
STATUTORY INSTRUMENTS

1986 No. 1510

PESTICIDES

The Control of Pesticides Regulations 1986

Laid before Parliament in draft

<i>Made</i>	- - - -	<i>29th August 1986</i>
<i>Coming into Operation</i>		
<i>Regulation 3(3)</i>		<i>1st July 1987</i>
<i>Regulation 4(1)</i>		<i>1st January 1987</i>
<i>Regulation 4(5)(b)(i)</i>		<i>1st January 1988</i>
<i>Remainder</i>		<i>6th October 1986</i>

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 and of all other powers enabling them 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 established under section 16(7) of that Act⁽¹⁾ and with the Health and Safety Commission, hereby make the following regulations a draft whereof has been laid before and approved by resolution of each House of Parliament:—

Title and commencement

1. These regulations may be cited as the Control of Pesticides Regulations 1986 and shall come into operation as follows—

- (a) regulation 3(3) shall come into operation on 1st July 1987;
- (b) regulation 4(1) shall come into operation on 1st January 1987;
- (c) regulation 4(5)(b)(i) shall come into operation on 1st January 1988;
- (d) this regulation and the remaining provisions of these regulations shall come into operation on 6th October 1986.

(1) Established by S.I. 1985/1516.

Interpretation

2. (1) In these regulations, unless the context otherwise requires—

“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 jointly by the Ministers under regulation 5 in relation to a pesticide;

“curtilage” means the land attached to a building and forming one enclosure with it;

“evaluation” means a written evaluation of study reports or other data examined in the course of an appraisal by the Ministers of a pesticide in relation to which approval is sought;

“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 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);

“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, and “sale” shall be construed accordingly;

“supply” includes offer to supply;

“soil sterilant” means a substance used to control harmful organisms in soil or compost.

(2) Any reference in these regulations to a numbered regulation or schedule shall be construed as a reference to the regulation or schedule so numbered in these regulations.

Scope

3. (1) Subject to the following 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 the United Kingdom is controlled under any of the following enactments—
 - Medicines Act 1968;
 - Agriculture Act 1970 Part IV;
 - Food Act 1984;
 - Food and Drugs (Scotland) Act 1956;
 - The Cosmetics Products (Safety) Regulations 1984;

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) above, “pesticides” in paragraph (1) above 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) No person shall advertise a pesticide unless—

- (a) the Ministers jointly have given a provisional or full approval under regulation 5 in relation to that pesticide and a consent under regulation 6(a);

- (b) any conditions of the approval related to advertisement and the conditions of the consent have been complied with.
- (2) No person shall sell a pesticide unless—
 - (a) the Ministers jointly have given a provisional or full approval under regulation 5 in relation to that pesticide and a consent under regulation 6(b);
 - (b) any conditions of the approval related to supply and the conditions of the consent have been complied with.
- (3) No person shall supply a pesticide unless—
 - (a) the Ministers jointly have given an approval under regulation 5 in relation to that pesticide and a consent under regulation 6(b);
 - (b) any conditions of the approval related to supply and the conditions of the consent have been complied with.
- (4) No person shall store a pesticide unless—
 - (a) the Ministers jointly have given an approval under regulation 5 in relation to that pesticide and a consent under regulation 6(b);
 - (b) any conditions of the approval related to storage and the conditions of the consent have been complied with.
- (5) No person shall use a pesticide unless—
 - (a) the Ministers jointly have given an approval under regulation 5 in relation to that pesticide and a consent under regulation 6(c);
 - (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 following provisions of this regulation, the Ministers may jointly give their approval in relation to a pesticide of any description.
- (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 with a view to satisfying the Ministers' 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 Ministers may jointly, at any time—
 - (a) review, revoke or suspend an approval,
 - (b) amend the conditions of an approval.

Consents

6. The Ministers may be notice in the London and Edinburgh Gazettes jointly give their 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. (1) 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, either of the Ministers 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 the Minister to be necessary as a result of the contravention.

(2) If any pesticide has been imported into the United Kingdom in contravention of any of the specified prohibitions or of a condition of any approval or of any consent, either of the Ministers may require that it shall be removed out of the United Kingdom.

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 it, the Ministers may, at the request of any person, make available to him for inspection, on such conditions as they 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 Ministers that an evaluation made available to him for inspection under the previous paragraph gives insufficient information for his purposes, the Ministers may make available for his inspection at such times and on such conditions as may be determined by the Ministers, 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 Ministers on payment of such reasonable fees as the Ministers, with the consent of the Treasury, may determine from time to time.

(4) No person to whom an evaluation or a study report has been made available for inspection by virtue of paragraphs (1), (2) or (3) above shall make any commercial use of the information contained therein nor, unless authorised in writing by the Ministers so to do, publish any of the contents of that evaluation or study report.

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In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 29th August 1986.

Michael Jopling
Minister of Agriculture, Fisheries and Food

29th July 1986

Gray of Contin
Minister of State
Scottish Office

4th August 1986

Wyn Roberts
Parliamentary Under-Secretary of State for
Wales

29th July 1986

Young
Secretary of State for Employment

31st July 1986

Nicholas Ridley
Secretary of State for the Environment

14th August 1986

Norman Fowler
Secretary of State for Social Services

SCHEDULE 1

Regulation 6(a)

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, and other promotional material diffused through any broadcast or recorded medium, shall include—
 - (a) a statement of the active ingredient of each pesticide mentioned in the advertisement;
 - (b) such general warning as the Ministers may, by further condition, require;
 - (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.

SCHEDULE 2

Regulation 6(b)

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;
 - (b) be competent for the duties which he is called upon to perform.(2) No person shall 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 Ministers, 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 Ministers, and otherwise to comply with the requirements in and under these regulations.

SCHEDULE 3

Regulation 6(c)(i)

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. No person shall 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. No person shall use a pesticide in conjunction with an adjuvant except in accordance with the conditions of the approval given in relation to those pesticides.
4. No person shall 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. No person shall 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 Ministers, or he uses the pesticide under the direct and personal supervision of a person who holds such a certificate.
6. No person who was born later than 31st December 1964 shall use a pesticide approved for agricultural use unless he has obtained a certificate of competence recognised by the Ministers, 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;
 - “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 Ministers, and otherwise to comply with the requirements in and under these regulations.

SCHEDULE 4

Regulation 6(c)(ii)

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

1. No person shall carry out an aerial application unless he holds an aerial application certificate granted under S.I. 1985/1643 article 42(2) of the Air Navigation Order 1985.
2. No person shall undertake an aerial application unless he, or a person on his behalf, has—
 - (a) not less than 72 hours before the commencement of the aerial application, consulted the Nature Conservancy Council if any part of land which is subject to an order made under section 29(1) of the Wildlife and Countryside Act 1981, lies within a distance of three-quarters of one nautical mile from any part of the land to which the pesticide is to be applied;
 - (b) not less than 72 hours before the commencement of the aerial application, consulted the water authority for the area in which he intends to apply the pesticide if the land to which he intends to apply the pesticide is adjacent to water;
 - (c) obtained the consent of the water authority for the area in which the aerial application will take place 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 the aerial application, given notice of the intended operation to the

Chief Environmental Health Officer for the district 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 the aerial application, given notice of the intended operation to the occupants of each building within 75 feet of any boundary of the land to which he intends to apply the pesticide, and to 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 the aerial application, given notice of the intended operation 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 aerial application of the pesticide;
- (g) not less than 48 hours before the commencement of the aerial application, given notice of the intended operation 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 subparagraph 2(e) or (f) above 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 Chief Environmental Health Officer for the district.

4. No person shall undertake an aerial application of a pesticide unless—

- (a) the wind velocity at the height of application at the place of intended application does not exceed ten knots;
- (b) before the aerial application, he has provided and put in place within 200 feet of the land to which he intends to apply the pesticide signs adequate to warn pedestrians and drivers of vehicles of the time and place of the intended application;
- (c) before the aerial 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 below.

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

- (a) keep and retain for not less than 3 years after each 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;
- (b) provide, within one month of the end of the calendar year to which the records required by subparagraph (a) relate, summaries of those records to the Ministers in a form prescribed by them under section 16(11) of the Act.

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 from any occupied building and its curtilage, children's playground, sports ground or building containing livestock of—
 - (i) not less than 100 feet, if he has the written consent of the occupier; and
 - (ii) not less than 200 feet, in any other case;

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- (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;
- (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;

“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;
- (f) water used for the watering of livestock or for the irrigation of land.

EXPLANATORY NOTE

These regulations are made for the purpose of controlling pesticides in implementation of Part III of the Food and Environment Protection Act 1985. They apply to Great Britain and, with three exceptions specified in regulation 1, come into operation on 6th October 1986.

Subject to exceptions specified in regulation 3, regulation 4 prohibits the advertisement, sale, supply, storage or use of any pesticide unless the Ministers have given an approval in relation to that pesticide and a consent to that activity and unless the conditions of both the approval and the consent have been complied with.

Regulation 5 empowers the Ministers jointly to—

- (a) give approvals in relation to pesticides in the form of experimental permits, provisional approvals or full approvals;
- (b) impose conditions; and
- (c) review, revoke or suspend approvals and amend conditions.

Regulation 6 empowers the Ministers, by notice in the London and Edinburgh Gazettes, jointly to give consent to the advertisement, the sale, supply and storage, and the use, including use by aerial application, of pesticides subject to such of the conditions set out in Schedules 1, 2, 3 and 4 and any further conditions as may be specified by such a notice.

In the event of a breach of the specified prohibitions in relation to any pesticide or of the conditions of an approval or a consent, regulation 7 authorises—

- (a) the seizure or disposal of the pesticide or of anything treated with it;
- (b) such remedial action as appears to a Minister to be necessary as a result of the contravention;

(c) in the case of an imported pesticide, the removal out of the United Kingdom of that pesticide.

Regulation 8 enables the Ministers to make available on such conditions as they may determine, evaluations of and study reports submitted on pesticides in relation to which a provisional or full approval has been given. The furnishing of copies on payment of reasonable fees is authorised. Commercial use or unauthorised publication of information made available under the regulation is prohibited.

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