1987 No. 364

HEALTH AND SAFETY

AGRICULTURE

Agriculture (Poisonous Substances) Regulations (Northern Ireland) 1987

Made . . . . . 11th September 1987

Coming into operation . . . 19th October 1987

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The Department of Agriculture being the Department concerned in exercise of the powers conferred on it by Article 17(1), (2), (4), (5) and (6) of and paragraphs 1(1), (2) and (3), 6, 7(1), 8, 9, 10, 13, 14(1) and 15 of Schedule 3 to the Health and Safety at Work (Northern Ireland) Order 1978(a) and of every other power enabling it in that behalf, and after consultation, in accordance with Article 46(1) of that Order, with the Health and Safety Agency for Northern Ireland and such other bodies as appear to the Department to be appropriate, hereby makes the following Regulations:

(a) S.I. 1978/1039 (N.I. 9)

Citation and commencement

1. These Regulations may be cited as the Agriculture (Poisonous Substances) Regulations (Northern Ireland) 1987 and shall come into operation on 19th October 1987.

Interpretation

2.—(1) In these Regulations—

"aerosol" means a suspension of particles in air produced by spraying in which more than one-half of the quantity of the material sprayed is in the form of particles of less than 30 micrometres in diameter and "aerosol dispenser" means a spraying apparatus so constructed as to produce an aerosol;

"agriculture" includes horticulture, fruit growing, seed growing, dairy farming, livestock breeding and keeping, forestry, the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the preparation of land for agricultural use;

"agricultural unit" means land occupied as a unit for agricultural purposes;

"approved respiratory protective equipment" has, subject to paragraph (2), the meaning assigned to it by Part I of Schedule 1;

"bulb dipping, root dipping and bulb steeping" means any process in which the bulbs or roots of plants are treated with a specified substance by immersing them in a receptacle containing a specified substance in liquid form;

"the Department" means the Department of Agriculture;

"forestry" includes—

(*a*) the felling of trees and the extraction and primary conversion of trees within the wood or forest in which they were grown, and

(*b*) the use of land for woodlands where that use is ancillary to the use of land for other agricultural purposes;

"granule placement" means the process whereby a specified substance in granular form is deposited on or in the soil or on plants, and "granule placement apparatus" includes any apparatus or device through or by means of which granule placement is carried out;

"greenhouse" means any enclosed building or erection in which plants are grown;

"livestock house" means an enclosed building or erection in which livestock are reared or kept, and "livestock" means any creature kept for the production of food, wool, skins, or fur, or for the purpose of its use in the carrying on of any agricultural activity;

"plant" means any form of vegetable life and includes mushrooms;

"preparation" means a mixture containing a specified substance in the form in which that mixture is supplied by its manufacturer or importer for use in a scheduled operation;

"protective clothing" means the clothing and equipment (including approved respiratory protective equipment) required by these Regulations to be worn and references to articles of protective clothing

of which there are definitions in Part I of Schedule 1 shall be construed as references to the protective clothing so defined;

"scheduled operation" means an operation specified in column 1 of Part II of Schedule 1 when carried out in connection with the use in agriculture of the specified substance mentioned opposite thereto in column 2 of that Part;

"sheeting" means any sheeting of a flexible solid material used to cover soil when the operation of soil-injection is carried out;

"slow release" means the gradual release of a specified substance from material impregnated with that substance either—

(*a*) into the air, soil or water over a period of not less than 30 days, or

(*b*) into the digestive system of an animal during the period of time taken by the impregnated material to pass through the animal's intestinal tract;

"smoke-generator" includes any device by means of which a specified substance is thermally distributed;

"smoke shreds" means shreds of combustible material, chemically treated to promote burning and impregnated with a specified substance;

"soil-application" means the process whereby a specified substance is discharged or released in unbroken liquid form directly onto or into the soil;

"soil-injection" means the process whereby a specified substance is discharged or released in unbroken liquid form directly into the soil wholly below the surface in order to fumigate it, but does not include soil-application;

"specified substance" means any substance specified in column 2 of Schedule 2 and any preparation except—

(*a*) a preparation used exclusively as an insecticide where the only such substance contained in it is not more than 5 per cent. by weight DNOC,

(*b*) a preparation where the only such substance contained in it is not more than 5 per cent. by weight chloropicrin,

(*c*) a preparation where the only such substance contained in it is not more than 7.5 per cent. by weight nicotine,

(*d*) an aerosol where the only such substance contained in it is not more than 1 per cent. by weight thereof, or

(*e*) a material impregnated with a specified substance for slow release,

and any reference to a specified substance includes a reference to that substance when it is diluted to the concentration at which it is to be used in a scheduled operation;

"specified substance in capsule form" means a specified substance prepared in such manner, approved by the Department, that it is completely isolated from a person handling the capsule by some substance that is not poisonous;

"specified substance in granular form" means a preparation—

(*a*) which consists of absorbent mineral or synthetic (or part mineral and part synthetic) solid particles some or all of which are impregnated with one or more specified substances, the size of the particles being such that—

(i) not more than 4 per cent. (including the 1 per cent. referred to below) by weight of the preparation is capable of passing a sieve with a mesh of 250 micrometres, and

(ii) not more than 1 per cent. by weight of the preparation is capable of passing a sieve with a mesh of 150 micrometres,

and not more than 25 per cent. of the aggregate weight of particles capable of passing a sieve with a mesh of 150 micrometres consists of one or more specified substances,

(*b*) which has an apparent density of not less than 0.4 grams per millilitre if compacted without pressure, and

(*c*) not more than 12 per cent. by weight of which consists of one or more specified substances;

"spraying" means any operation whereby plants or soil in which plants are being or are to be grown is treated with a specified substance except—

(*a*) soil-application and soil-injection,

(*b*) bulb dipping, root dipping and bulb steeping, or

(*c*) treatment with a specified substance in either capsule or granular form.

(2) For the purposes of these Regulations, respiratory protective equipment shall be deemed to be approved by the Department if such equipment is of a type previously approved in writing by the Health and Safety Executive as a type of protective equipment that will protect, so far as is reasonably practicable, a person wearing that equipment from poisoning by a specified substance.

(3) In these Regulations a reference to—

(*a*) the common name (if any) of a specified substance listed in Schedule 2 in column 1 means the specified substance named opposite thereto in column 2;

(*b*) dinoseb, dinoterb, DNOC, medinoterb or nicotine includes a reference to their respective salts.

Application of these Regulations to self-employed persons

3. Regulations 4 to 9, 11, 14 and 16 shall apply to self-employed persons as they apply to employers and to employees respectively and as if a self-employed person were both an employer and an employee.

Operations prohibited except when protective clothing is worn

4.—(1) This regulation applies in relation to the carrying out of a scheduled operation which an employee carries out either—

(*a*) as the principal or only person engaged in carrying it out; or

(*b*) as a member of a team of persons if he is in danger of being poisoned by the specified substance that is used.

(2) The employer shall ensure that a scheduled operation is not carried out unless every person engaged in it to whom this regulation applies is wearing the protective clothing specified in the entry in Part II of Schedule 1 in column 3 which corresponds to—

(*a*) the scheduled operation which is described in column 1; and

(*b*) the specified substance being used in the scheduled operation described in column 2.

(3) An employee who carries out a scheduled operation shall wear the protective clothing required to be worn by paragraph (2) while carrying out that operation.

Additional provisions relating to greenhouses and livestock houses

5.—(1) This regulation applies when a specified substance is used in a greenhouse or livestock house, except where it is used in capsule form, and it shall cease to apply—

(*a*) where chloropicrin is used, when the sheeting has been removed and the greenhouse has been thoroughly ventilated;

(*b*) in any other case, when—

(i) a period of 6 hours has elapsed since the specified substance was used, and a sufficient number of windows in the greenhouse or livestock house have been open for at least 1 hour after the expiration of that period to ensure ventilation; or

(ii) a period of 12 hours has elapsed since the specified substance was used.

(2) During the period when this regulation applies, a person shall not enter or be present in and a person shall not cause or permit another person to enter or be present in any greenhouse or livestock house in which a specified substance has been used unless the person, while in the greenhouse or livestock house, is wearing the protective clothing required by regulation 4 to be worn by a person engaged in the scheduled operation in which the specified substance was used.

(3) During the period when this regulation applies, the occupier of the agricultural unit on which the greenhouse or livestock house in which the specified substance was used is situated shall ensure that at all times when a person is present in that greenhouse or livestock house there is provided a means by which he may easily escape from it.

(4) During the period when this regulation applies, the occupier of the agricultural unit on which the greenhouse or livestock house is situated shall ensure that, immediately after a specified substance has been used, every door of that greenhouse or livestock house is closed and safely secured (except any door which is for the time being required as a means of escape in accordance with paragraph (3)) and that a warning notice is affixed to the outside of each door stating that a specified substance has been used, the time at which it was used and the effect of paragraphs (1) and (2).