulation 7(*a*) to the advertisement of prescribed plant protection products; and

(c) (i) the conditions of the approval related to advertisement; and

(ii) the conditions of the consent,

have been complied with.

(2) A person shall not store any prescribed plant protection product unless—

(a) the Department has given an approval under regulation 6 to the storage of that plant protection product;

(b) the Department has given a consent under regulation 7(*b*) to the storage of prescribed plant protection products; and

(c) the conditions of—

(i) the approval related to storage or required by the approval to be specified on the labelling; and

(ii) the consent,

have been complied with.

(3) A person shall not sell any prescribed plant protection product unless—

(a) the Department has given a consent under regulation 7(*b*) to the sale of prescribed plant protection products; and

(b) the conditions of the consent have been complied with.

(4) A person shall not supply any prescribed plant protection product unless—

(a) the Department has given a consent under regulation 7(*b*) to the supply of prescribed plant protection products; and

(b) the conditions of the consent have been complied with.

(5) A person shall not use any prescribed plant protection product unless—

(a) the Department has given a consent under regulation 7(*c*) to the use of prescribed plant protection products; and

(b) the conditions of the consent imposed under regulation 7(*c*)(i) have been complied with; and

(c) in the case of prescribed plant protection products used by aerial application, the conditions of the consent imposed under regulation 7(*c*)(ii) have been complied with.

Approvals for advertisement

5.—(1) Subject to paragraphs (2) to (4), the Department may give its approval, in relation to any prescribed plant protection product which has been approved under the Plant Protection Products Regulations, to the advertisement of that plant protection product.

(2) Subject to paragraph (3), an approval given under this regulation may be given in the form of an approval, expiring at the end of the period for which the plant protection product has been approved under the Plant Protection Products Regulations or, where the Department has granted a period of grace under regulation 13(6) of those Regulations for the disposal, storage, placing on the market and use of existing stocks, at the end of such period.

(3) An approval given under this regulation may be given subject to conditions imposed when or after it is given and the Department may at any time amend such conditions.

(4) The Department may at any time review, revoke or suspend an approval given under this regulation.

Approvals for storage

6.—(1) Subject to paragraphs (2) to (4), the Department may give its approval, in relation to any prescribed plant protection product which has been approved under the Plant Protection Products Regulations, to the storage of that plant protection product.

(2) Subject to paragraph (3), an approval given under this regulation may be given in the form of—

(a) an approval, expiring at the end of the period for which the plant protection product has been approved under the Plant Protection Products Regulations or, where the Department has granted a period of grace under regulation 13(6) of those Regulations for the disposal, storage, placing on the market and use of existing stocks, at the end of such period; or

(b) an experimental permit, to enable testing and development to be carried out with a view to providing the Department with safety and other data.

(3) An approval given under this regulation may be given subject to conditions imposed when or after it is given and the Department may at any time amend such conditions.

(4) The Department may at any time review, revoke or suspend an approval given under this regulation.

Consents as to advertisement, sale, supply, storage and use

7. The Department may give its consent to—

(a) the advertisement of prescribed plant protection products, subject to the conditions specified in Schedule 1;

(b) the sale, supply and storage of prescribed plant protection products, subject to the conditions specified in Schedule 2;

(c) the use of prescribed plant protection products, subject to—

(i) the conditions specified in Schedule 3; and

(ii) in the case of the use of prescribed plant protection products by aerial application, the conditions specified in Schedule 4,

and where it has given a consent under this regulation the Department shall publish, in such manner as it considers appropriate, a notice specifying the fact.

Seizure and disposal of prescribed plant protection products

8. Where there has been a breach, in relation to any prescribed plant protection product, of any of the specified prohibitions imposed by regulation 4, any condition of an approval imposed under regulation 5 or 6 or any condition of a consent given under regulation 7, any Northern Ireland Department shall have the power—

(a) to seize or dispose of the plant protection product or require the holder of the approval, or any other person appearing to that Department to be the owner or the person in charge of that plant protection product, to dispose of it;

(b) to seize or dispose of anything treated with the plant protection product or require any person appearing to that Department to be the owner or the person in charge of anything so treated to dispose of it;

(c) to require the holder of the approval, or any other person appearing to that Department to be the owner or the person in charge of the plant protection product, to take such remedial action as appears to that Department to be necessary as a result of the contravention including, where it appears to be necessary as a result of the contravention, recovery of the plant protection product from the market in Northern Ireland.

Release of information to the public

9.—(1) The Department may, at the request of any person, at such reasonable time and place as it may determine, make any evaluation held by it available to that person for inspection.

(2) The Department may, at the request of any person, supply that person with a copy of any evaluation held by it on payment of such fee (which may not exceed the cost reasonably attributable to the supply) as the Department, with the consent of the Department of Finance and Personnel, may determine.

(3) The Department may, at the request of any person to whom an evaluation has been made available for inspection under paragraph (1) or to whom a copy of an evaluation has been supplied under paragraph (2), make available at such reasonable time and place as it may determine for inspection by that person any study reports held by it to which the evaluation relates.

(4) A person to whom any information or document has been made available for inspection under paragraph (1) or (3), or to whom a copy of any information or document has been furnished under paragraph (2), shall not make any commercial use of it nor, unless authorised in writing by the Department to do so, publish any part of it.

(5) In this regulation—

"approval" means any approval given under regulation 5 or 6(2)(*a*);

"commercial use", in relation to any information or document, includes the use of that information or document in any manner whatsoever in connection with the manufacture, distribution, importation, advertisement, sale, supply, storage, use or export of any plant protection product but does not include the use of that information or document for the purpose of books, journals or other publications with the written authorisation of the Department;

"evaluation" means a written evaluation of study reports or other data examined in the course of an appraisal of the active substance of a plant protection product leading to the giving of an approval, the amendment of any conditions imposed in relation to an approval, or the revocation of an approval, of that prescribed plant protection product;

"study reports" means study reports and any other data relating to an application for an approval or the continuance of an approval including the amendment of the conditions imposed in relation to an approval.

(6) This regulation is without prejudice to the provisions of the Environmental Information Regulations (Northern Ireland) 1993(**7**).

(**7**) S.R. 1993 No. 45, which implements in Northern Ireland Council Directive 90/313/EEC on the freedom of access to information on the environment (OJ No. L158, 23.6.90, p. 56); these Regulations provide for a general right of disclosure of information relating to the environment which is held by (inter alia) Government Departments (other than information capable of being treated as confidential) and specify certain requirements which must be observed in responding to requests for disclosure of such information