

Health and Safety Executive		Sector Information Minute	
Agriculture and Food Sector		SIM 01/2005/07	
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Target Audience:
FOD Divisional Directors
FOD Heads of Operations
FOD Inspectors dealing with Agriculture

PROTOCOL FOR THE SEIZURE / DISPOSAL OF PESTICIDES OR PLANT PROTECTION PRODUCTS

This SIM sets out the procedure to be followed by authorised inspectors when applying for the delegation of powers reserved to the Executive for the seizure and/or disposal of products under pesticides or plant protection product legislation.

- 1 HSC/E enforces Part III of the Food and Environment Protection Act 1985 (FEPA) and the Plant Protection Products Regulations 2005 (PPPR) and their associated regulations under the Agency Agreement made between the Commission and Ministers. Under the agreement, HSE enforces the relevant provisions in respect of those premises and activities for which it is the enforcing authority by virtue of the Health and Safety (Enforcing Authority) Regulations 1998.
- 2 Regulation 7 (COPR) and regulation 8 (PPP(BC)R) state that under specified circumstances, Ministers may seize or dispose of a pesticide or plant protection product and, where it is an illegal import, require it to be removed from the United Kingdom.
- 3 Paragraph 9 of the revised Agency Agreement between Ministers and the HSC state that the Commission will direct the Executive to perform such delegated functions. The Executive in turn has delegated the authority to enforce the provisions by way of warrants issued to Inspectors on an individual basis.
- 4 In practice however the powers to seize, dispose or remove a pesticide or plant protection product from the UK (described above) have been reserved by the Executive rather than be delegated to inspectors. These powers can be delegated to operational inspectors but only on a case-by-case basis on specific application to the Executive.

5 The following procedure for applying for delegation of the powers to seize, dispose of or remove from the UK has been agreed with the HSE Secretariat.

6 Wherever practicable, the request should be made by a Band 0. It is acknowledged that there may be exceptional circumstances e.g. where time is critical and no Band 0 is available, in which an application from a Band 1 will be considered.

7 The application should consist of:

- **A Summary** – together with the following statement:

”This application follows the procedure agreed between the HSE Secretariat and the then FOD Agriculture/Wood Sector on 22 January 1999.”

- **An outline of the law** – including;
 - The requirements of regulation 7 (COPR) / regulation 8 (PPP(BC)R) as appropriate,
 - Details of para 9 of the Agency Agreement,
 - The powers to seize, dispose of or remove from the UK have been reserved by the Executive.
- **Details of the case** - setting out the sequence of events leading from the initiating event e.g. investigation of a complaint or the findings at an inspection etc. which caused the inspector concerned to form the opinion that “there has been a breach, in relation to any pesticide, of any of the specified prohibitions imposed by regulation 4 (COPR) or of a condition of approval or consent.....” for which seizure or disposal would be an appropriate, proportionate and necessary enforcement action. It should include details of any action taken to date e.g. notice(s) served under s19 FEPA and their aims/objectives together with an indication of any information/evidence the inspector expects to obtain on exercising the delegated powers.
- **Background information** - including details of the client/client business, the previous history of the relationship with HSE and any relevant comments on the offence(s) alleged.
- **Practical Implications** - including any necessary arrangements for the transport, secure storage and (if appropriate) disposal or re-exportation of the products seized together with estimates of the cost to HSE of invoking these arrangements.
- **Ministerial submission (For Information):** - standard format including:
 - Issue
 - Recommendation

- Timing
- Background
- Summary and Conclusion
- Clearance

(see GAP3 - Commission, Board and Secretariat Business)

- **Conclusion** - including formal application for the delegation of:
 - the specified, requisite power(s)
 - to (a named inspector)
 - on (specified date(s))
 - at (specified location(s)).

8 Any request for further advice, guidance or help in developing an application or on the procedure to be followed in seeking delegation of the powers reserved to the Executive under pesticides / plant protection products legislation should be referred to the Agriculture/Food Sector.

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