
STATUTORY RULES OF NORTHERN IRELAND

2020 No. 360

The Official Controls (Plant Protection Products) Regulations (Northern Ireland) 2020.

PART 4

Enforcement, penalties and appeal

Enforcement

8.—(1) Enforcement of these Regulations and the Official Controls Regulation is the responsibility of the Department.

(2) The Department may authorise any person to exercise enforcement powers.

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

(4) An authorisation must be in writing.

(5) The Department may specify descriptions of district council officers who may be authorised to exercise enforcement powers and may direct that an officer of a particular description may only be appointed to exercise them for a specified purpose.

(6) Any specification or direction under paragraph (5) must be in writing.

(7) Where the Department specifies a description of district council officers under paragraph (5), a district council may authorise any of its officers falling within that description to exercise enforcement powers in its district.

(8) An authorised person exercising powers under these Regulations must produce, on request, evidence of their authorisation.

(9) An authorised person must state, if requested—

(a) their name;

(b) the power to be exercised; and

(c) the grounds for proposing to exercise the power.

(10) In this regulation, “enforcement powers” means the powers conferred on an authorised person by these Regulations.

Powers of entry

9.—(1) An authorised person may enter any premises if the authorised person has reason to believe that it is necessary for the purpose of enforcement of these Regulations or the Official Controls Regulation.

(2) An authorised officer may only enter premises used wholly or mainly as a private dwelling under a warrant issued under regulation 10.

(3) An authorised person must exercise powers of entry under paragraph (1) or regulation 10 at a reasonable hour unless it appears to the authorised person that there are grounds for suspecting

that the object of the entry would be defeated if the authorised person seeks to exercise them at a reasonable hour.

(4) An authorised person who enters any unoccupied premises under this regulation or regulation 10 must leave them as effectively secured against unauthorised entry as they were before the authorised person's entry.

Powers of entry: with warrants

10.—(1) A lay magistrate may by signed warrant authorise an authorised person to enter any premises for the purposes of the enforcement of these Regulations or the Official Controls Regulation if the lay magistrate is satisfied, on a sworn complaint made in writing, that—

- (a) there are reasonable grounds for entering the premises; and
 - (b) any one of the conditions in paragraph (2) is met.
- (2) The conditions are that—
- (a) entry to the premises has been, or is likely to be refused, and notice of the intention to apply for a warrant has been given to the occupier;
 - (b) asking for admission to the premises, or giving notice of the intention to apply for a warrant, would defeat the object of the entry;
 - (c) entry is urgently required; or
 - (d) the premises are unoccupied or the occupier is temporarily absent.
- (3) A warrant is valid for 30 days beginning on the day it is issued.
- (4) A warrant must specify—
- (a) the name of the person who applied for it;
 - (b) the date on which it is issued;
 - (c) that it is issued under this regulation;
 - (d) the address of the premises to be entered; and
 - (e) the purpose for which entry is required.

Execution of warrants

11.—(1) Where the occupier of the premises to be entered is present at the time when an authorised person seeks to execute a warrant, the authorised person must—

- (a) identify themselves to the occupier;
- (b) produce the warrant to the occupier; and
- (c) supply the occupier with a certified copy of it.

(2) Where the occupier of the premises is not present at the time when an authorised person seeks to execute a warrant, but some other person who appears to the authorised person to be in charge of the premises is present, sub-paragraph (1) has effect as if any reference to the occupier were a reference to that other person.

(3) If there is no person present who appears to the authorised person to be in charge of the premises, the authorised person must leave a certified copy of the warrant in a prominent place on the premises.

General powers

12.—(1) An authorised person entering premises under regulation 9 or under a warrant issued under regulation 10 may—

- (a) search for any item, if necessary using reasonable force;
 - (b) open or examine, or both, anything that is on, attached to or otherwise forms part of the premises, if necessary using reasonable force;
 - (c) take with them any persons and equipment or materials they consider necessary for the enforcement of these Regulations or the Official Controls Regulation;
 - (d) open any container, if necessary using reasonable force;
 - (e) carry out any searches, inspections, measurements and tests;
 - (f) take samples;
 - (g) 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 may be relevant in connection with the enforcement of these Regulations or the Official Controls Regulation and remove them to enable them to be copied;
 - (h) photograph or copy anything which the authorised person has reasonable cause to believe may be relevant in connection with the enforcement of these Regulations or the Official Controls Regulation; and
 - (i) 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 sub-paragraph (1)(c) may perform any of the authorised person's functions but only under the supervision of the authorised person.
- (3) Where an authorised person takes samples under sub-paragraph (1)(f), the authorised person may only take an amount that is reasonably needed for the performance of their functions under these Regulations or the Official Controls Regulation.
- (4) Nothing in sub-paragraphs (1)(g), (h) or (i) shall be taken to compel the production by any person of a document which they would be entitled to refuse to produce on grounds of legal professional privilege or in proceedings in the High Court.
- (5) An authorised person may require any person to give the authorised person information as to the formulation, effects or use of any substance.

Protection of authorised person

13. An authorised person is not liable in any civil or criminal proceedings for anything done in the purported performance of their 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.

Enforcement notices

14.—(1) If an authorised person has reason to believe that an operator is in breach of the requirements of these Regulations or the Official Controls Regulation, the authorised person may serve on the operator a notice, specifying the breach the authorised person believes has occurred, and directing the operator to take either or both of the steps set out in paragraph (2).

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

- (a) that any premises on or in which it appears the breach has occurred, or anything which is on or in it, must be left undisturbed (whether generally or in particular respects) for as long as the authorised person believes to be reasonably necessary;
- (b) the operator to act in accordance with these Regulations or the Official Controls Regulation or prohibit that person from acting in contravention of these Regulations or the Official Controls Regulation.

(3) A notice served under paragraph (1) must be in writing and must, in the case of a direction given under paragraph (2)(b), give a time limit for compliance.

(4) An authorised person may withdraw, by further notice in writing, a notice served under paragraph (1) at any time.

(5) An authorised person may serve an operator with a notice under paragraph (1) even if a previous notice served on the operator has been withdrawn.

Offences and penalties

15.—(1) A person is guilty of an offence if without reasonable excuse that person fails to provide the information required by regulation 5(1) to the Department within the time period specified in regulation 5(2) or (3), as appropriate.

(2) A person is guilty of an offence if without reasonable excuse that person fails to comply with an enforcement notice issued in accordance with regulation 14(1).

(3) A person is guilty of an offence if without reasonable excuse that person obstructs an authorised person in the performance of their functions under these Regulations or under the EU Official Controls Regulations, or causes or permits an authorised person to be so obstructed.

(4) For the purpose of paragraph (3), obstruction includes failure by any person—

(a) to produce records or provide reasonable facilities for copying records; or

(b) to provide relevant information when requested.

(5) A person is guilty of an offence if, without reasonable excuse, that person supplies information to the Department or an authorised person which, in any material particular, is false or misleading.

(6) A person guilty of an offence under this regulation is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Offences by bodies corporate

16.—(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 are limited” and where the affairs of a body corporate are managed by its members, applies in relation to the acts or defaults of a member in connection with the member’s functions of management as if the member were a director of the body corporate.

(2) Where any 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 partner’s part,

the partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.

(3) Where any 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 of the association or a member of its governing body;

(b) to be attributable to any neglect on the part of such an 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.

Time limits for prosecution

17. A prosecution for an offence under this Part shall not begin after the expiry of—

- (a) three years from the commission of the offence; or
 - (b) one year from its discovery by the Department,
- whichever is the earlier.