

EUROPEAN COMMUNITIES (PESTICIDE RESIDUES) (FRUIT AND VEGETABLES) (AMENDMENT) REGULATIONS 1998

I, Joe Walsh, 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 76/895/EEC of 23 November 19761, as amended by Council Directive 97/41/EC of 25 June 19979, hereby make the following Regulations:

REG 1

1. (1) These Regulations may be cited as the European Communities (Pesticide Residues) (Fruit and Vegetables) (Amendment) Regulations, 1998 and shall come into operation on the 31st day of December 1998.

(2) The European Communities (Pesticide Residues) (Fruit and Vegetables) Regulations, 1989 to 1997 and these Regulations may be cited as the European Communities (Pesticide Residues) (Fruit and Vegetables) Regulations, 1989 to 1998, and shall be construed together as one.

REG 2

2. In these Regulations -
"the Principal Regulations" means the European Communities (Pesticide Residues) (Fruit and Vegetables) Regulations, 1989 (S.I. No. 105 of 1989).
"the Regulations of 1997" means the European Communities (Pesticide Residues) (Fruit and Vegetables) (Amendment) Regulations, 1997 (S.I. No. 218 of 1997).

REG 3

3. (1) The Principal Regulations are hereby amended in Regulation 2 by the substitution in paragraph (1) of the following definitions for the definitions of "the Directive", "controlled products", "pesticide residues" and "putting into circulation" respectively:
" "the Directive" means Council Directive 76/895/EEC of 23 November 19761, as amended by Commission Directive 80/428/EEC of 28 March 19802, Council Directive 81/36/EEC of 9 February 19813, Council Directive 82/528/EEC of 19 July 19824, Council Directive 88/298/EEC of 16 May 19885, Council Directive 89/186/EEC of 6 March 19896, Council Directive 93/58/EEC of 29 June 19937, Council Directive 96/32/EC of 21 May 19968 and Council Directive 97/41/EC of 25 June 19979 ;",

1 O.J. No. L340/26 09.12.1976 2 O.J. No. L102/26 19.04.19803 O.J. No. L46/33 19.02.19814 O.J. No. L234/1 09.08.18825 O.J. No. L126/53 20.05.1988 6 O.J. No. L66/36 10.03.19897 O.J. No. L211/6 23.08.1993 8 O.J. No. L144/12 18.06.19969 O.J. No. L184/33 12.07.1997

" "controlled products" means the products listed in Annex 1, the products obtained from those products after drying or processing and the composite foods in which they are included;";

" "pesticide residues" means residues of the pesticides and of their metabolites and breakdown or reaction products as defined in Annex

II which are present in or on products listed in Annex I;";,
" "putting into circulation" means any post-harvest handing over,
whether or not for a consideration;";,
(2) A word or phrase that is used in these Regulations and is
also used in the Directive shall, unless the contrary intention
appears, have the meaning that it has in the Directive.
(3) In these Regulations, unless otherwise indicated -
(a) a reference to a Regulation is to a Regulation of these
Regulations,
(b) a reference to a Schedule is to a Schedule to these
Regulations, and
(c) a reference to a paragraph is to the paragraph of the
Regulation in which the reference occurs.

REG 4

4. The Principal Regulations are hereby amended by the substitution
of the following Regulation for Regulation 3:
" 3. (1) These Regulations shall apply to the products listed in
Annex 1, to the same products after drying or processing or after
inclusion in a composite food in so far as they may contain
certain pesticide residues.
(2) These Regulations shall apply without prejudice to the operation
of the European Communities (Infant Formulae and Follow-On Formulae)
Regulations, 1998 (S.I. No. 243 of 1998) and the European
Communities (Processed Cereal-Based Foods and Baby Foods for Infants
and Young Children) Regulations, 1998 (S.I. No. 241 of 1998).
(3) These Regulations shall apply to products referred to in
paragraph (1) intended for export to third countries.
(4) Notwithstanding paragraph (3), maximum pesticide residue levels
prescribed in Annex II shall not apply in the case of products
referred to in paragraph (1) treated before export where it can be
proved to the satisfaction of the Minister that the third country
of destination requires a particular treatment in order to prevent
the introduction of harmful organisms into its territory, or the
treatment is necessary in order to protect the products against
harmful organisms during transport to the third country of
destination and storage there.
(5) These Regulations shall not apply to the products described in
paragraph (1) of this Regulation, which are shown to the
satisfaction of the Minister to be intended either for the
manufacture of products other than foodstuffs or animal feed, or for
sowing or planting.".

REG 5

5. The Principal Regulations are hereby amended by the substitution
of the following Regulation for Regulation 4:
"4. (1) A person shall not put into circulation any controlled
product if-
(a) the product contains within it or on it a pesticide residue,
and
(b) the level of such pesticide residue exceeds the maximum
specified in relation to the controlled product in the second column
of Annex II (as amended by the Regulations of 1997) opposite the

mention of such pesticide residue in the first column of the said Annex II.

(1A) In the case of dried and processed products, produced from products to which these Regulations apply, the maximum level of pesticide residue present shall be the level specified in Annex II adjusted to take account of the residue concentration caused by the drying process or the residue concentration or residue dilution resulting from processing; and

(1B) In the case of composite products which contain products to which these Regulations apply and which have been incorporated into the composite products, the maximum levels of pesticide residues present shall be the levels specified in Annex II adjusted to take account of the dilution or concentration of the pesticide residue in the agricultural products resulting from incorporation in a composite food.

(2) A person who contravenes the provisions of paragraphs (1), (1A) and (1B) of this Regulation 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.".

REG 6

6. (1) Subject to the provisions of paragraph (2), the Minister may from time to time establish the maximum levels of pesticide residues which may be contained in and on specified controlled products brought into the territory of the State from a Member State of origin.

(2) Maximum levels of pesticide residue shall not be established under the provisions of paragraph (1) where harmonised pesticide residue levels have already been established by the European Community -

(a) pursuant to the procedures provided in the Directive, or
(b) in accordance with Article 4(1)(f) of Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market,
10 O.J. No. L 230/1 19.08.1991

(3) Notwithstanding paragraph (1) of this Regulation, such levels established shall not apply to controlled products brought into the territory of the State from a Member State of origin and , which are shown to the satisfaction of the Minister to be in transit to another Member State of the European Communities or a third country.

(4) In this Regulation-

"Member State of origin " means a Member State of the European Communities in whose territory a controlled product is either legally produced and marketed or put into free circulation.

REG 7

7. The Principal Regulations are hereby amended by the insertion of the following Regulation after Regulation 9:

" (9A) Where an offence under these Regulations is committed by a body corporate and is proved to have been so committed with the consent or connivance of, or to be attributable to

officer of the body corporate, or any person who was purporting to act in such capacity, that person, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.".

GIVEN under my Official Seal, this 30th day of December 1998

Joe Walsh

Minister for Agriculture and Food

EXPLANATORY NOTE

These Regulations amend existing Regulations by extending the scope of the Regulations fixing maximum residue levels (MRLs) in fruit and vegetables to include dried and/or processed products and composite foodstuffs and foodstuffs intended for export to third countries and provide for the fixing of temporary maximum residue levels (MRLs) for certain pesticide/product combinations where harmonised MRLs have not been fixed for products from other Member States.