

EUROPEAN COMMUNITIES (CLASSIFICATION, PACKAGING AND LABELLING OF PESTICIDES) (AMENDMENT) REGULATIONS 1987

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 effect to Council Directive No. 78/631/EEC of 26 June, 1978, Council Directive 81/187/EEC of 26 March, 1981 and Commission Directive 84/291/EEC of 18 April, 1984, 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

REG 1

1. (1) These Regulations may be cited as the European Communities (Classification, Packaging and Labelling of Pesticides) (Amendment) Regulations, 1987.

(2) These Regulations shall come into operation on the 10th day of August, 1987.

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

REG 2

2. In these Regulations "the Principal Regulations" means the Pesticides) Regulations, 1985 (S.I. No. 370 of 1985).

REG 3

3. The Principal Regulations are hereby amended by the insertion in Regulation 4 of the following paragraph:

"(5) The placing on the market of a pesticide to which these Regulations apply in the form in which it is supplied to the user and intended for use as such is hereby prohibited if—

- (a) the net quantity in any container of such pesticide is less than the quantity stated thereon in the manner specified in Article 6 (2) (e) of the Directive of 1978, or
- (b) the fastenings or containers used to package such pesticide have been tampered with."

REG 4

4. The Principal Regulations are hereby amended by the substitution of the following Regulation for Regulation 12:

"12. Where a person proposes to import into the State a pesticide to which these Regulations apply, three days notice of the intended importation shall be given in writing to the Minister on behalf of the importer specifying—

(a) the brand name of the pesticide.

(b) the port, airport or other place at which it is expected that the pesticide shall be landed or otherwise brought into the State,

(c) the date on which the pesticide is expected to be so transferred into the State,

(d) the number of packs which the relevant consignment comprises (if it comprises more than one),

(e) the pack size (given by reference to volume or weight) of the consignment or, in case the consignment comprises more than one pack, the pack size (so given) of each such pack, and

(f) in the case of a pesticide being imported into the State, the destination to which the pesticide is consigned or, in lieu thereof, an address at which the pesticide may be examined, sampled, tested or inspected pursuant to paragraph (1) of Regulation 13."

REG 5

5. The Principal Regulations are hereby amended by the insertion in Regulation 13 (1) of the following after sub-paragraph (ii):

"and

(iii) take samples of any plant, plant product, soil, compost, or take samples from or of any other thing, which he finds in the course of his inspections and which he believes may have been treated or contaminated with a pesticide to which the Regulations apply,".

REG 6

6. The Principal Regulations are hereby amended by the substitution in Regulation 13 of the following paragraph for paragraph (5):

"(5) (a) In any proceedings for an offence under these Regulations, the result of any test, examination or analysis of, or any report on, a sample taken pursuant to this Regulation shall not be adduced unless, before the proceedings were instituted, one of the parts into which the sample was divided (as required by paragraph (4) of this Regulation) was left with, or sent by registered post to, the defendant or his agent.

(b) In any proceedings for an offence under these Regulations, evidence of the presence of a pesticide to which the Regulations

apply, 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 pesticide.

(c) In any proceedings for an offence under these Regulations, evidence of the presence of a residue of a pesticide to which the Regulations apply, 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 pesticide, shall be evidence, until the contrary is proved, of the use of the pesticide."

REG 7

7. The Principal Regulations are hereby amended by the substitution in Regulation 13 of the following paragraph for paragraph (6):

"(6) If any person fraudulently—

(a) tampers with any pesticide so as to procure that any sample of it taken pursuant to these Regulations does not correctly represent the pesticide, or

(b) tampers or interferes with any sample taken pursuant to these Regulations,

he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000 or, at the discretion of the court, to imprisonment for a term not exceeding six months or to both the fine and the imprisonment."

REG 8

8. The Principal Regulations are hereby amended by the insertion in Regulation 13 of the following paragraph:

"(7) An authorised officer shall be furnished with a certificate of his appointment as an authorised officer and when exercising any power conferred on him by these Regulations, shall, if requested by any person affected, produce the certificate to that person."

REG 9

9. The Principal Regulations are hereby amended by the substitution in Regulation 14 of the following paragraph for paragraph (4):

"(4) Any person who is aggrieved by a notice given under paragraph (2) of this Regulation which either requires the pesticide to which it relates to be disposed of or indicates an intention to dispose of such pesticide may, not later than the expiration of a period of seven days beginning on the date of the notice, appeal against the notice to the District Court in the District Court District in which the notice has been served."

REG 10

10. The Principal Regulations are hereby amended by the substitution in Regulation 15 of the following paragraph for paragraph (2):

"(2) A person who—

(a) fails to comply with the requirements of Regulations 7, 11(1) or 12, paragraph (3) of Regulation 13 or paragraph (3) of Regulation 14 of these Regulations, or

(b) who obstructs or interferes with an authorised officer in the course of exercising a power conferred on him by Regulations 13 (2), 13 (3), 14 or 18 of these Regulations, or

(c) who gives false information when requested to provide information under Regulation 18,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000, or at the discretion of the court, to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment."

REG 11

11. The Principal Regulations are hereby amended by the substitution of the following Regulations for Regulation 17:

"17. (1) Every application for an approval of documentation and materials and for clearance of pesticides shall be accompanied by—

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

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

(2) Every grant of an approval of documentation and materials and for clearance of pesticides shall be for 12 months from the date of such grant and shall be renewable for a maximum of 9 further periods of 12 months on an application being made in that regard to the Minister and shall be accompanied by the fee set out in Part 2 of the Second Schedule and on a request being made to him in that behalf, the Minister may reduce the fee payable under this paragraph where he is satisfied that the wholesale sales of a pesticide during the previous 12 month period did not exceed 50 times the fee payable under this paragraph to the Minister.

(3) In the case of a pesticide already on the market at the time of the commencement of these Regulations, the Minister may reduce the fee payable under paragraph (1) of this Regulation on a request

being made to him in that behalf, where he is satisfied that the wholesale sales of the pesticide during the previous 12 month period did not exceed 50 times the fee payable to the Minister in accordance with paragraph (1) of this Regulation.

(4) In the case of a pesticide which is being placed on the market for the first time, the Minister may refund part of the fee payable in accordance with paragraph (1) of this Regulation on a request being made to him in that behalf, where he is satisfied that the wholesale sales of the pesticide during the twelve month period from the date of clearance of the pesticide in accordance with paragraph 2(b) of Regulation 7 of the Principal Regulations did not exceed 50 times the fee payable to the Minister in accordance with paragraph (1) of this Regulation.

(5) Clearance of a pesticide in accordance with the requirements of these Regulations shall be withdrawn if, in the case such pesticide continues to be placed on the market, there is a failure to pay the annual renewal fee set out in Part 2 of the Second Schedule to these Regulations within 30 days of the fee falling due but an application for a renewal of clearance of a pesticide may be made more than 30 days but not more than 60 days after the renewal fee fell due on payment to the Minister of the late annual renewal fee set out in Part 3 of the Second Schedule to these Regulations.

(6) In the case of an application to alter a type of clearance where a clearance has been approved, the fee payable in respect of any subsequent clearance shall be reduced by the amount already paid under these Regulations."

REG 18

18. A person who makes a claim for a reduction or a refund of fees in accordance with Regulation 17 (2), 17 (3) or 17 (4) of these Regulations shall, at all reasonable times—

(a) produce, at the request of an authorised officer, any records, books or other documents which are in his possession or under his control which substantiate such a claim,

(b) permit the officer to inspect and take extracts from such records, books or other documents and give to the officer any information which is within his knowledge or under his control and which such officer may reasonably require for the purpose of verifying the claim,

(c) afford to such an officer such facilities and assistance as are reasonably necessary for inspecting the stock of the relevant pesticide if the officer considers such inspection is necessary for the purpose of verifying the claim."

REG 12

12. The Principal Regulations are hereby amended by the insertion of the following Schedule:

"SECOND SCHEDULE

Pesticides) Regulations, 1985 and 1987

PART 1

Fees for clearance of pesticides

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

Column (1)Column (2)

Type of clearance and fee payable

CategoryTrialLimitedProvisionalRestricted or

Commercial££££I2004506001,000II175350500800III150200250400IV100150175200

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

Column (1)Column (2)

Type of clearance and fee payable

CategoryTrialLimitedProvisionalRestricted or

Commercial££££I150300450750II125250400600III100150200300IV100150175200

In this Schedule—

"Category I" means pesticides containing active ingredients not previously cleared and for which approval of classification, packaging and labelling in accordance with Regulation 4 of the Principal Regulations is sought. "Category II" means pesticides for which clearance and approval of classification, packaging and labelling in accordance with Regulation 4 of the Principal Regulations for a new area of use are sought. "Category III" means pesticides for which clearance and approval of classification, packaging and labelling in accordance with Regulation 4 of the Principal Regulations for minor extensions in use or minor formulation changes are sought. "Category IV" means pesticides for which clearance and approval of classification, packaging and labelling in accordance with Regulation 4 of the Principal Regulations where no hazard evaluation is involved or required 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 and/or for a limited period, 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

Annual Renewal Fee£125.

PART 3

Late Annual Renewal Fee£150."

GIVEN under my Official Seal this 27th day of July, 1987.

MICHAEL O'KENNEDY,
Minister for Agriculture and
Food.

EXPLANATORY NOTE.

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

- (i) prescribing a scale of fees for the clearance of pesticides;
- (ii) requiring advance written notification of intended importation of pesticides;
- (iii) prohibiting the placing of the market of pesticides if the container has been interfered with;
- (iv) making further provision for sampling by authorised officers.