



Pesticides (Fees and Enforcement) Act 1989

1989 CHAPTER 27

An Act to substitute new provisions for section 18 of the Food and Environment Protection Act 1985; to amend section 19 of that Act; and for connected purposes. [27th July 1989]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Payments for general purposes of Part III of Food and Environment Protection Act 1985

- (1) The following section shall be substituted for section 18 of the Food and Environment Protection Act 1985 (“the 1985 Act”)—

“18 Payments for general purposes of Part III

- (1) Either of the Ministers may require an applicant for the approval of a pesticide under this Part of this Act, on making his application, to pay a fee as a contribution to the cost of handling and evaluating it.
- (2) Either of the Ministers may require payments by such persons as he considers appropriate in respect—
- of the balance of the cost of handling and evaluating applications for approval;
 - of the collection of information under section 16(11) above and the processing of information supplied under that subsection; and
 - of monitoring the effect of the use of pesticides in the United Kingdom.

- (3) Amounts to be paid under this section shall be determined on principles settled by the Ministers with the consent of the Treasury and after consultation with organisations appearing to the Ministers to represent persons who are likely to apply for approvals.
- (4) Without prejudice to the generality of subsection (3) above, the Ministers may settle that any such amount is to be calculated by reference to either or both of the following—
- (a) the United Kingdom turnover during a specified period of a pesticide to which an approval relates; or
 - (b) the United Kingdom turnover during a specified period of all pesticides to which approvals held by the person who is to make the payment relate.
- (5) Any such amount may be calculated in such manner as the Minister to whom it is to be paid considers reasonable—
- (a) if insufficient evidence of turnover is submitted for the calculations that would be required under subsection (4) above; or
 - (b) if no evidence is submitted for those calculations.
- (6) Either of the Ministers may permit payment by instalments, and arrange for the refund, adjustment, set-off, waiver or reduction of the whole or part of a payment, in such cases as he may determine.
- (7) If an amount payable by any person in respect of an approval is unpaid, the Ministers may suspend the approval, until that amount is paid, to such extent as they consider appropriate and, without prejudice to the generality of this subsection, to the extent that it authorises him to sell the pesticide.
- (8) All payments under this section are payments for the general purposes of this Part of this Act and may be used accordingly.”
- (2) The following subsection shall be inserted after section 16(13) of the 1985 Act—
- “(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.”
- (3) In section 25(2)(b)—
- (a) “, 16(13A)” shall be inserted after “and (1),”; and
 - (b) “18(3)” shall be omitted.
- (4) There shall be paid into the Consolidated Fund any increase attributable to this section in the sums falling to be paid into that Fund under section 23(3) of the 1985 Act.

2 Enforcement

- (1) The following subsections shall be substituted for subsection (1) of section 19 of the 1985 Act—
- “(1) Subject to the following provisions of this section, the powers conferred by this section (including Schedule 2 to this Act) (“the enforcement powers”) may be exercised—

- (a) by a person whom either of the Ministers has by instrument in writing authorised to exercise them; or
 - (b) by an officer of a local authority who is authorised to exercise them under subsection (1C) below.
 - (1A) An instrument issued under subsection (1)(a) above may provide that the person to whom it is issued may only exercise the enforcement powers for specified purposes.
 - (1B) Either of the Ministers may specify descriptions of local authority officers who may be authorised to exercise the enforcement powers but may direct that an officer of a particular description may only be authorised to exercise them for specified purposes.
 - (1C) If either of the Ministers specifies a description of local authority officers under subsection (1B) above, a local authority may by instrument in writing authorise any of its officers falling within that description to exercise the enforcement powers.
 - (1D) The following provisions of this Act are to be construed in reference to a person authorised to exercise the enforcement powers as subject to the terms of the instrument which authorises him to exercise them.”
- (2) The following subsection shall be inserted after subsection (7) of that section—
- “(8) In this section “local authority” means—
 - (a) any local authority, as defined in the Local Government Act 1972, except a parish or community council;
 - (b) any local authority, as defined in the Local Government (Scotland) Act 1973;
 - (c) a district council in Northern Ireland; and
 - (d) a port health authority.”
 - (3) Nothing in this section affects an authorisation under section 19 of the 1985 Act which was given before this section came into force.

3 Citation and commencement

- (1) This Act may be cited as the Pesticides (Fees and Enforcement) Act 1989.
- (2) Section 2 above shall come into force at the end of the period of two months beginning with the day this Act is passed.