
STATUTORY INSTRUMENTS

1991 No. 2197

The Fertilisers Regulations 1991

Title, commencement and interpretation

1.—(1) These Regulations may be cited as the Fertilisers Regulations 1991 and shall come into force on 1st November 1991.

(2) Subject to paragraph (3) below, these Regulations shall not apply in relation to any material, not designated as an EEC fertiliser, sold or offered for sale before—

- (a) 1st June 1992 in the case of any solid material sold or offered for sale loose or in containers having a capacity greater than 25 kilograms or, in the case of any fluid material, sold or offered for sale in containers having a capacity greater than 10 litres;
- (b) 1st February 1993 in the case of any solid material sold or offered for sale in containers having a capacity of or less than 25 kilograms or, in the case of any fluid material, sold or offered for sale in containers having a capacity of or less than 10 litres;

and in relation to any such material the Fertilisers Regulations 1990 shall continue to apply.

(3) The Fertilisers Regulations 1990 shall not apply to any material not designated as an EEC fertiliser, in relation to which paragraph (2) above would otherwise apply, if that material complies with the requirements of these Regulations.

(4) In these Regulations, unless the context otherwise requires—

“the Act” means the Agriculture Act 1970;

“chelating agent” means any product listed in table 2 in Schedule 2;

“herbicide” means a substance calculated to destroy or control any unwanted plant;

“pesticide” means a substance calculated to destroy or control any insect, mite, mollusc, nematode, fungus or any other pest capable of destroying, damaging or retarding the growth of any form of plant life;

“secondary nutrient” means calcium, magnesium, sodium or sulphur;

“trace element” means boron, cobalt, copper, iron, manganese, molybdenum or zinc.

(5) Any reference in these Regulations to a numbered regulation or Schedule shall, unless the context otherwise requires, be construed as a reference to the regulation or Schedule bearing that number in these Regulations.

(6) Any reference in these Regulations to a numbered section shall, unless the reference is to a section of a specified Act, be construed as a reference to the section bearing that number in the Act.

Control of materials designated as EEC fertilisers

2.—(1) No person shall sell or have in possession with a view to sale, for use as a fertiliser, any material designated as an EEC fertiliser, or in respect of which any indication is given directly or indirectly that it is an EEC fertiliser, unless that material—

- (a) is specified in Groups 1(a), 2(a) or 3(a) of Section A, or in Groups 1 to 4 of Section B, or in Groups 1(a) or 2 of Section C, or in Section D, or Section E, of the table in Schedule 1; and

(b) conforms with the requirements laid down for such materials in these Regulations as respects content and marking.

(2) No person shall sell or have in possession with a view to sale, for use as a fertiliser, any material designated as an EEC fertiliser containing any pesticide or herbicide or any organic nutrient of animal or vegetable origin, which has been added in the course of manufacture or preparation for sale.

(3) No person shall make available to any other person for the final use by that other person as a fertiliser any ammonium nitrate, as defined in column 3 of Section A of the table in Schedule 1, which is designated as an EEC fertiliser and contains more than 28 % by weight of nitrogen, unless the material is in a container which complies with the provisions of Part II of Schedule 2.

(4) No person shall sell or have in possession with a view to sale, for use as a fertiliser, any material specified in Section D of the table in Schedule 1 designated as an EEC fertiliser unless that product is packaged.

Control of materials not designated as EEC fertilisers

3. No person shall sell or have in possession with a view to sale, for use as a fertiliser, any solid or fluid material which, not being designated as an EEC fertiliser, does not comply with the requirements of these Regulations.

Use and meaning of prescribed names and descriptions of material

4.—(1) Subject to the provisions of paragraphs (4) and (5) of this regulation, no person shall sell or have in possession with a view to sale, as a fertiliser or for use as a fertiliser, any material specified in the second column in Sections A, B, C, D or E of the table in Schedule 1, which complies with the corresponding meaning in the third column of the said table, unless the statutory statement relating to any such material and required by section 68(1) contains the corresponding name or one of the corresponding names, as the case may be, indicated in the second column of the said table.

(2) For the purposes of section 70, any name of a material specified in the second column of the table in Schedule 1 shall, subject to the provisions of paragraphs (4) and (5) of this regulation, have the meaning corresponding thereto in the third column of the said table.

(3) No person shall sell or have in possession with a view to sale, as a fertiliser or for use as a fertiliser, any material specified in Groups 1(b), 2(c), 3(c) or 5(b) of Section A, or in Group 6 of Section B or in Groups 1(c), 1(e), 1(g) or 4 of Section C, of the table in Schedule 1, unless he gives in the statutory statement or in any other document or label referring to the material a name or description, or name and description, sufficiently specific to indicate to the intending purchaser the true nature of the material.

(4) In the case of those materials in Groups 1 to 4 of Section B, Group 2 of Section C, and in Section D and Section E, of the table in Schedule 1 which, not being designated as EEC fertilisers, are sold or offered for sale, and for which the declared content of any nutrients, secondary nutrients or trace elements, or of the total nutrient or secondary nutrient or trace element content, falls below the minimum levels specified in the third column of the said table, or in table 1 in Schedule 2, the statutory statement shall contain the name designated in the second column thereof if the material complies in all other respects with the requirements of the said third column.

(5) In the case of materials specified in Sections A, B, C, D or E of the table in Schedule 1, any meaning given in the third column of the said table shall be deemed not to exclude the presence of any substance added to improve the handling qualities of the material and, in the case of materials which, not being designated as EEC fertilisers, are sold or offered for sale, the said meaning shall be deemed not to exclude the presence of any herbicide or pesticide.

Prescribed descriptions of material and particulars and information to be contained in the statutory statement

5. The descriptions of material prescribed for the purposes of sections 68(1) and 69(1) shall be those indicated in the second and third columns of the table in Schedule 1, and the particulars or information required to be contained in a statutory statement relating to any such material shall be the particulars or information specified in relation thereto in the fourth column of the table in Schedule 1 and in Part I of Schedule 2.

Limits of variation

6. For the purposes of section 74, the limits of variation in relation to any misstatement as to the nature, substance or quality of any material specified in the second column of the table in Schedule 1 shall, subject to the provisions of that Schedule, be the corresponding limits in relation to that material set out in the fifth and, as the case may be, in the sixth column of the said table.

Time by which a statutory statement relating to certain materials must be given

7. For the purposes of section 68(3), any statutory statement required to be given on the sale of—
- (a) any fertiliser, in containers, of a description specified in Group 4 of Section A of the table in Schedule 1; or
 - (b) any solid fertiliser, not being designated as an EEC fertiliser, other than a solid fertiliser sold or offered for sale in containers, of a description specified in Sections A, B, D or E of the table in Schedule 1; or
 - (c) any fluid fertiliser, not being designated as an EEC fertiliser, in a container the declared content of which is in excess of 200 litres,

shall be given as soon as practicable after delivery to the purchaser.

Manner of marking and labelling material

8. The manner in which material shall be marked and labelled for the purposes of section 69(1) and section 74A shall be as set out in Schedule 2.

Modification of section 69(1) for certain imported material

9. In the case of—
- (a) any fertiliser, in containers, of a description specified in Group 4 of Section A of the table in Schedule 1; or
 - (b) any solid fertiliser, not being designated as an EEC fertiliser, sold or offered for sale, other than a solid fertiliser in containers, of a description specified in Sections A, B, D or E of the table in Schedule 1; or
 - (c) any fluid fertiliser, not being designated as an EEC fertiliser, sold or offered for sale in a container the declared content of which is in excess of 200 litres,

which has been imported and is of a description prescribed for the purposes of section 69(1) by regulation 5, subsection (1) of section 69 shall have effect as if—

- (i) the words “and in either case before it is removed from the premises” were omitted from the said subsection (1), and
- (ii) the words “any material which has been marked in accordance with this subsection” were substituted for the words “the material” in the said subsection (1).

Register of marks

10.—(1) Except in the case of materials sold or offered for sale designated as EEC fertilisers, as respects any material of a description prescribed for the purposes of section 69(1) by regulation 5 which comprises—

- (a) any fertiliser in containers of a description specified in Group 4 of Section A of the table in Schedule 1; or
- (b) any solid fertiliser, other than a solid fertiliser in containers, of a description specified in Sections A, B, D or E of the table in Schedule 1; or
- (c) any fluid fertiliser in a container the declared content of which is in excess of 200 litres; or
- (d) any material, not being of a standard formulation on general sale by the seller concerned, which is specially manufactured or mixed to the order of a particular purchaser,

the matters required by section 69 to be marked on that material may be denoted by a mark whose meaning can be ascertained by reference to a register kept in accordance with this regulation.

(2) The register shall show those matters to which the mark relates, being matters required to be contained in the statutory statement relating to the material to which the mark relates and the date of entry of those particulars in the register. Entries relating to material of a kind mentioned in paragraph (1)(d) of this regulation shall also include the name and address of the purchaser, the date of the order and the amount ordered. The register shall be kept as a separate record in book form marked on the outside “Register of marks under section 69(6) of the Agriculture Act 1970” and shall be kept on the premises where the material is held for the purpose of selling it in the course of trade for use as a fertiliser, save that if the material is in a public store the register shall be kept on the premises of the person who has the material for sale.

(3) The period for which the register is to be preserved in accordance with section 69(7) shall be a period of 6 months commencing with the first day on which none of the materials referred to in the register remains on the premises for sale as aforesaid.

Enforcement

11. Insofar as any provision of these Regulations is made under section 2(2) of the European Communities Act 1972 that provision shall be enforced as if it were made under those provisions of the Agriculture Act 1970 under which the other provisions of these Regulations are made and the provisions of Part IV of the said Agriculture Act shall apply accordingly.

Amendment as respects metrication

12. In relation to any material to which these Regulations apply the operation of the provisions of sections 66(1), 68(2)(b) and 76(5) shall be modified as follows—

- (a) in the definition of “sampled portion” in the said section 66(1) for the words “five tons or 1,000 gallons or the prescribed metric substitution” there shall be substituted the words “five tonnes or 5,000 litres”;
- (b) in section 68(2)(b) for the words “fifty-six pounds or the prescribed metric substitution” there shall be substituted the words “twenty-five kilograms”;
- (c) in section 76(5) for the words “fourteen pounds or the prescribed metric substitution” there shall be substituted the words “six kilograms”.

Revocation

13. Subject to regulation 1(2), the Fertilisers Regulations 1990(1) are hereby revoked.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 6th September 1991.

L.S.

John Selwyn Gummer
Minister of Agriculture, Fisheries and Food

11th September 1991

Michael Forsyth
Minister of State, Scottish Office

15th September 1991

David Hunt
Secretary of State for Wales