

## **EUROPEAN COMMUNITIES (PROHIBITION OF CERTAIN ACTIVE SUBSTANCES IN PLANT PROTECTION PRODUCTS) REGULATIONS 1981**

I, ALAN M. DUKES, Minister for Agriculture, 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 Council Directive No. 79/117/EEC of 21 December, 1978, hereby make the following regulations:

### **- REG 1**

1. (1) These Regulations may be cited as the European Communities (Prohibition of Certain Active Substances in Plant Protection Products) Regulations, 1981.

(2) These Regulations shall come into operation on the 1st day of October, 1981.

### **- REG 2**

2. (1) In these Regulations—

"authorised officer" means an officer of the Minister authorised in writing by the Minister for the purposes of these Regulations;

"the Directive" means Council Directive No. 79/117/EEC of 21 December, 1978;(1)

"the Minister" means the Minister for Agriculture;

"place on the market" includes agree or offer to sell or expose for sale or invite an offer to buy;

(2) A word or expression that is used in these Regulations and is also used in the Directive shall, unless the context otherwise requires, have in these Regulations the same meaning that it has in the Directive.

### **- REG 3**

3. (1) A person shall not place on the market or use a plant protection product to which the Directive applies and which contains one or more of the active substances listed in Part I of the Schedule to these Regulations.

(1)OJ No. L 33/36 8.2.79.

(2) Paragraph (1) of this Regulation does not apply to:—

( a ) a plant protection product that contains negligible amounts of the active substances specified in Part I of the Schedule to these Regulations as impurities because of the nature of their manufacturing process where they have no harmful effect on human beings, animals or the environment, or

( b ) the placing on the market or the use of a plant protection product containing any of the active substances mentioned in the first column of Part II of the said Schedule in the cases specified in the second column of the said Part II opposite the mention of the substances in the said first column.

(3) A person shall not place on the market a plant protection product to which the Directive applies in the cases specified in the said second column of the said Part II of the Schedule to these Regulations unless it is packed in a container which (or, if

there is an inner container or containers and an outer container, each of them) bears or has attached to it a notice which is easily visible without removing or opening any container, is legible and indicates clearly that its use is restricted to those cases, and any statement published by or on behalf of a person engaged in the sale of such a product as aforesaid for the purpose of promoting its sale shall include a notice which is easily visible, is legible and indicates clearly that its use is restricted to those cases.

(4) In a prosecution of a person for a contravention of paragraph (1) of this Regulation, evidence of a residue, on or in a plant or plant product owned by the person of:—

( a ) a plant protection product to which the Directive applies containing any one or more of the active substances specified in Part I of the Schedule to these Regulations at or above the limit of determination of the appropriate method of analysis, or

( b ) a toxic metabolite or breakdown product of a plant protection product referred to in paragraph (1) of this Regulation, shall be evidence, until the contrary is proved, of the use of the plant protection product by the person in contravention of the said paragraph (1).

(5) In a prosecution of a person for a contravention of paragraph (1) of this Regulation, evidence of the presence of a plant protection product to which the Directive applies containing any one or more of the active substances specified in Part I of the Schedule to these Regulations in or on equipment found on the premises of the person and capable of use for applying the product to a plant shall be evidence, until the contrary is proved, of the use by the person of the plant protection product in contravention of that paragraph.

#### - REG 4

4. (1) Subject to paragraph (6) of this Regulation, an authorised officer may at any reasonable time enter—

( a ) any place or premises in which he has reasonable grounds for believing that a plant protection product to which the Directive applies is being manufactured, placed on the market, stored or used,

( b ) any railway wagon, vehicle, ship, vessel, aircraft, container or other thing in which he has reasonable grounds for believing that a plant protection product to which the Directive applies is being transported, stored or used,

and there or at any other place—

(i) make such examinations, tests and inspections, and

(ii) take such samples of any plant protection product which he finds in the course of his inspections,

as he may consider appropriate for the purposes of these Regulations and the Directive.

(2) Subject to paragraph (6) of this Regulation, an authorised officer may at any reasonable time enter—

( a ) any place or premises in which he has reasonable grounds for believing that a plant or plant product intended for sale and containing a residue of a plant protection product to which the Directive applies is being grown, manufactured, placed on the market,

stored or used,

( b ) any railway wagon, vehicle, ship, vessel, aircraft, container or other thing in which he has reasonable grounds for believing that a plant or plant product intended for sale and containing a residue of a plant protection product to which the Directive applies is being transported, stored or used,

and there or at any other place—

(i) make such examinations, tests and inspections, and

(ii) take such samples of any plant, plant product or plant protection product which he finds in the course of his inspections, as he may consider appropriate for the purposes of these Regulations and the Directive.

(3) A person who has at any place or premises or in any railway wagon, vehicle, ship, vessel, aircraft, container or other thing any plant, plant product or plant protection product to which the Directive applies shall at all reasonable times—

( a ) afford to an authorised officer such facilities and assistance as are reasonably necessary for an inspection and taking of samples pursuant to these Regulations or for such an inspection or for such a taking,

( b ) give an authorised officer any information which he may reasonably require, regarding the purchase, importation, sale or use of the plant, plant product or plant protection product,

( c ) produce to an authorised officer any document relating to the raw materials used in the formulation of the plant protection product which the authorised officer may reasonably require and permit the authorised officer to inspect and take extracts from such document.

(4) In addition to the foregoing any person who carries on the business of manufacturing, formulating, packing, processing, or marketing of a plant protection product to which the Directive applies shall

( a ) keep records of his transactions regarding such plant protection product,

( b ) produce at the request of the authorised officer any such records or any books or other documents relating to the said business which are in the possession or under the control of the person carrying on such business,

( c ) permit an authorised officer to inspect and take extracts from such records, books or other documents and give to the officer any information which he may reasonably require in relation to any entries therein,

( d ) afford to an authorised officer such facilities and assistance as are reasonably necessary for inspecting the stock of any such plant protection product on any premises on which such person carries on such a business,

( e ) give to an authorised officer any information he may reasonably require in relation to such transactions, including in particular, information which he may reasonably require regarding any such plant protection product specified by him.

(5) Where a sample is taken pursuant to this Regulation the authorised officer concerned shall divide the sample into not more than three parts each of which he shall seal and mark.

(6) In proceedings for an offence under Regulation 3 of 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 (5) of this Regulation) was left with or transmitted to the defendant.

(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 warrant to that person.

(8) A person who fails to comply with a requirement of this Regulation or who obstructs or interferes with an authorised officer in the course of exercising a power conferred on him by these Regulations shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £500 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 5

5. (1) An authorised officer may seize and retain, or seize, remove and retain any plant protection product to which the Directive applies and in relation to which the authorised officer has reasonable grounds for suspecting that there is or has been a failure to comply with any provision of these Regulations.

(2) An authorised officer who has seized any plant protection product pursuant to this Regulation may—

( a ) by a notice in writing given to the owner, or any other person in apparent charge or control, of the said product require specified things to be done in relation to the said product before it is released by the authorised officer,

( b ) require the owner to dispose of it or dispose of it at the owner's expense in a manner that will prevent the said product being placed on the market or used—

(i) if the consent in writing to such disposal is given by the owner, or other person in apparent charge or control, of the said product, or

(ii) if an order is made by the District Court for such disposal, and in case a notice is given under subparagraph (a) of this paragraph, the authorised officer shall retain the product to which the notice relates until the requirements of the notice have been complied with but shall not retain it thereafter.

(3) An authorised officer who, in pursuance of this Regulation, has seized any plant protection product may, on giving notice in writing to the owner, or any other person in apparent charge or control, of such product of his intention to do so, apply to the District Court for an order directing that the said product be disposed of (by destruction or otherwise) by the owner or at the owner's expense in a manner specified in the order that will prevent its being placed on the market or used.

(4) Where an application is made to the District Court for an order under paragraph (3) of this Regulation in respect of a plant protection product, that Court shall, if it is satisfied that such a product is one to which Regulation 3 (1) of these Regulations applies and that, if it is released, it might be placed on the

market or used for purposes not authorised under this Regulation or Regulation 3 (2) of these Regulations, order that it be disposed of (by destruction or otherwise) by the owner or at the owner's expense in a manner specified in the order that will prevent its being used or placed on the market.

(5) A person who fails to comply with a requirement of an authorised officer under this Regulation or an order of the District Court under this Regulation shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £500 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 6

6. (1) A person who contravenes Regulation 3 of these Regulations shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £500 or, at the discretion of the Court, to imprisonment for a term not exceeding six months or to both the fine and the imprisonment.

(2) If any person fraudulently—

( a ) tampers with any plant protection product so as to procure that any sample of it taken pursuant to these Regulations does not correctly represent the plant protection product, 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 £500 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 7

7. An offence under these Regulations may be prosecuted by the Minister.

### SCHEDULE

#### PART I

Active substances referred to in Regulation 3 (1)

A. Mercury compounds:—

Mercuric oxide

Mercurous chloride (calomel)

Other inorganic mercury compounds

Alkyl mercury compounds

Alkoxyalkyl and aryl mercury compounds.

B. Persistent organo-chlorine compounds:

Aldrin

Chlordane

Dieldrin

DDT

Endrin

HCH containing less than 99.0% of the gamma isomer.

Heptachlor

Hexachlorobenzene.

#### PART II

Active substances referred to in Regulation 3 (2) (b) Cases in which placing on the market or use is permitted in accordance with Regulation 3(2)A. Mercury compounds  
Mercuric oxide

Mercurous Chloride (calomel)

Alkoxyalkyl and aryl  
mercury compounds

B. Persistent organo-chlorine compounds  
Aldrin

DDTAs a paint to treat *Nectria galligena* (canker) on pomaceous fruit trees after harvesting and until budding

- (a) Against *Plasmodiophora* on Brassicae
- (b) Treatment of onion seeds and plants against *Sclerotium*
- (c) Treatment of ornamental turf and turf for sports grounds against *Sclerotinia* and *Fusarium*
- (a) As a paint to treat *Nectria galligena* (canker) on pomaceous fruit trees after harvesting and until budding
- (b) Dipping of flower bulbs
- (c) Seed treatment of cereals, beet, flax and rape

(a) Soil treatment against *Otiorrhynchus* in nurseries, strawberry beds before planting out and beds of ornamentals

(b) Treatment of potatoes grown in former pastureland against *Agriotes*

(c) Treatment of narcissi which have to remain two or three years in the ground against *Merodon equestris*, *Eurmerus strigatus* and *Eurmerus tuberculatus*

(a) As a dip against *Hylobius* in conifer seedlings

(b) Treatment of potatoes and ornamental turf or turf for sports grounds against *Melolontha*, *Amphimallon*, *Phyllopertha*, *Cetonia* and *Serica*

(c) Treatment of potatoes, strawberries, carrots and ornamentals against *Agrotis* and *Euxoa*

(d) Treatment of cereals against *Tipula*

GIVEN under my Official Seal, this 7th day of September, 1981.

ALAN M. DUKES,

Minister for Agriculture.

EXPLANATORY NOTE.

The Regulations provide that plant protection products containing certain active substances may not be placed on the market or used except in certain specified cases.