STATUTORY RULES OF NORTHERN IRELAND

2015 No. 254

HEALTH AND SAFETY

The Biocidal Products (Fees and Charges) Regulations (Northern Ireland) 2015

Made - - - -	*20th May 2015*
Coming into operation	*1st July 2015*

The Department of Enterprise, Trade and Investment ("the Department")(**1**), is designated(**2**)for the purposes of section 2(2) of the European Communities Act 1972 ("the 1972 Act")(**3**) in relation to the notification and control of substances and to measures relating to biocides.

The Department, being the Department concerned(**4**), makes the following Regulations in exercise of the powers conferred by section 2(2) of the 1972 Act(**5**) and Articles 40(2) and (4), and 55(2) of the Health and Safety at Work (Northern Ireland) Order 1978(**6**) ("the 1978 Order").

The Regulations give effect without modifications to proposals submitted to the Department by the Health and Safety Executive for Northern Ireland under Article 13(1A) of the 1978 Order(**7**).

Citation and commencement

1. These Regulations may be cited as the Biocidal Products (Fees and Charges) Regulations (Northern Ireland) 2015 and shall come into operation on 1st July 2015.

Interpretation

2.—(1) In these Regulations—

(**1**) Formerly the Department of Economic Development; *see*S.I. 1999/283 (N.I. 1), Article 3(5); that Department was formerly the Department of Manpower Services; *see*S.I. 1982/846 (N.I.11), Article 3
(**2**) S.I. 1981/1536 for the designation in relation to the notification and control of substances and S.I. 1999/2788 in relation to measures relating to biocides
(**3**) 1972 c.68
(**4**) *See* Article 2(2) of S.I. 1978/1039 (N.I. 9)
(**5**) 1972 c.68; the enabling powers conferred by section 2(2) were extended by virtue of section 1 of the European Economic Area Act 1993 (c.51). Section 2(2) was further amended by section 27(1), and paragraphs 2 and 3 of Schedule 2 by section 27(2), of the Legislative and Regulatory Reform Act 2006 (C .51)
(**6**) S.I. 1978/1039 (N.I. 9)
(**7**) Article 13(1A) was substituted by S.I. 1998/2795 (N.I. 18), Article 4

"the Biocides Regulation" means Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products(**8**);

"the Executive" means the Health and Safety Executive for Northern Ireland.

(2) Expressions used in both these Regulations and the Biocides Regulation have the same meaning in these Regulations as they have in the Biocides Regulation.

(3) The Interpretation Act (Northern Ireland) 1954(**9**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Functions of the Member State

3. The functions of the Member State referred to in Article 80(2) of the Biocides Regulation are to be performed by the Executive.

Fees

4.—(1) The Executive shall charge fees for—

(a) work it carries out within the scope of the Biocides Regulation which relates to the activities listed in column 1 of the Table in the Schedule; and

(b) work it carries out in order to evaluate an application under regulation 12 of the Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations (Northern Ireland) 2013(**10**).

(2) Any fee payable under paragraph (1) shall be calculated in accordance with paragraphs (3) to (9).

(3) Where a fee is payable under paragraph (1), the Executive shall prepare and send to the applicant, the person providing the information or the person making the request, as the case may be, an estimate of the cost of the work.

(4) The person to whom the estimate of costs specified in paragraph (3) is sent by the Executive must pay to the Executive the amount of that estimate within 30 days of its issue.

(5) Upon completion of the work, the Executive shall prepare a detailed statement of the work carried out and of the cost incurred by the Executive or any person acting on its behalf in carrying out that work.

(6) If the cost referred to in paragraph (5) is greater than the amount estimated in accordance with paragraph (3), the Executive shall notify the amount of difference to the applicant, the person providing the information or the person making the request as the case may be, who shall pay the amount of the difference, which will be the final fee payable, without delay.

(7) If the cost referred to in paragraph (5) is less than the amount estimated in accordance with paragraph (3), the fee shall be adjusted accordingly and the amount of difference shall be paid without delay by the Executive to the applicant, the person providing the information or the person making the request, as the case may be.

(8) Subject to paragraph (9), in estimating or stating the cost of carrying out any work, the Executive shall determine that cost by reference to the daily rate per person specified in column 2 of the Table in the Schedule that corresponds to the activity listed in column 1.

(9) The daily rate per person shall be adjusted pro rata for a period worked of less than 7.4 hours on any one day by—

(**8**) OJ L167 27.06.2012, p.1.
(**9**) 1954 c.33 (N.I.)
(**10**) S.R. 2013 No. 206

(a) dividing the daily rate by 14.8 to create a half hourly rate; and

(b) multiplying that figure by the number of half hours worked, rounded up or down to the nearest half hour.

(10) Any unpaid fees may be recovered by the Executive as a civil debt.

Revocations and savings provisions

5.—(1) The Biocidal Products (Fees and Charges) Regulations (Northern Ireland) 2013 are revoked(**11**).

(2) Despite the revocation of the Biocidal Products (Fees and Charges) Regulations (Northern Ireland) 2013 by paragraph (1), regulation 9 (2) of those Regulations continues to have effect for the purpose set out in that provision.

Sealed with the Official Seal of the Department of Enterprise, Trade and Investment on 20th May 2015.

L.S.

Jackie Kerr
A senior officer of the
Department of Enterprise, Trade and Investment

(**11**) S.R. 2013 No.207

SCHEDULE Regulation 4

ACTIVITIES IN RESPECT OF WHICH A FEE IS PAYABLE AND DAILY RATE

Table

1.	*2.*
Activity	*Fee per person per day worked*
(a) Validation of an application for approval of an active substance.	£447
(b) Evaluation of an application to approve an active substance.	£447
(c) Evaluation of an application to renew an active substance approval.	£447
(d) Work relating to a request for inclusion of an active substance in Annex I on behalf of an economic operator.	£447
(e) Meetings with applicants and prospective applicants.	£447
(f) Evaluation of an application to authorise a biocidal product under the simplified procedure.	£393
(g) Validation of an application for a national authorisation of a biocidal product.	£393
(h) Evaluation of an application for a national authorisation of a biocidal product.	£393
(i) Evaluation of an application to renew a national authorisation of a biocidal product.	£393
(j) Validating, processing and determining an application to mutually recognise a biocidal product in sequence, and subsequent authorisation.	£393
(k) Processing and determining an application for mutual recognition in parallel as a concerned Member State.	£393
(l) Processing and determining an application for mutual recognition by an official or scientific body.	£393
(m) Validating an application for Union Authorisation of a biocidal product.	£393
(n) Evaluation of an application for Union Authorisation of a biocidal product	£393
(o) Evaluation of an application to renew a Union Authorisation.	£393

1.	*2.*
Activity	*Fee per person per day worked*
(p) Determination of an application to amend an existing biocidal product authorisation.	£393
(q) Determination of an application for a parallel trade permit.	£393
(r) Evaluation of an application for an emergency use permit.	£393
(s) Evaluation of an application under Regulation 12 of the Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations (Northern Ireland) 2013.	£393

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide the charging regime in relation to Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products ("the Biocides Regulation"; OJ No L167, 27.06.12, p.1).

The Biocides Regulation replaces Directive 98/8/EC (OJ No. L123, 24.4.98, p.1) of the European Parliament and the Council of 16th February 1998, which laid down harmonised rules for the placing on the market of biocidal products. The Biocides Regulation lays down revised harmonised rules for the approval of active substances and the making available on the market of biocidal products.

Regulation 3 makes provision for the functions of the Member State referred to in Article 80(2) to be performed by the Executive.

Regulation 4 and the Schedule enable the Executive to charge fees, at a daily rate per person, for work carried out within the scope of the Biocides Regulation and the Biocidal Products (Appointment of Authorities and Enforcement) Regulations (Northern Ireland) 2013. These fees were previously prescribed in the Biocidal Products (Fees and Charges) Regulations (Northern Ireland) 2013. Regulation 4 does not reproduce the annual charge made under those Regulations.

Regulation 5 (1) revokes the Biocidal Products (Fees and Charges) Regulations (Northern Ireland) 2013 subject to Regulation 5 (2).

Regulation 5 (2) sets out those provisions of the Biocidal Products Regulations (Northern Ireland) 2001 which continue to apply for the purposes of calculating the fee payable in respect of the evaluation of applications for biocidal product authorisations submitted before 1 September 2013.

In Great Britain the corresponding legislation is contained within the Health and Safety and Nuclear (Fees) Regulations 2015 (S.I. 2015/363). The Great Britain Health and Safety Executive has prepared an impact assessment of the effect that the Regulations will have on the costs of business and the voluntary sector. Analysis of the removal of the requirement to pay the biocidal products annual charge can be found at paragraphs 22 to 33. A copy of the impact assessment is available from the

Health and Safety Executive for Northern Ireland, 83 Ladas Drive, Belfast, BT6 9FR. A copy of the assessment has been annexed to the Explanatory Memorandum, placed in the library of the Northern Ireland Assembly and is also available alongside these Regulations at www.legislation.gov.uk.