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PESTICIDES

Plant Protection Products Regulations (Northern Ireland) 2011

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The Department of Agriculture and Rural Development, is a Department designated for the purposes of section 2(2) of the European Communities Act 1972^(a) in relation to the common agricultural policy of the European Union^(b), and measures in the veterinary and phytosanitary fields for the protection of public health^(c).

The Department of Agriculture and Rural Development make the following Regulations in exercise of the powers conferred by section 2(2) of, as read with paragraph 1A of Schedule 2 to, the European Communities Act 1972.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Department of Agriculture and Rural Development that it is expedient for references in these Regulations to Regulation (EC) No 1107/2009^(d) of the European Parliament and of the Council concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC^(e) and 91/414/EEC^(f) to be construed as including references to Articles 30(3) and 52(4), and to Annexes I to V of that Regulation as amended from time to time.

Citation and commencement

1.—(1) These Regulations may be cited as the Plant Protection Products Regulations (Northern Ireland) 2011 and come into operation on 4th October 2011.

Interpretation

2.—(1) In these Regulations—

“the 1987 Regulations” means the Control of Pesticides Regulations (Northern Ireland) 1987^(g);

“the 2005 Regulations” means the Plant Protection Products Regulations (Northern Ireland) 2005^(h);

“authorised person” means a person authorised under regulation 6(1);

“the Department” means the Department of Agriculture and Rural Development in Northern Ireland;

“Regulation 1107/2009” means Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market and repealing Council Directives 79/11/EEC and 91/414/EEC, of which Articles 30(3) and 52(4) and Annexes I to V of that Regulation are to be read as amended from time to time; and

“treated seeds” means seeds treated with plant protection products authorised for that use in at least one Member State.

(2) Expressions used in both these Regulations and Regulation 1107/2009 have the same meaning in these Regulations as they have in Regulation 1107/2009.

(a) 1972 c. 68

(b) S.I. 2000 No.2812

(c) S.I. 1999 No. 2027

(d) OJ No. L309, 24.11.2009, p.1.

(e) OJ No. L33, 8.2 1979, p.36.

(f) OJ No. L230, 19.8.1991, p.1.

(g) S.R. 1987 No. 414, amended by S.R. 1997 No. 469

(h) S.R. 2005 No. 526, amended by S.R. 2008 No. 85 & S.R. 2008 No. 499

(3) In these Regulations any reference to a numbered Article is to be construed as a reference to the Article so numbered in Regulation 1107/2009.

(4) The Interpretation Act (Northern Ireland) 1954(a) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Competent Authority

3. For the purposes of Article 75(1) the designated competent authority is the Department.

Emergency measures

4.—(1) Where the Department reasonably considers that treated seeds are likely to constitute a serious risk to human or animal health or to the environment, it may issue a notice in writing restricting or prohibiting their sale or use, or both, in Northern Ireland.

(2) A notice served pursuant to paragraph (1) must—

- (a) set out the grounds for issuing the notice; and
- (b) give a time limit for compliance with the notice.

Enforcement

5. These Regulations are enforced by the Department.

Powers of authorised persons

6.—(1) The Department may authorise any person to exercise the powers set out in Schedule 1.

(2) Schedule 1 (Powers of authorised persons) has effect.

(3) A person may be authorised for specified purposes.

(4) An authorisation must be evidenced in writing.

Evidence of authorisation

7.—(1) An authorised person performing functions under these Regulations must produce, on request, evidence of his or her authorisation.

(2) An authorised person shall state, if requested—

- (a) his or her name;
- (b) the functions to be performed; and
- (c) the grounds for proposing to perform those functions.

Placing on the market and use

8. A person must not place on the market or use a plant protection product in contravention of Article 28, or cause or permit another person to do so.

Seeds treated with plant protection products

9.—(1) A person must not place on the market or use seeds treated with plant protection products that are not authorised for use on such seeds in any Member State, or to cause or permit another person to do so.

(2) A person must not place on the market treated seeds in contravention of Article 49(4), or cause or permit another person to do so.

(a) 1954 c.33 (N.I.)

Parallel trade permits and permits for trial purposes

10.—(1) A person must not place on the market or use a plant protection product in contravention of Article 52(5), or cause or permit another person to do so.

(2) A person must not place on the market or use a plant protection product in contravention of one or more conditions in a permit granted for trial purposes under Article 54(1), or cause or permit another person to do so.

Use of plant protection products

11. A person must use a plant protection product in compliance with the conditions established in accordance with Article 31 and specified on the labelling as required in Article 55.

The provision of information on potentially harmful or unacceptable effects

12. An authorisation holder must include in a notification under Article 56(1) the information required by Article 56(2).

Adjuvants

13.—(1) A person must not place on the market or use an adjuvant in contravention of Article 58, or cause or permit another person to do so.

(2) A person must not use an adjuvant with a plant protection product authorised or permitted, or deemed to be authorised or permitted, in accordance with Regulation 1107/2009 in contravention of a requirement imposed pursuant to paragraph 2(b) of Schedule 2.

(3) Schedule 2 (Adjuvants) has effect.

The sharing of tests and studies involving vertebrate animals

14.—(1) A person must not undertake tests on vertebrate animals in contravention of the first sentence of Article 62(1), or cause or permit another person to do so.

(2) A person must comply with a direction issued by the Department pursuant to Article 62(6).

Packaging and presentation

15.—(1) A person must not package a plant protection product or an adjuvant in contravention of Article 64(1), or cause or permit another person to do so.

(2) A person must not make available to the general public a plant protection product or adjuvant in contravention of Article 64(2), or cause or permit another person to do so.

Labelling

16. A person must not place on the market a plant protection product in contravention of Article 65(1) or cause or permit another person to do so, unless the plant protection product is—

- (a) placed on the market before 14th June 2015;
- (b) approved under the 1987 Regulations or the 2005 Regulations; and
- (c) labelled in accordance with Article 16 of Council Directive 91/414/EEC concerning the placing of plant protection products on the market^(a).

(a) OJ No. L230, 19.8.1991, p.1.

Advertising

17. A person must not advertise a plant protection product in contravention of Article 66(1), (2), (4), (5) or (6), or cause or permit another person to do so.

Record keeping

18.—(1) Producers, suppliers, distributors, importers, and exporters of plant protection products must not contravene the requirement set out in the first sentence of Article 67(1).

(2) A professional user of plant protection products must not contravene the requirements set out in the second sentence of Article 67(1).

(3) Producers, suppliers, distributors, importers, exporters and professional users of plant protection products must not contravene the second paragraph of Article 67(1).

(4) A producer of a plant protection product must not contravene Article 67(2).

(5) An authorisation holder must not contravene Article 67(3).

The provision of information

19.—(1) A person listed in paragraph (2) must not—

- (a) make a statement which they know to be false in a material particular;
- (b) recklessly make a statement which is false in a material particular; or
- (c) intentionally fail to disclose any material particular,

in relation to the application or request specified in paragraph (2).

(2) Paragraph (1) applies to the following persons in relation to the following applications or requests—

- (a) an applicant, or their representative, in relation to an application under Article 33(1);
- (b) an authorisation holder, in relation to an application under Article 40(1) or Article 43(1);
- (c) a person making an application on behalf of an official or scientific body involved in agricultural activities or on behalf of a professional agricultural organisation, in relation to an application under Article 40(2);
- (d) an authorisation holder, a person making an application on behalf of an official or scientific body involved in agricultural activities, a person making an application on behalf of a professional agricultural organisation or a professional user, in relation to a request under Article 51(1); or
- (e) an applicant, or their representative, in relation to an application under Article 52(1) or 54(2).

(3) A prospective applicant must not—

- (a) submit data knowing them to be false in a material particular;
- (b) recklessly submit data which are false in a material particular; or
- (c) intentionally fail to disclose data,

in a submission for the purposes of the second paragraph of Article 61(1).

(4) A prospective applicant must not provide samples or mock ups of packaging and drafts of labels and leaflets required by the Department pursuant to Article 65(2)—

- (a) knowing them to be false in a material particular; or
- (b) recklessly as to whether they are false in a material particular.

(5) A person must not cause or permit any person, in relation to an application under Article 52(1) or 54(2), to make a statement which the former knows to be false in a material particular.

Non-compliance with notices

20.—(1) A person must comply with the provisions of a notice served under—

- (a) regulation 4(1) or (2); or
- (b) paragraph 7(1), (3) or (8) of Schedule 1; or
- (c) paragraph 8(1), (3) or (6) of Schedule 1.

(2) The Department or an authorised person may make arrangements to ensure that the requirements in a notice issued by them are complied with if the person on whom the notice was served fails to comply with the requirements in the notice.

(3) Any costs reasonably incurred by the Department or any authorised person in ensuring that the requirements of a notice are complied with may be recovered, on demand, from the person on whom the notice was served.

Obstruction of an authorised person

21.—(1) A person—

- (a) must not intentionally obstruct any person performing his or her functions under these Regulations; and
- (b) must comply with any requirement made by an authorised person performing his or her functions under these Regulations.

(2) A person purporting to give information required by an authorised person performing his or her functions under these Regulations must not—

- (a) make a statement which they know to be false in a material particular;
- (b) recklessly make a statement which is false in a material particular; or
- (c) intentionally fail to disclose any material particular.

Offence

22. A person who contravenes or fails to comply with—

- (a) any paragraph of regulations 8 to 12, 14 to 18, or 21;
- (b) regulation 13(1) or 13(2);
- (c) regulation 19(1), 19(3), 19(4) or 19(5);
- (d) regulation 20(1);
- (e) Article 56(1);
- (f) Article 56(4); or
- (g) the second sentence of Article 62(2),

is guilty of an offence.

Offences by bodies corporate

23.—(1) For the purposes of these Regulations section 20(2) of the Interpretation Act (Northern Ireland) 1954 applies with the omission of the words “the liability of whose members is limited”.

(2) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts or defaults of a member in connection with his functions of management as if the member were a director of the body corporate.

(3) Where an offence under these Regulations committed by a partnership is proved—

- (a) to have been committed with the consent or connivance of a partner; or
- (b) to be attributable to any neglect on the part of a partner, the partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.

(4) Where an offence under these Regulations committed by an unincorporated association (other than a partnership) is proved—

- (a) to have been committed with the consent or connivance of an officer of the association or a member of its governing body; or
- (b) to be attributable to any neglect on the part of such officer or member, the officer or member as well as the association is guilty of the offence and liable to be proceeded against and punished accordingly.

Defences

24.—(1) In any proceedings for an offence under these Regulations, other than in relation to regulation 14(2), 21(1)(a) or 21(2), it is a defence for the person charged to prove that they took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(2) A person is to be taken to have established the defence provided by paragraph (1) if they prove—

- (a) that they acted under instructions given to them by their employer; or
- (b) that they acted in reliance on information supplied by another person without any reason to suppose that the information was false or misleading,

and in either case that they took all such steps as were reasonably open to them to ensure that no offence would be committed.

(3) If, in any case the defence provided by paragraph (1) involves an allegation that the commission of the offence was due to—

- (a) an act or omission by another person, other than the giving of instructions to the person charged with the offence by their employer; or
- (b) reliance on information supplied by another person,

the person charged shall not, without leave of the court, be entitled to rely on that defence unless within a period ending seven clear days before the hearing, they have served on the prosecutor a notice giving such information identifying or assisting in the identification of that other person as was then in their possession.

(4) It shall be a defence in proceedings for an offence under section 8(b) of the Protection of Animals Act 1911(a) (which restricts the placing on land of poison and poisonous substances) for the person charged to show that they acted in accordance with an authorisation granted, or deemed to be granted, in accordance with Regulation 1107/2009.

Penalties

25.—(1) A person guilty of an offence under these Regulations, other than for contravention of or failure to comply with regulations 12, 18, 20(1) or 21(1)(b), is liable—

- (a) on summary conviction to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine.

(2) A person guilty of an offence for contravention of or failure to comply with regulation 12, 18, 20(1) or 21(1)(b) is liable on summary conviction to a fine of an amount not exceeding level 5 on the standard scale.

(3) Proceedings for any offence under these Regulations may be taken, and the offence may for the purposes of the jurisdiction of the court to try offences be treated, as having been committed, in Northern Ireland.

(a) 1911 Ch:27

Application to the Crown

26.—(1) Subject to paragraph (2), an authorised person may perform any of his or her functions under these Regulations in relation to land in which there is a Crown interest.

(2) An authorised person shall not perform any functions—

- (a) in relation to land in which there is no interest other than a Crown interest; or
- (b) in relation to land which is exclusively in Crown occupation.

(3) In this regulation—

“Crown interest” means any interest belonging to Her Majesty in right of the Crown or belonging to a government department or held in trust for Her Majesty for the purposes of a government department; and

“Crown occupation” means occupation by Her Majesty in right of the Crown or occupation by a government department.

Savings and transitionals

27.—(1) The 2005 Regulations are saved for the purpose of deciding applications for approvals of plant protection products referred to in Article 80(5). Any approval granted under the 2005 Regulations or the 1987 Regulations, following such an application, shall be deemed to be granted under Regulation 1107/2009.

(2) Any plant protection product that has a valid approval granted—

- (a) by, or on behalf of, the Department under the 1987 Regulations; or
- (b) by, or on behalf of, the Department under the 2005 Regulations,

when these Regulations come into operation is deemed to be authorised in accordance with Regulation 1107/2009.

(3) Any conditions or requirements in an approval referred to in paragraph (2) are deemed to be requirements made under Article 31(2).

(4) Any parallel trade approval granted by the Department which is valid when these Regulations come into operation is deemed to be a parallel trade permit granted in accordance with Article 52.

Revocations and amendments

28.—(1) The Regulations specified in the Table in Schedule 3 are amended to the extent specified in the Table.

(2) The Regulations specified in the Table in Schedule 4 are revoked in accordance with the provisions of that Table.

Sealed with the Official Seal of the Department of Agriculture and Rural Development on 19th August 2011.



John Speers
A senior officer of the
Department of Agriculture and Rural Development

POWERS OF AUTHORISED PERSONS

Powers of entry

1.—(1) An authorised person may enter any land if he or she has reasonable grounds to believe that any plant protection product is being, or has been, applied to or stored on it and that it is necessary to enter for the purpose of ensuring that these Regulations are being complied with.

(2) An authorised person may enter any vehicle, vessel, aircraft, hovercraft or marine structure if he or she has reasonable grounds to believe that any plant protection product is being, or has been, stored in, transported on or applied by means of it and that it is necessary to enter for the purpose of ensuring that these Regulations are complied with.

(3) An authorised person may only enter a private dwelling for the purpose of ensuring that these Regulations are being complied with in accordance with a warrant granted under paragraph 2(1).

(4) An authorised person must exercise powers of entry at a reasonable hour unless it appears to the authorised person that there are grounds for suspecting that the exercise of power of entry may be frustrated if he or she seeks to exercise them at a reasonable hour.

(5) An authorised person who enters any unoccupied land must leave it as effectively secured against unauthorised entry as it was before entry.

Search warrants

2.—(1) A lay magistrate may issue a warrant for entry on to any land used as a private dwelling for the purposes of the enforcement of these Regulations if satisfied that the authorised person has reasonable grounds for requiring entry and—

- (a) admission has been refused, or a refusal is expected, and (in either case) that notice to apply for a warrant has been given to the occupier;
- (b) asking for admission, or the giving of such a notice, would defeat the object of the entry;
- (c) the case is one of urgency; or
- (d) the land is unoccupied or the occupier is temporarily absent.

(2) Where an authorised person applies for a warrant under paragraph 2(1) he or she must state—

- (a) the grounds upon which the application is made;
- (b) that the warrant would be issued under this Schedule; and
- (c) what is being sought.

(3) An application for a warrant—

- (a) under paragraph 2(1)(a) must be made on notice and on sworn complaint in writing;
- (b) under paragraph 2(1)(b), (c) or (d) must be made, without notice, on sworn complaint in writing.

(4) A warrant shall authorise entry on one occasion only.

(5) A warrant shall specify—

- (a) the name of the person who applies for it;
- (b) the date on which it is issued;
- (c) that it is issued under this Schedule;
- (d) the address of the private dwelling to be searched, and

identify, so far as is practicable, what is to be sought.

- (6) Two copies shall be made of the warrant.
- (7) The copies shall be clearly certified as copies.

Execution of warrants

3.—(1) Entry and search under a warrant must be within three months from the date of its issue.

(2) Where the occupier of the private dwelling which is to be entered and searched is present at the time when an authorised person seeks to execute a warrant to enter and search it, the authorised person shall—

- (a) identify himself or herself to the occupier and shall produce to the occupier evidence of his or her authority;
- (b) produce the warrant to the occupier; and
- (c) supply the occupier with a copy of it.

(3) Where the occupier of the private dwelling is not present at the time when an authorised person seeks to execute such a warrant; but some other person who appears to the authorised person to be in charge of the land is present, sub-paragraph (2) shall have effect as if any reference to the occupier were a reference to that other person.

(4) If there is no person present who appears to the authorised person to be in charge of the private dwelling, the authorised person must leave a copy of the warrant in a prominent place on the land.

(5) A search under a warrant may only be a search to the extent required for the purpose for which the warrant was issued.

(6) An authorised person executing a warrant shall make an endorsement on it stating whether what was sought was found.

(7) A warrant shall be returned to the clerk of the court for the area in which the lay magistrate was acting when the warrant was issued—

- (a) when it has been executed; or
- (b) in the case of a warrant which has not been executed, upon the expiry of three months from the date of its issue or sooner.

(8) A warrant which is returned under sub-paragraph (7) shall be retained for 12 months from its return by the clerk of the court for the area in which the lay magistrate was acting when the warrant was issued.

(9) If during the period for which a warrant is to be retained the occupier of the private dwelling to which it relates asks to inspect it, such inspection shall be allowed.

General powers

4.—(1) An authorised person exercising powers of entry pursuant to paragraph 1(1) or 1(3), or in accordance with a warrant granted under paragraph 2(1) may—

- (a) take with him or her any person and equipment or materials he or she considers necessary for the enforcement of these Regulations;
- (b) open any container;
- (c) carry out any searches, inspections, measurements and tests;
- (d) take samples;
- (e) have access to, and inspect and copy any documents, books or records (in whatever form they are held) which the authorised person has reason to believe maybe relevant in connection with the enforcement of these Regulations and remove them to enable them to be copied;
- (f) photograph or copy anything which the authorised person has reasonable cause to believe may be relevant in connection with the enforcement of these Regulations; and

(g) seize any computers and associated equipment for the purpose of copying documents provided that they are returned as soon as practicable.

(2) Any person who accompanies an authorised person in accordance with paragraph 4(1)(a) may perform any of the authorised person's functions but only under the supervision of that authorised person.

(3) Where an authorised person takes samples under paragraph 4(1)(d) he or she may only take an amount that is reasonably needed for the performance of his or her functions under these Regulations.

(4) Nothing in paragraph 4(1)(e), (f) or (g) shall be taken to compel the production by any person of a document which he or she would be entitled to refuse to produce on grounds of legal professional privilege in proceedings in the High Court in Northern Ireland.

(5) An authorised person may require any person to give him information as to the formulation, effects or use of any substance.

(6) An authorised person performing functions under these Regulations may require a person whom he or she has reasonable cause to believe is able to give information which will assist him in the execution of these Regulations—

- (a) to answer such questions as the authorised person thinks it appropriate to ask; and
- (b) to sign a declaration of the truth of the answers provided.

(7) Any person to whom questions are put under sub-paragraph (6) may nominate a person to be with him or her when he or she gives his or her answers.

(8) When a person answers any such questions the only other persons who may be present, apart from the questioner, are—

- (a) the person (if any) nominated under sub-paragraph (7); and
- (b) any person authorised by the authorised person to be present.

(9) No answer given by a person in pursuance of a requirement imposed under sub-paragraph (6) shall be admissible in evidence in Northern Ireland against that person, his or her spouse, or his or her civil partner in proceedings for any offence.

Power of authorised person to use reasonable force

5. An authorised person may use reasonable force, if necessary, whilst performing his or her functions under these Regulations.

Protection of authorised persons

6. An authorised person shall not be liable in any civil or criminal proceedings for anything done in the purported performance of his or her functions as an authorised person if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

Seizure and disposal of products and requirements to recover or export

7.—(1) If an authorised person is of the opinion that a person is committing, has committed or is likely to commit an offence contrary to these Regulations, the authorised person has the power to—

- (a) seize or dispose of the plant protection product or both, or serve a notice on the holder of any approval, authorisation or permission relating to the plant protection product, the owner of the plant protection product or any other person appearing to be in charge of it requiring him or her to dispose of it;
- (b) seize or dispose of anything treated with the plant protection product (“treated item”) or both, or serve a notice on any person appearing to the authorised person to be the owner or the person in charge of anything so treated requiring him or her to dispose of it; or
- (c) serve a notice on the holder of any approval, authorisation or permission relating to the plant protection product, the owner of the plant protection product or any other person appearing to the authorised person to be in charge of it requiring him or her to take such

remedial action as appears to the authorised person to be necessary, including recovery of the plant protection product from the market in Northern Ireland.

(2) If an authorised person has exercised his or her power under sub-paragraph (1)(a) or (b) to seize or dispose, or both, he or she must serve a notice on the relevant person informing that person of the power that has been exercised.

(3) If any plant protection product has been imported into Northern Ireland in contravention of Article 28(1) an authorised person may, by notice served on the person appearing to be the owner, the importer or the person in charge of the product, require that it shall be exported from Northern Ireland.

(4) A notice served under this paragraph must be in writing.

(5) A notice served under sub-paragraph (1) or (3) must give a time limit for compliance with the notice.

(6) A notice served under sub-paragraph (1), (2) or (3) must—

- (a) state that the authorised person is of the opinion that a person is committing, has committed or is likely to commit an offence contrary to these Regulations and specify the offence;
- (b) specify why the authorised person is of that opinion;
- (c) identify the plant protection product or treated item seized or disposed of, or both; and
- (d) state the quantity of the plant protection product or treated item seized or disposed of, or both.

(7) An authorised person may withdraw a notice served under this paragraph at any time.

(8) An authorised person may serve a person with a notice under this paragraph even if a previous notice served on that notice has been withdrawn.

(9) In sub-paragraph (2) “relevant person” means—

- (a) for the purposes of a notice under sub-paragraph (1)(a), the holder of any approval, authorisation or permission relating to the plant protection product that has been seized, disposed of, or both, the owner of the plant protection product or any other person appearing to be in charge of it; and
- (b) for the purposes of a notice under sub-paragraph (1)(b), any person appearing to the authorised person to be the owner of anything treated with the plant protection product seized, disposed of, or both, or the person appearing to the authorised person to be in charge of anything so treated.

Enforcement Notices

8.—(1) If an authorised person is of the opinion that a person—

- (a) is committing an offence under regulations 8 to 18; or
- (b) has committed such an offence in circumstances that make it unlikely that the offence will be repeated,

he or she may serve on that person a notice in writing stating that he or she is of that opinion, specifying the offence as to which he or she is of that opinion and directing them to take either of the steps set out at sub-paragraph (2).

(2) A notice under sub-paragraph (1) may direct—

- (a) that any land, vehicle, vessel, aircraft, hovercraft or marine structure on or in which it appears that the offence was being committed or anything which is on or in it, shall be left undisturbed (whether generally or in particular respects) for as long as it appears to him to be reasonably necessary; or
- (b) that remedial or preventative measures shall be taken.

(3) If an authorised person is of the opinion that a person is committing, or is likely to commit, an offence under regulations 8 to 18, he or she may serve on that person a notice—

- (a) stating that opinion;
- (b) specifying why he or she is of that opinion; and
- (c) requiring that person to act in accordance with these Regulations or prohibiting that person from acting in contravention of these Regulations.

(4) A notice served under sub-paragraph (1) or (3) must be in writing and must give a time limit for compliance with the notice.

(5) An authorised person may withdraw a notice served under sub-paragraph (1) or (3) at any time.

(6) An authorised person may serve a person with a notice under sub-paragraph (1) or (3) even if a previous notice served on that person has been withdrawn.

SCHEDULE 2

Regulation 13(3)

ADJUVANTS

1. An adjuvant is authorised for use with an authorised plant protection product if it is included in a list of adjuvants published by the Department from time to time (in this Schedule referred to as “the list”) or, if not included in the list, if it is used with an authorised plant protection product for the sole purpose of research and development. A person may apply to the Department for an adjuvant to be included on the list.

2. The Department may, in relation to any adjuvant for which an application has been made for inclusion on the list or which is included in the list, at any time—

- (a) determine data requirements (concerning human safety or environmental protection) to which the inclusion, or the continued inclusion, of that adjuvant in the list shall be subject;
- (b) determine requirements to which the use of that adjuvant with authorised plant protection products shall be subject; and
- (c) for reasons of human safety or environmental protection, or with the consent of the applicant, amend any requirement which has been determined under sub-paragraph (a) or (b).

3. The Department shall, in relation to any adjuvant included in the list, also include in that list any requirements which have been determined under paragraph 2(b) and any amendments to such requirements that have been made under paragraph 2(c).

4. The Department may, in relation to any adjuvant included in the list, remove that adjuvant from the list—

- (a) if it appears to the Department that the applicant has failed to comply with any data requirement which has been determined in relation to that adjuvant under paragraph 2(a) or amended under paragraph 2(c);
- (b) if it appears to the Department that any literature relating to the adjuvant is not in accordance with any requirement to which the use of that adjuvant is subject, as determined under paragraph 2(b) or amended under paragraph 2(c);
- (c) if it appears to the Department that—
 - (i) any literature relating to the adjuvant refers to a plant protection product; and
 - (ii) the use of that adjuvant with that plant protection product is not in accordance with the conditions of the authorisation given in relation to that plant protection product;
- (d) for reasons of human safety or environmental protection; or
- (e) at the request of the applicant.

5. The Department shall, upon a decision to remove an adjuvant from the list, include in the list—

- (a) that decision; and
- (b) the date on which, and any conditions in accordance with which, the removal is to take effect.

6. In paragraph 4(c)(i), “literature relating to the adjuvant” means—

- (a) the labelling of the packaging in which the adjuvant is contained;
- (b) any leaflet accompanying that package; or
- (c) any other material in writing produced by, or on behalf of, the applicant describing the adjuvant or how to use it.

7. In paragraph 4(c)(ii) “authorisation” means any authorisation or permission granted, or deemed to be granted, in accordance with Regulation 1107/2009 and in paragraphs 1 and 2(b) “authorised” shall be construed accordingly.

SCHEDULE 3
AMENDMENTS

Regulation 28(1)

<i>Regulations to be amended</i>	<i>Regulation and Schedules to be amended</i>	<i>Amendments to be made</i>
The Control of Pesticides Regulations (Northern Ireland) 1987(1)	Regulation 2(1)	After the definition of “provisional approval” insert— ““Regulation 1107/2009” means Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC;”.(2)
	Regulation 3(2)(d)	Omit the words after “any plant protection product”.
	Regulation 3(3)	In the definition of “placing on the market” and “plant protection product” omit the words— ““placing on the market and” and for the definition of “plant protection product” substitute— ““plant protection product” has the same meaning as in Article 2(1) of Regulation 1107/2009;”.
	Regulation 8(6)	Omit the words following- “the Environmental Information Regulations (Northern Ireland) 1993”.
The Plant Protection Products (Basic Conditions) Regulations (Northern Ireland) 1997(3)	Regulation 2(1)	For the definition of “active substance” substitute – ““active substances” means substances, including micro-organisms having general or specific action against harmful organisms or on plants, parts of plants or plant products;”.
		Omit ““the Plant Protection Products Regulations” means the Plant Protection Products Regulations (Northern Ireland) 1995;”.
		After the definition of “organism” insert—

““plant protection product” has the same meaning as in Article 2(1) of Regulation 1107/2009;”.

For the definition of “prescribed plant protection product” substitute—
““prescribed plant protection product” means any plant protection product authorised or permitted in accordance with Regulation 1107/2009 or any plant protection product deemed to be authorised or permitted in accordance with that Regulation;”.

After the definition of “prescribed plant protection product” insert—
““Regulation 1107/2009” means Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC;”.

Regulation 3
Regulation 4(1)
Regulation 5
Regulation 6(1)

Omit
Omit
Omit
Omit “which has been approved under the Plant Protection Product Regulations”.

Regulation 6(2)

For sub-paragraph (a) substitute –
“an approval, expiring at the end of the period for which the plant protection product has been authorised or permitted in accordance with Regulation 1107/2009 or, where a period of grace has been granted in relation to that authorisation or permission for the disposal, storage, placing on the market and use of existing stocks, at the end of such period;or”

Regulation 7
Regulation 9
Schedule 1
Schedule 2 paragraph 1

Omit sub-paragraph (a).
Omit
Omit
For the words “the Plant Protection Products

	Schedule 2 paragraph 5	Regulations” substitute- “Regulation 1107/2009”. For the words ““approval” means any approval given under the Plant Protection Products Regulations” substitute-““approval” means an authorisation of, or permission for, a plant protection product in accordance with Regulation 1107/2009 or an approval or permission deemed to be authorised or permitted in accordance with that Regulation and “approved” shall be construed accordingly;”.
	Schedule 3 paragraph 1	For the words “the Plant Protection Product Regulations” substitute— “Regulation 1107/2009”.
	Schedule 3 paragraph 5	Omit the entire paragraph.
	Schedule 3 paragraph 10	Substitute— “For the purpose of this Schedule “approval” means an authorisation of, or permission for, a plant protection product in accordance with Regulation 1107/2009 or an approval or permission deemed to be authorised or permitted in accordance with that Regulation and “approved” shall be construed accordingly.”.
	Schedule 4 paragraph 6	For the definition of “approval” substitute – ““approval” means an authorisation of, or permission for, a plant protection product in accordance with Regulation 1107/2009 or an approval or permission deemed to be authorised or permitted in accordance with that Regulation and “approved” shall be construed accordingly;”.
Biocidal Products Regulations (Northern Ireland) 2001(4)	Regulation 3(3)	Omit
	Regulation 3(7)	Omit
	Schedule 2, paragraph (t)	Substitute “Regulation (EC) No 1107/2009 of the European Parliament and of the Council

	Schedule 12, paragraph (1)	concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC.” In the definition of “COPR biocidal product” for ““plant protection product” has the same meaning as in regulation 2(1) of the Plant Protection Product Regulations (Northern Ireland) 2005” substitute ““plant protection product” has the same meaning as in regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC;”.
Processed Cereal-based Foods and Baby Foods for Infants and Young Children Regulations (Northern Ireland) 2003(5)	Regulation 2	In the definition of “pesticide residue” for the words “as defined in point 1 of Article 2 of Council Directive 91/414EEC concerning the placing of plant protection products on the market” substitute “which has the same meaning as in Article 2 (1) of Regulation (EC) No1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC and “residue” shall be read in accordance with Article 3(1) of that Regulation”.
The Environmental Liability (Prevention and Remediation) Regulations (Northern Ireland) 2009(6)	Schedule 2, paragraph 6(c)	For the words “as defined in Article 2(1) of Council Directive 91/414/EEC concerning the placing of plant protection products on the market” substitute— “which has the same meaning as in Article 2(1) of Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and

	Schedule 3, paragraph 8	91/414/EEC.”. For “the Plant Protection Products Regulations (Northern Ireland) 2005” substitute “an authorisation of, or permission for, a plant protection product granted, or deemed to be granted, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of the plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC”.
Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009(7)	Regulation 2 (1)	For the definition of “plant protection product” substitute ““plant protection product” has the same meaning as in Article 2(1) of Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC;”.
	Regulation 7(4)	Omit the definition of “the Plant Protection Product Regulations”. For the words “Without prejudice to paragraph 3 of Schedule 3 to the Plant Protection Products Regulations, indications,” substitute “Indications”.
	Regulation 9(6)	Substitute “In the case of a plant protection product authorised or permitted, or deemed to be authorised or permitted, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC or a product approved under the Control of Pesticides Regulations (Northern Ireland)

The Explosives (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009(8)	Regulation 2(1)	<p>1987 which is not a plant protection product, the labelling information required by these Regulations shall be accompanied by the wording “To avoid risks to man and the environment, comply with the instructions for use”.”.</p> <p>For the definition of “plant protection product” substitute ““plant protection product” has the same meaning as in Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC”.</p>
	Regulation 7(4)	<p>Omit the definition of “the Plant Protection Product Regulations”.</p> <p>For the words “Without prejudice to paragraph 3 of Schedule 3 to the Plant Protection Products Regulations, indications,” substitute- “Indications”.</p>
	Regulation 9(6)	<p>Substitute</p> <p>“In the case of a plant protection product authorised or permitted, or deemed to be authorised or permitted in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC or a product approved under the Control of Pesticides Regulations (Northern Ireland) 1987 which is not a plant protection product, the labelling information required by these Regulations shall be accompanied by the wording “To avoid risks to man and the environment, comply with the instructions for use”.”.</p>

⁽¹⁾ S.R. 1987 No.414, amended by S.R. 1991 No. 203. S.R. 1997 No. 469 and S.R. 2001 No.422

⁽²⁾ OJ No. L309, 24.11.2009

⁽³⁾ S.R. 1997/470

⁽⁴⁾ S.R. 2001 No.422 amended by S.R. 2002 No. 302, S.R. 2009 No.238 and S.R. 2010 No.163

⁽⁵⁾ S.R. 2003 No. 530 amended by S.R. 2005 No.574 and S.R. 2007 No.408

⁽⁶⁾ S.R. 2009 No.252 amended by S.R. 2009 No.361

⁽⁷⁾ S.R. 2009 No.238 amended by S.R. 2009 No.273

⁽⁸⁾ S.R. 2009 No.273

SCHEDULE 4
REVOCATIONS

Regulation 28(2)

<i>Regulations to be revoked</i>	<i>References</i>
Plant Protection Products (Fees) Regulations (Northern Ireland) 2004	S.R. 2004/372
Plant Protection Products Regulations (Northern Ireland) 2005	S.R. 2006/526
Plant Protection Products (Amendment) Regulations (Northern Ireland) 2008	S.R. 2008/85
Plant Protection Products (Amendment No2) Regulations (Northern Ireland) 2008	S.R.2008/499

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and replace the Plant Protection Products Regulations (Northern Ireland) 2005.

These Regulations, in respect of Northern Ireland, provide for the enforcement of Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (“Regulation 1107/2009”) and of certain provisions of these Regulations.

Regulation 1107/2009 repeals Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market (OJ L230, 19.8.1991, p.1.), which prohibited the placing on the market and use of plant protection products containing certain active substances. Regulation 1107/2009 lays down harmonised rules for the approval of active substances and the placing on the market of plant protection products and its main purpose is to ensure a high level of protection of both human and animal health and the environment and at the same time to safeguard the competitiveness of agriculture in the European Union.

The terms and expressions used in these Regulations are defined in regulation 2.

The Department of Agriculture and Rural Development is designated as the competent authority for the purposes of Article 75(1) of Regulation 1107/2009 in regulation 3.

Regulation 4 provides for emergency measures to be taken by the Department in circumstances where treated seeds are likely to constitute a serious risk to human or animal health or to the environment.

Regulation 5 provides that these Regulations are enforced by the Department.

Regulations 6 and 7 provide for persons to be authorised to exercise the powers set out in Schedule 1 to these Regulations and for them to provide evidence of their authorisation on request.

Regulations 8 to 19 make provision for the enforcement of Regulation 1107/2009 by identifying who is responsible for complying with the requirements and prohibitions in that Regulation and regulation 13 gives effect to Schedule 2 (Adjuvants).

Regulations 20 and 21 provide for the enforcement of these Regulations by creating a requirement to comply with notices issued under these Regulations and a requirement and prohibitions in relation to preventing an authorised person from performing his or her functions under these Regulations.

Regulation 22 creates the criminal offence for contravention of or failure to comply with regulation 8 to 21, and Articles 56(1), 56(4) and Article 62(2).

Regulation 23 makes provision in relation to offences by bodies corporate. Regulation 24 provides, in relation to certain regulations, the defence of having taken all reasonable precautions and having exercised all due diligence to avoid the commission of the offence.

Regulation 25 sets out the penalties for offences under these Regulations.

Regulation 26 describes the circumstances in which an authorised person may perform his or her function in relation to land in which there is a Crown interest.

Regulation 27 provides that the Plant Protection Products Regulations (Northern Ireland) 2005 (S.R. 2005/526) are saved for applications set out in Article 80(5) of Regulation 1107/2009 and approvals granted under those Regulations are deemed granted under Regulation 1107/2009. It also provides that plant protection approvals under the Control of Pesticide Regulations (Northern Ireland) 1987 (S.R. 1987/414) and valid parallel trade approvals that are valid on the dates these Regulations come into operation are deemed to be authorised in accordance with Regulation 1107/2009.

Regulation 28 provides for the amendments and revocations set out in Schedules 3 and 4 respectively.

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