

**EUROPEAN COMMUNITIES (PESTICIDES RESIDUES) (PRODUCTS OF PLANT ORIGIN, INCLUDING FRUIT AND VEGETABLES) (AMENDMENT) (NO. 2) 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 90/642/EEC of 27 November 1990, as amended by Council Directive 97/41/EC of 25 June 1997, hereby make the following Regulations:

REG 1

1. (1) These Regulations may be cited as the European Communities(Pesticide Residues) (Products of Plant Origin, including Fruit and Vegetables) (Amendment) (No. 2) Regulations, 1998 and shall come into operation on the 31st day of December 1998.
- (2) The collective citation "the European Communities (Pesticide Residues) (Products of Plant Origin, including Fruit and Vegetables) Regulations, 1997 and 1998" shall include these Regulations.

REG 2

2. In these Regulations -  
"the Principal Regulations" means the European Communities (Pesticide Residues) (Products of Plant Origin, including Fruit and Vegetables) Regulations, 1997 (S.I. No. 221 of 1997).  
"the Regulations of 1998" means the European Communities (Pesticide Residues) (Products of Plant Origin, including Fruit and Vegetables) (Amendment) Regulations, 1998 (S.I. No. 71 of 1998).

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 product" and "pesticide residues" respectively:  
" "the Directive" means Council Directive 90/642/EEC of 27 November 1990, as amended by Council Directive 93/58/EEC of 29 June 1993 and the corrigenda to Council Directive 93/58/EEC, Council Directive 94/30/EC of 23 June 1994, Council Directive 95/38/EC of 17 July 1995 and the corrigenda to Council Directive 95/38/EC , Council Directive 95/61/EC of 29 November 1995, Council Directive 96/32/EC of 21 May 1996 , Council Directive 97/41/EC of 25 June 1997 and Commission Directive 97/71/EC of 15 December 1997";
- 1 O.J. No. L350/71 14.12.1990 2 O.J. No. L211/6 23.08.1993 3 O.J. No. L219/26 24.08.1994 4 O.J. No. L189/70 23.07.1995 5 O.J. No. L197/14 22.08.1995 6 O.J. No. L155/62 28.06.1995 7 O.J. No. L292/27 7.12.1995 8 O.J. No. L144/12 18.06.1996 9 O.J. No. L184/33 12.07.1997 10 O.J. No. L347/42 18.12.1997
- " "controlled products" means the portion of the products of plant origin, including fruit and vegetables, listed in the third column of 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 pesticides and of their metabolites and breakdown or reaction products as defined in Annex II which are present in or on the products listed in column 2 of Annex I or the parts of products described in column 3 opposite reference to such products in column 2, within the groups specified in column 1;"

(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. Regulation 3 of the Principal Regulations is hereby amended by the substitution of the following paragraph for paragraph (1)

" (1) These Regulations shall apply to products within the groups specified in column 1 of Annex I, examples of which are given in Column 2 of Annex I, in so far as products in these groups, or parts of product described in Column 3 of Annex I may contain certain pesticide residues. These Regulations shall also apply 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."

#### REG 5

5. Regulation 3 of the Principal Regulations is hereby amended by the substitution of the following paragraph for paragraph (2):

" (2) These Regulations shall apply without prejudice to the operation of the European Communities (Detailed Provisions on the Control of Additives, other than Colours and Sweeteners, for use in Foodstuffs) Regulations, 1997 - S.I. No. 128 of 1997; the European Communities (Pesticides Residues) (Feedingstuffs) Regulations, 1992 - S.I. No. 40 of 1992; the European Communities (Feedingstuffs) (Tolerances of Undesirable Substances and Products) Regulations, 1998 - S.I. No. 283 of 1998; the European Communities (Pesticide Residues) (Fruit and Vegetables) Regulations, 1989 - 1997 - S.I. No. 105 of 1989 and S.I. No. 218 of 1997 and the European Communities (Pesticide Residues) (Cereals) Regulations, 1988 to 1998 - S.I. No. 216 of 1988, S.I. No. 316 of 1993, S.I. No. 164 of 1995, S.I. No. 47 of 1996, S.I. No. 337 of 1996 and S.I. No. 72 of 1998; 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)."

## REG 6

6. 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, found in a representative sample taken in accordance with Regulation 5(1)(c)(ii), exceeds the maximum specified in relation to the controlled product in the second column of Annex II (as amended by the Regulations of 1998) 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 7

7. The Principal Regulations are hereby amended in Regulation 5 by the substitution of the following paragraph for paragraph (3):

" (3) Where a sample is taken in accordance with the methods referred to in Regulation 5(1)(c)(ii), the authorised officer shall -

(a) divide the sample into three parts, each of which he shall seal and mark,  
(b) give one part thereof to a designated analyst for analysis under paragraph (4),  
(c) leave with, or send by registered post to the defendant or his agent, a second part thereof, and  
(d) retain the remaining part thereof for possible analysis by the State Chemist under Regulation 10."

## REG 8

8. (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<sup>11</sup> concerning the placing of plant protection products on the market,

<sup>11</sup> 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.

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 Products of Plant Origin, including Fruit and Vegetables to include dried and/or processed products and composite foodstuffs 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.