
STATUTORY INSTRUMENTS

1997 No. 188

The Control of Pesticides (Amendment) Regulations 1997

Title, commencement and interpretation

1.—(1) These Regulations may be cited as the Control of Pesticides (Amendment) Regulations 1997 and shall come into force on the day after the day on which they are made.

(2) In these Regulations “the principal Regulations” means the Control of Pesticides Regulations 1986(1).

Amendment of the principal Regulations

2. The principal Regulations shall be amended in accordance with regulations 3 to 9 of these Regulations and any reference in those provisions to any specified provision shall, unless the context requires otherwise, be taken to be a reference to the provision so specified of the principal Regulations.

3. For paragraph (1) of regulation 2 there shall be substituted the following paragraph—

“(1) In these Regulations, unless the context otherwise requires—

“the 1985 Act” means the Food and Environment Protection Act 1985;

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

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

“agricultural” has the meaning assigned to it in section 24(1) of the 1985 Act;

“approval” means an approval given jointly by the Ministers under regulation 5 in relation to a pesticide and “approved” shall be construed accordingly;

“contravenes” includes “fails to comply with”;

“creature” has the meaning assigned to it in section 24(1) of the 1985 Act;

“crops” has the meaning assigned to it in section 24(1) of the 1985 Act;

“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;

“pesticide” has the meaning assigned to it in section 16(15) of the 1985 Act;

“plants” has the meaning assigned to it in section 24(1) of the 1985 Act;

“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 and “sale” shall be construed accordingly;

(1) S.I.1986/1510, as amended by the Food Safety Act 1990 (Consequential Modifications) (No. 2) (Great Britain) Order 1990 (S.I. 1990/2487) and the Marketing Authorisations for Veterinary Medicinal Products Regulations 1994 (S.I. 1994/3142).

“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, loch, pond, reservoir, river, stream or watercourse including the bottom, channel or bed of any lake, loch, 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 the United Kingdom is controlled under any of the following enactments—
 - (i) the Medicines Act 1968⁽²⁾;
 - (ii) Part IV of the Agriculture Act 1970⁽³⁾;
 - (iii) the Food Safety Act 1990⁽⁴⁾;
 - (iv) the Cosmetic Products (Safety) Regulations 1984⁽⁵⁾;
 - (v) the Water Supply (Water Quality) Regulations 1989⁽⁶⁾;
 - (vi) the Water Supply (Water Quality) (Scotland) Regulations 1990⁽⁷⁾,

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

(2) 1968 c. 67.

(3) 1970 c. 40.

(4) 1990 c. 16.

(5) S.I. 1984/1260.

(6) S.I. 1989/1147, amended by S.I. 1989/1384 and 1991/1837.

(7) S.I. 1990/119 (s.11).

- (c) substances, preparations or organisms controlled by the Marketing Authorisations for Veterinary Medicinal Products Regulations 1994⁽⁸⁾;
- (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 1995⁽⁹⁾ or which is approved under regulation 9 of those Regulations⁽¹⁰⁾;
- (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—
 - (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;

⁽⁸⁾ S.I. 1994/3142.

⁽⁹⁾ S.I. 1995/887, amended by S.I. 1996/1940, which implements in Great Britain 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 no person may place on the market and use any plant protection product within Great Britain 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 I to the Directive.

⁽¹⁰⁾ 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 Ministers 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).

- (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 section 18(3) of the Food Safety Act 1990;
- “paint” includes surface coatings;
- “pest” has the meaning assigned to it in section 16(15) of the 1985 Act;
- “placing on the market” and “plant protection product” have the same meanings as in the Plant Protection Products Regulations 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. For paragraph (2) of regulation 5 there shall be substituted the following paragraph—

- “(2) The Ministers' 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 Ministers 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 Ministers may jointly give their 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 they have given a consent under this regulation the Ministers shall jointly publish, in such manner as they consider appropriate, a notice specifying the fact.”.

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

“Seizure, disposal etc

7.—(1) 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 or any condition of a consent given under regulation 6, either of the Ministers 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 the Minister 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 the Minister 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 the Minister to be the owner or the person in charge of the pesticide, to take such remedial action as appears to that Minister 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 Great Britain.

(2) If any pesticide has been imported into—

- (i) Great Britain in contravention of any of the specified prohibitions imposed by regulation 4, any condition of an approval or any condition of a consent given under regulation 6; or
- (ii) Northern Ireland in contravention of any of the specified prohibitions imposed by regulation 4 of the Control of Pesticides Regulations (Northern Ireland) 1987⁽¹¹⁾, any condition of an approval granted under regulation 5 of those Regulations or any condition of a consent given under regulation 6 of those Regulations,

either of the Ministers may, by notice in writing served on the person appearing to him to be the owner, the importer or the person in charge of the pesticide, require that it shall be exported from the United Kingdom within such period as that Minister reasonably may determine.”.

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

“Release of information to the public

8.—(1) The Ministers may, at the request of any person, at such reasonable time and place as they may determine, make any evaluation held by them available to that person for inspection.

(2) The Ministers may, at the request of any person, supply that person with a copy of any evaluation held by them on payment of such fee (which may not exceed the cost reasonably attributable to the supply) as the Ministers, with the consent of the Treasury, may determine.

(3) The Ministers may, at the request of any person to whom an evaluation has been made available for inspection under paragraph (1) above or to whom a copy of an evaluation has been supplied under paragraph (2) above, make available at such reasonable time and place as they may determine for inspection by that person any study reports held by them to which the evaluation relates.

(4) No 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 make any commercial use of it nor, unless authorised in writing by the Ministers to do so, publish any part of it.

(11) S.R. (N.I.) 1987 No. 414.

(5) In this regulation—

“commercial use”, in relation to any information or document, includes the use of that information or document in any manner whatsoever in connection with the manufacture, distribution, importation, advertisement, sale, supply, storage, use or export of any pesticide but does not include the use of that information or document for the purpose of books, journals or other publications with the written authorisation of the Ministers;

“evaluation” means a written evaluation of study reports or other data examined in the course of an appraisal of the active ingredient of a pesticide leading to the giving of a full approval or provisional approval, the amendment of any conditions imposed in relation to any such approval, or the revocation of any such approval, in relation to that pesticide;

“study reports” means study reports and any other data relating to an application for a full approval or provisional approval or the continuance of any such approval including the amendment of the conditions imposed in relation to any such approval.

(6) This regulation is without prejudice to the provisions of the Environmental Information Regulations 1992(12) and Article 14 of Council Directive 91/414/EEC concerning the placing of plant protection products on the market(13).”

9. For Schedules 1, 2, 3 and 4 there shall be substituted the Schedules which are set out in the Schedule to these Regulations.

30th January 1997

Angela Browning
Parliamentary Secretary, Ministry of Agriculture,
Fisheries and Food

28th January 1997

Lindsay
Parliamentary Under Secretary of State, Scottish
Office

(12) S.I. 1992/3240, which implements in Great Britain Council Directive 90/313/EEC on the freedom of access to information on the environment (O.J. No. L158, 23.6.90, p. 56); these Regulations provide for a general right of disclosure of information relating to the environment which is held by (inter alia) Ministers of the Crown (other than information capable of being treated as confidential) and specify certain requirements which must be observed in responding to requests for disclosure of such information.

(13) O.J. No. L230, 19.8.1991, p. 1. Article 14 of the Directive obliges member States to treat as confidential any information involving industrial and commercial secrets provided in support of applications for authorisation of plant protection products under the Directive, where applicants for such authorisation so request and the member State accepts that the request is warranted, subject however to the second paragraph of that Article which removes from that protection all information of the types set out in that paragraph.