STATUTORY RULES OF NORTHERN IRELAND

1997 No. 469

PESTICIDES

Control of Pesticides (Amendment) 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, commencement and interpretation

1.—(1) These Regulations may be cited as the Control of Pesticides (Amendment) Regulations (Northern Ireland) 1997 and shall come into operation on 9th December 1997.

(2) The Interpretation Act (Northern Ireland) 1954(**3**) shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

Amendment of the Control of Pesticides Regulations (Northern Ireland) 1987

2. The Control of Pesticides Regulations (Northern Ireland) 1987(**4**) shall be amended in accordance with regulations 3 to 9.

3. In regulation 2 (Interpretation) for paragraph (1) there shall be substituted the following paragraph—

"(1) In these Regulations—

(**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
(**3**) 1954 c. 33 (N.I.)
(**4**) S.R. 1987 No. 414 as amended by regulation 21(3) of the Food Safety (Northern Ireland) Order 1991 (Consequential Modifications) Order (Northern Ireland) 1991 (S.R. 1991 No. 203)

"active ingredient" means a component of pesticide which fits it for use as a pesticide;

"aerial application" means the application of a pesticide from an aircraft in flight;

"approval" means an approval given by the Department under regulation 5 in relation to a pesticide;

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

"full approval" has the meaning assigned to it in regulation 5(2)(*c*);

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

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

"provisional approval" has the meaning assigned to it in regulation 5(2)(*b*);

"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.".

4. For regulation 3 there shall be substituted the following regulation—

"**Scope**

3.—(1) Subject to the following provisions of this regulation, these Regulations apply to—

(a) any pesticide; or

(b) any substance, preparation or organism prepared or used for any of the following purposes—

(i) protecting plants or wood or other plant products from harmful organisms;

(ii) regulating the growth of plants;

(iii) giving protection against harmful creatures;

(iv) rendering such creatures harmless;

(v) controlling organisms with harmful or unwanted effects on water systems (including sewage treatment works), buildings or other structures, or on manufactured products;

(vi) protecting animals against ectoparasites;

as if it were a pesticide.

(2) These Regulations do not apply to—

(a) organisms, other than bacteria, protozoa, fungi, viruses and mycoplasmas, used for destroying or controlling pests;

(b) substances, preparations or organisms whose use or sale within Northern Ireland is controlled under any of the following enactments—

(i) the Medicines Act 1968(**5**);

(**5**) 1968 c. 67

(ii) Part IV of the Agriculture Act 1970(**6**);

(iii) the Food Safety (Northern Ireland) Order 1991(**7**);

(iv) the Cosmetic Products (Safety) Regulations 1984(**8**);

(v) the Water Quality Regulations (Northern Ireland) 1994(**9**);

when those substances, preparations or organisms are used or sold for the purpose over which control under that enactment is exercised;

(c) substances, preparations or organisms controlled by the Marketing Authorisations for Veterinary Medicinal Products Regulations 1994(**10**);

(d) any plant protection product the placing on the market and use of which are subject to the prohibitions specified in regulation 3(1) and (2) of the Plant Protection Products Regulations (Northern Ireland) 1995(**11**) or which is approved under regulation 9 of those Regulations(**12**);

(e) substances, preparations or organisms prepared or used for the purpose of disinfecting, bleaching or sterilising any substance (including water), other than soils, compost or other growing medium;

(f) substances, preparations or organisms used in laboratories for the purpose of the micropropagation of plants or substances, preparations or organisms used in the production of novel food;

(g) substances, preparations or organisms designed and used for—

(i) the stimulation of the growth of plants, excluding materials which act as plant growth hormones, or which mimic the action of such materials;

(ii) the modification of micro-biological processes in soil, excluding soil sterilants;

(iii) assistance in the anaerobic fermentation of silage;

(h) substances, preparations or organisms designed and used for destroying or controlling pests by purely physical means;

(i) pesticides—

(i) used in adhesive pastes, decorative paper or textiles;

(ii) intended solely for exportation from the United Kingdom;

(iii) applied externally or by impregnation as part of a manufacturing process, other than—

(**6**) 1970 c. 40

(**7**) S.I. 1991/762 (N.I. 7)

(**8**) S.I. 1984/1260

(**9**) S.R. 1994 No. 221

(**10**) S.I. 1994/3142

(**11**) S.R. 1995 No. 371 amended by S.R. 1996 No. 456, which implements in Northern Ireland Council Directive 91/414/EEC concerning the placing of plant protection products on the market (O.J. No. L230, 19.8.1991, p. 1). In principle the prohibitions specified in regulation 3(1) and (2) (which provide that a person shall not place on the market and 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 1 to the Directive

(**12**) 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)

(aa) in the preservation of timber or timber products, the production of food or the treatment of seed, compost or any other growing medium; or

(bb) for the purpose of preventing the fouling of the hulls of vessels or structures below the waterline; or

(cc) for the treatment of nets, floats or other apparatus to be used in the cultivation of fish;

(iv) used in preparations intended for topical application to human beings for the purpose of repelling insects;

(v) used in metal working fluids;

(vi) used in paint for the sole purpose of preserving the paint;

(vii) used in water-based cooling or heating systems, humidifying systems or swimming pools.

(3) In this regulation—

"disinfecting" means destroying micro-organisms other than bacterial spores;

"metal working fluid" means any fluid used to facilitate the cutting, drilling, forming or machining of metal;

"micropropagation" means the growth of plantlets from tissue culture or small parts of a plant in culture solution and under conditions which are sterile apart from the presence of the plant;

"mycoplasma" means a genus of organisms which have a unit membrane without a rigid cell wall and are highly pleomorphic, having no independent form or spore stage in the life cycle;

"novel food" has the same meaning as in Article 2(2) of the Food Safety (Northern Ireland) Order 1991;

"paint" includes surface coatings;

"placing on the market" and "plant protection product" have the same respective meanings as in the Plant Protection Products Regulations (Northern Ireland) 1995;

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

"soil sterilant" means a product used for sterilising soil or compost;

"sterilising" means destroying all micro-organisms including any bacterial spores.".

5. In regulation 5 (Approvals) for paragraph (2) there shall be substituted the following paragraph —

"(2) The Department's approval may be given in relation to a pesticide, in the form of—

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

(b) a provisional approval, for a stipulated period; or

(c) a full approval, for an unstipulated period.".

6. For regulation 6 there shall be substituted the following regulation—

"**Consents**

6. The Department may give its consent to—

(a) the advertisement of pesticides, subject to the conditions specified in Schedule 1;

(b) the sale, supply and storage of pesticides, subject to the conditions specified in Schedule 2;

(c) the use of pesticides, subject to—

(i) the conditions specified in Schedule 3; and

(ii) in the case of the use of pesticides 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.".

7. For regulation 7 there shall be substituted the following regulation—

"**Seizure or disposal of pesticides**

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

(a) to seize or dispose of the pesticide 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 pesticide, to dispose of it;

(b) to seize or dispose of anything treated with the pesticide 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 that pesticide 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 pesticide from the market in Northern Ireland.".

8. For regulation 8 there shall be substituted the following regulation—

"**Release of information to the public**

8.—(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), at such reasonable time and place as it may determine, make available 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—