



STATUTORY INSTRUMENTS.

S.I. No. 329 of 2009

EUROPEAN COMMUNITIES (AUTHORIZATION, PLACING ON THE
MARKET, USE AND CONTROL OF PLANT PROTECTION
PRODUCTS) (AMENDMENT) (NO. 4) REGULATIONS 2009

(Prn. A9/1170)

EUROPEAN COMMUNITIES (AUTHORIZATION, PLACING ON THE
MARKET, USE AND CONTROL OF PLANT PROTECTION
PRODUCTS) (AMENDMENT) (NO. 4) REGULATIONS 2009

I, Brendan Smith, Minister for Agriculture, Fisheries and Food, 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 further effect to Council Directive No 91/414/EEC of 15 July 1991¹, Commission Directive 93/71/EEC of 27 July 1993² Commission Directive 94/37/EC of 22 July 1994³, Commission Directive 94/43/EC of 27 July 1994⁴, Commission Directive 94/79/EC of 21 December 1994⁵, Commission Directive 95/35/EC of 14 July 1995⁶, Commission Directive 95/36/EC of 14 July 1995⁷, Commission Directive 96/12/EC of 8 March 1996⁸, Commission Directive 96/46/EC of 16 July 1996⁹, Commission Directive 96/68/EC of 21 October 1996¹⁰, Council Directive 97/57/EC of 22 September 1997¹¹ Commission Directive 97/73/EC of 15 December 1997¹², Commission Directive 98/47/EC of 25 June 1998¹³, Commission Directive 99/1/EC of 21 January 1999¹⁴, Commission Directive 99/73/EC of 19 July 1999¹⁵, Commission Directive 1999/80/EC of 28 July 1999¹⁶, Commission Directive 2000/10/EC of 1 March 2000¹⁷, Commission Directive 2000/49/EC of 26 July 2000¹⁸, Commission Directive 2000/50/EC of 26 July 2000¹⁹, Commission Directive 2000/66/EC of 23 October 2000²⁰, Commission Directive 2000/67/EC of 23 October 2000²¹, Commission Directive 2000/68/EC of 23 October 2000²², Commission Directive 2000/80/EC of 4 December 2000²³, Commission Directive 2001/21/EC of 5 March 2001²⁴, Commission Directive 2001/28/EC of 20 April 2001²⁵, Commission

¹ O.J. No L230 of 19.08.1991, p.1

² O.J. No L221 of 31.08.1993, p.27

³ O.J. No L194 of 29.07.1994, p.65

⁴ O.J. No L227 of 01.09.1994, p.31

⁵ O.J. No.L354 of 31.12.1994, p.16

⁶ O.J. No L172 of 22.07.1995, p.6

⁷ O.J. No.L172 of 22.07.1995, p.8

⁸ O.J. No.L65 of 15.03.1996, p.20

⁹ O.J. No L214 of 23.08.1996, p.18

¹⁰ O.J. No L277 of 30.10.1996, p.25

¹¹ O.J. No L265 of 27.09.1997, p.87

¹² O.J. No.L353 of 24.12.1997, p.26

¹³ O.J. No L191 of 07.07.1998, p.50

¹⁴ O.J. No.L21 of 28.01.1999, p.21

¹⁵ O.J. No L206 of 05.08.1999, p.16

¹⁶ O.J. No. L210 of 10.08.1999, p.13

¹⁷ O.J. No. L57 of 02.03.2000, p.28

¹⁸ O.J. No. L197 of 03.08.2000, p.32

¹⁹ O.J. No. L198 of 04.08.2000, p.39

²⁰ O.J. No. L276 of 28.10.2000, p.35

²¹ O.J. No. L276 of 28.10.2000, p.38

²² O.J. No. L276 of 28.10.2000, p.41

²³ O.J. No. L309 of 09.12.2000, p.14

²⁴ O.J. No. L69 of 10.03.2001, p.17

²⁵ O.J. No. L113 of 24.04.2001, p.5

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 21st August, 2009.*

Directive 2001/36/EC of 16 May 2001²⁶, Commission Directive 2001/47/EC of 25 June 2001²⁷, Commission Directive 2001/49/EC of 28 June 2001²⁸, Commission Directive 2001/87/EC of 12 October 2001²⁹, Commission Directive 2001/99/EC of 20 November 2001³⁰, Commission Directive 2001/103/EC of 28 November 2001³¹, Commission Directive 2002/18/EC of 22 February 2002³², Commission Directive 2002/37/EC of 3 May 2002³³, Commission Directive 2002/48/EC of 30 May 2002³⁴, Commission Directive 2002/64/EC of 15 July 2002³⁵, Commission Directive 2002/81/EC of 10 October 2002³⁶, Commission Directive 2003/5/EC of 10 January 2003³⁷, Commission Directive 2003/23/EC of 25 March 2003³⁸, Commission Directive 2003/31/EC of 11 April 2003³⁹, Council Regulation (EC) No 806/2003 of 14 April 2003⁴⁰, Commission Directive 2003/39/EC of 15 May 2003⁴¹, Commission Directive 2003/68/EC of 11 July 2003⁴², Commission Directive 2003/70/EC of 17 July 2003⁴³, Commission Directive 2003/79/EC of 13 August 2003⁴⁴, Commission Directive 2003/81/EC of 5 September 2003⁴⁵, Commission Directive 2003/82/EC of 11 September 2003⁴⁶, Commission Directive 2003/84/EC of 25 September 2003⁴⁷, Commission Directive 2003/112/EC of 1 December 2003⁴⁸, Commission Directive 2003/119/EC of 5 December 2003⁴⁹, Commission Directive 2004/20/EC of 2 March 2004⁵⁰, Commission Directive 2004/30/EC of 10 March 2004⁵¹, Commission Directive 2004/58/EC of 23 April 2004⁵², Commission Directive 2004/60/EC of 23 April 2004⁵³, Commission Directive 2004/62/EC of 26 April 2004⁵⁴, Council Directive 2004/66/EC of 26 April 2004⁵⁵, Commission Directive 2004/71/EC of 28 April 2004⁵⁶, Commission Directive 2004/99/EC of 1 October 2004⁵⁷, Commission Directive 2005/2/EC of

²⁶ O.J. No. L164 of 20.06.2001, p.1

²⁷ O.J. No. L175 of 28.06.2001, p.21

²⁸ O.J. No. L176 of 29.06.2001, p.61

²⁹ O.J. No. L276 of 19.10.2001, p.17

³⁰ O.J. No. L304 of 21.11.2001, p.14

³¹ O.J. No. L313 of 30.11.2001, p.37

³² O.J. No. L55 of 26.02.2002, p.29

³³ O.J. No. L117 of 04.05.2002, p.10

³⁴ O.J. No. L148 of 06.06.2002, p.19

³⁵ O.J. No. L189 of 18.07.2002, p.27

³⁶ O.J. No. L276 of 12.10.2002, p.28

³⁷ O.J. No. L8 of 14.01.2003, p.7

³⁸ O.J. No. L81 of 28.03.2003, p.39

³⁹ O.J. No. L101 of 23.04.2003, p.3.

⁴⁰ O.J. No. L122 of 16.05.2003, p.1

⁴¹ O.J. No. L124 of 20.05.2003, p.30

⁴² O.J. No. L177 of 16.07.2003, p.12

⁴³ O.J. No. L184 of 23.07.2003, p.9

⁴⁴ O.J. No. L205 of 14.08.2003, p.16

⁴⁵ O.J. No. L224 of 06.09.2003, p.29

⁴⁶ O.J. No. L228 of 12.09.2003, p.11

⁴⁷ O.J. No. L247 of 30.09.2003, p.20

⁴⁸ O.J. No. L321 of 06.12.2003, p.32

⁴⁹ O.J. No. L325 of 12.12.2003, p.41

⁵⁰ O.J. No. L70 of 09.03.2004, p.32

⁵¹ O.J. No. L77 of 13.03.2004, p.50

⁵² O.J. No. L120 of 24.04.2004, p.26

⁵³ O.J. No. L120 of 24.04.2004, p.39

⁵⁴ O.J. No. L125 of 28.04.2004, p.38

⁵⁵ O.J. No. L168 of 01.05.2004, p.35

⁵⁶ O.J. No. L127 of 29.04.2004, p.104

⁵⁷ O.J. No. L309 of 06.10.2004, p.6

19 January 2005⁵⁸, Commission Directive 2005/3/EC of 19 January 2005⁵⁹, Council Directive 2005/25/EC of 14 March 2005⁶⁰, Commission Directive 2005/34/EC of 17 May 2005⁶¹, Commission Directive 2005/53/EC of 16 September 2005⁶², Commission Directive 2005/54/EC of 19 September 2005⁶³, Commission Directive 2005/57/EC of 21 September 2005⁶⁴, Commission Directive 2005/58/EC of 21 September 2005⁶⁵, Commission Directive 2005/72/EC of 21 October 2005⁶⁶, Commission Directive 2006/5/EC of 17 January 2006⁶⁷, Commission Directive 2006/6/EC of 17 January 2006⁶⁸, Commission Directive 2006/10/EC of 27 January 2006⁶⁹, Commission Directive 2006/16/EC of 7 February 2006⁷⁰, Commission Directive 2006/19/EC of 14 February 2006⁷¹, Commission Directive 2006/39/EC of 12 April 2006⁷², Commission Directive 2006/45/EC of 16 May 2006⁷³, Commission Directive 2006/74/EC of 21 August 2006⁷⁴, Commission Directive 2006/75/EC of 11 September 2006⁷⁵, Commission Directive 2006/76/EC of 22 September 2006⁷⁶, Commission Directive 2006/41/EC of 7 July 2006⁷⁷, Commission Directive 2006/131/EC of 11 December 2006⁷⁸, Commission Directive 2006/132/EC of 11 December 2006⁷⁹, Commission Directive 2006/133/EC of 11 December 2006⁸⁰, Commission Directive 2006/134/EC of 11 December 2006⁸¹, Commission Directive 2006/135/EC of 11 December 2006⁸², Commission Directive 2006/136/EC of 11 December 2006⁸³, Commission Directive 2006/64/EC of 18 July 2006⁸⁴, Commission Directive 2006/85/EC of 23 October 2006⁸⁵, Commission Directive 2007/6/EC of 14 February 2007⁸⁶, Commission Directive 2007/21/EC of 10 April 2007⁸⁷, Commission Directive 2007/5/EC of 7 February 2007⁸⁸, Commission Directive 2007/25/EC of 23 April 2007⁸⁹, Commission Directive 2007/31/EC of 31 May

⁵⁸ O.J. No. L20 of 22.01.2005, p.15

⁵⁹ O.J. No. L20 of 22.01.2005, p.19

⁶⁰ O.J. No. L90 of 08.04.2005, p.1

⁶¹ O.J. No. L125 of 18.05.2005, p.5

⁶² O.J. No. L241 of 17.09.2005, p.51

⁶³ O.J. No. L244 of 20.09.2005, p.21

⁶⁴ O.J. No. L246 of 22.09.2005, p.14

⁶⁵ O.J. No. L246 of 22.09.2005, p.17

⁶⁶ O.J. No. L279 of 22.10.2005, p.63

⁶⁷ O.J. No. L12 of 18.01.2006, p.17

⁶⁸ O.J. No. L12 of 18.01.2006, p.21

⁶⁹ O.J. No. L25 of 28.01.2006, p.24

⁷⁰ O.J. No. L36 of 08.02.2006, p.37

⁷¹ O.J. No. L44 of 15.02.2006, p.15

⁷² O.J. No. L104 of 13.04.2006, p.30

⁷³ O.J. No. L130 of 18.05.2006, p.27

⁷⁴ O.J. No. L235 of 30.08.2006, p.17

⁷⁵ O.J. No. L248 of 12.09.2006, p.3

⁷⁶ O.J. No. L263 of 23.09.2006, p.9

⁷⁷ O.J. No. L187 of 08.07.2006, p.24

⁷⁸ O.J. No. L349 of 12.12.2006, p.17

⁷⁹ O.J. No. L349 of 12.12.2006, p.22

⁸⁰ O.J. No. L349 of 12.12.2006, p.27

⁸¹ O.J. No. L349 of 12.12.2006, p.32

⁸² O.J. No. L349 of 12.12.2006, p.37

⁸³ O.J. No. L349 of 12.12.2006, p.42

⁸⁴ O.J. No. L206 of 27.07.2006, p.107

⁸⁵ O.J. No. L293 of 24.10.2006, p.3

⁸⁶ O.J. No. L43 of 15.02.2007, p.13

⁸⁷ O.J. No. L97 of 12.04.2007, p.42

⁸⁸ O.J. No. L35 of 08.02.2007, p.11

⁸⁹ O.J. No. L106 of 24.04.2007, p.35

2007⁹⁰, Commission Decision 2007/452/EC of 29 June 2007⁹¹, Commission Directive 2007/50/EC of 2 August 2007⁹², Commission Directive 2007/52/EC of 16 August 2007⁹³, Commission Directive 2007/76/EC of 20 December 2007⁹⁴, Commission Directive 2008/40/EC of 28 March 2008⁹⁵, Commission Directive 2008/41/EC of 31 March 2008⁹⁶, Commission Directive 2008/44/EC of 4 April 2008⁹⁷, Commission Directive 2008/45/EC of 4 April 2008⁹⁸, Commission Directive 2008/91/EC of 29 September 2008⁹⁹, Commission Directive 2008/70/EC of 11 July 2008¹⁰⁰, (Commission Directive 2008/66/EC of 30 June 2008¹⁰¹, Commission Directive 2008/69/EC of 1 July 2008¹⁰², Commission Directive 2009/25/EC of 2 April 2009, (from 1 September 2009) Commission Directive 2008/108/EC of 26 November 2008¹⁰³, (from 1 November 2009) Commission Directive 2008/107/EC of 25 November 2008¹⁰⁴ and Commission Directive 2008/113/EC of 8 December 2008¹⁰⁵, (from 1 Feb 2010) Commission Directive 2008/116/EC of 15 December 2008¹⁰⁶, (from 1 March 2010) Commission Directive 2008/125/EC of 19 December 2008¹⁰⁷ and Commission Directive 2008/127/EC of 18 December 2008¹⁰⁸, (from 1 May 2010) Commission Directive 2009/11/EC of 18 February 2009¹⁰⁹, Commission Directive 2009/25/EC of 2 April 2009¹¹⁰, and (from 1 June 2010) Commission Directive 2009/37/EC of 23 April 2009¹¹¹, hereby make the following Regulations:

1. These Regulations may be cited as the European Communities (Authorization, Placing on the Market, Use and Control of Plant Protection Products) (Amendment) (No. 4) Regulations 2009.

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

(a) by the substitution for Regulation 31, of—

“31. (1) If an authorised officer has reasonable cause to suspect that—

⁹⁰ O.J. No. L140 of 01.06.2007, p.44

⁹¹ O.J. No. L172 of 30.06.2007, p.83

⁹² O.J. No. L202 of 03.08.2007, p.15

⁹³ O.J. No. L214 of 17.08.2007, p.3

⁹⁴ O.J. No. L337 of 21.12.2007, p.100

⁹⁵ O.J. No. L87 of 29.03.2008, p.5

⁹⁷ O.J. No. L94 of 05.04.2008, p.13

⁹⁸ O.J. No. L94 of 05.04.2008, p.21

⁹⁹ O.J. No. L262 of 01.10.2008, p.31

¹⁰⁰ O.J. No. L185 of 12.07.2008, p.40

¹⁰¹ O.J. No. L171 of 01.07.2008, p.9

¹⁰² O.J. No. L172 of 02.07.2008, p.9

¹⁰³ O.J. No. L317 of 26.11.2008, p.6

¹⁰⁴ O.J. No. L316 of 26.11.2008, p.4

¹⁰⁵ O.J. No. L330 of 09.12.2008, p.6

¹⁰⁶ O.J. No. L337 of 16.12.2008, p.86

¹⁰⁷ O.J. No. L344 of 20.12.2008, p.78

¹⁰⁸ O.J. No. L344 of 20.12.2008, p.89

¹⁰⁹ O.J. No. L48 of 19.02.2009, p.5

¹¹⁰ O.J. No. L91 of 03.04.2009, p.20

¹¹¹ O.J. No. L104 of 24.04.2009, p.23

- (a) a plant protection product or a vessel, vehicle or trailer used in connection with a plant protection product is present, has been present or may be present on a premises,
- (b) a plant protection product is or has been kept, processed, stored or otherwise dealt with on a premises,
- (c) equipment, plant or machinery used in connection with a plant protection product has been, is or may be on a premises,
- (d) a plant protection product or a vessel, vehicle or trailer, equipment, plant or machinery used in connection with a plant protection product has been held in possession or control, imported, exported, processed, stored or otherwise dealt with in contravention of these Regulations, or
- (e) a document or other record relating to a thing referred to in paragraph (a), (b), (c) or (d) is present, was present or may be present on a premises,

the authorised officer may enter the premises and he or she may—

- (i) search the premises,
- (ii) stop a person, vehicle, vessel or container,
- (iii) board and search a vehicle, vessel, aircraft or container,
- (iv) examine a plant protection product, vehicle, vessel, aircraft, container, equipment, machinery or other thing,
- (v) take, without payment, samples of a plant protection product or an article, substance or liquid as he or she may reasonably require and carry out or cause to be carried out on a sample such tests, analyses, examinations or inspections as he or she considers necessary or expedient,
- (vi) require the production of a document or other record (including the production of a document or other record that is in non-legible form, in a legible form) or thing relating to a plant protection product, vehicle, vessel, container, equipment, machinery or other thing,
- (vii) retain a document, other record or thing (for so long as is necessary),
- (viii) make a record using any means including writing, photography or video,

- (ix) give a direction to, or request information of, a person regarding a plant protection product, vessel, vehicle, container, machinery, equipment, premises or other thing as he or she considers necessary,
- (x) require the name and address of a person and the name and address of any other person including the owner of, or person to whom a plant protection product or other thing is being delivered or who is causing it to be delivered,
- (xi) require of a person the ownership, identity and origin of a plant protection product, vessel, vehicle, container, equipment, machinery or other thing,
- (xii) require a person in charge or control of a plant protection product, vessel, vehicle or container to refrain from moving it, or
- (xiii) mark or otherwise identify a plant protection product, vessel, vehicle, machinery, equipment or other thing or a sample taken under subparagraph (v).

(2) If an authorised officer has reasonable cause to suspect that-

- (a) an offence is being or has been committed under these Regulations
- (b) evidence of an offence or contravention to which paragraph (a) relates may be, is or has been on a premises-

the authorised officer may, in addition to the powers exercisable by him or her under subsection (1)—

- (i) search a person, where the authorised officer considers it necessary,
- (ii) seize and detain, a plant protection product, document, other record, vessel, vehicle, container, equipment, machinery or other thing, or
- (iii) dispose of, or require the owner or person in charge of or in possession of a plant protection product to deal with or dispose of it (or any equipment, machinery, plant or other thing used in connection with, or that may have been in contact with the plant protection product) in a manner that the authorised officer sees fit.

(3) 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 Regulation 31A other than if he or she has reasonable

cause to suspect that before a search warrant could be sought in relation to the dwelling anything to which paragraph (1) or (2) relates is being or is likely to be destroyed or disposed of.

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

(5) 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 exercise of the power.

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

(7) Without prejudice to the generality of subsection (1), a direction or requirement of an authorised officer may include conditions—

(a) prohibiting, restricting or otherwise controlling the marketing, use, processing or movement of a plant protection product, vessel, vehicle, container, equipment, machinery or other thing as may be specified by the authorised officer, or

(b) requiring that the person to whom the direction is addressed to take the measures specified by the authorised officer.

(8) If a member of the Garda Síochána has reasonable grounds to suspect that a person has committed an offence under these Regulations, the member may without warrant arrest the person.

(9) If in the course of exercising any powers under Regulations to which these Regulations apply an authorised officer, officer of Customs and Excise or a member of the Garda Síochána finds or comes into possession of any thing that the officer or member believes to be evidence of an offence or suspected offence under Regulations to which these Regulations apply, it may be seized and retained for use in evidence in criminal proceedings.

(10) Nothing in these Regulations operates to prejudice a power conferred by another enactment to search, or to seize or detain property, which may be exercised by a member of an Garda Síochána or an officer of Customs and Excise.

(11) 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 these Regulations.

31A. (1) 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,
- (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, equipment or other thing made used or adapted for use (including manufacture and transport) in connection with a plant protection product, 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.

(2) 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.

(3) If a premises is entered pursuant to 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.

Obstruction, etc.

31B. A person shall not—

- (a) obstruct or impede an authorised officer in the exercise of his or her powers under Regulation 31,
- (b) fail, without reasonable cause, to comply with a requirement or direction of an authorised officer under Regulation 31,
- (c) tamper or otherwise interfere with a sample taken under Regulation 13,
- (d) 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
 - (e) aid or abet a contravention of these Regulations.”
- (b) by the substitution for Regulation 33 (inserted by the European Communities (Authorization, Placing on the Market, Use and Control of Plant Protection Products) (Amendment) (No. 4) Regulations 2006 (S.I. No. 381 of 2006)), of—

Compliance notice

“33. (1) Without prejudice to Regulation 31, if an authorised officer has reasonable grounds to suspect that—

- (a) an act of the institutions of the European Communities is not being or has not been complied with or there are reasons to believe that 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 including the prevention or control of contamination of feed or food,
- (c) it is necessary, ancillary or supplementary for an act of the institutions of the European Communities 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, or
- (e) an offence has been committed under these Regulations,

he or she 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, 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 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 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 Regulation 33A.

(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 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.

Appeal against compliance notice

33A. (1) 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 Directive of 1991 or these Regulations (in this Regulation referred to as “an appeal”).

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

(3) 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 the Directive of 1991 or these Regulations, on the appropriate registering authority at least

48 hours prior to the hearing of the appeal and a copy of the notice of appeal shall be lodged with the appropriate District Court Clerk.

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

(5) 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 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 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.

Emergency measures

33B. (1) If—

- (f) a person, by act or omission, fails to comply, whether within the time specified therein or otherwise, with a compliance notice (including a compliance notice modified in accordance with Regulation 33A(4)), or
- (g) an authorised officer has reasonable cause to suspect—
 - (i) that a compliance notice (including a compliance notice modified in accordance with Regulation 33A(4)) is not or will not be complied with, or
 - (ii) pending the determination of an appeal, a plant protection product, 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 Regulation 33A(5),

an authorised officer may seize and detain a vehicle, vessel, animal, animal product, plant, plant product, feed, food, plant protection product 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 (including slaughter) as the authorised officer considers appropriate.

(2) Subject to paragraph (4), the proceeds of the sale or disposal of a vehicle, vessel, animal, animal product, plant, plant product, feed,

food, plant protection product or ingredient for a plant protection product under paragraph (1) shall be paid to the owner of a premises, vehicle, vessel, animal, animal product, plant, plant product, feed, food, plant protection product 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 or ingredient for a plant protection product.

(3) The costs of seizure, sale or disposal of a vehicle, vessel, animal, animal product, plant, plant product, feed, food, plant protection product 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.

(4) 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 or ingredient for a plant protection product to which the notice relates.”



GIVEN under my Official Seal,
18 August 2009.

BRENDAN SMITH,
Minister for Agriculture, Fisheries and Food.

EXPLANATORY NOTE

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

These Regulations amend the European Communities (Authorization, Placing on the Market, Use and Control of Plant Protection Products) Regulations, 2003 (S.I. No. 83 of 2003), as amended by the European Communities (Authorization, Placing on the Market, Use and Control of Plant Protection Products) (Amendment) (No. 4) Regulations 2006 (S.I. No. 381 of 2006).

The amendments specify and update the enforcement provisions of the Regulations.

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