

EUROPEAN COMMUNITIES (CLASSIFICATION, PACKAGING, AND LABELLING OF PESTICIDES) (AMENDMENT) REGULATIONS, 1989.

I, MICHAEL O'KENNEDY, Minister for Agriculture and Food, 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 further effect to Council Directive No. 78/631/EEC of 26 June, 1978⁽¹⁾, Council Directive 81/187/EEC of 26 March, 1981⁽²⁾, and Commission Directive 84/291/EEC of 18 April, 1984⁽³⁾, hereby make the following Regulations:

⁽¹⁾O.J. No. L206/13, 29.7.1978.

⁽²⁾O.J. No. L88/29, 2.4.1981.

⁽³⁾O.J. No. L144/1, 30.5.1984.

1. (1) These Regulations may be cited as the European Communities (Classification, Packaging and Labelling of Pesticides) (Amendment) Regulations, 1989.

(2) These Regulations shall come into operation on the 30th day of June, 1989.

(3) The European Communities (Classification, Packaging and Labelling of Pesticides) Regulations, 1985 and 1987, and these Regulations may be cited together as the European Communities (Classification, Packaging and Labelling of Pesticides) Regulations, 1985 to 1989, and shall be construed together as one.

2. In these Regulations—

"the Principal Regulations" means the European Communities (Classification, Packaging and Labelling of Pesticides) Regulations, 1985 ([S.I. No. 370 of 1985](#));

"the Regulations of 1987" means the European Communities (Classification, Packaging and Labelling of Pesticides) (Amendment) Regulations, 1987 ([S.I. No. 207 of 1987](#));

"approval" means acceptance by the Minister that, following examination, the record of studies conducted and the information, documentation, materials, labelling and packaging submitted in relation to a pesticide, are in compliance with the requirements of these Regulations and cognate words shall be construed accordingly;

"clearance" means clearance to market or use a pesticide for which the record of studies conducted, and the information, documentation, materials, labelling and packaging submitted in relation to the pesticides have been approved by the Minister in accordance with the requirements of these Regulations and cognate words shall be construed accordingly.

3. Regulation 7 of the Principal Regulations is hereby amended—

(a) by the insertion in subparagraphs (a) and (b) of paragraph (2) of "placed" before "on the market" and of "of the studies conducted" before "and the information" and the said subparagraphs as so amended are set out in the table to this Regulation, and

(b) by the insertion in paragraph (2) after subparagraph (b) of the following subparagraphs:

"(c) In the case of a pesticide in relation to which the record of the studies conducted and the information, documentation and materials have neither been approved nor submitted for approval by the Minister under subparagraph (a) or (b) of this paragraph, notwithstanding

non-compliance with the provisions of this Regulation, an authorised officer acting on behalf of the Minister, where there is no apparent risk to man or to the environment through the placing on the market or use of such a pesticide, may, by a notice in writing given to the owner or person in apparent charge or control, permit the controlled placing on the market or use of existing stocks of the pesticide subject to specified conditions.

(d) The Minister may, on a request being made to him in that behalf by a person who had been granted approval in respect of a pesticide under this paragraph, withdraw his approval in respect of that pesticide."

TABLE

"(a) In the case of a pesticide which is placed on the market on or before the commencement of these Regulations, the pesticide shall no longer be placed on the market or used unless the record of the studies conducted and the information, documentation and material to which it relates are submitted for approval at a time to be specified by the Minister and are approved by him.

(b) In the case of a pesticide which is not placed on the market on or before the commencement of these Regulations, the pesticide shall not be placed on the market or used unless the record of the studies conducted and the information, documentation and materials to which it relates have been approved by the Minister."

4. The Principal Regulations are hereby amended by the substitution for paragraph (2) of Regulation 11 of the following paragraph:

"(2) Where, subsequent to the placing on the market of a pesticide which has been cleared by the Minister in accordance with these Regulations, additional toxicological data become available and additional facts become apparent, in accordance with Article 3 (5) of the Directive of 1978, the classification, packaging, labelling and approval of the pesticide may be subject to review by the Minister on the basis of such additional toxicological data and such additional facts."

5. The Principal Regulations are hereby amended by the insertion in Regulation 13 (5) (inserted by the Regulations of 1987) after subparagraph (c) of the following subparagraphs:

"(d) In any proceedings for an offence under these Regulations, a certificate purporting to show the results of any test, examination or analysis carried out on behalf of the Minister shall, until the contrary is shown, be deemed to be such a certificate and shall be sufficient evidence of the facts certified to therein in relation to the presence in a pesticide substance, impurity or formulating ingredient, without proof of any signature thereon or that the signatory was the proper person to sign it.

(e) For the purpose of these Regulations, the presence of a pesticide, to which these Regulations apply, on any premises (including any stores) where the business of marketing

such pesticides is carried on, shall, until the contrary is shown, be sufficient evidence that the pesticide in question is or was being placed on the market by the owner and by the occupier of such premises."

6. The Principal Regulations are hereby amended by the insertion in Regulation 14 (as amended by the Regulations of 1987) after paragraph (6) of the following paragraphs:

"(7) Notwithstanding the requirements of these Regulations in relation to classification, packaging and labelling and paragraph (2) of this Regulation, where a pesticide has been seized under these Regulations and a notice in writing given under the said paragraph (2), an authorised officer may dispose of a pesticide by authorising its use subject to such conditions as he may specify, where the authorised officer is not aware of any apparent risk to man or the environment by such use.

(8) In the case of a notice given under paragraph (2) of this Regulation which indicates an intention to dispose of a pesticide, the ownership of such pesticide shall, in the absence of an appeal by the owner against the notice to the District Court, vest in the Minister on the expiration of a period of seven days beginning on the date of the notice. In the event of an appeal by the owner against the notice to the District Court, ownership of the pesticide shall vest in the Minister if the Court makes an order under paragraph (5) of this Regulation which requires the pesticide to be disposed of by an authorised officer.

(9) In the case of a notice given under paragraph (2) of this Regulation which requires the disposal at the expense of the owner of a pesticide which has been seized under this Regulation and where there has been a failure to pay, the cost of such disposal shall be recoverable by the Minister as a simple contract debt in any court of competent jurisdiction from the person who was the owner of the pesticide at the time of its seizure under this Regulation."

7. Regulation 17 (inserted by the Regulations of 1987) of the Principal Regulations is hereby amended by—

(a) the substitution for paragraph (1) of the following paragraph—

"Every application for approval of documentation and materials and for clearance of pesticides shall be subject to the payment of the following fees, that is to say—

(a) in the case of applications in relation to pesticides placed on the market after the 2nd day of December, 1985, the fee set in column (2) of Part 1A of the Second Schedule to these Regulations, payable to the Minister in respect of the appropriate type of clearance in relation to a category set out in column (1) of the said Part 1A;

(b) in the case of applications in relation to pesticides placed on the market on or before the 2nd day of December, 1985, the fee set out in column (2) of Part 1B of the Second Schedule to these Regulations, payable to the Minister in respect of the appropriate type of

clearance in relation to a category set out in column (1) of the said Part 1B;

(c) an initial fee of £100 shall accompany each application in relation to pesticides which payment shall be offset against the fees mentioned in subparagraphs (a) and (b) of this paragraph (evaluation of each application shall not be undertaken until the balance of the relevant fee is paid);

(d) a fee of £100 shall be payable in each case where an application is made for minor amendments to the packaging and labelling or to the documentation and materials submitted in accordance with Regulation 7 (2) (a) or 7 (2) (b) of these Regulations and where it is considered no hazard evaluation is involved or required. This fee shall not be offset against the fees mentioned in sub-paragraphs (a) and (b) of this paragraph.", and

(e) the insertion in paragraphs (3) and (4) after "Regulation." of the following:

"In the case of an application for trial clearance of pesticides the fee payable under paragraph (1) of this Regulation may be reduced by the Minister on a request made to him in that behalf where the potential area of use is limited to a specialised area or specialised areas of use."

8. The Principal Regulations are hereby amended by the substitution in Annex VII of the First Schedule for:

"Poisons Information Centre

Jervis Street Hospital

Dublin 1.

Tel. (01) 745588"

in each place where it occurs of:

"Poisons Information Centre

Beaumont Hospital

Dublin 9

Tel. (01) 379964 or 379966".

Fax No. 376982

9. The Principal Regulations are hereby amended by the substitution for the Second Schedule (inserted by the Regulations of 1987) of the following Schedule—

"SECOND SCHEDULE

EUROPEAN COMMUNITIES (CLASSIFICATION, PACKAGING AND LABELLING OF
PESTICIDES) REGULATIONS, 1985 TO 1989

PART I

Fees for clearance of pesticides

A. Pesticides placed on the market after 2 December, 1985

Column (1) Category	Column (2) Type of clearance and fee payable			
	Trial	Limited	Provisional	Restricted or Commercial
	£	£	£	£
I	200	450	600	1,000
II	175	350	500	800
III	125	175	225	300

B. Pesticides on the market on or before 2 December, 1985

Column (1) Category	Column (2) Type of clearance and fee payable			
	Trial	Limited	Provisional	Restricted or Commercial
	£	£	£	£
I	150	300	450	750

II	125	250	400	600
III	100	150	200	250

In this Schedule—

- "Category I" means pesticides containing one or more active ingredients of particular specification not previously cleared and for which approval of classification, packaging and labelling in accordance with Regulation 4 of these Regulations is sought;
- "Category II" means pesticides for which clearance and approval of classification, packaging and labelling in accordance with Regulation 4 of these Regulations for a major new area of use or major formulation changes are sought;
- "Category III" means pesticides for which clearance and approval of classification, packaging and labelling in accordance with Regulation 4 of these Regulations for minor extensions in use or minor formulation changes are sought;
- "Commercial clearance" means clearance for commercial sale and use of pesticides
- "Limited clearance" means clearance for commercial sale and use of pesticides, in limited quantities or for a limited period or both, subject to specified restrictions or conditions;
- "Provisional clearance" means clearance for commercial sale and use of pesticides, sometimes for a limited period, subject to specified restrictions or conditions;
- "Restricted clearance" means clearance for commercial sale and use of pesticides subject to restrictions imposed by other statutory provisions or subject to special restrictions;
- "Trial clearance" means clearance for experimental use of pesticides subject to specified restrictions or conditions.

PART 2

Type of Clearance	Annual Renewal Fee
	£
Restricted or Commercial	100
Provisional	100
Limited	100

Trial

40

PART 3

Late Annual Renewal Fee

£150."

GIVEN under my Official Seal this 20th day of

June, 1989.

MICHAEL O'KENNEDY,

Minister for Agriculture and Food.

EXPLANATORY NOTE.

These Regulations amend existing Regulations on pesticides in a number of respects including, in particular—

- (i) revision of the scale of fees payable for the clearance of pesticides and introducing a new system regarding payment of those fees,
- (ii) making provisions to recover the cost of disposal of seized pesticides, and
- (iii) providing for the controlled use or disposal of certain pesticides.