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STATUTORY RULES OF NORTHERN IRELAND

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**1997 No. 470**

**PESTICIDES**

**Plant Protection Products (Basic Conditions)  
Regulations (Northern Ireland) 1997**

*Made - - - - 28th October 1997*

*To be laid before Parliament under paragraph 3(3) of  
Schedule 1 to the Northern Ireland Act 1974*

*Coming into operation 9th December 1997*

The Department of Agriculture, in exercise of the powers conferred on it by sections 16(2), 24(3) and 25(2) of the Food and Environment Protection Act 1985<sup>(1)</sup>, and of every other power enabling it 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 for Northern Ireland, established under section 16(7) of that Act<sup>(2)</sup>, 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 Plant Protection Products (Basic Conditions) Regulations (Northern Ireland) 1997, and shall come into operation on 9th December 1997.

**Interpretation**

2.—(1) In these Regulations—

“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;

“the Department” means the Department of Agriculture for Northern Ireland;

“ground water” means any waters contained in underground strata;

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

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(1) 1985 c. 48; sections 16 and 25(2)(b) were amended by the Pesticides (Fees and Enforcement) Act 1989 c. 27

(2) Established by S.R. 1987 No. 341

“the Plant Protection Products Regulations” means the Plant Protection Products Regulations (Northern Ireland) 1995<sup>(3)</sup>;

“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;

“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, lough, pond, reservoir, river, stream or watercourse including the bottom, channel or bed of any lake, lough, pond, reservoir, river, stream or, as the case may be, watercourse which is for the time being dry.

(2) The Interpretation Act (Northern Ireland) 1954<sup>(4)</sup> shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

### 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 is subject to the prohibitions specified in regulation 3(1) and (2) of the Plant Protection Products Regulations<sup>(5)</sup>, or which is approved under regulation 9 of those Regulations<sup>(6)</sup>; and

(b) which is a substance, preparation or micro-organism to which paragraph (2) 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.

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<sup>(3)</sup> S.R. 1995 No. 371, amended by S.R. 1996 No. 456

<sup>(4)</sup> 1954 c. 33 (N.I.)

<sup>(5)</sup> In principle the prohibitions specified in regulation 3(1) and (2) (which provide that a person shall not place on the market nor use any plant protection product within Northern Ireland 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 (Northern Ireland) 1987 (S.R. 1987 No. 414)

<sup>(6)</sup> 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 Department 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)

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

- 4.—(1) A person shall not advertise any prescribed plant protection product unless—
- (a) the Department has given an approval under regulation 5 to the advertisement of that plant protection product;
  - (b) the Department has 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) A person shall not store any prescribed plant protection product unless—
- (a) the Department has given an approval under regulation 6 to the storage of that plant protection product;
  - (b) the Department has given a consent under regulation 7(b) to the storage of prescribed plant protection products; and
  - (c) the conditions of—
    - (i) the approval related to storage or required by the approval to be specified on the labelling; and
    - (ii) the consent,  
have been complied with.
- (3) A person shall not sell any prescribed plant protection product unless—
- (a) the Department has 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) A person shall not supply any prescribed plant protection product unless—
- (a) the Department has 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) A person shall not use any prescribed plant protection product unless—
- (a) the Department has given a consent under regulation 7(c) to the use of prescribed plant protection products; and
  - (b) the conditions of the consent imposed under regulation 7(c)(i) have been complied with; and
  - (c) 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 paragraphs (2) to (4), the Department may give its 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), 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 Department has 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 Department may at any time amend such conditions.

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

### **Approvals for storage**

6.—(1) Subject to paragraphs (2) to (4), the Department may give its 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), 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 Department has 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 Department 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 Department may at any time amend such conditions.

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

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

7. The Department may give its 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 it has given a consent under this regulation the Department shall publish, in such manner as it considers appropriate, a notice specifying the fact.

### **Seizure and disposal of prescribed plant protection products**

8. 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, any Northern Ireland Department 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 that Department 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 that Department 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 that Department to be the owner or the person in charge of the plant protection product, to take such remedial action as appears to that Department 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 Northern Ireland.

### **Release of information to the public**

9.—(1) The Department may, at the request of any person, at such reasonable time and place as it may determine, make any evaluation held by it available to that person for inspection.

(2) The Department may, at the request of any person, supply that person with a copy of any evaluation held by it on payment of such fee (which may not exceed the cost reasonably attributable to the supply) as the Department, with the consent of the Department of Finance and Personnel, may determine.

(3) The Department may, at the request of any person to whom an evaluation has been made available for inspection under paragraph (1) or to whom a copy of an evaluation has been supplied under paragraph (2), make available at such reasonable time and place as it may determine for inspection by that person any study reports held by it to which the evaluation relates.

(4) A 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 not make any commercial use of it nor, unless authorised in writing by the Department 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 Department;

“evaluation” means a written evaluation of study reports or other data examined in the course of an appraisal of the active substance 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 (Northern Ireland) 1993(7).

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(7) [S.R. 1993 No. 45](#), which implements in Northern Ireland 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) Government Departments (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

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Sealed with the Official Seal of the Department of Agriculture for Northern Ireland on

L.S.

28th October 1997.

*Liam McKibben*  
Assistant Secretary

## 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) An advertisement of a prescribed plant protection product shall not 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 the 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 Department under paragraph 6 of that Schedule, to be included in the labelling of the product.

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

(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 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 sell, supply or store prescribed plant protection products are provided with such instruction, training and guidance as is necessary to enable those

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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. A person shall not 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 Department; or
  - (b) stores that prescribed plant protection product under the direct supervision of a person who holds such a certificate.
4. A person shall not 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 Department; or
  - (b) sells or supplies that prescribed plant protection product under the direct supervision of a person who holds such a certificate.
5. In paragraphs 3 and 4—

“approval” means any approval given under the Plant Protection Products Regulations;

“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 any surface 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.

### 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. A person in the course of a business or employment shall not 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 to 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), a person shall not 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 referred to as “the applicant”) to the Department, in a list of adjuvants published by the Department from time to time (in this paragraph 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).

(2) In the application of this paragraph—

- (a) the Department 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 (i);
- (b) the Department shall, in relation to any adjuvant specified in the list, also specify in that list any requirements which it has determined or amended under paragraph (a)(ii) or (iii).

(3) In the application of this paragraph—

- (a) the Department may, in relation to any adjuvant specified in the list, remove that adjuvant from the list—
  - (i) if it appears to it 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);

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- (ii) if it appears to it 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);
- (iii) if it appears to it 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 Department 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) A person shall not 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) A person shall not 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) A person in the course of a commercial service shall not use a prescribed plant protection product approved for agricultural use unless that person—

- (a) has obtained a certificate of competence recognised by the Department; 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 Department).
- (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. A person who was born later than 31st December 1964 shall not use a prescribed plant protection product approved for agricultural use unless that person—
- (a) has obtained a certificate of competence recognised by the Department; 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).
9. In paragraphs 7 and 8 “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 any surface 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.
10. For the purpose of this Schedule “approval” means any approval given under the Plant Protection Products Regulations.

#### SCHEDULE 4

Regulation 7(c)(ii)

##### Conditions relating to Consent to the use of Prescribed Plant Protection Products by Aerial Application

1. A person shall not 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(8) is held by that person, that person’s employer or the main contractor undertaking the aerial application; and

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

2.—(1) A person shall not 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 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<sup>(9)</sup> or which is subject to a declaration made under Article 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<sup>(10)</sup>, and which 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 Department of the Environment for Northern Ireland 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 the Department of the Environment for Northern Ireland 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 District Council 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) 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 given to the District Council for the district in which the intended aerial application is to take place.

3. A person shall not undertake an aerial application of a prescribed plant protection product unless—

<sup>(9)</sup> S.I. 1985/171 (N.I. 2)

<sup>(10)</sup> S.I. 1985/170 (N.I. 1) amended by S.I. 1989/492 (N.I. 3)

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- (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.
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 duration of the wind during the application; and
    - (x) any unusual occurrences which affected the application;
  - (b) provide the Department with summaries of the records required by sub-paragraph (a) in any manner which it may require under section 16(11) of the Food and Environment Protection Act 1985<sup>(11)</sup>, 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 maintain the aircraft—
- (a) at a height of not less than 200 feet<sup>(12)</sup> from ground level when flying over an occupied building or its curtilage;
  - (b) 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) 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 motorway or public highway has been closed to traffic during the course of the application.
6. For the purpose of this Schedule—
- “approval” means any approval given under the Plant Protection Products Regulations;
- “curtilage”, in relation to any building, means the land attached to, and forming one enclosure with, that building;

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<sup>(11)</sup> 1985 c. 48; sections 16 and 25(2)(b) were amended by the Pesticides (Fees and Enforcement) Act 1989 c. 27

<sup>(12)</sup> The metric equivalent of one foot is 0.3048 metres (Council Directive 89/617/EEC, OJ No. L357, 7.12.89, p. 29)

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

“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 Department;

“water” means any surface water.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

These Regulations supplement the Plant Protection Products Regulations (Northern Ireland) 1995 (S.R. 1995 No. 371) as amended (S.R. 1996 No. 456) (“the principal Regulations”) which implement in Northern Ireland Council Directive No.91/414/EEC concerning the placing of plant protection products on the market, as amended. The principal Regulations require that plant protection products shall not be placed on the market or used within Northern Ireland unless they have been approved by the Department of Agriculture, for Northern Ireland (“the Department”) 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 (Northern Ireland) 1987) 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. A person may not advertise and store a prescribed plant protection product unless the Department has given its 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 a person may not advertise, store, sell, supply or use prescribed plant protection products unless the Department has given the appropriate consent under the Regulations and the conditions of such consent are complied with; when it has given a consent the Department is 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 Department) 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 Department) 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 31st 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 Department 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 any Northern Ireland Department 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) (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 (O.J. No. L109, 26.4.83, p. 8), as amended.