



STATUTORY INSTRUMENTS.

S.I. No. 310 of 2011



EUROPEAN COMMUNITIES (MACHINERY) (AMENDMENT)
REGULATIONS 2011

(Prn. A11/1092)

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I, RICHARD BRUTON, Minister for Jobs, Enterprise and Innovation, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving effect to Directive 2009/127/EC of the European Parliament and of the Council of 21 October 2009¹ amending Directive 2006/42/EC with regard to machinery for pesticide application, hereby make the following regulations—

1. These Regulations may be cited as the European Communities (Machinery) (Amendment) Regulations 2011.
2. These Regulations come into operation on 15 December 2011.
3. The European Communities (Machinery) Regulations 2008 (S.I. No. 407 of 2008) are amended—

(a) in Regulation 3(1)—

- (i) by substituting the following definition for the definition of “Directive”:

“ ‘Directive’ means Directive 2006/42/EC of the European Parliament and of the Council of 17 May 2006² on machinery, and amending Directive 95/16/EC (recast), as amended by Directive 2009/127/EC of the European Parliament and of the Council of 21 October 2009¹ amending Directive 2006/42/EC with regard to machinery for pesticide application;”, and

- (ii) by substituting the following definition for the definition of “essential health and safety requirements”:

“ ‘essential health and safety requirements’ means the mandatory provisions set out in Annex 1 relating to the design and construction of the products subject to the Directive to ensure a high level of protection of the health and safety of persons and, where appropriate, of domestic animals and property and, where applicable, the environment;”;

¹OJ L 310, 25.11.2009, p.29.

²OJ L 157, 9.6.2006, p.24.

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 28th June, 2011.*

(b) by substituting the following Regulation for Regulation 23:

“23. Where, in the opinion of a competent authority, a product, when correctly maintained and used for its intended purpose or under conditions which can be reasonably foreseen, is liable to endanger the health or safety of persons or, where appropriate, domestic animals or property or, where applicable, the environment, notwithstanding the fact that it bears the CE marking, the competent authority may restrict or prohibit the placing on the market or the use of the product in question or have it withdrawn from the market or from circulation.”;

(c) by substituting the following paragraph for paragraph (1) of Regulation 37:

“(1) Where an authorised officer is of the opinion that there is occurring or likely to occur any situation or activity that involves or is likely to involve a risk to safety or health arising from or in connection with a product or partly completed machinery to which a duty under these Regulations applies, or a risk to the environment arising from or in connection with machinery referred to in section 2.4 of Annex 1, he or she may give a direction to the person (in these Regulations referred to as ‘the person in control’) who has, or whom the authorised officer reasonably presumes to have, control of the said product, partly completed machinery or machinery, as the case may be, requiring submission to the officer of a plan (in these Regulations referred to as an ‘improvement plan’) specifying the remedial action proposed to be taken to remove the risk.”;

(d) in Regulation 39—

(i) by substituting the following paragraph for paragraph (1):

“(1) Where an authorised officer is of the opinion that at any place there is occurring or is likely to occur any situation or activity relating to—

- (a) a product or partly completed machinery that involves or is likely to involve a serious risk to safety or health,
- (b) machinery referred to in section 2.4 of Annex 1 that involves or is likely to involve a serious risk to the environment arising from or in connection with that machinery, or
- (c) a product or partly completed machinery where the CE marking is not affixed in circumstances in which it should have been affixed, or is affixed in circumstances in which it should not have been affixed,

the authorised officer may serve a notice (in these Regulations referred to as a ‘prohibition notice’) on the person in control.”,

- (ii) by substituting the following subparagraph for subparagraph (e) of paragraph (2):

“(e) prohibit the carrying on of the activity concerned until the matters that give rise or are likely to give rise to the risk are remedied, or until the CE marking is affixed in compliance with Regulation 11, and”, and

- (iii) by substituting the following subparagraph for subparagraph (a) of paragraph (11):

“(a) the authorised officer is satisfied that the situation or activity to which the notice relates no longer involves a serious risk to safety or health, or a serious risk to the environment, or”;

- (e) by substituting the following Regulation for Regulation 41:

“41. A competent authority may, in the interest of the protection of safety or health, or the protection of the environment as it relates to machinery referred to in section 2.4 of Annex I, and in consultation, where appropriate, with another competent authority, take such measures as it considers appropriate to bring to the attention of the public matters giving rise to any contravention notice or prohibition notice served under these Regulations.”;

- (f) in Schedule 1—

- (i) in the “General Principles” by substituting the following point for point 4:

“4. This Annex is organised in several parts. The first one is of general scope and applicable to all kinds of machinery. The other parts refer to certain kinds of more specific hazards. Nevertheless, it is essential to examine the whole of this Annex in order to be sure of meeting all the relevant essential requirements. When machinery is being designed, the requirements of the general part and the requirements of one or more of the other parts shall be taken into account, depending on the results of the risk assessment carried out in accordance with point 1 of these General Principles. Essential health and safety requirements for the protection of the environment are applicable only to the machinery referred to in section 2.4.”, and

- (ii) by substituting the following for “Foodstuffs machinery, machinery for cosmetics or pharmaceutical products, hand-held and/or hand-guided machinery, portable fixing and other impact machinery, machinery for working wood and material with similar physical characteristics must meet all the essential health and safety requirements described in this chapter (see General Principles, point 4).”:

“Foodstuffs machinery, machinery for cosmetics or pharmaceutical products, hand-held and/or hand-guided machinery, portable fixing and other impact machinery, machinery for working wood and material with similar physical characteristics and machinery for pesticide application must meet all the essential health and safety requirements set out in this chapter (see General Principles, point 4).”, and

(iii) by inserting the following after 2.3:

“2.4 MACHINERY FOR PESTICIDE APPLICATION

2.4.1. Definition

“Machinery for pesticide application” means machinery specifically intended for the application of plant protection products within the meaning of Article 2(1) of Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009³ concerning the placing of plant protection products on the market.

2.4.2. General

The manufacturer of machinery for pesticide application or his authorised representative must ensure that an assessment is carried out of the risks of unintended exposure of the environment to pesticides, in accordance with the process of risk assessment and risk reduction referred to in the General Principles, point 1.

Machinery for pesticide application must be designed and constructed taking into account the results of the risk assessment referred to in the first paragraph so that the machinery can be operated, adjusted and maintained without unintended exposure of the environment to pesticides.

Leakage must be prevented at all times.

2.4.3. Controls and Monitoring

It must be possible to easily and accurately control, monitor and immediately stop the pesticide application from the operating positions.

2.4.4. Filling and emptying

The machinery must be designed and constructed to facilitate precise filling with the necessary quantity of pesticide and to ensure easy and complete emptying, while preventing spillage

³OJ L 309, 24.11.2009, p.1.

of pesticide and avoiding the contamination of the water source during such operations.

2.4.5. Application of pesticides

2.4.5.1. Application rate

The machinery must be fitted with means of adjusting the application rate easily, accurately and reliably.

2.4.5.2. Distribution, deposition and drift of pesticide

The machinery must be designed and constructed to ensure that pesticide is deposited on target areas, to minimise losses to other areas and to prevent drift of pesticide to the environment. Where appropriate, an even distribution and homogeneous deposition must be ensured.

2.4.5.3. Tests

In order to verify that the relevant parts of the machinery comply with the requirements set out in [sections] 2.4.5.1 and 2.4.5.2 the manufacturer or his authorised representative must, for each type of machinery concerned, perform appropriate tests, or have such tests performed.

2.4.5.4. Losses during stoppage

The machinery must be designed and constructed to prevent losses while the pesticide application function is stopped.

2.4.6. Maintenance

2.4.6.1. Cleaning

The machinery must be designed and constructed to allow its easy and thorough cleaning without contamination of the environment.

2.4.6.2. Servicing

The machinery must be designed and constructed to facilitate the changing of worn parts without contamination of the environment.

2.4.7. *Inspections*

It must be possible to easily connect the necessary measuring instruments to the machinery to check the correct functioning of the machinery.

2.4.8. *Marking of nozzles, strainers and filters*

Nozzles, strainers and filters must be marked so that their type and size can be clearly identified.

2.4.9. *Indication of pesticide in use*

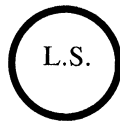
Where appropriate, the machinery must be fitted with a specific mounting on which the operator can place the name of the pesticide in use.

2.4.10. *Instructions*

The instructions must provide the following information:

- (a) precautions to be taken during mixing, loading, application, emptying, cleaning, servicing and transport operations in order to avoid contamination of the environment;
- (b) detailed conditions of use for the different operating environments envisaged, including the corresponding preparation and adjustments required to ensure the deposition of pesticide on target areas while minimising losses to other areas, to prevent drift to the environment and, where appropriate, to ensure an even distribution and homogeneous deposition of pesticide;
- (c) the range of types and sizes of nozzles, strainers and filters that can be used with the machinery;
- (d) the frequency of checks and the criteria and method for replacement of parts subject to wear that affect the correct functioning of the machinery, such as nozzles, strainers and filters;
- (e) specification of calibration, daily maintenance, winter preparation and other checks necessary to ensure the correct functioning of the machinery;
- (f) types of pesticides that may cause incorrect functioning of the machinery;

- (g) an indication that the operator should keep updated the name of the pesticide in use on the specific mounting referred to in [section] 2.4.9;
- (h) the connexion and use of any special equipment or accessories, and the necessary precautions to be taken;
- (i) an indication that the machinery may be subject to national requirements for regular inspection by designated bodies, as provided for in Directive 2009/128/EC of the European Parliament and of the Council of 21 October 2009⁴ establishing a framework for Community action to achieve the sustainable use of pesticides;
- (j) the features of the machinery which must be inspected to ensure its correct functioning;
- (k) instructions for connecting the necessary measuring instruments.”.



GIVEN under my Official Seal,
23 June 2011.

RICHARD BRUTON,
Minister for Jobs, Enterprise and Innovation.

⁴OJ L 309, 24.11.2009, p.71.

EXPLANATORY NOTE

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

These regulations transpose Directive 2009/127/EC of the European Parliament and of the Council of 21 October 2009 amending Directive 2006/42/EC with regard to machinery for pesticide application. Directive 2006/42/EC was transposed by way of S. I. No. 407 of 2008 (the Machinery Regulations). The Machinery Regulations place a responsibility on Member States that all machinery covered by the Regulations can only be placed on the market if they satisfy the provisions of the Directive and do not endanger the health and safety of persons and where appropriate domestic animals or property. The present Regulations amend these Regulations by adding specific rules on the placing on the market of “machinery for pesticide application”.

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