

EUROPEAN COMMUNITIES (MARKETING OF FERTILISERS) REGULATIONS 1991

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), for the purpose of giving effect to Council Directive No. 76/116/EEC of 18th December 1975(1), Council Directive No. 80/876/EEC of 15th July, 1980(2), Council Directive No. 88/183/EEC(3), Council Directive No. 89/284/EEC of 13th April, 1989(4) and Council Directive No. 89/530/EEC of 18th September, 1989(5), hereby make the following Regulations:

- (1)OJ No. L24, 30.1.1976, p. 21.
- (2)OJ No. L250, 23.9.1980, p. 7.
- (3)OJ No. L83, 29.3.1988, p. 33.
- (4)OJ No. L111, 22.4.1989, p. 34.
- (5)OJ No. L281, 30.9.1989, p. 116.

REG 1

1. (1) These Regulations may be cited as the European Communities (Marketing of Fertilisers) Regulations, 1991.
- (2) The European Communities (Marketing of Fertilisers) Regulations, 1978 to 1989 and these Regulations may be cited together as the European Communities (Marketing of Fertilisers) Regulations, 1978 to 1991.
- (3) These Regulations shall come into operation on the 25th day of November, 1991.

REG 2

2. (1) In these Regulations—
 - "the Directive of 1975" means Council Directive No. 76/116/EEC of 18th December, 1975(6);
 - (6)OJ No. L24, 30.1.1976, p.21.
 - "the Directive of April 1989" means Council Directive No. 89/284/EEC of 13th April, 1989;
 - "the Directive of September 1989" means Council Directive No. 89/530/EEC of 18th September, 1989;
 - "the Principal Regulations" means the European Communities (Marketing of Fertilisers) Regulations, 1978 (S.I. No. 13 of 1978).
- (2) A word or expression that is used in these Regulations and is also used in the Directive of 1975, the Directive of April 1989 or the Directive of September 1989 has, unless the contrary intention appears, the meaning in these Regulations that it has in whichever of those Council Directives it is used.

REG 3

3. (1) (a) Notwithstanding anything contained in the Principal Regulations or in the Directive of 1975—
 - (i) a declaration of the magnesium, sodium and sulphur content of the fertilisers listed in Annex I to the Directive of 1975 may be made if such content is expressed in the elemental form (Mg, Na, S), those elements comply with the provisions of the Directive of April 1989, the fertilisers continue to comply with the provision of Annex I to the Directive of 1975 and the marking specified in the first indent of point (b) of Article 6 of the Directive of 1975

is added to the type designation,

(ii) within the meaning of the Directive of April, 1989, a declaration of the calcium content considered to be a nutrient of fertilisers of type 1 and 2 listed in Annex I to the Directive of April 1989 may, subject to subparagraph (iii) of this paragraph, be made if the declaration is expressed in the elemental form (Ca), and

(iii) a declaration of the soluble calcium content may be made for the liquid fertilisers referred to in Part C of Annex I to the Directive of 1975 if the declaration is expressed in the elemental form (Ca) and the content is not less than 5.7 per cent calcium.

(b) In this paragraph "a declaration" means a declaration complying with the Directive of 1975 on the packages or labels of the fertiliser concerned or (where appropriate, pursuant to the second indent of Article 3 of the Directive of 1975) on the accompanying documents.

(2) Fertilisers referred to in paragraph (1) of this Regulation or specified in Annex I of the Directive of April 1989, may be marked "EEC FERTILISER" if they—

(a) comply with the provision of the Directive of April 1989, and

(b) bear the appropriate declarations specified in the said paragraph (1) and the compulsory markings specified in Article 6 of the Directive of April 1989.

(3) A person shall not mark fertilisers "EEC FERTILISER" pursuant to paragraph (2) of this Regulation unless they comply with the said paragraph (2).

(4) A person shall not place on the market, sell, offer for sale or invite offers to buy fertilisers marked "EEC FERTILISER" pursuant to paragraph (2) of this Regulation unless they comply with the said paragraph (2).

REG 4

4. (1) (a) Fertilisers referred to in paragraph 1 of Article 1 of the Directive of September 1989 may be marked "EEC FERTILISER" if they comply with the requirements of Chapter A of the Annex to the Directive of September 1989.

(b) Mixtures of two or more of the fertilisers referred to in the said paragraph 1 and containing at least two different trace elements may be marked "EEC FERTILISER" if they comply with the requirements of Chapter B of the said Annex.

(2) A person shall not mark fertilisers or mixtures aforesaid "EEC FERTILISER" unless they comply with the requirements of the said Chapter A or the said Chapter B, as may be appropriate.

(3) Fertilisers marked "EEC FERTILISER" pursuant to paragraph (1) of this Regulation shall be packaged and the packages or labels or (as respects fertilisers referred to in Article 3 of the Directive of September 1989, where appropriate, pursuant to the second paragraph of Article 3 of the Directive of 1975) the accompanying documents shall bear the declarations and compulsory markings specified in the Directive of September 1989.

(4) A person shall not place on the market, sell, offer for sale or invite offers to buy fertilisers marked "EEC FERTILISER" pursuant to paragraph (1) of this Regulation unless they comply with the said paragraph (1) and with paragraph (3) of this Regulation.

REG 5

5. Subject to paragraph 2 of Article 3 of the Directive of September 1989, a person shall not place on the market, sell, offer for sale or invite offers to buy EEC fertilisers which are listed in Annex I to Directive 76/116/EEC and in relation to which the conditions specified in paragraph 2 of the said Article 3 are fulfilled unless they comply with paragraph 1 of the said Article 3.

REG 6

6. (1) A person who contravenes a provision of these Regulations shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 6 months or to both.

(2) An offence under these Regulations may be prosecuted by the Minister.

(3) Where an offence under the European Communities (Marketing of Fertilisers) Regulations, 1978 to 1991, has been committed by a body corporate and is proved to have been so committed with the consent or connivance of or to be attributable to any neglect on the part of a person, being a director, manager, secretary or other officer of the body corporate or a person who was purporting to act in any such capacity, that person, as well as the body corporate, shall be guilty of an offence and shall be liable to be proceeded against and punished as if he were guilty of the first-mentioned offence.

REG 7

7. (1) Regulations 5, 6 and 7 of the Principal Regulations shall apply to fertilisers marked "EEC FERTILISER" pursuant to these Regulations as they apply to fertilisers to which those Regulations apply and paragraph (2) of the said Regulation 7 shall apply to proceedings for an offence under these Regulations as it applies to proceedings for an offence under those Regulations.

(2) The said Regulation 5 is hereby amended by the insertion of the following paragraph after paragraph (8):

"(9) Nothing in this Regulation shall be construed as requiring the State Chemist to make a test, examination or analysis regarding the presence in or absence from a sample transmitted to him pursuant to this Regulation of any particular substance, product or other thing, if in his opinion there is not in relation to such presence or absence a method of testing, examination or analysis which is sufficiently reliable or if there is not available to the State Chemist the apparatus or other means by which such a test, examination or analysis could be made."

REG 8

8. The Principal Regulations are hereby amended—
(a) in Regulation 2, by the substitution of the following definition for the definition of "the directive":

"the directive' means Council Directive No. 76/116/EEC of 18 December 1975, as amended by Council Directive No. 88/183/EEC of 22 March 1988(7), Council Directive No. 89/284/EEC of 13 April 1989 and Council Directive No. 89/530/EEC of 18 September 1989;", and
(7)O.J No. L83, 29.3.1988, p.33.

(b) in Part I of the Schedule—

(i) by the addition to the fertilisers listed under the headings

"A. STRAIGHT FERTILISERS

III POTASSIC FERTILISERS"

of the following:

"

Kieserite with potassium sulphateProduct obtained from Kieserite with potassium sulphate added4.8% Mg Magnesium expressed as water-soluble Mg 4.98% K Potassium expressed as water-soluble K Total Mg+K: 20%* Maximum chlorine content:3% ClUsual trade names may be addedWater-soluble magnesium Water-soluble potassium Optional mention of the chlorine content where lower than 3% Cl"

*Total nutrient content (Mg+K) to be calculated by multiplying the nutrient contents Mg and K by 0.6 and 1.2 respectively and adding the results of such multiplication" and

(ii) by the addition to the fertilisers listed under the headings:

"C. FLUID FERTILISERS

1 STRAIGHT FLUID FERTILISERS"

of the following:

"

Calcium nitrate solutionProduct obtained by dissolving calcium nitrate in water8% N Nitrogen expressed as nitrogen in nitric form with a maximum 1% nitrogen as ammoniaThe type designation may be followed, as appropriate, by one of the following indications:

—for foliar application

—for making nutrient solutions—ferti-irrigationnitrogen Optionally:

—nitrogen in nitric form—

nitrogen as ammonia—calcium in the case of one of the uses

stipulated in column (4)

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GIVEN under my Official Seal, this 12th day of November, 1991.

MICHAEL O'KENNEDY,
Minister for Agriculture and Food.

EXPLANATORY NOTE

The Regulations lay down criteria for the marketing of fertilisers containing the secondary nutrients calcium, magnesium, sodium and sulphur and trace elements boron, cobalt, copper, iron, manganese, molybdenum and zinc.

