

## SCHEDULE 4

Regulation 27

### TRANSITIONAL PROVISIONS

#### **Application of these Regulations and of the 1986 Regulations to relevant plant protection products**

1. Notwithstanding regulation 3(1) and (2) and subject to the remaining provisions of this Schedule—

- (a) these Regulations shall not apply; and
- (b) the 1986 Regulations shall continue to apply,

to a relevant plant protection product.

2. Notwithstanding paragraph 1 above, and subject to paragraphs 3 and 4 below, regulations 1, 2 and 9 and (insofar as they relate to approvals granted under regulation 9) regulations 13(2) and (5) to (8), 14, 17 and 20 to 28 shall apply to a relevant plant protection product.

3. Regulation 9 shall not apply to a relevant plant protection product to which any of the exemptions provided in regulation 3(2)(a) to (c) and (e) to (j) of the 1986 Regulations applies.

4. Notwithstanding regulation 28(2), a pesticide approval in respect of a relevant plant protection product given in the form of an experimental permit under regulation 5(a) of the 1986 Regulations which was in force on 13th November 1997 shall continue to be subject to the 1986 Regulations and shall continue in force until the date of expiry of such approval or earlier revocation under those Regulations.

#### **Effect of Annex I decisions on the placing on the market and use of relevant plant protection products which are not approved pesticides**

5. Where in relation to a relevant plant protection product which is not an approved pesticide it is decided under Article 6—

- (a) that the relevant active substances of that product should be included in Annex I, or
- (b) that any of the relevant active substances of that product should not be included in Annex I,

the placing on the market and use of that product shall become subject to the prohibitions specified in regulation 3(1) and (2).

#### **Effect of a refusal to include an active substance in Annex I on relevant plant protection products which are approved pesticides**

6. Where, in relation to a relevant plant protection product which is an approved pesticide, it has been decided under Article 6 that any of its relevant active substances should not be included in Annex I, the Scottish Ministers shall notify the pesticide approval holder of that decision and shall take the action described in paragraph 9(1) below.

#### **Effect of a decision to include active substances in Annex I on relevant plant protection products which are approved pesticides**

7.—(1) Where, in relation to any relevant plant protection product which is an approved pesticide, it has been decided under Article 6 that its relevant active substances should be included in Annex I, the Scottish Ministers shall notify the pesticide approval holder of that fact and the pesticide approval holder shall, within such period as the Scottish Ministers may determine and notify to the pesticide approval holder, provide information to the Scottish Ministers to show:

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- (a) that the relevant active substances contained in the plant protection product comply with the conditions of Annex I inclusion; and
- (b) that the pesticide approval holder has access to a dossier satisfying the requirements of Annex II.

(2) After having submitted to the Scottish Ministers the information required under paragraph (1) above, the pesticide approval holder may continue to place on the market and use the relevant plant protection product until such time as the Scottish Ministers notify the pesticide approval holder of their decision that they are or are not satisfied that the information provided shows that the relevant active substances comply with the conditions of Annex I inclusion and that the pesticide approval holder has access to a dossier satisfying the requirements of Annex II.

(3) Where the pesticide approval holder fails to provide adequate information to enable the Scottish Ministers to reach a decision, the Scottish Ministers shall notify the pesticide approval holder of that failure and the pesticide approval holder shall, within such reasonable period as may be specified in the notification, submit further information to the Scottish Ministers to enable them to reach a decision.

(4) Where the Scottish Ministers decide that the information provided under paragraph (1) above fails to show that the relevant active substances comply with the conditions of Annex I inclusion and that the pesticide approval holder has access to a dossier satisfying the requirements of Annex II they shall take the action described in paragraph 9(1) below.

**8.—(1)** Where the Scottish Ministers have determined that the information provided by the pesticide approval holder under paragraph 7 above shows that the relevant active substances comply with the conditions of Annex I inclusion and that the pesticide approval holder has access to a dossier satisfying the requirements of Annex II they shall notify the pesticide approval holder of that fact and the pesticide approval holder shall, within such period as the Scottish Ministers may determine and notify to the pesticide approval holder, make an application for an approval of the relevant plant protection product under regulation 5.

(2) The pesticide approval holder may continue to place on the market and use the relevant plant protection product until such time as the Scottish Ministers notify the pesticide approval holder of their decision to grant or refuse an approval under regulation 5.

(3) Where the pesticide approval holder fails to provide adequate information to enable the Scottish Ministers to consider the application, the Scottish Ministers shall notify the pesticide approval holder of that failure and the pesticide approval holder shall, within such reasonable period as may be specified in the notification, submit further information to the Scottish Ministers to enable them to consider the application.

### **Revocation of pesticide approval**

**9.—(1)** The Scottish Ministers shall, at the same time as they notify a pesticide approval holder of a decision mentioned in paragraph 6, 7(4) or 8(2) above, revoke the pesticide approval.

(2) The Scottish Ministers may, if any pesticide approval holder fails to comply with a notification given under paragraph 7(1) or (3) or 8(1) or (3) above, revoke the pesticide approval.

(3) Where the Scottish Ministers revoke a pesticide approval under sub paragraph (1) or (2) above, they may revoke that approval—

- (a) completely;
- (b) in the manner specified in sub-paragraph (4) below; or
- (c) in the manner specified in sub-paragraph (5) below.

(4) When revoking an approval in the manner mentioned in paragraph (b) of sub paragraph (3) above, the Scottish Ministers shall—

- (a) subject to sub paragraph (b) below, revoke that approval in so far as it authorises the advertisement, sale, storage, supply and use of that product; and
  - (b) in the form of a provisional approval granted under regulation 5 of the 1986 Regulations for a period not exceeding one year commencing with the date of that revocation, authorise—
    - (i) the storage of that product by any person; and
    - (ii) the advertisement, sale, supply and use of that product by any person other than the pesticide approval holder or the pesticide approval holder’s employees or agents.
- (5) When revoking an approval in the manner mentioned in paragraph (c) of sub paragraph (3) above, the Scottish Ministers shall—
- (a) subject to sub paragraphs (b) and (c) below, revoke that approval in so far as it authorises the advertisement, sale, supply, storage and use of that product;
  - (b) in the form of a provisional approval granted under regulation 5 of the 1986 Regulations for a period not exceeding one year commencing with the date of that revocation, authorise the advertisement, sale, storage, supply and use of that product by any person; and
  - (c) in the form of a provisional approval granted under regulation 5 of the 1986 Regulations for a period, not exceeding one year following the end of the period of provisional approval granted under sub paragraph (b) above, authorise—
    - (i) the storage of that product by any person; and
    - (ii) the advertisement, sale, supply and use of that product by any person other than the pesticide approval holder or the pesticide approval holder’s employees or agents.

### **Effect of revocation on the placing on the market and use of the product**

**10.**—(1) Where the Scottish Ministers have revoked a pesticide approval in relation to any plant protection product under paragraph 9(1) or (2) above completely, the placing on the market and use of that product shall become subject to the prohibitions specified in regulation 3(1) and (2) forthwith.

(2) Where the Scottish Ministers have revoked a pesticide approval in relation to any plant protection product in the manner specified in paragraph 9(4) above, the placing on the market and use of that product shall become subject to the prohibitions specified in regulation 3(1) and (2) on the expiry of the period of the provisional approval granted under paragraph 9(4)(b) above.

(3) Where the Scottish Ministers have revoked a pesticide approval in relation to any plant protection product in the manner specified in paragraph 9(5) above, the placing on the market and use of that product shall become subject to the prohibitions specified in regulation 3(1) and (2) on the expiry of the period of the provisional approval granted under paragraph 9(5)(c) above.

### **Notifications**

**11.** Any notification given by the Scottish Ministers under this Schedule shall be in writing.

### **Interpretation**

**12.** For the purposes of this Schedule—

“approved pesticide” means a pesticide which is the subject of a pesticide approval;

“pesticide approval” means approval of a pesticide given under regulation 5 of the 1986 Regulations;

“pesticide approval holder” means any person who holds a current pesticide approval;

“relevant active substance” means an active substance contained in a relevant plant protection product which is an approved pesticide;

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“relevant plant protection product” means any plant protection product—

- (a) which is a pesticide, or substance, preparation or organism prepared or used for any of the purposes mentioned in regulation 3(1)(b) of the 1986 Regulations; and
- (b) at least one of whose active ingredients is an old active substance; and

“active ingredient”, “advertisement”, “organism”, “pesticide”, “preparation”, “sale”, “storage”, “substance”, “supply” and “use” have the same meanings as in the 1986 Regulations.