



STATUTORY INSTRUMENTS.

S.I. No. 159 of 2012



EUROPEAN COMMUNITIES (PLANT PROTECTION PRODUCTS)
REGULATIONS 2012

(Prn. A12/0822)

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I, Simon Coveney, Minister for Agriculture, Food and the Marine, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), for the purpose of giving effect to Regulation (EC) No. 1107/2009 of the European Parliament and of the Council of 21 October 2009¹ and Regulation (EC) No. 1185/2009 of the European Parliament and of the Council of 25 November 2009² as amended by Commission Regulation (EU) No. 656/2011 of 7 July 2011³ hereby make the following regulations:

Citation

1. These Regulations may be cited as the European Communities (Plant Protection Products) Regulations 2012.

Interpretation

2. (1) In these Regulations-

“authorised officer” means—

- (a) a person who immediately before the making of these Regulations was an authorised officer under the European Communities (Authorization, Placing on the Market, Use and control of Plant Protection Products) Regulations 2003 (S.I. No. 83 of 2003),
- (b) a person appointed under Regulation 18,
- (c) a member of the Garda Síochána, or
- (d) an officer of Customs and Excise;

“Minister” means the Minister for Agriculture, Food and the Marine;

“premises” includes land (including land under water) with or without buildings, a vehicle (including a boat, ship, hovercraft, aircraft or offshore installation) (being an offshore installation, within the meaning of the Safety, Health and Welfare (Offshore Installations) Act 1987 (No. 18 of 1987)), railway wagon, container or other thing used in connection with, or ancillary to, a thing aforementioned;

“Plant Protection Product Regulation” means Regulation (EC) No. 1107/2009 of the European Parliament and of the Council of 21 October 2009.

¹O.J. No. L 309, 24.11.2009, p.1

²O.J. No. L 324, 10.12.2009, p.1

³O.J. No. L 180, 8.7.2011, p.3

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 25th May, 2012.*

(2) A word or expression that is used in the Plant Protection Product Regulation and is also used in these Regulations has, in these Regulations the same meaning as it has in the Plant Protection Product Regulation.

Application for authorisation or amendment of authorisation of plant protection product

3. (1) A person wishing—

- (a) to place a plant protection product on the market or amend an existing authorisation in accordance with Chapter III of the Plant Protection Product Regulation,
- (b) to extend an existing authorisation for minor uses in accordance with Article 51 of the Plant Protection Product Regulation, or
- (c) to place a plant protection product on the market or amend an existing authorisation or notification in accordance with Article 80 of the Plant Protection product Regulation,

shall apply to the Minister in writing in a format determined by the Minister with the appropriate fee as determined by the Minister.

(2) A person making an application under paragraph (1) shall submit such other information as the Minister considers necessary.

Certificate of authorisation

4. Where a plant protection product has been authorised by the Minister under Regulation 3, the Minister may issue a certificate of authorisation containing—

- (a) a number to be known as a PCS number, and
- (b) such conditions that the Minister considers appropriate for the product to be placed on the market.

Withdrawal or amendment of authorisation

5. (1) The Minister may withdraw or amend an authorisation—

- (a) in accordance with Article 44 or 45 of the Plant Protection Products Regulation, or
- (b) where it appears to the Minister to be expedient for the public good to do so.

(2) Where the Minister withdraws an authorisation for a product or a person does not apply for a renewal of an authorisation, the Minister may determine the grace period for disposal, storage, placing on the market or use of existing stock in accordance with Article 46.

Application for parallel trade permit

6. (1) A person wishing to place a plant protection product on the market in accordance with Article 52 of the Plant Protection Product Regulation referred to as parallel trade shall apply to the Minister in writing in a format determined by the Minister with the appropriate fee as determined by the Minister.

(2) A person making an application under paragraph (1) shall comply with Article 52.4 of the Plant Protection Product Regulation and shall submit such other information as the Minister considers necessary.

Parallel trade permit

7. Where a parallel trade permit for a plant protection product has been issued by the Minister under Regulation 6, the Minister may issue a permit containing—

- (a) a number to be known as a PCS number, and
- (b) such conditions that the Minister considers appropriate for the product to be placed on the market.

Withdrawal or amendment of parallel trade permit

8. (1) The Minister may withdraw or amend a parallel trade permit—

- (a) in accordance with Article 52.8 of the Plant Protection Product Regulations, or
- (b) where it appears to the Minister to be expedient for the public good to do so.

(2) The Minister shall, on withdrawal of a parallel trade permit, determine the grace period for disposal, storage, placing on the market or use of existing stock in accordance with Article 46.

Application for trial permit

9. (1) A person wishing to undertake a trial or a programme of trials in accordance with Article 54 of the Plant Protection Product Regulation shall apply to the Minister in writing in a format determined by the Minister with the appropriate fee as determined by the Minister.

(2) A person making an application under paragraph (1) shall comply with Article 54 of the Plant Protection Product Regulation and shall submit such other information as the Minister considers necessary.

Trial permit

10. Where a trial permit has been issued by the Minister under Regulation 9, the Minister shall issue a certificate containing—

- (a) a trial permit number, and
- (b) such conditions that the Minister considers appropriate.

Withdrawal or amendment of trial permit

11. The Minister may withdraw or amend a trial permit issued under Regulation 9 where it appears to the Minister that a condition of the trial permit is not being adhered to or it is in the public interest to do so.

Adjuvant

12. A person wishing to place an adjuvant on the market shall apply to the Minister in writing with such information as the Minister requires and a fee as determined by the Minister.

Register

13. (1) The Minister may establish a register of authorised and permitted plant protection products or adjuvants to be known as the “Register of Plant Protection Products and Adjuvants ” (hereinafter referred to as the “Register”).

(2) The Minister may enter an authorised or permitted plant protection product or adjuvant in the Register.

(3) The Minister may publish the Register in a manner as he or she determines appropriate.

(4) The Minister may charge a fee to place and maintain a plant protection product or adjuvant on the Register.

(5) Subject to paragraph (6), the Minister may remove a plant production product or adjuvant from the Register when the product or adjuvant is no longer authorised, permitted or where it appears to the Minister to be expedient to do so.

(6) The Minister may, in respect of any plant protection product or adjuvant removed from the Register in accordance with paragraph (5), determine a grace period for disposal, storage, placing on the market or use of existing stock in accordance with Article 46 of the Plant Protection Product Regulation.

Placing on the market or use

14. (1) A person shall not place a plant protection product or adjuvant on the market unless it is entered in the Register or is subject to a grace period under Regulation 13(6) or as otherwise determined by the Minister.

(2) A person shall not use a plant protection product or adjuvant unless it has been placed on the market in accordance with paragraph (1) or it has been granted a trial permit in accordance with Regulation 9.

Advertising

15. A person shall only advertise a plant protection product or adjuvant in accordance with Article 66 of the Plant Protection Product Regulation and any guideline issued by the Minister.

Records

16. A person referred to in Article 67 of the Plant Protection Product Regulation shall maintain records in accordance with that Article and such other records as the Minister may determine.

Statistics

17. (1) A person placing on the market or moving a plant protection product or adjuvant in or out of the State shall complete and submit to the Minister a statistical return on his or her activities in any particular year by 31 January of the following year.

(2) The Minister may determine the format of the statistical return referred to in paragraph (1) and may require that the information is completed electronically or otherwise.

(3) Notwithstanding paragraphs (1) and (2), the Minister may demand such information as is necessary to comply with the Regulation (EC) No. 1185/2009 of the European Parliament and of the Council of 25 November 2009 as amended by Commission Regulation (EU) No. 656/2011 of 7 July 2011 concerning statistics on placing on the market and use of plant protection products.

(4) The Minister may determine the format of the information referred to in paragraph (3) and may require that the information is completed electronically or otherwise.

Appointment of authorised officers

18. (1) The Minister may appoint such and so many persons as he or she thinks fit to be authorised officers for the purpose of these Regulations.

(2) A warrant of appointment as an authorised officer shall be issued to every person appointed under this Regulation and when exercising a function conferred on that person as an authorised officer such person shall, if requested by a person affected, produce the warrant or evidence that he or she is such an officer or person.

(3) The Minister may terminate the appointment of an authorised officer appointed by him or her, whether or not the appointment was for a fixed period.

(4) An appointment as an authorised officer ceases—

(a) if it is terminated pursuant to paragraph (3),

(b) if it is for a fixed period, on the expiry of that period, or

(c) if the person appointed is an officer of the Minister, on the person

ceasing to be such an officer.

(5) Nothing in paragraph (4) shall be construed so as to prevent the Minister from reappointing as an authorised officer a person to whom that paragraph related.

Functions of authorised officer.

19. (1) For the purposes of these Regulations or the Plant Protection Product Regulation, an authorised officer may—

- (a) enter and inspect, at all reasonable times, a premises of which he or she has reasonable grounds for believing that—
 - (i) a plant protection product or adjuvant is, may be or has been present,
 - (ii) a record relating to a plant protection product or adjuvant is, may be or has been present,
 - (iii) equipment or machinery used in connection with a plant protection product is, may be or has been present, or
 - (iv) take, without making a payment, a sample from a plant protection product, adjuvant or other thing as he or she may reasonably require and carry out or cause to be carried out on the sample such tests, analyses, examinations or inspections as he or she considers necessary or expedient;
 - (b) examine a plant protection product or adjuvant,
 - (c) inspect a vehicle, vessel, aircraft, container, equipment, machinery or other thing used in connection with a plant protection product or adjuvant and require a person in charge or control of such a thing to refrain from moving it,
 - (d) require the owner or person in charge of a premises to produce to the officer such records (and in the case of a record stored in non-legible form, produce to him or her a copy in a legible form) that are in the person's possession or procurement, or under the person's control, as the officer may reasonably require,
 - (e) require the name and address of a person, including the owner or person in possession or control of a plant protection product, adjuvant or other thing, or
 - (f) inspect and take copies of any record (including a legible reproduction of one stored in non-legible form) or extracts from the record that the officer finds or is produced to him or her during an inspection.
- (2) Where an authorised officer has reasonable grounds for believing that—
- (a) there is a risk from a plant protection product, adjuvant or a product represented as such a product,
 - (b) an offence is being or has been committed under these Regulations or the Plant Protection Product Regulation, or

- (c) evidence of a matter referred to in subparagraphs (a) or (b) or an offence or contravention to which subparagraphs (a) or (b) relates may be, is or has been on a premises,

the officer may, in addition to the powers exercisable by him or her under paragraph (1), do one or more of the following:

- (i) search the premises;
- (ii) if necessary, stop, or cause to have stopped, a vehicle, vessel, aircraft, container, equipment, machinery or other thing used in connection with a plant protection product or adjuvant and may require it to be moved for inspection to such places he or she directs;
- (iii) stop and, where he or she believes there is or may be evidence on a person of an offence referred to in paragraph (c), if the officer is not a member of the Garda Síochána or an officer of Customs and Excise, cause the search of the person in accordance with paragraph (6);
- (iv) give such direction to a person who has a plant protection product or adjuvant, a vehicle, vessel, container, equipment, machinery or other thing used in connection with a plant protection product or adjuvant in his or her possession or under his or her control or information relating to such, as the authorised officer may reasonably consider necessary for the purposes of these Regulations and the Plant Protection Product Regulation;
- (v) seize and detain a plant protection product, adjuvant, vehicle, container, equipment, machinery, record or other thing;
- (vi) mark or otherwise identify a plant protection product, adjuvant, vessel, vehicle, machinery, equipment or other thing used in connection with a plant protection product or adjuvant or a sample taken under paragraph (2).

(3) An authorised officer may enter, at all reasonable times, a premises to carry out surveys or programmes relating to plant protection products or adjuvants.

(4) An authorised officer shall not enter, except with the consent of the occupier, a private dwelling unless he or she has obtained a search warrant under paragraph (14).

(5) Where a member of the Garda Síochána or an officer of Customs and Excise, upon the request of an authorised officer, has reasonable grounds for believing that there is evidence on a person of an offence referred to in paragraph (2)(c), or the member or officer may without warrant—

- (a) search or cause to be searched by such a member or officer the person and, if the member or officer considers it necessary for that purpose, detain the person for such time as is reasonably necessary to carry out the search,
- (b) search or cause to be searched by such a member or officer any vehicle in which the member or officer suspects that such substance may be found and for the purpose of carrying out the search, if any such member or officer thinks fit, require the person who is, for the time being, in charge or control of the vehicle to bring it to a stop and when stopped to refrain from moving it or, in case the vehicle is already stationary, to refrain from moving it, or
- (c) seize and detain, or cause to be seized and detained by such a member or officer, anything found in the course of a search under this section which any such member or officer reasonably suspects to be something which might be required as evidence in proceedings for an offence referred to in paragraph (2)(c).

(6) Where a member of the Garda Síochána or an officer of Customs and Excise (as the case may be) decides to search or cause to be searched a person under paragraph (5) the member or officer may require the person to accompany that member or officer to either a Garda Síochána station or a customs office for the purpose of being so searched at that station or office.

(7) An authorised officer, when exercising a power under this Regulation, may be accompanied by other persons and may take with him or her, or those persons may take with them, any equipment or materials to assist the officer in the performance of the power.

(8) An authorised officer may use reasonable force, if necessary, in the exercise of his or her powers under this section.

(9) An authorised officer is not liable in any proceedings for an offence under these Regulations for anything done in the purported exercise of his or her powers under this section if the court is satisfied that the act was done in good faith and that there were reasonable grounds for so doing it.

(10) If, in the course of exercising a power under this Regulation, an authorised officer finds or comes into possession of anything that the officer has reasonable grounds for believing to be evidence of an offence or suspected offence under these Regulations or the Plant Protection Product Regulation, it may be seized and retained for use in evidence in criminal proceedings for an offence under these Regulations or the Plant Protection Product Regulation.

(11) An authorised officer who is not a member of the Garda Síochána or an officer of Customs and Excise in uniform, shall not stop a vehicle in a public place for the purposes of paragraph (2), unless he or she is accompanied by such a member.

(12) Nothing in these Regulations shall be construed as affecting a power conferred by another enactment to search, or to stop, seize or detain property, which may be exercised by a member of the Garda Síochána or an officer of Customs and Excise.

(13) Nothing in Section 17 of the Industrial and Provident Societies Act 1893 prevents an authorised officer from exercising a power conferred on him or her by this Act.

(14) If a judge of the District Court is satisfied by information on oath of an authorised officer that there are reasonable grounds for suspecting-

- (a) an offence is being or has been committed under these Regulations or the Plant Protection Product Regulation,
- (b) evidence of an offence or contravention or intended contravention to which paragraph (a) relates may be, is or has been on a premises,
- (c) there is or was a plant protection product, document or other record relating to a plant protection product, adjuvant, equipment or other thing made, used or adapted for use (including manufacture and transport) in connection with a plant protection product or adjuvant, or
- (d) a document or other record related to a thing to which subparagraph (a), (b) or (c) refers is or may be on the premises,

the judge may issue a search warrant.

(15) A search warrant under this Regulation shall be expressed and operate to authorise a named authorised officer, accompanied by such authorised officers or other persons as the named authorised officer thinks necessary, at any time, within one month from the date of issue of the warrant, on production if so requested of the warrant, to enter (if necessary by use of reasonable force) the premises, vehicle, vessel or aircraft named in the warrant.

(16) If a premises is entered under a warrant issued under this Regulation, an authorised officer so entering may exercise all or any of the powers conferred on an authorised officer under these Regulations.

Fees and charges

20. (1) The Minister may charge a fee for any service or act undertaken for the purposes of these Regulations or the Plant Protection Product Regulation as the Minister may, from time to time, determine.

(2) The Minister may not consider an application for any service or act under these Regulations or the Plant Protection Product Regulation unless the appropriate fee is paid.

(3) The Minister may waive a fee in whole or in part where the Minister is of the view that it is appropriate to do so.

(4) An application for a refund of a fee shall be in such form and contain such particulars as the Minister may require.

(5) A fee, as determined by the Minister, for maintaining a plant protection product or adjuvant on the Register shall be paid for all plant protection products or adjuvants no later than 31 December in the year prior to the year in respect the payment is made or by such other date as the Minister may from time to time determine (in this Regulation referred to as “the due date”).

(6) The Minister may remove a plant protection product or adjuvant from the Register where a fee due under paragraph (5) is not paid by the due date.

(7) The Minister may reinstate a plant protection product or adjuvant on the Register if the fee due under paragraph (5) is paid to the Minister with such other costs as the Minister considers appropriate.

Compliance Notice

21. (1) Without prejudice to Regulation 19, if an authorised officer has reasonable grounds to suspect that—

- (a) an act of the institutions of the European Communities relating to plant protection products or adjuvants is not being or has not been complied with or there are reasons to believe that such an act of the institutions of the European Communities, will not be complied with,
- (b) it is necessary for the protection of human health, animal health or welfare, plant health or the environment,
- (c) it is necessary, ancillary or supplementary for an act of the institutions of the European Communities in relation to plant protection products and adjuvants to have full effect,
- (d) an animal, animal product, plant, plant product, food or feed is or may be contaminated with a plant protection product, adjuvant or active substance or
- (e) an offence has been committed under these Regulations or the Plant Protection Product Regulation,

the authorised officer may serve or cause to be served on the owner or person who appears to be in charge, possession or control of a plant protection product, adjuvant, premises, vehicle, vessel, animal, animal product, plant, plant product, feed or food a notice (“compliance notice”) stating that opinion and directing that—

- (i) an animal, animal product, plant, plant product, feed or food be dealt with in a manner specified in the notice,
- (ii) a plant protection product, adjuvant or ingredient for a plant protection product be dealt with in a manner specified in the notice,

- (iii) an animal, animal product, plant, plant product, feed or food be disposed of or destroyed in a manner (if any) specified in the notice,
- (iv) a plant protection product or adjuvant be disposed of or destroyed in a manner (if any) specified in the notice,
- (v) a specified operation or activity cease on a premises,
- (vi) a specified operation or activity take place only in a manner specified in the notice, or
- (vii) a specified operation or activity may only be carried out under and in accordance with such terms and conditions as are specified in the compliance notice.

(2) A person shall comply with a compliance notice or a requirement of a compliance notice unless and until the notice is annulled under paragraphs (4) or (9) as the case may be.

(3) A requirement contained in a compliance notice may specify a time limit within which the notice is to be complied with.

(4) A requirement specified in a compliance notice (in this paragraph referred to as “the earlier compliance notice”) may be amended or withdrawn by a further notice in writing and the earlier compliance notice has effect subject to such amendment or withdrawal.

(5) A compliance notice, whether amended under paragraph (4) or not, may require the owner or person in charge of a premises, vehicle, vessel, animal, animal product, plant, plant product, feed, food, plant protection product, adjuvant or ingredient for a plant protection product to choose between one or more of the requirements specified in the compliance notice and that person shall comply with the alternative requirement that he or she chooses.

(6) A person affected by a compliance notice may, within 7 days of service of the compliance notice, apply to the Judge of the District Court having jurisdiction in the District Court District where the business is situated or to the Judge of the District Court having jurisdiction in the District Court District where the person ordinarily resides on the grounds that the compliance notice or any term of the compliance notice are not reasonable, having regard to the objectives of Plant Protection Product Regulation or these Regulation (in this Regulation referred to as “an appeal”).

(7) An appeal may be heard at any sitting of the District Court within the appropriate District Court Area.

(8) A person making an appeal shall serve notice of the appeal, which shall contain a statement of the grounds upon which it is alleged that the compliance notice or any term of the compliance notice is unreasonable having regard to the objectives of Plant Protection Product Regulation or these Regulations, on

the Minister at least 2 working days prior to the hearing of the appeal and a copy of the notice of appeal shall be lodged with the appropriate District Court Clerk.

(9) On the hearing of an appeal, a Judge of the District Court may confirm, with or without modification, or annul a compliance notice.

(10) A person, including a person on whom a compliance notice is served, shall not-

- (a) pending the determination of an appeal, deal with a premises, vehicle, vessel, animal, animal product, plant, plant product, feed, food, plant protection product, adjuvant or ingredient for a plant protection product to which a compliance notice relates other than under and in accordance with the notice, or
- (b) after the appeal, deal with a premises, vehicle, vessel, animal, animal product, plant, plant product, feed, food, plant protection product, adjuvant or ingredient for a plant protection product to which a compliance notice relates other than under and in accordance with the compliance notice or compliance notice as modified.

(11) If—

- (a) a person, by act or omission, fails to comply, whether within the time specified or otherwise, with a compliance notice (including a compliance notice modified in accordance with paragraphs (4) or (9) as the case may be, or
- (b) an authorised officer has reasonable cause to suspect—
 - (i) that a compliance notice (including a compliance notice modified in accordance with paragraph (4) or (9) as the case may be, is not or will not be complied with, or
 - (ii) pending the determination of an appeal, a plant protection product, adjuvant, premises, animal, feed, a feed additive or food to which the compliance notice relates is or will not be dealt with other than in accordance with paragraph (10),

an authorised officer may seize and detain a vehicle, vessel, animal, animal product, plant, plant product, feed, food, plant protection product, adjuvant or ingredient for a plant protection product in a manner that he or she thinks fit and sell or dispose of it in a manner as the authorised officer considers appropriate.

(12) Subject to paragraph (13), the proceeds of the sale or disposal of a vehicle, vessel, animal, animal product, plant, plant product, feed, food, plant protection product, adjuvant or ingredient for a plant protection product under paragraph (11) shall be paid to the owner of a vehicle, vessel, animal, animal product, plant, plant product, feed, food, plant protection product, adjuvant or

ingredient for a plant protection product as soon as may be after such sale or disposal and after a person has satisfied the Minister that he or she is the owner or otherwise entitled to the proceeds of the sale or disposal of the vehicle, vessel, animal, animal product, plant, plant product, feed, food, plant protection product, adjuvant or ingredient for a plant protection product.

(13) The costs of seizure, sale or disposal of a vehicle, vessel, animal, animal product, plant, plant product, feed, food, plant protection product, adjuvant or ingredient for a plant protection product under this Regulation shall be recoverable by the Minister

- (a) as a simple contract debt in a court of competent jurisdiction, or
- (b) by deducting the costs from any sum due by the Minister to a person on whom a notice has been served.

(14) The costs of any action required by a compliance notice shall be borne by the owner of a premises, vehicle, vessel, animal, animal product, plant, plant product, feed, food, plant protection product, adjuvant or ingredient for a plant protection product to which the notice relates.

Service of compliance notice

22. (1) Subject to paragraph (2), a compliance notice shall be addressed to the person concerned by name and may be served on or given to the person—

- (a) by giving a copy to the person, his or her employee, servant or agent, or in the case of a partnership by delivery to any of the partners,
- (b) by leaving a copy at the address at which the person ordinarily resides, where he or she carries out business, or, where an address for service has been furnished, at that address,
- (c) by sending a copy by post in a prepaid registered letter to the address at which the person ordinarily resides, carries out business, in the case of a body corporate or unincorporated body the registered office of the body or, where an address for service has been furnished, at that address,
- (d) by electronic communication,
- (e) if the address at which the person ordinarily resides cannot be ascertained by reasonable enquiry and the compliance notice relates to a premises, by delivering a copy to the premises or by affixing a copy in a conspicuous position on or near the premises, or
- (f) if the Minister or an authorised officer considers that the immediate giving of a compliance notice is required, by sending a copy, by means of a facsimile machine, to a device or facility for the reception of facsimiles located at the address at which the person ordinarily resides or carries out business or, if an address for the service of notices has been furnished by the person, that address, provided that the sender's

facsimile machine generates a message confirming successful transmission of the total number of pages of the notice.

(2) If a compliance notice is to be served on or given to a person who is the owner or occupier of a premises and the name of the person cannot be ascertained by reasonable enquiry, it may be addressed to the person by using the words ‘the owner’ or ‘the occupier’.

(3) A person shall not, at any time within 6 months after a compliance notice is affixed under paragraph (2), remove, damage or deface the notice without lawful authority.

(4) For the purposes of this Regulation, a company within the meaning of the Companies Acts is considered to be ordinarily resident at its registered office and every other body corporate or unincorporated body is considered to be ordinarily resident at its principal office or place of business.

Obstruction

23. (1) A person shall not-

- (a) obstruct or impede an authorised officer in the exercise of his or her functions under Regulation 19,
- (b) fail, without reasonable cause, to comply with a requirement or direction of an authorised officer under Regulation 19,
- (c) in purporting to give information required by an authorised officer for the performance of the officer’s powers under these Regulations-
 - (i) make a statement which he or she knows to be false in a material particular or recklessly make a statement which is false in a material particular, or
 - (ii) fail to disclose any material particular, or
- (d) aid or abet a contravention of these Regulations or the Plant Protection Product Regulation.

Offences

24. (1) A person commits an offence if he or she fails to comply with the Plant Protection Product Regulation and in particular:

- (a) Chapter II of the Plant Protection Product Regulation in relation to active substances, safeners, synergists and co-formulants;
- (b) Articles 28, 29, 33, 34, 40 and 42 of the Plant Protection Product Regulation, regarding authorisation of a plant protection product or adjuvant;

- (c) Articles 43 and 46 of the Plant Protection Product Regulation, regarding renewal, withdrawal and amendment of authorisation of a plant protection product or adjuvant;
 - (d) Articles 47 (other than paragraph 3), 48.2, 49, 50.6, 51 (other than paragraphs 3, 5 and 8) and 52 of the Plant Protection Product Regulation regarding special cases for authorisation of a plant protection product or adjuvant;
 - (e) Article 54 of the Plant Protection Product Regulation, regarding specific conditions for authorisation of a plant protection product or adjuvant;
 - (f) Articles 54, 55, 56 (other than paragraph 3) of the Plant Protection Product Regulation regarding use and information;
 - (g) Chapter IV of the Plant Protection Product Regulation regarding adjuvants;
 - (h) Articles 61 (other than paragraph 2) and 62 of the Plant Protection Products Regulation regarding data protection and sharing;
 - (i) Articles 64, 65 and 66 of the Plant Protection Product Regulation regarding packaging, labelling and advertising a plant protection product or adjuvant;
 - (j) Article 67 of the Plant Protection Product Regulation regarding record keeping.
- (2) A person commits an offence if he or she fails to comply with Regulation 3, 6, 9, 12, 14, 15, 16, 17, 21(2) and (10), 22(3) or 23.
- (3) A person commits an offence if he or she fails to comply with a condition of—
- (a) an authorisation under Regulation 4, or
 - (b) a permit under Regulation 7 or 10.
- (4) A person commits an offence if he or she—
- (a) tampers with any plant protection product or adjuvant so as to procure that any sample of it taken pursuant to these Regulations does not correctly represent the plant protection product or adjuvant, or
 - (b) tampers with any product or thing so as to procure that any sample of it taken pursuant to these Regulations does not correctly represent the product sampled, or
 - (c) tampers or interferes with any sample taken pursuant to these Regulation.

(5) A person found guilty of an offence under these Regulations or the Plant Protection Product Regulation is liable and is liable on conviction to a Class A fine.

Prosecutions and specific rules of evidence

26. (1) Proceedings for an offence under these Regulations may be brought summarily by the Minister.

(2) In proceedings for an offence under these Regulations evidence that claims have been made that a product—

- (a) protects plants or plant products against harmful organisms or prevents the action of such organisms,
- (b) influences the life processes of plants, other than as a nutrient,
- (c) preserves plant products,
- (d) destroys undesired plants, or
- (e) destroys parts of plants, checks or prevents undesired growth of plants,

shall, until the contrary is shown, be sufficient evidence that it is a plant protection product.

(3) In any proceedings for an offence under these Regulations—

- (a) the result of any test, examination or analysis of, or any report on, a sample taken shall not be adduced unless, before the proceedings were instituted, one of the parts into which the sample was divided was left with, delivered to, or sent by registered post to the defendant or his or her agent,
- (b) evidence of the presence of a substance contained in a plant protection product or adjuvant in or on equipment capable of use for application of the plant protection product or adjuvant, shall be evidence, until the contrary is proved, of the use of the plant protection product or adjuvant by the owner or person in possession of the equipment,
- (c) evidence of the presence of a residue of a substance contained in a plant protection product or adjuvant in or on agricultural produce, in soil or compost or in or on surfaces or other materials which may have been treated with or exposed to the plant protection product or adjuvant, shall be evidence, until the contrary is proved, of the use of the plant protection product or adjuvant by the owner, occupier or person in possession, as the case may be,
- (d) a certificate showing the results of analysis shall, until the contrary is shown, be sufficient evidence of the facts certified to therein in relation to—

- (i) the presence in a plant protection product or adjuvant of any active substance, impurity or formulating ingredient and the level of any such presence, or
 - (ii) the presence of a residue of a plant protection product or adjuvant or substance contained in a plant protection product or adjuvant and the level of such residues in any controlled product or thing, and
 - (iii) a document purporting to be such a certificate shall be such a certificate, or
- (e) the presence of a plant protection product or adjuvant on any premises (including any stores), shall, until the contrary is shown, be sufficient evidence that the plant protection product or adjuvant in question is or was being placed on the market or used by the owner and by the occupier of such premises.

Fixed Payment Notice

27. (1) If the Minister has reasonable grounds for suspecting that a person is committing or has committed an offence under these Regulations or the Plant Protection Product Regulation, he or she may serve a notice in writing (“fixed payment notice”) on that person stating that—

- (a) the person is alleged to have committed the offence,
 - (b) the person may during the period of 28 days from the date of the notice make to the Minister a payment of €250 accompanied by the notice, and
 - (c) a prosecution in respect of the alleged offence will not be instituted during the period specified in the fixed payment notice and, if the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence will be instituted.
- (2) If a fixed payment notice is given—
- (a) a person to whom the notice applies may, during the period specified in the notice, make to the Minister at the address specified in the notice the payment specified in the notice accompanied by the notice,
 - (b) the Minister may receive the payment, issue a receipt for it and retain the money so paid, and any payment so received shall not be recoverable in any circumstances by the person who made it, and
 - (c) a prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice, and if the payment so specified is made during that period, no prosecution in respect of the alleged offence will be instituted.

(3) In a prosecution for an offence under these Regulations or the Plant Protection Product Regulations, the onus of proving that a payment pursuant to a notice under this Regulation has been made lies on the defendant.

Application and Saver

28. (1) The European Communities (Authorization, Placing on the Market, Use and Control of Plant Protection Products) Regulations 2003 (S.I. No. 83 of 2003) are revoked.

(2) A plant protection product authorised or adjuvant, notified or permitted to be marketed or to be used under the European Communities (Authorization, Placing on the Market, Use and Control of Plant Protection Products) Regulations 2003 shall continue to be so authorised, notified or permitted under the same terms and conditions

(3) Any person appointed an authorized officer under Regulation 29 of European Communities (Authorization, Placing on the Market, Use and Control of Plant Protection Products) Regulations 2003 shall continue to be so appointed as though he or she was appointed under Regulation 18.

(4) Any notice issued under Regulation 33 of the European Communities (Authorization, Placing on the Market, Use and Control of Plant Protection Products) Regulations 2003 shall continue in force as though issued under Regulation 21.

(5) Any proceedings issued under Regulation 35 of the European Communities (Authorization, Placing on the Market, Use and Control of Plant Protection Products) Regulations 2003 shall continue as if initiated under Regulation 26.



GIVEN under my Official Seal,
17 May 2012.

SIMON COVENEY,
Minister for Agriculture Food and the Marine.

EXPLANATORY NOTE

(This note is not part of the instrument and does not purport to be a legal interpretation)

These Regulations give effect to Regulation (EC) No. 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning legislation specifying the requirements and conditions for placing on the market and use of plant protection products and adjuvants and the related controls and financial provisions thereof.

These Regulations also give legal effect to Regulation 1185/2009 of the European Parliament and of the Council of 25 November 2009 concerning collection and provision of statistical information relating to the placing on the market and use of plant protection products.

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OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,
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DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
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