1987 No. 414

PESTICIDES

Control of Pesticides Regulations (Northern Ireland) 1987

Made . . . . . *4th November 1987*

Coming into operation . . *1st January 1988*

To be laid before Parliament under paragraph 3(3) of Schedule 1 to the Northern Ireland Act 1974

The Department of Agriculture, in exercise of the powers conferred on it by sections 16(2) and 24(3) of the Food and Environment Protection Act 1985(**a**) and of every other power enabling it in that behalf, having had 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(**b**), 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 Control of Pesticides Regulations (Northern Ireland) 1987 and shall come into operation on 1st January 1988.

Interpretation

2.—(1) In these regulations—

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

"adjuvant" means a substance (other than water), without significant pesticidal properties, which enhances or is intended to enhance the effectiveness of a pesticide, when it is added to that 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;

"curtilage" means the land attached to a building and forming one enclosure with it;

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

"evaluation" means a written evaluation of study reports or other data examined in the course of an appraisal by the Department of a pesticide in relation to which approval is sought;

(a) 1985 c. 48
(b) Established by S.R. 1987 No. 341

"experimental permit" has the meaning given by regulation 5(2)(*a*);

"full approval" has the meaning given by regulation 5(2)(*c*);

"local beekeepers' spray warning scheme" means any scheme for the advance notification of the application of pesticides, organised by local beekeepers and notified to the Department;

"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 that 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" means any food or food ingredient produced from raw material which hitherto has not been used for human consumption or has been so used only in small amounts, or produced by new or extensively modified processes not previously used in the production of food;

"paint" includes surface coatings;

"provisional approval" has the meaning given by regulation 5(2)(*b*);

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

"supply" includes offer to supply;

"soil sterilant" means a substance used to control harmful organisms in soil or compost.

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

Scope

3.—(1) Subject to the provisions of this regulation, these regulations apply to pesticides and to any substance, preparation or organism prepared or used for any of the following purposes—

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

(*b*) regulating the growth of plants;

(*c*) giving protection against harmful creatures;

(*d*) rendering such creatures harmless;

(*e*) controlling organisms with harmful or unwanted effects on water systems, buildings or other structures, or on manufactured products;

(*f*) 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;

(**a**) 1954 c. 33 (N.I.)

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

Medicines Act 1968(**a**);

Agriculture Act 1970, Part IV(**b**);

Food and Drugs Act (Northern Ireland) 1958(**c**);

The Cosmetic Products (Safety) Regulations 1984(**d**),

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

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

(*d*) substances used in laboratories for the purpose of the micropropagation of plants or substances used in the production of novel food;

(*e*) substances 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;

(*f*) pesticides—

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

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

(iii) used as part of a manufacturing process, other than for the purpose of preserving timber or timber products or in the production of food;

(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;

(vii) used in water supply systems or in swimming pools.

(3) Notwithstanding sub-paragraph (2)(*f*)(iii) and (vi) "pesticides" in paragraph (1) shall include paints used to prevent the fouling of the hulls of vessels or structures below the waterline, or applied to nets, floats or other apparatus used in the cultivation of fish.

Prohibitions

4.—(1) A person shall not advertise a pesticide unless—

(*a*) the Department has given a provisional or full approval under regulation 5 in relation to that pesticide and a consent under regulation 6(*a*); and

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(a) 1968 c. 67
(b) 1970 c. 40
(c) 1958 c. 27 (N.I.)
(d) S.I. 1984/1260

(*b*) any conditions of the approval related to advertisement and the conditions of the consent have been complied with.

(2) A person shall not sell a pesticide unless—

(*a*) the Department has given a provisional or full approval under regulation 5 in relation to that pesticide and a consent under regulation 6(*b*); and

(*b*) any conditions of the approval related to sale and the conditions of the consent have been complied with.

(3) A person shall not supply a pesticide unless—

(*a*) the Department has given an approval under regulation 5 in relation to that pesticide and a consent under regulation 6(*b*); and

(*b*) any conditions of the approval related to supply and the conditions of the consent have been complied with.

(4) A person shall not store a pesticide unless—

(*a*) the Department has given an approval under regulation 5 in relation to that pesticide and a consent under regulation 6(*b*); and

(*b*) any conditions of the approval related to storage and the conditions of the consent have been complied with.

(5) A person shall not use a pesticide unless—

(*a*) the Department has given an approval under regulation 5 in relation to that pesticide and a consent under regulation 6(*c*); and

(*b*) (i) the conditions of the approval related to use,

(ii) the conditions of the consent imposed under regulation 6(*c*)(i), and,

(iii) in the case of pesticides applied from an aircraft in flight, the additional conditions of the consent imposed under regulation 6(*c*)(ii),

have been complied with.

Approvals

5.—(1) Subject to the provisions of this regulation, the Department may give approval in relation to a pesticide of any description.

(2) Approval by the Department 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 safety and other data;

(*b*) a provisional approval, for a stipulated period with a view to satisfying outstanding data requirements; or

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

(3) Each approval may authorise the use, supply and storage of the pesticide to which it relates and a provisional approval or a full approval may in addition authorise the sale and advertisement of that pesticide.

(4) An approval may be given subject to conditions imposed when or after it is given.

(5) The Department may, at any time—

(*a*) review, revoke or suspend an approval, or

(*b*) amend the conditions of an approval.

Consents

6. The Department may by notice in the Belfast Gazette give consent to—

(*a*) the advertisement of pesticides subject to such of the basic conditions set out in Schedule 1 and any further conditions as may be specified by such a notice;

(*b*) the sale, supply and storage of pesticides subject to such of the basic conditions set out in Schedule 2 and any further conditions as may be specified by such a notice;

(*c*) the use of pesticides subject to—

(i) such of the basic conditions set out in Schedule 3 and any further conditions that may be specified by such a notice, and,

(ii) in the case of pesticides applied from an aircraft in flight, such of the additional basic conditions set out in Schedule 4 and any further conditions as may be specified by such a notice.

Seizure or disposal of pesticides

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

(*a*) to seize or dispose of the pesticide or to require that some other person shall dispose of it;

(*b*) to seize or dispose of anything treated with the pesticide or to require that some other person shall dispose of any such thing;

(*c*) to direct some other person to take such remedial action as appears to that Department to be necessary as a result of the contravention.

Release of information to the public

8.—(1) Upon the giving of a provisional approval or of a full approval or amendment of the conditions imposed upon an approval, the Department may at the request of any person make available to him for inspection, on such conditions as the Department may determine, an evaluation of the pesticide in relation to which that approval was given or its conditions were amended.

(2) If a person satisfies the Department that an evaluation made available for inspection under paragraph (1) gives insufficient information for his purposes, the Department may make available for his inspection, at such times and on such conditions as may be determined by the Department, the study reports (or other data) supplied in support of an application for the approval.

(3) A copy of an evaluation or study report may be furnished by the Department on payment of such reasonable fees as the Department, with the consent of the Department of Finance and Personnel, may determine.

(4) A person to whom an evaluation or a study report has been made available for inspection by virtue of paragraphs (1) and (2) shall not make any