SCHEDULE 12 Regulations 3(2), 36(2) and 40

Transitional Provisions

1. In this Schedule—

"COPR 1987" means the Control of Pesticides Regulations (Northern Ireland) 1987(**1**);

"COPR approval" means an approval granted under COPR 1987;

"COPR biocidal product" means a biocidal product to which COPR 1987 applies; and

"unlisted active substance" means an existing substance which is not included in Annex I, IA or IB.

2. Subject to paragraphs 3 and 4, where a decision is made under Article 16(2) that—

(a) an unlisted active substance shall be included in Annex I, IA or IB; or

(b) an unlisted active substance shall not be included in either Annex I, IA or IB,

these Regulations shall apply to every biocidal product which contains the unlisted active substance to which the decision in question relates when that decision takes effect.

3. These Regulations shall not apply to a biocidal product—

(a) when a decision referred to in paragraph 2(*a*) relating to an unlisted active substance in that biocidal product takes effect, if that biocidal product is not within a product-type in which the unlisted active substance may be used in accordance with any requirement to which the inclusion of the unlisted active substance in Annex I, IA or IB, as the case may be, is subject;

(b) when a decision referred to in paragraph 2(*b*) relating to an unlisted active substance in that biocidal product takes effect, if the biocidal product is not within a product-type in which, in accordance with that decision, the unlisted active substance may not be used.

4. Where there is more than one unlisted active substance in a biocidal product, these Regulations shall not apply to that biocidal product until a decision referred to in paragraph 2 is made in relation to the last of those unlisted active substances to be considered for inclusion in Annex I, IA or IB, provided that such a decision has been made to include all the other active substances in that biocidal product in either Annex I, IA or IB.

5. Where—

(a) there is made a decision referred to in paragraph 2(*a*); and

(b) by virtue of that paragraph, these Regulations apply to a biocidal product containing the unlisted active substance in question,

the person responsible for first placing the biocidal product on the market in Northern Ireland may make an application under regulation 9 or regulation 10, as the case may be, in respect of that biocidal product not later than 3 months after that decision takes effect, or such longer period as the Executive may determine.

6. Where—

(a) there is made a decision referred to in paragraph 2(*a*); and

(b) by virtue of that paragraph, these Regulations apply to a biocidal product containing the unlisted active substance in question,

the Executive may grant a certificate of exemption in accordance with paragraph 15 where a person informs the Executive in writing that he intends to make an application to the Executive under

(**1**) S.R. 1987 No. 414, as amended by S.R. 1991 No. 203 and S.R. 1997 No. 469

regulation 11 or regulation 12 after a competent authority in another member State has authorised or registered that biocidal product for placing on the market and use under the Directive.

7. During—

(a) the period of time in which an application may be made in accordance with paragraph 5; and

(b) the period of time between such application being made and the Executive deciding whether or not to authorise or register the biocidal product in question,

the Executive may grant a certificate of exemption in accordance with paragraph 15.

8. Where—

(a) there is made a decision referred to in paragraph 2(*a*);

(b) by virtue of that paragraph these Regulations apply to a biocidal product containing the unlisted active substance in question; and

(c) the competent authority of a member State has authorised or registered that biocidal product for placing on the market and use,

the person responsible for first placing the biocidal product on the market in Northern Ireland may make an application under regulation 11 or 12, as the case may be, in respect of that biocidal product not later than 3 months after that authorisation or registration was granted, or such longer period as the Executive may determine.

9. During—

(a) the period of time in which an application may be made in accordance with paragraph 8; and

(b) the period of time between such application being made and the Executive deciding whether or not to authorise or register the biocidal product in question,

the Executive may grant a certificate of exemption in accordance with paragraph 15.

10. Where—

(a) no application is made in accordance with paragraph 5 or 8; and

(b) such an application is made but the Executive refuse to authorise or register the biocidal product in question,

the Executive may grant a certificate of exemption in accordance with paragraph 15.

11. Where—

(a) an application is made in accordance with paragraph 8;

(b) the Executive refuses to authorise or register the biocidal product, as the case may be; and

(c) such refusal is upheld by a Commission decision,

the Executive may grant a certificate of exemption in accordance with paragraph 15.

12. Where—

(a) there is made a decision referred to in paragraph 2(*b*); and

(b) by virtue of that paragraph these Regulations apply to a biocidal product containing the unlisted active substance in question,

the Executive may grant a certificate of exemption in accordance with paragraph 15.

13. Where—

(a) there is made a decision referred to in paragraph 2; and

(b) by virtue of that paragraph these Regulations apply to a COPR biocidal product containing the unlisted active substance in question,

COPR 1987 shall cease to apply to that COPR biocidal product when that decision takes effect.

14. The Executive shall—

(a) notify in writing the holder of a COPR approval in respect of a COPR biocidal product to which paragraph 10 applies that COPR 1987 no longer applies to that biocidal product; and

(b) at the same time, revoke that COPR approval.

15. A certificate of exemption granted pursuant to paragraph 6, 7, 9, 10, 11 or 12 shall be in writing and may exempt any person or class of persons or any biocidal product or class of biocidal products from all or any of the requirements or prohibitions imposed by these Regulations, other than regulation 29, relating to—

(a) placing on the market;

(b) use;

(c) advertisements;

(d) packaging and labelling; or

(e) storage (including storage for disposal).

16. An exemption certificate granted in accordance with paragraph 15—

(a) may be granted subject to conditions;

(b) may be revoked by the Executive by a further certificate in writing at any time; and

(c) shall be granted for a period not exceeding three years.