
ENFORCEMENT OF BOCIDES IN THE UK CASE STUDY

Mike Potts

CRD Compliance Team

UK BEG Member

ECHA Stakeholder Day – September 2016

Content

- Biocides – The UK position
 - Transitional arrangements
- Overview of Enforcement
- Case Studies

Biocides

- Four main Product categories:
 - Disinfectants
 - Preservatives
 - Pest Control
 - Others



Transitional Arrangement in the UK

- National Rules apply until Product is authorised under BPR
 - Actives must be in review programme for the relevant PT
- Control of Pesticides Regulations 1986
 - Cover roughly half of the product types in BPR
 - Disinfectants are not regulated by an approvals scheme in the UK

ENFORCEMENT OF Biocides

Via The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013 (SI 2013/1506) and NI equivalent

➤ **REGISTRATION / AUTHORISATION RELATED DUTIES**

- HSE in Great Britain and HSENI in Northern Ireland

➤ **SUPPLY-CHAIN RELATED DUTIES**

- HSE/HSENI until retail sale (then Trading Standards)

➤ **USE RELATED DUTIES**

- existing UK enforcement regime and enforcing authorities for health, safety and environmental legislation

CRD Compliance Strategy

- **Fits with HSE's Enforcement Model**
 - Enforcement Policy Statement
 - Proportionality
 - Targeting
 - Consistency
 - Transparency
 - Accountability
 - Enforcement Management Model
 - framework which helps inspectors make enforcement decisions in line with the EPS

CRD Compliance Strategy

- **Deal with immediate risk**
- **Ensure compliance with law**
- **Ensure duty holders are held to account**
- **Strategy recognises 2 broad approaches**
 - Education, help and promotion = increased levels of compliance
 - Range of interventions (proactive and reactive) backed up by formal enforcement where appropriate

Enforcement Tools

- **Formal written advice**
- **Improvement Notice**
- **Prohibition Notice**
 - **Risk of serious personal injury**
- **Prosecution**
 - **Prosecution Code**

Offences

- **Both regimes create a number of offences:**
 - To contravene a “Biocides duty”
 - To fail to comply with a Notice
 - To intentionally obstruct an inspector
- **All offences are “triable either way”**
- **Both regimes allow for a due diligence type defence**

Penalties

- **Summary Conviction**
 - Unlimited fine and/or
 - Up to 3 months imprisonment

- **Conviction on Indictment**
 - Unlimited fine and/or
 - Up to 2 years imprisonment

CASE STUDY

- Placing a Biocidal Product on the market.
 - With an active substance that was not included on “ECHAs list of approved active substances” due to unacceptable risk.

CASE STUDY

- Placing a Biocidal Product on the market.
 - With an active substance that was not included on “ECHAs list of approved active substances” due to unacceptable risk.
 - Prohibition Notice

CASE STUDY

- Placing a Biocidal Product on the market.
 - With an active substance that was not included on “ECHAs list of approved active substances” due to unacceptable risk.
 - Prohibition Notice
 - Without an authorisation in a situation where one can be applied for

CASE STUDY

- Placing a Biocidal Product on the market.
 - With an active substance that was not included on “ECHAs list of approved active substances” due to unacceptable risk.
 - Prohibition Notice
 - Without an authorisation in a situation where one can be applied for
 - Improvement Notice

CASE STUDY

- Placing a Biocidal Product on the market.
 - With an active substance that was not included on “ECHAs list of approved active substances” due to unacceptable risk.
 - Prohibition Notice
 - Without an authorisation in a situation where one can be applied for
 - Improvement Notice
 - With an authorisation, but the product label is slightly outside the conditions of the authorisation

CASE STUDY

- Placing a Biocidal Product on the market.
 - With an active substance that was not included on “ECHAs list of approved active substances” due to unacceptable risk.
 - Prohibition Notice
 - Without an authorisation in a situation where one can be applied for
 - Improvement Notice
 - With an authorisation, but the product label is slightly outside the conditions of the authorisation
 - **Formal letter**

Duty Holder Factors

- Are there any considerations that may affect our enforcement outcome
- May increase or decrease our actions
- Prosecution
 - Attitude to compliance
 - Confession v Complaint
 - Previous interactions with Enforcement Bodies

Thank you for Listening
Any Questions?

Mike Potts

CRD Compliance

www.HSE.GOV.UK/Biocides

CRDCompliance@HSE.GOV.UK