



# Food and Environment Protection Act 1985

## 1985 CHAPTER 48

### PART III

#### PESTICIDES ETC.

#### 16 Control of pesticides etc.

- (1) The provisions of this Part of this Act shall have effect—
- (a) with a view to the continuous development of means—
    - (i) to protect the health of human beings, creatures and plants;
    - (ii) to safeguard the environment; and
    - (iii) to secure safe, efficient and humane methods of controlling pests; and
  - (b) with a view to making information about pesticides available to the public;
- and references in this Part of this Act to the general purposes of this Part of this Act are references to the purposes mentioned in this subsection.
- (2) The Ministers may jointly by regulations—
- (a) impose the specified prohibitions in relation to pesticides but exclude from them pesticides of a description specified in the regulations;
  - (b) provide that the Ministers may jointly give their approval, in relation to pesticides of a description specified in the regulations, to the doing of anything that would otherwise be prohibited by virtue of paragraph (a) above;
  - (c) provide for the imposition of conditions on an approval, when or after it is given;
  - (d) provide for the giving of consent by the Ministers or either of them to the doing of anything contrary to a specified prohibition;
  - (e) provide that a consent given by virtue of paragraph (d) above may be given either without conditions or subject to such conditions as may be specified;
  - (f) provide—
    - (i) for the review, revocation or suspension of an approval;

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- (ii) for the amendment of conditions imposed on an approval;
- (g) direct that, if there has been a breach, in relation to any pesticide,—
  - (i) of any of the specified prohibitions; or
  - (ii) of a condition imposed by virtue of this subsection,
 either of the Ministers [<sup>F1</sup>and any local authority] shall have power—
  - (iii) to seize or dispose of it or to require that some other person shall dispose of it;
  - (iv) to seize or dispose of anything treated with it or to require that some other person shall dispose of any such thing;
  - (v) to direct some other person to take such remedial action as appears to the Minister [<sup>F2</sup>or local authority] to be necessary as a result of the contravention;
- (h) provide that, if any pesticide has been imported into the United Kingdom in contravention of any of the specified prohibitions or of any such condition, either of the Ministers may require that it shall be removed out of the United Kingdom;
- [<sup>F3</sup>(j) provide for information to be made available to the public, subject to—
  - (i) any condition that the Ministers consider appropriate; and
  - (ii) payment of such amount as the Ministers may, with the consent of the Treasury, determine as representing the cost reasonably attributable to the supply of the information;]
- (k) specify how much pesticide or pesticide residue may be left in any crop, food or feeding stuff; and
- (l) direct that, if there is more pesticide or pesticide residue in any crop, food or feeding stuff than the proportion specified by virtue of paragraph (k) above, either of the Ministers shall have power—
  - (i) to seize or dispose of the crop, food or feeding stuff in question or to require that some other person shall dispose of it;
  - (ii) to direct some other person to take such remedial action as appears to the Minister to be necessary as a result of the contravention,

and in this Part of this Act “regulations” means regulations under this section and “approval” means approval under regulations.

[<sup>F4</sup>(2A) In subsection (2)—

- (a) in paragraph (g), “local authority” has the same meaning as in section 19; and
  - (b) in paragraph (j), “information” means any information which has been supplied to a government department or other authority at any time for the purposes of, or otherwise in connection with—
    - (i) any provision made by or under this section;
    - (ii) the United Kingdom Pesticides Safety Precautions Scheme; or
    - (iii) the Agricultural Chemicals Approval Scheme.]
- (3) In this Part of this Act “the specified prohibitions”, in relation to pesticides, means prohibitions of any of the following—
- (a) importation;
  - (b) sale, offer or exposure for sale or possession for the purpose of sale;
  - (c) supply or offer to supply;
  - (d) storage;
  - (e) use;

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- (f) advertisement.
- (4) Pesticides may be identified in any way for the purposes of this Part of this Act.
- (5) In determining any provision to be made by virtue of subsection (2)(j) above the Ministers shall have regard to the interests of persons supplying information to which that provision would relate.
- (6) Regulations shall be made by statutory instrument and no regulations shall be made unless a draft of them has been laid before and approved by resolution of each House of Parliament.
- (7) The Ministers may by order made by statutory instrument jointly establish a committee to give them advice, either when requested to do so or otherwise, on any matters relating to the control of pests in furthering the general purposes of this Part of this Act, and Schedule 5 shall have effect with respect to it.
- (8) A statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) The Ministers [<sup>F5</sup>or the Scottish Ministers] shall consult the committee—
- (a) as to regulations which they contemplate making;
  - (b) as to approvals which they contemplate giving, revoking or suspending; and
  - (c) as to conditions to which they contemplate making approvals subject.
- [<sup>F6</sup>(9A) The Ministers—
- (a) shall consult the Food Standards Agency as to regulations which they contemplate making; and
  - (b) shall from time to time consult that Agency as to the general approach to be taken by them in relation to the giving, revocation or suspension of approvals and the imposition of conditions on approvals (including the identification of circumstances in which it may be desirable for the Agency to be consulted in relation to particular cases).]

(10) If it appears to the Ministers that regulations which they contemplate making are likely to affect the health or safety of persons at work, it shall be their duty to consult the Health and Safety Commission concerning them.

(11) Either of the Ministers may require the provision of such information by importers, exporters, manufacturers, distributors or users of a pesticide as he considers to be necessary—

    - (a) for the purpose of controlling pesticides in the United Kingdom; or
    - (b) for the fulfilment by the government of the United Kingdom of any international obligation to supply information; or
    - (c) to enable the government of the United Kingdom to determine what action it should take in order to fulfil an international obligation of any other description.

(12) A person who—

    - (a) without reasonable excuse, contravenes, or causes or permits any other person to contravene—
      - (i) any provision of regulations;
      - (ii) any condition of approval of a pesticide; or

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- (iii) any requirement imposed by virtue of regulations or of subsection (11) above; or
- (b) in purporting to give information required by virtue of subsection (11) above—
- (i) makes a statement which he knows to be false in a material particular;
  - (ii) recklessly makes a statement which is false in a material particular; or
  - (iii) intentionally fails to disclose any material particular,
- shall be guilty of an offence.
- (13) In subsection (12) above “contravenes” includes “fails to comply with” and “contravene” has a corresponding meaning.
- [<sup>F7</sup>(13A) If either of the Ministers does anything by virtue of this Part of this Act in consequence of a failure on the part of any person to comply with regulations, he may recover from that person expenses reasonably incurred by him in doing it.]
- (14) It shall be a defence in proceedings for an offence—
- (a) under section 8(b) of the <sup>M1</sup>Protection of Animals Act 1911;
  - (b) under section 7(b) of the <sup>M2</sup>Protection of Animals (Scotland) Act 1912; or
  - (c) under section 22(2)(b) of the <sup>M3</sup>Welfare of Animals Act (Northern Ireland) 1972,
- (each of which restricts the placing on land of poison and poisonous substances) for the person charged to show that he acted in accordance with an approval.
- (15) In this Act—
- “pest” means—
- (a) any organism harmful to plants or to wood or other plant products;
  - (b) any undesired plant; and
  - (c) any harmful creature;
- “pesticide” means any substance, preparation or organism prepared or used for destroying any pest; and
- “pesticide residue” means any substance resulting from the use of a pesticide including, without prejudice to the generality of this definition, any such derivative as regulations may specify in relation to a particular pesticide.
- (16) This Part of this Act applies 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.

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**Textual Amendments**

**F1** Words in s. 16(2)(g) inserted (9.9.1998) by 1998 c. 26, ss. 1(1)(2)(a), 3(b)

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- F2** Words in s. 16(2)(g) inserted (9.9.1998) by 1998 c. 26, **ss. 1(1)(2)(b)**, 3(b)
- F3** S. 16(2)(j) substituted (9.9.1998) by 1998 c. 26, **ss. 1(1)(3)**, 3(b)
- F4** S. 16(2A) inserted (9.9.1998) by 1998 c. 26, **ss. 1(1)(4)**, 3(b)
- F5** Words in s. 16(9) inserted (1.7.1999) by S.I. 1999/1747, **art. 3 Sch. 2 Pt. II para. 4(2)** (with Sch. 2 paras. 2, 3); S.I. 1998/3178 art. 3
- F6** S.19(9A) inserted (1.4.2000) by 1999 c. 28, s. 18, **Sch. 3 Pt. III para. 16(5)** (with s. 38); S.I. 2000/1066, **art. 2**
- F7** S. 16(13A) inserted by Pesticides (Fees and Enforcement) Act 1989 (c. 27, SIF 46:4), **s. 1(2)**

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**Modifications etc. (not altering text)**

- C1** S. 16 transfer of functions (23.3.2005) by Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2005 (S.I. 2005/849), art. 1, **Sch.** (with art. 6)
- C2** S. 16(7) modified (1.7.1999) by S.I. 1999/1747, art. 3, **Sch. 2 Pt. II para. 3**; S.I. 1998/3178

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**Marginal Citations**

- M1** 1911 c. 27.
- M2** 1912 c. 14.
- M3** 1972 c. 7. (N.I.).

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