1995 No. 371

PESTICIDES

Plant Protection Products Regulations (Northern Ireland) 1995

Made . . . . . *21st September 1995*

Coming into operation . . *6th November 1995*

ARRANGEMENT OF REGULATIONS

1. Citation and commencement
2. Interpretation
3. Prohibitions
4. Applications concerning active substances
5. Standard approvals
6. General requirements for granting of standard approvals
7. Provisional approvals
8. Emergency approvals
9. Approvals for research and development
10. Extensions of approved use
11. Mutual recognition of approvals
12. Provisional restrictions and prohibitions
13. Applications, reviews, revocations and modifications
14. Notification of information on potentially dangerous effects
15. Data protection
16. Duplication of experiments
17. Confidentiality
18. Packaging
19. Labelling
20. Seizure and disposal of plant protection products
21. General offences
22. Penalties
23. General defence of due diligence
24. Enforcement
25. Service of documents
26. Transitional provisions
27. Disapplication

Schedule 1. Non-confidential information

Schedule 2. Labelling

Schedule 3. Transitional provisions

The Department of Agriculture, being a Department designated(**a**) for the purposes of section 2(2) of the European Communities Act 1972(**b**) in relation to the common agricultural policy of the European Community, in exercise of the powers conferred on it by the said section 2(2) and of every other power enabling it in that behalf, hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Plant Protection Products Regulations (Northern Ireland) 1995 and shall come into operation on 6th November 1995.

Interpretation

2.—(1) In these Regulations—

"the 1985 Act" means the Food and Environment Protection Act 1985(**c**);

"active substance" means any substance or micro-organism, including a virus, having general or specific action against harmful organisms or on plants, parts of plants or plant products;

"animals" means animals belonging to species normally fed and kept or consumed by man;

"approval" in relation to a plant protection product means an administrative act under these Regulations by which the Department, following an application submitted by an applicant, approve the placing on the market or use of that plant protection product in the whole or any part of Northern Ireland and "approved" shall be construed accordingly;

"the Commission" means the Commission of the European Communities;

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

"the Directive" means Council Directive 91/414/EEC concerning the placing of plant protection products on the market(**d**), as amended by Commission Directive 93/71/EEC(**e**), Commission Directive 94/37/EC(**f**), Commission Directive 94/79/EC(**g**) and Council Directive 94/43/EC(**h**);

(**a**) S.I. 1972/1811
(**b**) 1972 c. 68; section 2 is subject to Schedule 2 to that Act and is to be read with S.I. 1984/703 (N.I. 3) and S.R. 1984 No. 253
(**c**) 1985 c. 48; sections 16, 18, 19 and 25 were amended by the Pesticides (Fees and Enforcement) Act 1989 (c. 27)
(**d**) O.J. No. L230, 19.8.91, p. 1 (to be read with Corrigenda published in O.J. No. L170, 25.6.92, p. 40)
(**e**) O.J. No. L221, 31.8.93, p. 27
(**f**) O.J. No. L194, 29.7.94, p. 65
(**g**) O.J. No. L354, 31.12.94, p. 16
(**h**) O.J. No. L227, 1.9.94, p. 31

"the EEA" means the European Economic Area established under the EEA Agreement;

"the EEA Agreement" means the Agreement on the EEA signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993(**a**);

"EEA State" means a State which is a Contracting Party to the EEA Agreement but until the EEA Agreement comes into force in relation to Liechtenstein does not include the State of Liechtenstein;

"the environment" means water, air, land, wild species of fauna and flora, and any interrelationship between them, as well as any relationship with living organisms;

"harmful organisms" means pests of plants or plant products belonging to the animal or plant kingdom, viruses, bacteria and mycoplasmas and other pathogens;

"integrated control" means the rational application of a combination of biological, biotechnological, chemical, cultural or plant-breeding measures whereby the use of chemical plant protection products is limited to the minimum strictly necessary to maintain harmful organisms below levels above which economically unacceptable damage or loss would occur;

"International Organisation for Standardisation" means the institution of that name founded in 1947 and currently having its headquarters at 1 Rue de Varembé, CP 56, 1211 Geneva 20, Switzerland;

"International Union of Pure and Applied Chemistry" means the institution of that name founded in 1919 and currently having its headquarters at Bank Court Chambers, 2-3 Pound Way, Templars Square, Cowley, Oxford OX4 3YF;

"member State" means member State of the European Communities;

"new active substance" means any active substance which is not an old active substance;

"old active substance" means any active substance which was on the market—

(*a*) in Austria, Finland, Iceland, Norway, Sweden and, in so far as Liechtenstein is an EEA State, Liechtenstein, on or before 1st July 1994;

(*b*) in other States within the EEA, on or before 26th July 1993;

"placing on the market" means any supply, whether in return for payment or not, within Northern Ireland, including importation into Northern Ireland from outside the EEA, other than a supply for storage followed by consignment from the EEA or disposal;

(**a**) The EEA Agreement came into force on 1st January 1994 (see Decision 94/ECSC, EEC; O.J. No. L1, 3.1.94, p. 1). Protocol 47 and certain Annexes to the EEA Agreement were amended by Decision No. 7/94 of the EEA Joint Committee, which came into force on 1st July 1994 (O.J. No. L160, 28.6.94, p. 1). Council Directive 91/414/EEC and Commission Directive 93/71/EEC (whose entry into force predated the entry into force of the EEA Agreement) were added to Chapter XV of Annex II to the EEA Agreement by item J in Annex 3 to that Decision (p. 44), thus extending these Directives to the EEA

"plants" means live plants and live parts of plants, including fresh fruit and seeds;

"plant products" means products derived from plants in the unprocessed state or having undergone only simple preparation such as milling, drying or pressing, but excluding plants themselves;

"plant protection product" means an active substance or a preparation containing one or more active substances, put up in the form in which it is supplied to the user, intended to—

(*a*) protect plants or plant products against all harmful organisms or prevent the action of such organisms;

(*b*) influence the life processes of plants, other than as a nutrient (for example, as a growth regulator);

(*c*) preserve plant products, in so far as such substances or products are not subject to provisions of Community law on preservatives;

(*d*) destroy undesired plants; or

(*e*) destroy parts of plants or check or prevent the undesired growth of plants;

"preparation" means a mixture or solution composed of two or more substances, of which at least one is an active substance, and which is intended for use as a plant protection product;

"the relevant competent authorities" means the competent authorities of the member States, other than the United Kingdom, as defined in a list of addresses published by the Department from time to time;

"residue" in relation to a plant protection product means one or more substances present in or on plants or products of plant origin, edible animal products or elsewhere in the environment and resulting from the use of that plant protection product, including its metabolites and products resulting from its degradation or reaction;

"substance" means any chemical element and its compounds, as they occur naturally or by manufacture, including any impurity inevitably resulting from the manufacturing process;

"the 1987 Regulations" means the Control of Pesticides Regulations (Northern Ireland) 1987(**a**).

(2) In these Regulations—

(*a*) any reference to a numbered Article shall be construed as a reference to the Article so numbered in the Directive; and

(*b*) any reference to a numbered Annex shall be construed as a reference to an Annex so numbered of the Directive.

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

(**a**) S.R. 1987 No. 414
(**b**) 1954 c. 33 (N.I.)

Prohibitions

3.—(1) A person shall not place on the market any plant protection product unless—

(*a*) it has been approved under regulation 5, 7, 8 or 11; and

(*b*) it is placed on the market in accordance with any requirement or condition which is specified in the approval.

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

(*a*) it has been approved under regulation 5, 7, 8 or 11;

(*b*) it is used in accordance with any requirement or condition which is—

(i) specified in the approval or in any extension of use granted under regulation 10; or

(ii) required by the approval or extension of use to be on the labelling;

(*c*) it is used in accordance with the principles of good plant protection practice; and

(*d*) whenever possible, it is used in accordance with the principles of integrated control.

(3) A person shall not place on the market any new active substance unless he has made an application for the inclusion of that active substance in Annex I in accordance with regulation 4(1) and has lodged with the Department a declaration that the active substance is intended for use in a plant protection product(**a**).

(4) Paragraphs (1), (2) and (3) shall not apply to any plant protection product or active substance which is approved under regulation 9.

(5) Nothing in these Regulations shall impede the production, storage or movement within Northern Ireland of a plant protection product intended for use in another EEA State, provided that—

(*a*) the product is authorised by the competent authority of that EEA State for use in that EEA State; and

(*b*) the inspection requirements laid down by that EEA State in order to ensure compliance with Article 3(1)(**b**) are satisfied.

(6) Any person who contravenes or causes or permits any person to contravene paragraph (1), (2)(*a*) or (*b*) or (3) shall be guilty of an offence.

Applications concerning active substances

4.—(1) Any person who applies for the inclusion of a new active substance in Annex I shall submit to the Department, the relevant competent authorities and the Commission a dossier which satisfies the requirements of Annex II, together with a dossier complying with Annex III on at least one preparation containing that active substance.

(**a**) Under Article 3(4) it is also provided that a person shall not place any active substance on the market unless it is classified, packaged and labelled in accordance with Council Directive 67/548/EEC, which is implemented in Northern Ireland by the Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 1995 (S.R. 1995 No. 60)

(**b**) Under Article 3(1) EEA States must prescribe that plant protection products may not be placed on the market and used in their territory unless they have authorised the product in accordance with the Directive