

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;

- (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

(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

commercial use of the information contained therein nor, unless authorised in writing by the Department so to do, publish any of the contents of that evaluation or study report.

Sealed with the Official Seal of the Department of Agriculture for Northern Ireland on 4th November 1987.

(L.S.)

I. C. Henderson

Assistant Secretary

BASIC CONDITIONS SUBJECT TO WHICH CONSENT TO THE ADVERTISEMENT
OF PESTICIDES MAY BE GIVEN

1. An advertisement shall relate only to such uses of a pesticide as are permitted by the approval given in relation to that pesticide.
2. Any printed or pictorial advertisement, whether contained in leaflets, posters, newspapers, magazines or other periodicals shall include—
 - (a) a statement of the active ingredient of each pesticide mentioned in the advertisement;
 - (b) such general warning as the Department may, by further condition, require; and
 - (c) where required by a condition of the approval given in relation to a pesticide mentioned in the advertisement, a statement of any special degree of risk to human beings, creatures, plants or the environment.

BASIC CONDITIONS SUBJECT TO WHICH CONSENT TO THE SALE, SUPPLY
AND STORAGE OF PESTICIDES MAY BE GIVEN

1.—(1) Any person who sells, supplies or stores a pesticide shall—

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

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

(2) A person shall not sell or supply a pesticide approved for agricultural use, or store such a pesticide for the purpose of sale or supply, unless he has obtained a certificate of competence recognised by the Department or he sells, supplies, or stores that pesticide under the direct supervision of a person who holds such a certificate.

2. In this Schedule “pesticide approved for agricultural use” means a pesticide for which the approval provides that it may be used for the purposes of agriculture, horticulture, forestry or animal husbandry.

3. For the purposes of this Schedule, it shall be the duty of every employer to ensure that any person in his employment who may be required to sell, supply or store a pesticide during the course of that employment, is provided with such instruction and guidance as is necessary to enable that person to achieve the standard of competence recognised by the Department, and otherwise to comply with the requirements in and under these regulations.

BASIC CONDITIONS SUBJECT TO WHICH CONSENT TO THE USE OF
PESTICIDES MAY BE GIVEN

1. Any person who uses a pesticide shall take all reasonable precautions to protect the health of human beings, creatures and plants, to safeguard the environment and in particular to avoid pollution of water.

2. A person shall not combine or mix for use two or more pesticides except in accordance with the conditions of the approvals given in relation to those pesticides.

3. A person shall not use a pesticide in conjunction with an adjuvant except in accordance with the conditions of the approval given in relation to that pesticide.

4. A person shall not use a pesticide in the course of business unless he has received adequate instruction and guidance in the safe, efficient and humane use of pesticides and is competent for the duties which he is called upon to perform.

5. A person shall not use in the course of a commercial service a pesticide approved for agricultural use, unless he has obtained a certificate of competence recognised by the Department or he uses the pesticide under the direct and personal supervision of a person who holds such a certificate.

6. A person who was born later than 31st December 1964 shall not use a pesticide approved for agricultural use unless he has obtained a certificate of competence recognised by the Department, or he uses the pesticide under the direct and personal supervision of a person who holds such a certificate.

7. In this Schedule—

“commercial service” means the application of a pesticide by a person to land, buildings or the contents of buildings not in his or his employer’s ownership or occupation, and includes the treatment of seed with the use of mobile or static equipment; and

“pesticide approved for agricultural use” means a pesticide for which the approval provides that it may be used for the purposes of agriculture, horticulture, forestry or animal husbandry.

8. For the purposes of this Schedule, it shall be the duty of every employer to ensure that any person in his employment who may be required to use a pesticide during the course of that employment, is provided with such instruction and guidance as is necessary to enable that person to achieve the standard of competence recognised by the Department, and otherwise to comply with the requirements in and under these regulations.

ADDITIONAL BASIC CONDITIONS SUBJECT TO WHICH THE USE OF
PESTICIDES APPLIED FROM AN AIRCRAFT IN FLIGHT MAY BE GIVEN

1. A person shall not carry out an aerial application unless he holds an aerial application certificate granted under Article 42(2) of the Air Navigation Order 1985(a).

2. A person shall not undertake an aerial application unless he, or a person on his behalf, has—

- (a) not less than 72 hours before the commencement of that application, consulted the Department of the Environment for Northern Ireland with regard to any land which is subject to an order made under Article 16(1) of the Wildlife (Northern Ireland) Order 1985(b) or which is subject to a declaration made under Articles 16(1), 18(1) or 24 or an order made under Article 20(1) of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985(c), and which lies within a distance of three-quarters of one nautical mile from any land to which the pesticide is to be applied;
- (b) not less than 72 hours before the commencement of that application, consulted the Department of the Environment for Northern Ireland with regard to the area on which he intends to apply the pesticide, if that land is adjacent to water;
- (c) obtained the consent of the Department of the Environment for Northern Ireland for that application if he intends to apply the pesticide 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 that application, given notice of it to the District Council of the area in which he intends to apply the pesticide;
- (e) not less than 24 hours and (so far as is practicable) not more than 48 hours before the commencement of that application, given notice of it to the occupants of each building and the owner, or his agent, of any livestock or crops within 75 feet of any boundary of the land on which he intends to apply the pesticide;
- (f) not less than 24 hours and (so far as is practicable) not more than 48 hours before the commencement of that application, given notice of it to the person in charge of any hospital, school or other institution, any part of the curtilage of which lies within 500 feet of any flightpath that he intends to use for the application of the pesticide; and
- (g) not less than 48 hours before the commencement of that application, given notice of it to the appropriate reporting point of the local beekeepers' spray warning scheme operating within the district in which he intends to apply the pesticide.

3. A notice of an intended aerial application under sub-paragraphs (e) or (f) of paragraph 2 shall be in writing and include details of the name, address and telephone number (if any) of the person intending to carry out that aerial application, the pesticide to be applied, the intended time and date of application and also an indication that similar details have been given to the District Council of the area in which he intends to apply the pesticide.

(a) S.I. 1985/1643
(b) S.I. 1985/171 (N.I. 2)
(c) S.I. 1985/170 (N.I. 1)

4. A person shall not undertake an aerial application of a pesticide unless—
- (a) the wind velocity at the place of that application does not exceed 10 knots at the height at which the intended application will take place;
 - (b) before that application, he has provided and put in place within 200 feet of the land on which he intends to apply the pesticide adequate signs to warn pedestrians and drivers of vehicles of the time and place of the intended application; and
 - (c) before that application he has provided ground markers in all circumstances where a ground marker will assist the pilot to comply with the provisions of paragraph 6.

5. Any person who undertakes the aerial application of a pesticide shall—

- (a) keep and retain for not less than 3 years after each such application, records of the nature, place and date of that application, the registration number of the aircraft used and the name and permanent address of the pilot of that aircraft, the name and quantity of pesticide applied, the method of application, the flight times of the aerial application, the speed and direction of the wind during that application and any unusual occurrences which affected that application; and
- (b) provide, within one month of the end of the calendar year to which the records required by sub-paragraph (a) relate, summaries of those records to the Department in a manner required by it under section 16(11) of the Food and Environment Protection Act 1985.

6. The pilot of an aircraft engaged in an aerial application shall—

- (a) maintain the aircraft at a height of not less than 200 feet from ground level when flying over an occupied building or its curtilage;
- (b) maintain the aircraft at a horizontal distance of not less than 200 feet from any occupied building and its curtilage, children's playground, sports ground or building containing livestock;
- (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 that public highway has been closed to traffic during the course of the application; and
- (d) confine the application of the pesticide to the land intended to be treated.

7. In this Schedule—

“ground marker” includes a person who is instructed by a person intending to carry out an aerial application to place himself on or near to the land to which the pesticide is to be applied so that he is able to communicate with the pilot of the aircraft engaged in the aerial application for the purpose of ensuring the safe application of the pesticide; and

“water” means—

- (a) water held in sources of public water supplies, including reservoirs, upland catchment streams, lakes and rivers;
- (b) estuarial and coastal waters;
- (c) water used for fishing, including spawning sites, small watercourses and lake fisheries;
- (d) water used for fish farming;
- (e) water used for the growing of watercress; and
- (f) water used for the watering of livestock or for the irrigation of land.

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations impose prohibitions on the sale, supply, storage, use and advertisement of certain pesticides and other substances unless the Department of Agriculture for Northern Ireland ("the Department") has given an approval in relation to that pesticide or substance and a consent to that activity (regulation 4).

The Department may give its approval to a pesticide in the form of an experimental permit, a provisional approval or a full approval and may impose conditions on such approval when or after it is given. The Department may, at any time, review, revoke or suspend an approval or amend the conditions attached thereto (regulation 5).

The Department may give its consent to any activity prohibited by these regulations by the publication of a notice in the Belfast Gazette and may make it subject to such conditions as are set out in the Schedules to these regulations and any further conditions as may be specified in such a notice (regulation 6).

The Department may make available, upon payment of such reasonable fees and on such conditions as it may determine, copies of evaluations and study reports on pesticides to which provisional or full approval has been given. The commercial use or unauthorised publication of such information is prohibited (regulation 8).

Where there has been a breach of the prohibitions imposed under these regulations or any conditions attached to an approval or consent given by the Department in respect of any pesticide or other substance, any Northern Ireland Department may seize or dispose of that pesticide or substance or take such other remedial action as appears to it to be necessary or may direct some other person to take such action (regulation 7).

Codes of Practice approved by the Department under section 17(1) of the Food and Environment Protection Act 1985 will be published and will give guidance on the regulations. These Codes of Practice may be obtained from the Government Bookshop, Chichester Street, Belfast, BT1 4JY.

Contravention of the provisions of these regulations, conditions of approval or requirements imposed by virtue of the regulations is an offence under section 16(12) of the Food and Environment Protection Act 1985.