



STATUTORY INSTRUMENTS.

S.I. No. 155 of 2012



EUROPEAN COMMUNITIES (SUSTAINABLE USE OF PESTICIDES)
REGULATIONS 2012

(Prn. A12/0814)

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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 Directive 2009/128/EC of the European Parliament and of the Council of 21 October 2009¹ hereby make the following regulations:

Citation

1. These Regulations may be cited as the European Communities (Sustainable Use of Pesticides) Regulations 2012.

Commencement

2. (1) Regulation 5 shall come into effect on 26 November 2015.

(2) Regulation 6(1)(b) and (c), Regulation 7, Regulation 8(3) and Regulation 10 shall come into effect on 26 November 2013.

(3) Regulations 6(1)(e) shall come into effect on 26 November 2015.

(4) Regulation 9 shall come into effect on 26 November 2016.

(5) Regulation 14 shall come into effect on 1 January 2014.

Interpretation

3. (1) In these Regulations—

“authorised officer” means a person appointed under Regulation 17;

“Directive” means Directive 2009/128/EC of the European Parliament and of the Council of 21 October 2009;

“inspector of pesticide application equipment” means a person that complies with Regulation 8(1);

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

“National Action Plan” means a plan submitted by the Minister to the European Commission under Article 4 of the Directive;

“person trained as a distributor” means a person trained to the standard of a distributor in accordance with Article 5 of the Directive and the National Action Plan;

¹OJ L 309, 24.11.2009, p. 71.

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 18th May, 2012.*

“premises” means land with or without buildings;

“Register” means a register established under Regulation 4.

(2) A word or expression that is used in the Directive or an act of an institution of the European Union mentioned in these Regulations and is also used in these Regulations has, in these Regulations the same meaning as it has in the Directive.

Register

4. (1) The Minister may establish a register of—

- (a) professional users,
- (b) distributors of pesticide including all premises used by that distributor in relation to pesticide,
- (c) persons trained to act as a distributor,
- (d) advisors on the use of pesticides,
- (e) inspectors of pesticide application equipment, or
- (f) any class or classes of person within subparagraphs (a), (b), (c), (d) or (e).

(2) The Minister may set conditions for registration under paragraph (1).

Professional user

5. (1) Subject to paragraph (2) a professional user of pesticides shall—

- (a) hold a certificate confirming that the professional user has been trained to a standard determined by the Minister in the subjects listed in Annex I of the Directive, and
- (b) comply with any additional training requirements as determined by the Minister.

(2) The Minister may exempt professional users from the obligations set out in paragraph (1) where such users—

- (a) (i) farm exclusively grassland, and
- (ii) do not use pesticides in excess of a quantity determined by the Minister or do not apply pesticides to an area greater than an area determined by the Minister, or
- (b) operate under the direct supervision of a registered professional user or an advisor.

(3) The Minister may remove a person from the Register where—

- (a) the Minister is of the view that the person no longer satisfies the conditions set out under paragraph (1) and does not qualify for an exemption under paragraph (2), or
- (b) has been found guilty of an offence resulting in—
 - (i) misuse of pesticides, or
 - (ii) water pollution.

Distributor

6. (1) Subject to paragraph (2), a distributor or a person trained to act as a distributor shall—

- (a) be entered in the Register,
- (b) hold a certificate confirming that—
 - (i) the distributor, or
 - (ii) the person trained to act as a distributor,

has been trained to a standard determined by the Minister in the subjects listed in Annex I of the Directive,

- (c) comply with any additional training requirements as determined by the Minister,
- (d) sell pesticides approved for professional use only, to a person whom the distributor or person trained as a distributor is satisfied is a professional user, and
- (e) in the case of a distributor, have available, at the time of sale a person trained to act as a distributor to provide information to customers regarding the risks for health and the environment of pesticide use, in particular on hazards, exposure, proper storage, handling, application, safe disposal and low risk alternatives.

(2) The Minister may exempt distributors from the obligations of paragraph (1)(b) or (e) where such distributors only supply certain pesticides for non-professional use.

(3) The Minister may remove a distributor from the Register, where the distributor or a person trained to act as a distributor—

- (a) ceases to be a distributor or ceases to be a person trained to act as a distributor,
- (b) fails to fulfil the obligations set out in this Regulation, or
- (c) has been found guilty of an offence in relation to—

- (i) pesticide handling,
- (ii) water pollution, or
- (iii) acting as an advisor.

(4) A person shall not act as a distributor unless he or she is entered in the Register.

Advisor

7. (1) An advisor shall—

- (a) be entered in the Register,
- (b) hold a certificate confirming that he or she has been trained to a standard determined by the Minister in the subjects listed in Annex I of the Directive, and
- (c) comply with any additional training requirements as determined by the Minister.

(2) The Minister may remove an advisor from the Register, where the advisor—

- (a) ceases to be an advisor,
- (b) fails to comply with paragraph (1)(c),
- (c) has been found guilty of an offence resulting in or leading to—
 - (i) misuse of pesticides, or
 - (ii) water pollution.

(3) A person shall not act as an advisor unless he or she is entered in the Register.

Inspector of pesticide application equipment

8. (1) A person wishing to be an inspector of pesticide application equipment shall—

- (a) be entered in the Register,
- (b) hold a certificate confirming that he or she has been trained to a standard determined by the Minister, and
- (c) comply with any additional training requirements as determined by the Minister.

(2) The Minister may remove an inspector of pesticide application equipment from the Register, where he or she—

- (a) ceases to be an inspector of pesticide application equipment,
- (b) fails to comply with paragraph (1)(c),
- (c) has been found guilty of an offence resulting in or leading to—
 - (i) misuse of pesticides, or
 - (ii) water pollution,
- (d) is found to have certified pesticide application equipment which does not comply with the standard prescribed in Schedule 1.

(3) A person shall not act as an inspector of pesticide application equipment unless he or she is entered in the Register.

Pesticide application equipment

9. (1) A professional user shall have his or her pesticide application equipment listed in Schedule 1 inspected and certified to ensure compliance with the standard specified opposite that equipment in the Schedule,

- (a) by a person entered in the Register as an inspector of pesticide application equipment, and
- (b) at least once every five years up to 1 January 2020 and at least once in every three years following that date.

(2) A professional user shall only apply pesticides with equipment that is correctly calibrated and is appropriate for the use intended.

(3) A professional user shall only apply pesticides with equipment listed in Schedule 1, if it has been inspected and certified as satisfying the appropriate standard in that Schedule.

Aerial spraying

10. (1) A person shall not engage or cause or permit another person to engage in the aerial spraying of pesticides other than under, and in accordance with, a licence and the conditions attached, if any, issued by the Minister for that purpose.

(2) A person seeking a licence under paragraph (1) shall provide all such information as the Minister may require to determine the application.

(3) The Minister may conduct such consultations as the Minister considers necessary in advance of making any determination on a licence application made under paragraph (2).

(4) The Minister may issue a licence under paragraph (1), attach conditions to the licence, vary a condition, insert a new condition, revoke such licence or refuse an application.

(5) A licence issued under paragraph (1) may be valid for a period determined by the Minister and the period shall be specified on the licence.

Prohibitions on pesticides near aquatic environment and drinking water

11. (1) A person shall not use a pesticide within the distance set out in Schedule 2 opposite the water source described in the Schedule.

(2) A person shall not use a pesticide within 15 metres of a landscape feature that is known to be a ground water vulnerable area including karst areas, sink-holes and collapse features.

(3) Subject to paragraphs (1) and (2), a person shall not use a pesticide close to water other than in accordance with the conditions set out in the approved label for that pesticide.

Specific areas

12. (1) Subject to paragraph (2), a person shall not apply a pesticide in—

(a) areas used by the general public or by vulnerable groups as defined in Article 3 of Regulation (EC) No. 1107/2009 of the European Parliament and of the Council of 21 October 2009², or

(b) a European site within the meaning of Regulation 2 of the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011).

(2) Where a person, having completed a risk assessment, is obliged to use a pesticide in an area referred to in paragraph (1), he or she shall ensure that preference is given to the use of low risk plant protection products or biological and cultural control measures and where such measures are not capable of performing the necessary function, a person shall prioritise the use of plant protection products that are not classified as R50 in accordance with Directive 1999/45/EC of the European Parliament and of the Council of 31 May 1999³ as amended by Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008⁴.

(3) Where a person uses a pesticide in an area referred to in paragraph (1) the onus of proof will lie with that person to show that there was no viable alternative and appropriate risk management measures were put in place.

Storage, handling, packaging and disposal

13. (1) A professional user or a distributor shall store, handle and package a pesticide in a manner determined by the Minister to ensure that human health or the environment are not endangered.

(2) A professional user or distributor shall dispose of a pesticide and pesticide packaging in a manner to ensure that human health or the environment are not endangered.

²OJ L 309, 24.11.2009, p. 1.

³OJ L 200, 30.7.1999, p. 1.

⁴OJ L 353, 31.12.2008, p.1.

(3) A person shall not use a premises for storage of pesticides either for sale or supply unless the premises—

(a) is entered on the Register and

(b) complies with a standard determined by the Minister.

Integrated pest management

14. A professional user shall apply the general principles of integrated pest management as set out in Annex III to the Directive and maintain records to demonstrate the application of such principles.

Good plant protection practice

15. A professional user shall apply the principles of good plant protection practice as published by the Minister and maintain records to demonstrate the application of such principles.

Fees

16. The Minister may charge a fee for any service or act undertaken for the purposes of these Regulations as the Minister may, from time to time, determine.

(2) The Minister may not consider an application or provide a service under these Regulations 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 person on the Register shall be paid 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 person from the Register where a fee due under paragraph (5) is not paid by the due date.

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

Appointment of authorised officer

17. (1) The Minister may, by instrument in writing, appoint such and so many persons as he or she thinks fit to be authorised officers for the purposes of some or all of these Regulations as may be specified in the instrument.

(2) 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.

- (3) An appointment as an authorised officer ceases—
- (a) if it is terminated pursuant to paragraph (2),
 - (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, upon the person ceasing to be such an officer.

(4) Nothing in paragraph (3) is to be construed so as to prevent the Minister from reappointing as an authorised officer a person to whom that paragraph relates.

(5) An authorised officer shall be furnished with a warrant of his or her appointment as an authorised officer and, when exercising a power conferred on him or her, if requested by a person affected, produce the warrant or evidence that he or she is such an officer or member to the person.

Functions of an authorised officer

18. (1) For the purposes of these Regulations 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 pesticide is, may be or has been present,
 - (ii) a record relating to a pesticide is, may be or has been present,
 - (iii) equipment or machinery used in connection with a pesticide is, may be or has been present, or
 - (iv) take, without making a payment, a sample of a pesticide 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 pesticide,
 - (c) inspect a vehicle, vessel, aircraft, container, equipment, machinery or other thing used in connection with a pesticide 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 pesticide 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 pesticide or a product represented as such a product,

(b) an offence is being or has been committed under these Regulations, 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 pesticide 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 pesticide, a vehicle, vessel, container, equipment, machinery or other thing used in connection with a pesticide 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;

(v) seize and detain a pesticide, vehicle, container, equipment, machinery, record or other thing;

(vi) mark or otherwise identify a pesticide, vessel, vehicle, machinery, equipment or other thing used in connection with a pesticide or a sample taken under paragraph (1)(a)(iv).

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

(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), 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 Regulation 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 Regulation.

(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 Regulation 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, it may be seized and retained for use in evidence in criminal proceedings for an offence under these Regulations.

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

(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,
- (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 pesticide, document or other record relating to a pesticide, equipment or other thing made, used or adapted for use (including manufacture and transport) in connection with a pesticide, 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.

Compliance Notice

19. (1) Without prejudice to Regulation 18, if an authorised officer has reasonable grounds to suspect that—

- (a) an act of the institutions of the European Union relating to a pesticide 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 Union, 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 Union in relation to a pesticide to have full effect,
- (d) an animal, animal product, plant, plant product, food, feed or equipment is or may be contaminated with a pesticide, or
- (e) an offence has been committed under these Regulations,

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 pesticide, premises, vehicle, vessel, animal, animal product, plant, plant product, feed, food or equipment, a notice (“compliance notice”) stating that opinion, and directing that—

- (i) an animal, animal product, plant, plant product, feed, food or equipment be dealt with in a manner specified in the notice,
- (ii) a pesticide 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 pesticide 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 or withdrawn 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, equipment, animal, animal product, plant, plant product, feed, food or pesticide 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 under these Regulations (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 under 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, equipment, animal, animal product, plant, plant product, feed, food or pesticide 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, equipment, animal, animal product, plant, plant product, feed, food or pesticide 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 pesticide, premises, vehicle, vessel, equipment, 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, pesticide or equipment 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, pesticide or equipment under paragraph (11) shall be paid to the owner of a vehicle, vessel, animal, animal product, plant, plant product, feed, food, pesticide or equipment 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, pesticide or equipment.

(13) The costs of seizure, sale or disposal of a vehicle, vessel, animal, animal product, plant, plant product, feed, food, pesticide or equipment 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, pesticide or equipment to which the notice relates.

Service of compliance notice

20. (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 on 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

21. (1) A person shall not-

- (a) obstruct or impede an authorised officer in the exercise of his or her functions under Regulation 18,
- (b) fail, without reasonable cause, to comply with a requirement or direction of an authorised officer under Regulation 18,
- (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.

Offences

22. (1) A person who contravenes Regulation 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 19(2), 19(10), 20(3) or 21 commits an offence and is liable on summary conviction to a Class A fine.

(2) If an offence under these Regulations is committed by a body corporate and it is proved to have been so committed with the consent or connivance of or to be attributable to any neglect on the part of any person who, when the offence is committed, is a director, manager, secretary or other officer of the body corporate, or a person purporting to act in any such capacity, that person, as well as the body corporate, is guilty of an offence and liable to be proceeded against and punished as if guilty of the first-mentioned offence.

(3) If the affairs of a body corporate or unincorporated body are managed by its members, paragraph (3) applies in relation to the acts and defaults of a member in connection with functions of management as if the member is a director or manager of the body corporate.

Prosecutions and specific rules of evidence

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

(2) 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 in or on equipment capable of use for application of the pesticide, shall be evidence, until the contrary is proved, of the use of the plant protection product 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 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, shall be evidence, until the contrary is proved, of the use of the plant protection product 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 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 and the level of such residues in any controlled product, and

- (iii) a document purporting to be such a certificate shall be such a certificate, or
- (e) the presence of a plant protection product on any premises (including any stores), shall, until the contrary is shown, be sufficient evidence that the plant protection product 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

24. (1) If the Minister has reasonable grounds for suspecting that a person is committing or has committed an offence under these Regulations, 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, the onus of proving that a payment pursuant to a notice under this Regulation has been made lies on the defendant.

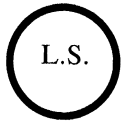
Schedule 1

Equipment	Standard
Boom Sprayers in excess of 3m wide	EN Standard 13790-1:2003
Orchard and Blast Sprayers	EN Standard 13790-2:2003

Schedule 2

Table indicating distance from open wells, open boreholes, water abstraction points

Water Source	Distance
Abstraction point of any surface waters, borehole, spring or well used for the abstraction of water for human consumption in a water scheme supplying 100m ³ or more of water per day or serving 500 or more persons,	200m
Abstraction point of any surface waters, borehole, spring or well used for the abstraction of water for human consumption in a water scheme supplying 10m ³ or more of water per day or serving 50 —500 persons,	100m
Abstraction point of any surface waters, borehole, spring or well used for the abstraction of water for human consumption in a water scheme supplying 1-10m ³ of water per day or serving 10-50 persons,	25m
Abstraction point of any surface waters, borehole, spring or well used for the abstraction of water for human consumption in a water scheme supplying 1m ³ or less of water per day or serving 10 or less persons,	5m



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 Directive 2009/128/EC of the European Parliament and of the Council of 21 October 2009 establishing a new Community framework aimed at achieving sustainable use of pesticides through the reduction of the risks and impacts of pesticide usage on human health and the environment.

BAILE ÁTHA CLIATH
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TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
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