

Statutory Instrument 1997 No. 189

The Plant Protection Products (Basic Conditions) Regulations 1997

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STATUTORY INSTRUMENTS

1997 No. 189

PESTICIDES

The Plant Protection Products (Basic Conditions) Regulations 1997

Approved by both Houses of Parliament

Made 30th January 1997

Coming into force 31st January 1997

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The Minister of Agriculture, Fisheries and Food and the Secretary of State, acting jointly, in exercise of the powers conferred on them by sections 16(2) and 24(3) of the Food and Environment Protection Act 1985[1], and of all other powers enabling them in that behalf, having 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 established under section 16(7) of that Act[2] and with the Health and Safety Commission, hereby make the following Regulations, a draft of which has been laid before and approved by resolution of each House of Parliament:

Title, extent and commencement

1 . These Regulations may be cited as the Plant Protection Products (Basic Conditions) Regulations 1997, shall apply in Great Britain and shall come into force on the day after the day on which they are made.

Interpretation

2 . - (1) In these Regulations, unless the context otherwise requires -

"the 1985 Act" means the Food and Environment Protection Act 1985;

"active substance" has the meaning assigned to it in regulation 2(1) of the Plant Protection Products Regulations;

"aerial application" means the application of a prescribed plant protection product from an aircraft in flight;

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

"contravenes" includes "fails to comply with";

"creature" means any living organism other than a human being or plant;

"crops" includes any form of vegetable produce;

"ground water" means any waters contained in underground strata;

"organism" means any animal, plant, fungus or micro-organism capable of carrying on life processes;

"the Plant Protection Products Regulations" means the Plant Protection Products Regulations 1995[3];

"plant" means any form of vegetable matter, while it is growing and after it has been harvested, gathered, felled or picked, and in particular, but without

prejudice to the generality of this definition, includes -

- (a) agricultural crops;**
- (b) trees and bushes grown for purposes other than those of agriculture;**
- (c) wild plants; and**
- (d) fungi;**

"prescribed plant protection product" has the meaning assigned to it in regulation 3;

"sell" includes offer or expose for sale or have in possession for the purpose of sale and "sale" shall be construed accordingly;

"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.

(2) In these Regulations, unless the context otherwise requires, any reference to a numbered regulation or Schedule shall be construed as a reference to the regulation or Schedule so numbered in these Regulations.

Meaning of "prescribed plant protection product"

3 . - (1) In these Regulations "prescribed plant protection product" means any plant protection product (as that expression is defined in regulation 2(1) of the Plant Protection Products Regulations) -

- (a) 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[4], or which is approved under regulation 9 of those Regulations[5], and**
- (b) which is a substance, preparation or micro-organism to which paragraph (2) below applies.**

(2) This paragraph applies to any substance, preparation or micro-organism -

- (a) prepared or used for destroying any pest;**
- (b) prepared or used for protecting plants or plant products from harmful organisms or for rendering harmful creatures harmless;**
- (c) prepared or used for regulating the growth of plants.**

(3) In this regulation -

"pest" means -

- (a) any organism harmful to plants or plant products;**
- (b) any undesired plant; and**
- (c) any harmful creature;**

"preparation" means a mixture or solution composed of two or more substances.

Prohibitions as to advertisement, storage, sale, supply and use

4 . - (1) No person shall advertise any prescribed plant protection product unless -

- (a) the Ministers jointly have given an approval under regulation 5 to the advertisement of that plant protection product;**
- (b) the Ministers jointly have given a consent under regulation 7(a) to the advertisement of prescribed plant protection products; and**
- (c)**
 - (i) the conditions of the approval related to advertisement; and**
 - (ii) the conditions of the consent,**

have been complied with.

(2) No person shall store any prescribed plant protection product unless -

- (a) the Ministers jointly have given an approval under regulation 6 to the storage of that plant protection product;**
- (b) the Ministers jointly have given a consent under regulation 7(b) to the storage of prescribed plant protection products; and**
- (c)**
 - (i) the conditions of the approval related to storage or required by the approval to be specified on the labelling; and**
 - (ii) the conditions of the consent,**

have been complied with.

(3) No person shall sell any prescribed plant protection product unless -

- (a) the Ministers jointly have given a consent under regulation 7(b) to the sale of prescribed plant protection products; and**

(b) the conditions of the consent have been complied with.

(4) No person shall supply any prescribed plant protection product unless -

(a) the Ministers jointly have given a consent under regulation 7(b) to the supply of prescribed plant protection products; and

(b) the conditions of the consent have been complied with.

(5) No person shall use any prescribed plant protection product unless -

(a) the Ministers jointly have given a consent under regulation 7(c) to the use of prescribed plant protection products; and

(b)

(i) the conditions of the consent imposed under regulation 7(c)(i), and

(ii) in the case of prescribed plant protection products used by aerial application, the conditions of the consent imposed under regulation 7(c)(ii),

have been complied with.

Approvals for advertisement

5. - (1) Subject to the following provisions of this regulation, the Ministers may jointly give their approval, in relation to any prescribed plant protection product which has been approved under the Plant Protection Products Regulations, to the advertisement of that plant protection product.

(2) Subject to paragraph (3) below, an approval given under this regulation may be given in the form of an approval, expiring at the end of the period for which the plant protection product has been approved under the Plant Protection Products Regulations or, where the Ministers have jointly granted a period of grace under regulation 13(6) of those Regulations for the disposal, storage, placing on the market and use of existing stocks, at the end of such period.

(3) An approval given under this regulation may be given subject to conditions imposed when or after it is given and the Ministers may jointly at any time amend such conditions.

(4) The Ministers may jointly at any time review, revoke or suspend an approval given under this regulation.

Approvals for storage

6. - (1) Subject to the following provisions of this regulation, the Ministers may jointly give their approval, in relation to any prescribed plant protection product which has been approved under the Plant Protection Products Regulations, to the storage of that plant protection product.

(2) Subject to paragraph (3) below, an approval given under this regulation may be given in the form of -

- (a) an approval, expiring at the end of the period for which the plant protection product has been approved under the Plant Protection Products Regulations or, where the Ministers have jointly granted a period of grace under regulation 13(6) of those Regulations for the disposal, storage, placing on the market and use of existing stocks, at the end of such period; or**
- (b) an experimental permit, to enable testing and development to be carried out with a view to providing the Ministers with safety and other data.**

(3) An approval given under this regulation may be given subject to conditions imposed when or after it is given and the Ministers may jointly at any time amend such conditions.

(4) The Ministers may jointly at any time review, revoke or suspend an approval given under this regulation.

Consents as to advertisement, sale, supply, storage and use

7 . The Ministers may jointly give their consent to -

- (a) the advertisement of prescribed plant protection products, subject to the conditions specified in Schedule 1;**
- (b) the sale, supply and storage of prescribed plant protection products, subject to the conditions specified in Schedule 2;**
- (c) the use of prescribed plant protection products, subject to -**
 - (i) the conditions specified in Schedule 3, and**
 - (ii) in the case of the use of prescribed plant protection products 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.

Seizure, disposal etc

8 . - (1) Where there has been a breach, in relation to any prescribed plant protection product, of any of the specified prohibitions imposed by regulation 4, any condition of an approval imposed under regulation 5 or 6 or any condition of a consent given under regulation 7, either of the Ministers shall have the power -

- (a) to seize or dispose of the plant protection product 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 plant protection product, to dispose of it;**
- (b) to seize or dispose of anything treated with the plant protection product 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 plant protection product, 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 plant protection product from the market in Great Britain.

(2) If any prescribed plant protection product has been imported into Great Britain in contravention of any of the specified prohibitions imposed by regulation 4, any condition of an approval imposed under regulation 5 or 6 or any condition of a consent given under regulation 7, 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 product, require that it shall be exported from the United Kingdom within such period as that Minister reasonably may determine.

Release of information to the public

9 . - (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.

(5) In this regulation -

"approval" means any approval given under regulation 5 or 6(2)(a);

"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 plant protection product 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 plant protection product leading to the giving of an approval, the amendment of any conditions imposed in relation to an approval, or the revocation of an approval, of that prescribed plant protection product;

"study reports" means study reports and any other data relating to an application for an approval or the continuance of an approval including the amendment of the conditions imposed in relation to an approval.

(6) This regulation is without prejudice to the provisions of the Environmental

Information Regulations 1992[6].

Angela Browning

Parliamentary Secretary, Ministry of Agriculture, Fisheries and Food

30th January 1997

Lindsay

Parliamentary Under Secretary of State, Scottish Office

28th January 1997

SCHEDULE 1

Regulation 7(a)

CONDITIONS RELATING TO CONSENT TO THE ADVERTISEMENT OF PRESCRIBED PLANT PROTECTION PRODUCTS

1. - (1) An advertisement of a prescribed plant protection product shall relate only to such conditions as are permitted by the approval given in relation to that plant protection product.

(2) No advertisement of a prescribed plant protection product shall contain any claim for safety in relation to that plant protection product which is not permitted by the approval given in relation to that plant protection product to be on the label for the product.

(3) In this paragraph "approval" means any approval given under the Plant Protection Products Regulations.

2. - (1) Any advertisement of a prescribed plant protection product, other than a notice at the point of sale which is intended to draw attention solely to product name and price, shall include -

(a) a statement of each active substance of each prescribed plant protection product mentioned in the advertisement, such statement being the name by which each active substance is identified in the approval given under the Plant Protection Products Regulations in relation to the prescribed plant protection product in which it is contained;

(b) a general warning as follows:

" Always read the label. Use pesticides safely"; and

(c) in relation to each prescribed plant protection product mentioned in the advertisement, a statement of the nature of any special risks for humans, animals or the environment, using the same words as are required in accordance with paragraph 1(g) of Schedule 2 to the Plant Protection Products Regulations, or by the Ministers under paragraph 6 of that Schedule, to be included in the labelling of the product.

(2) Notwithstanding sub-paragraph (1)(a) above -

(a) any price list consisting only of an indication of product availability and price need not state the active substance of each prescribed plant protection product;

(b) any advertisement of a range of prescribed plant protection products need only state the active substances of those individual products which are identified by name.

(3) Any statement or warning given under this paragraph shall be -

(a) in the case of a printed or pictorial advertisement, clearly presented separately from any other text; and

(b) in the case of an advertisement which is broadcast or recorded or is stored or transmitted by electronic means, clearly spoken or shown separately.

3. In this Schedule "advertisement" means any printed, pictorial, broadcast or recorded advertisement and includes any advertisement which is stored or transmitted by electronic means.

SCHEDULE 2

Regulation 7(b)

CONDITIONS RELATING TO CONSENT TO THE SALE, SUPPLY AND STORAGE OR PRESCRIBED PLANT PROTECTION PRODUCTS

1. It shall be the duty of all employers to ensure that persons in their employment who may be required during the course of their employment to sell, supply or store prescribed plant protection products are provided with such instruction, training and guidance as is necessary to enable those persons to comply with any requirements provided in and under these Regulations and the Plant Protection Products Regulations.

2. - (1) Any person who sells, supplies or stores a prescribed plant protection product shall -

(a) take all reasonable precautions, particularly with regard to storage and transport, to protect the health of human beings, creatures and plants, safeguard the environment and in particular avoid the pollution of water; and

(b) be competent for the duties which that person is called upon to perform.

(2) In this paragraph "water" means -

- (a) any surface water;**
- (b) any ground water.**

3. No person shall store for the purpose of sale or supply a prescribed plant protection product approved for agricultural use in a quantity in excess of, at any one time, 200 kg or 200 litres or, a similar mixed quantity, unless that person -

- (a) has obtained a certificate of competence recognised by the Ministers, or**
- (b) stores that prescribed plant protection product under the direct supervision of a person who holds such a certificate.**

4. No person shall sell, supply or otherwise market to the end-user a prescribed plant protection product approved for agricultural use unless that person -

- (a) has obtained a certificate of competence recognised by the Ministers, or**
- (b) sells or supplies that prescribed plant protection product under the direct supervision of a person who holds such a certificate.**

5. - (1) In paragraphs 3 and 4 above -

"approval" means any approval given under the Plant Protection Products Regulations and "approved" shall be construed accordingly;

"prescribed plant protection product approved for agricultural use" means a prescribed plant protection product (other than a plant protection product with methyl bromide or chloropicrin as one of its active substances) approved for one or more of the following uses -

- (a) agriculture and horticulture (including amenity horticulture);**
- (b) forestry;**
- (c) in or near water other than for amateur, public hygiene or anti-fouling uses;**
- (d) industrial herbicides, including weed-killers for use on land not intended for the production of any crop.**

(2) In this paragraph "water" means any surface water.

SCHEDULE 3

Regulation 7(c)(i)

CONDITIONS RELATING TO CONSENT TO THE USE OF PRESCRIBED

PLANT PROTECTION PRODUCTS

1. It shall be the duty of all employers to ensure that persons in their employment who may be required during the course of their employment to use prescribed plant protection products are provided with such instruction, training and guidance as is necessary to enable those persons to comply with any requirements provided in and under these Regulations and the Plant Protection Products Regulations.

2. - (1) Any person who uses a prescribed plant protection product shall take all reasonable precautions to protect the health of human beings, creatures and plants, safeguard the environment and in particular avoid the pollution of water.

(2) In this paragraph "water" means -

- (a) any surface water;**
- (b) any ground water.**

3. No person in the course of a business or employment shall use a prescribed plant protection product, or give an instruction to others on the use of a prescribed plant protection product, unless that person -

- (a) has received adequate instruction, training and guidance in the safe, efficient and humane use of prescribed plant protection products, and**
- (b) is competent for the duties which that person is called upon to perform.**

4. Any person who uses a prescribed plant protection product shall confine the application of that prescribed plant protection product to the land, crop, structure, material or other area intended to be treated.

5. - (1) Subject to sub-paragraph (4) below, no person shall use a prescribed plant protection product in conjunction with an adjuvant in any manner unless -

- (a) that adjuvant has been specified, upon application by any person (in this paragraph 5 referred to as "the applicant") to the Ministers, in a list of adjuvants published by the Ministers from time to time (in this paragraph 5 referred to as "the list"); and**
- (b) the use of that prescribed plant protection product with that adjuvant in that manner is in accordance with -**
 - (i) the conditions of the approval given in relation to that prescribed plant protection product; and**
 - (ii) any requirements to which the use of that adjuvant with that prescribed plant protection product is subject, as determined or amended under sub-paragraph (2)(a)(ii) or (iii) below.**

(2) In the application of this paragraph -

(a) the Ministers may, in relation to any adjuvant specified in the list, at any time

-

(i) determine data requirements (concerning human safety or environmental protection) to which the specification of that adjuvant in the list shall be subject;

(ii) determine requirements to which the use of that adjuvant with approved prescribed plant protection products shall be subject;

(iii) for reasons of human safety or environmental protection, or with the consent of the applicant, amend any requirement which has been determined under sub-paragraph (ii) above;

(b) the Ministers shall, in relation to any adjuvant specified in the list, also specify in that list any requirements which they have determined or amended under paragraph (a)(ii) or (iii) above.

(3) In the application of this paragraph -

(a) the Ministers may, in relation to any adjuvant specified in the list, remove that adjuvant from the list -

(i) if it appears to them that the applicant has failed to comply with any data requirement which has been determined in relation to that adjuvant under sub-paragraph (2)(a)(i) above;

(ii) if it appears to them that any relevant literature relating to the adjuvant is not in accordance with any requirement to which the use of that adjuvant is subject, as determined or amended under sub-paragraph (2)(a)(ii) or (iii) above;

(iii) if it appears to them that -

(aa) any relevant literature relating to the adjuvant refers to a prescribed plant protection product, and

(bb) the use of that adjuvant with that prescribed plant protection product is not in accordance with the conditions of the approval given in relation to that prescribed plant protection product;

(iv) for reasons of human safety or environmental protection;

(v) at the request of the applicant;

(b) the Ministers shall, upon a decision to remove an adjuvant from the list specify in the list -

(i) that decision, and

(ii) the date on which, and any conditions in accordance with which, the

removal is to take effect;

(c) "relevant literature", in relation to any adjuvant, means -

(i) the labelling of the packaging in which the adjuvant is contained;

(ii) any leaflet accompanying that package;

(iii) any other literature produced by, or on behalf of, the applicant describing the adjuvant.

(4) This paragraph shall not apply where the use of an adjuvant with an approved prescribed plant protection product is for the purpose of research or development and is carried out under the direct control of the person intending to place the adjuvant on the market.

(5) In this paragraph "adjuvant" means a substance other than water, without significant plant protection properties, which enhances or is intended to enhance the effectiveness of a prescribed plant protection product when it has been added to that plant protection product.

6. - (1) No person shall combine or mix for use two or more prescribed plant protection products which are anticholinesterase compounds unless such a mixture is expressly permitted by the conditions of an approval given in relation to at least one of those prescribed plant protection products or by the labelling of the container in which at least one of those prescribed plant protection products has been sold, supplied or otherwise marketed to that person.

(2) No person shall combine or mix for use two or more prescribed plant protection products unless -

(a) all of the conditions of approval given in relation to each of those prescribed plant protection products, and

(b) the labelling of the container in which each of those prescribed plant protection products has been sold, supplied or otherwise marketed to that person,

can be complied with.

7. - (1) No person in the course of a commercial service shall use a prescribed plant protection product approved for agricultural use unless that person -

(a) has obtained a certificate of competence recognised by the Ministers; or

(b) uses that plant protection product under the direct and personal supervision of a person who holds such a certificate; or

(c) uses it in accordance with an approval, if any, for one or more of the following uses -

(i) home garden (amateur gardening);

- (ii) food storage practice;**
- (iii) vertebrate control (including rodenticides and repellents);**
- (iv) domestic use;**
- (v) wood preservation;**
- (vi) 'other' (as may be defined by the Ministers).**

(2) In this paragraph "commercial service" means the application of a prescribed plant protection product by a person -

- (a) to crops, land, produce, materials, buildings or the contents of buildings not in the ownership or occupation of that person or that person's employer;**
- (b) to seed other than seed intended solely for use by that person or that person's employer.**

8. No person who was born later than 31 December 1964 shall use a prescribed plant protection product approved for agricultural use unless that person -

- (a) has obtained a certificate of competence recognised by the Ministers; or**
- (b) uses that plant protection product under the direct and personal supervision of a person who holds such a certificate; or**
- (c) uses it in accordance with an approval, if any, for one of the uses specified in paragraph 7(1)(c) above.**

9. - (1) In paragraphs 7 and 8 above "prescribed plant protection product approved for agricultural use" means a prescribed plant protection product (other than a plant protection product with methyl bromide or chloropicrin as one of its active substances) approved for one or more of the following uses -

- (a) agriculture and horticulture (including amenity horticulture);**
- (b) forestry;**
- (c) in or near water, other than for amateur, public hygiene or anti-folding uses;**
- (d) industrial herbicides, including weed-killers for use on land not intended for the production of any crop.**

(2) In this paragraph "water" means any surface water.

10. For the purpose of this Schedule "approval" means any approval given under the Plant Protection Products Regulations and "approved" shall be construed accordingly.

SCHEDULE 4

Regulation 7(c)(ii)

CONDITIONS RELATING TO CONSENT TO THE USE OF PRESCRIBED PLANT PROTECTION PRODUCTS BY AERIAL APPLICATION

1. No person shall undertake an aerial application of a prescribed plant protection product unless -

(a) an aerial application certificate granted under article 42(2) of the Air Navigation Order 1985[7] is held by that person, that person's employer or the main contractor undertaking the aerial application, and

(b) the prescribed plant protection product to be used has been approved for the intended aerial application.

2. - (1) No person shall undertake an aerial application of a prescribed plant protection product unless that person, or a person specifically designated in writing on that person's behalf, has -

(a) not less than 72 hours before the commencement of the aerial application consulted the relevant authority if any part of land which is a Local Nature Reserve, a Marine Nature Reserve, National Nature Reserve or Site of Special Scientific Interest lies within 1500 metres of any part of the land to which that plant protection product is to be applied;

(b) not less than 72 hours before the commencement of the aerial application consulted the appropriate area office of the Environment Agency (if the area in which the intended aerial application is to take place is in England and Wales) or the appropriate area office of the Scottish Environment Protection Agency (if such area is in Scotland) if the land to which that plant protection product is to be applied is adjacent to, or within 250 metres of, water;

(c) obtained the consent of such office if that plant protection product is to be applied for the purpose of controlling aquatic weeds or weeds on the banks of watercourses or lakes;

(d) not less than 24 hours and (so far as is practicable) not more than 48 hours before the commencement of the aerial application, given notice of the intended aerial application to the Chief Environmental Health Officer for the district in which the intended aerial application is to take place;

(e) not less than 24 hours and (so far as is reasonably practicable) not more than 48 hours before the commencement of the aerial application given notice of the intended aerial application to the occupants or their agents of all property within 25 metres of the boundary of the land to which that plant protection product is to be applied;

(f) not less than 24 hours and (so far as is practicable) not more than 48 hours before the commencement of the aerial application, given notice of the intended aerial application to the person in charge of any hospital, school or other institution any part of the curtilage of which lies within 150 metres of any flight

path intended to be used for the aerial application; and

(g) not less than 48 hours before the commencement of the aerial application, given notice of the intended aerial application to the appropriate reporting point of the local beekeepers' spray warning scheme operating within the district in which the intended aerial application is to take place.

(2) A notice of an intended aerial application given under paragraph (e) or (f) of sub-paragraph (1) above shall be in writing and include details of -

(a) the name and address, and telephone number (if any), of the person intending to carry out the aerial application;

(b) the name of the prescribed plant protection product to be applied and its active substance and approval registration number;

(c) the intended time and date of application; and

(d) an indication that the same details have been served on the Chief Environmental Health Officer for the district in which the intended aerial application is to take place.

3. No person shall undertake an aerial application of a prescribed plant protection product unless -

(a) the wind velocity at the height of application at the place of intended aerial application does not exceed 10 knots, except where the approval given in relation to that plant protection product permits aerial application when such wind velocity exceeds 10 knots;

(b) not less than 24 hours before the aerial application, that person has provided and put in place within 60 metres of the land to which that plant protection product is to be applied signs, of adequate robustness and legibility, to warn pedestrians and drivers of vehicles of the time and place of the intended aerial application; and

(c) before the aerial application that person has provided ground markers in all circumstances where a ground marker will assist the pilot to comply with the provisions of paragraph 5 below.

4. Any person who undertakes the aerial application of a prescribed plant protection product shall -

(a) keep and retain for not less than 3 years after each application records of -

(i) the nature, place and date of that application;

(ii) the registration number of the aircraft used;

(iii) the name and permanent address of the pilot of that aircraft;

(iv) the name and quantity of the plant protection product applied;

(v) the dilution and volume of application of the plant protection product applied;

(vi) the type and specification of application system (which may include nozzle type and size);

(vii) the method of application;

(viii) the flight times of the aerial application;

(ix) the speed and direction of the wind during the application; and

(x) any unusual occurrences which affected the application;

(b) provide the Ministers with summaries of the records required by subparagraph (a) above, in any manner which they may require under section 16(11) of the 1985 Act, within 30 days after the end of the calendar month to which those records relate.

5. The pilot of an aircraft engaged in an aerial application shall -

(a) maintain the aircraft at a height of not less than 200 feet[8] from ground level when flying over an occupied building or its curtilage;

(b) maintain the aircraft at a horizontal distance from any occupied building and its curtilage, children's playground, sports ground or building containing livestock of -

(i) not less than 30 metres, if the pilot has the written consent of the occupier; and

(ii) not less than 60 metres, in any other case;

(c) maintain the aircraft at a height of not less than 250 feet from ground level over any motorway, or of not less than 100 feet from ground level over any other public highway, unless the motorway or public highway has been closed to traffic during the course of the application.

6. For the purposes of this Schedule -

"appropriate nature conservation agency" means English Nature, Scottish Natural Heritage and the Countryside Council for Wales;

"approval" means any approval given under the Plant Protection Products Regulations and "approved" shall be construed accordingly;

"curtilage", in relation to any building, means the land attached to, and forming one enclosure with, that building;

"ground marker" includes a person who is instructed by a person intending to carry out an aerial application to be present on or near to the land to which the prescribed plant protection product is to be applied so that that person is able to

communicate with the pilot of the aircraft engaged in the aerial application for the purpose of ensuring the safe application of that plant protection product;

"local beekeepers' spray warning scheme" means any scheme for the advance notification of the application of prescribed plant protection products, organised by local beekeepers and notified to the Minister of Agriculture, Fisheries and Food, the Secretary of State for Scotland or the Secretary of State for Wales (being the Secretaries of State respectively concerned with agriculture in Scotland and Wales);

"Local Nature Reserve" means a nature reserve established by a local authority under section 21 of the National Parks and Access to the Countryside Act 1949[9] and "the relevant authority" in regard to such a reserve shall be the local authority which is providing or securing the provision of the reserve;

"Marine Nature Reserve" means an area designated as such by the Secretary of State under section 36 of the Wildlife and Countryside Act 1981[10], and the "relevant authority" in regard to such an area shall be the appropriate nature conservation agency;

"National Nature Reserve" means any land declared as such by the appropriate nature conservation agency under section 19 of the National Parks and Access to the Countryside Act 1949, or under section 35 of the Wildlife and Countryside Act 1981, and "the relevant authority" in regard to such land shall be the appropriate nature conservation agency;

"Site of Special Scientific Interest" means any area designated as such by the appropriate nature conservation agency under section 28 of the Wildlife and Countryside Act 1981, or in respect of which the Secretary of State has made an Order under section 29 of the Wildlife and Countryside Act 1981, and "the relevant authority" in regard to such an area shall be the appropriate nature conservation agency;

"water" means any surface water.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations supplement the Plant Protection Products Regulations 1995 (S.I. 1995/887) as amended (S.I. 1996/1940) ("the principal Regulations") which implement in Great Britain Council Directive 91/414/EEC concerning the placing of plant protection products on the market, as amended. The principal Regulations require that plant protection products may not be placed on the market or used within Great Britain unless they have been approved by the Minister of Agriculture, Fisheries and Food and the Secretary of State ("the Ministers") and make provision concerning the process of application for, evaluation and granting of approvals, which may be given subject to conditions, and the packaging and labelling of approved plant protection products.

The Regulations have been made for the purpose of controlling pesticides in implementation of Part III of the Food and Environment Protection Act 1985 ("the 1985 Act") and apply to all plant protection products which are subject to the principal Regulations (the latter contain transitional provisions which enable certain

plant protection products to remain temporarily subject to the Control of Pesticides Regulations 1986) and are substances, preparations or micro-organisms prepared or used for destroying pests, protecting plants or plant products from harmful organisms, or rendering harmful creatures harmless, or regulating the growth of plants. Plant protection products to which these Regulations apply are described as prescribed plant protection products.

The Regulations specify additional controls which apply not only to the placing on the market and use of prescribed plant protection products but also their advertisement and storage. No-one may advertise and store a prescribed plant protection product unless the Ministers have given their approval under the Regulations to its advertisement and storage and the conditions of such approval are complied with (regulations 4(1)(a) and (c)(i), (2)(a) and (c)(i), 5 and 6). The Regulations provide a right of access to information (study reports and evaluations) concerning approvals granted under the Regulations, qualified by a prohibition on making commercial use of any information made available (regulation 9).

The Regulations also provide that no-one may advertise, store, sell, supply or use prescribed plant protection products unless the Ministers have given the appropriate consent under the Regulations and the conditions of such consent are complied with; when they have given a consent the Ministers are required to publish a notice specifying the fact (regulations 4(1)(b) and (c)(ii), (2)(b) and (c)(ii), (3) to (5) and 7).

The Schedules to the Regulations set out conditions to which the consents (once given) are automatically subject. Schedule 1 contains restrictions on material which may be contained in advertisements of prescribed plant protection products (which include advertisement material stored or transmitted by electronic means) and specifies minimum information which must be included. Schedule 2, which governs the sale, supply and storage of prescribed plant protection products, contains provision on the instruction, training and guidance of employees, a general obligation to protect human, animal and plant health, safeguard the environment and avoid the pollution of water and special provisions (entailing a requirement in certain circumstances to obtain a certificate of competence recognised by the Ministers) concerning the sale, supply and storage of plant protection products approved under the principal Regulations for agricultural use (as defined).

Schedule 3, which governs the use of prescribed plant protection products, similarly contains provision on instruction, training and guidance (which are applicable to employers, employees and those giving instruction to others) and a general obligation to protect human, animal and plant health, safeguard the environment and avoid the pollution of water; in addition there are provisions imposing an obligation on users to confine the application to the area intended to be treated, setting out requirements on the use of prescribed plant protection products with adjuvants (which include a requirement that the adjuvant be specified in a list published by the Ministers) and on tank mixing and providing a requirement (subject to a limited exception) for those using prescribed plant protection products approved for agricultural use either in the course of a commercial service or (in all cases) where the user was born later than 31 December 1964 to use it in accordance with an approval for a specified class of use or otherwise either hold a certificate of competence recognised by the Ministers or be supervised by someone holding a certificate.

Schedule 4 governs the use of prescribed plant protection products by aerial application, setting out the procedures which aerial users are required to follow.

The Regulations empower each of the Ministers in the event of a breach of the Regulations (including breaches of an approval or the consents) to seize or dispose of prescribed plant protection products or anything treated with a prescribed plant protection product, require their seizure or disposal, require the taking of remedial

action (which can where necessary include recovery of a prescribed plant protection product from the market) and require the re-exportation of prescribed plant protection products imported in contravention of any such breach (regulation 8).

Other enforcement powers and offences and penalties for breaching the Regulations are contained in sections 16, 19, 21 and 22 of, and Schedule 2 to, the 1985 Act.

These Regulations were notified in draft to the European Commission in accordance with Council Directive 83/189/EEC laying down a procedure for the provision of information in the field of technical standards and regulations (OJ No. L109, 26.4.83, p. 8), as amended.

A compliance cost assessment has been prepared and a copy has been placed in the library of each House of Parliament. Copies of the compliance cost assessment can be obtained from the Pesticides Safety Directorate of the Ministry of Agriculture, Fisheries and Food, Room 308, Mallard House, Kings Pool, 3 Peasholme Green, York YO1 2PX.

Notes:

[1] 1985 c.48: section 16 was amended by the Pesticides (Fees and Enforcement) Act 1989 (c.27) and section 24(1) contains a definition of the Ministers. [back](#)

[2] Established by S.I. 1985/1516. [back](#)

[3] S.I. 1995/887, amended by S.I. 1996/1940. [back](#)

[4] 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. Until such a decision has been taken such products are subject to the Control of Pesticides Regulations 1986 (S.I. 1986/1510). [back](#)

[5] 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). [back](#)

[6] S.I. 1992/3240, which implements in Great Britain Council Directive 90/313/EEC on the freedom of access to information on the environment (OJ 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. [back](#)

[7] S.I. 1985/1643. [back](#)

[8] The metric equivalent of one foot is 0.3048 metres (Council Directive 89/617/EEC, OJ No. L357, 7.12.89, p. 29). [back](#)

[9] 1949 c.97. [back](#)

[10] 1981 c.69. [back](#)

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