
STATUTORY INSTRUMENTS

2012 No. 1657

**The Plant Protection Products
(Sustainable Use) Regulations 2012**

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Plant Protection Products (Sustainable Use) Regulations 2012 and, subject to paragraph (2), come into force on 18th July 2012.

(2) The following regulations come into force on the dates specified—

- (a) regulation 9 comes into force on 26th November 2015, except paragraph (4) which comes into force on 18th July 2012; and
- (b) regulation 13 comes into force on 26th November 2013.

(3) Any amendment made by Schedule 5 has the same extent as that of the enactment to which it relates.

(4) Any revocation made by regulation 32(3) has the same extent as the enactment to which it relates.

Interpretation

2.—(1) In these Regulations—

“aerial spraying” means the application of plant protection products from an aircraft (plane or helicopter) and “aerial spray” shall be construed accordingly;

“aerial spraying permit” means a permit issued by the appropriate United Kingdom competent authority authorising aerial spraying;

“agriculture” includes—

- (a) the production of any consumable produce which is grown for sale or for consumption or other use for the purposes of a trade or business or of any other undertaking (whether carried on for profit or not);
- (b) dairy-farming;
- (c) the use of land as grazing, meadow or pasture land or orchard or osier land or woodland or for market gardens or nursery grounds; and
- (d) the preparation and maintenance of land for any such uses;

and “agricultural” shall be construed accordingly;

“the appropriate United Kingdom competent authority” means—

- (a) in relation to England and Wales, the Secretary of State;
- (b) in relation to Scotland, the Scottish Ministers; and
- (c) in relation to Northern Ireland, the Department;

“authorised person” means a person authorised in accordance with regulation 20(1);

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

“Directive 1999/45/EC” means Directive 1999/45/EC of the European Parliament and of the Council concerning the approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations⁽¹⁾;

“the Directive” means Directive 2009/128/EC of the European Parliament and of the Council establishing a framework for Community action to achieve the sustainable use of pesticides, of which Annexes I to IV are as amended from time to time;

“distributor” means any person who makes a plant protection product available on the market, including wholesalers, retailers, vendors and suppliers;

“environment” means waters (including groundwaters, surface water, transitional waters, coastal waters and marine waters), sediment, soil, air, land, flora and fauna (indigenous or not), and any interrelationship between them, and any relationship with other living organisms;

“groundwater” means all water which is below the surface of the ground in the saturation zone and in direct contact with the ground or subsoil;

“inspected” means inspected under a system implemented by a body designated pursuant to Article 8(6);

“Ministers” means the Secretary of State, the Scottish Ministers or the Welsh Ministers;

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

“plant protection product application equipment” means any apparatus specifically designed for the application of plant protection products, including accessories that are essential for the effective operation of such equipment, such as nozzles, manometers, filters, strainers and cleaning devices for tanks;

“premises” includes any place and, in particular, includes—

- (a) any vehicle, vessel, aircraft, hovercraft or marine structure; and
- (b) any tent to moveable structure;

“professional user” means any person who uses plant protection products in the course of their work activities, including operators, technicians, employers and self-employed people, both in the farming and other sectors and “professional use” shall be construed accordingly;

“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⁽³⁾ and 91/414/EEC⁽⁴⁾;

“specified certificate” means—

- (a) a certificate of competence relating to plant protection products recognised by Ministers having been published in a list by Ministers before 18th July 2012, for the purposes of paragraph 4 or 5 of Schedule 2, or paragraphs 7 or 8 of Schedule 3, to the Control of Pesticides Regulations 1986⁽⁵⁾;
- (b) a certificate of competence relating to plant protection products recognised by the Department, having been published in a list by the Department before 18th July 2012 for the purposes of paragraph 4 or 5 of Schedule 2, or paragraphs 7 or 8 of Schedule 3, to the Control of Pesticides Regulations (Northern Ireland) 1987⁽⁶⁾;

(1) OJ No L200, 30.7.1999, p 1.

(2) OJ No L309, 24.11.2009, p1.

(3) OJ No L33, 8.2.1979, p36.

(4) OJ No L230, 19.8.1991, p1.

(5) S.I. 1986/1510 amended by S.I. 1997/188.

(6) S.R.(NI) 1987 No 414 amended by S.R.(NI) 1997 No 469.

- (c) a certificate of competence recognised by Ministers having been published in a list by Ministers before 18th July 2012, for the purposes of paragraph 3 or 4 of Schedule 2, or paragraph 7 or 8 of Schedule 3, to the Plant Protection Product (Basic Conditions) Regulations 1997(7);
- (d) a certificate of competence recognised by the Department, having been published in a list by the Department before 18th July 2012, for the purposes of paragraph 3 or 4 of Schedule 2, or paragraph 7 or 8 of Schedule 3, to the Plant Protection Product (Basic Conditions) Regulations (Northern Ireland) 1997(8);
- (e) a certificate that was deemed to be a “specified certificate” pursuant to regulation 31(3) and is included in a list referred to in regulation 5(11); or
- (f) a certificate issued by a body that has been designated pursuant to regulation 5(2) and is included in a list referred to in regulation 5(11);

“surface water” means—

- (a) inland waters, except groundwater;
- (b) transitional waters; and
- (c) coastal waters;

“transitional waters” means bodies of surface water in the vicinity of river mouths which are partly saline in character as a result of their proximity to coastal waters but which are substantially influenced by freshwater flows;

“under supervision” means under the direct and personal supervision, and in the presence, of a person who holds a specified certificate, where such supervision is being provided for the purposes of training.

(2) For the purposes of regulations 8, 9(7), 10(4)(b) and 31(1) and (2) “authorised” means authorised in accordance with Regulation 1107/2009.

(3) In these Regulations any reference to an Article by number alone is to be construed as a reference to the Article so numbered in the Directive.

(4) Expressions in the Directive shall have the same meaning in these Regulations as they have in the Directive except where a definition in this regulation ascribes a different meaning.

Review

3.—(1) The Secretary of State must from time to time—

- (a) carry out a review of regulations 2 and 4 to 32;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

(2) The review shall relate to the operation of these Regulations as they have effect in relation to England and Wales only.

(3) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how the Directive which is implemented by means of regulations 2 and 4 to 32 is implemented in other Member States.

(4) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by those regulations;

(7) S.I. 1997/189 amended by S.I. 2011/2131.

(8) S.R (NI) 1997 No 470.

- (b) assess the extent to which those objectives are achieved; and
 - (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.
- (5) The first report under this regulation must be published before the end of the period of five years beginning with 18th July 2012.
- (6) Reports under this regulation are afterwards to be published at intervals not exceeding five years.

National Action Plan

4. The Secretary of State, the Scottish Ministers and the Department must jointly—
- (a) adopt a National Action Plan in accordance with Article 4 and revise it as necessary;
 - (b) list plant protection product application equipment to which regulation 12(1) applies in the National Action Plan in accordance with Article 8(3)(a); and
 - (c) describe in the National Action Plan, for the purposes of Article 14(4), how they will ensure that the general principles of integrated pest management as set out in Annex III to the Directive are to be implemented by all professional users by 1st January 2014.

Designation of authorities (training and certification)

5.—(1) The appropriate United Kingdom competent authority shall ensure, by 26th November 2013, that systems are established which enable distributors, advisors and professional users to have access to appropriate training by bodies deemed to be designated under paragraph (10) and to obtain certificates which, as a minimum, provide evidence of sufficient knowledge of the subjects listed in Annex I to the Directive either by undergoing training or by other means (“certification systems”).

(2) Before 26th November 2016, for the purposes of Article 5(2), the appropriate United Kingdom competent authority must designate, by including their names on a list published by that authority, bodies responsible for the implementation of certification systems (“awarding bodies”) and that authority may update that list from time to time.

(3) The appropriate United Kingdom competent authority may only designate an awarding body if—

- (a) the authority is satisfied that the body has the necessary capability to implement a certification system; and
- (b) its awards are accredited by a regulator in the United Kingdom or it is subject to independent review by a regulator in the United Kingdom.

(4) An awarding body will no longer be designated if the appropriate United Kingdom competent authority removes its name from its published list of awarding bodies.

(5) The appropriate United Kingdom competent authority may remove the name of an awarding body from its published list of awarding bodies if the awarding body no longer satisfies the criteria set out in paragraph (3).

(6) A specified certificate provides evidence of sufficient knowledge of the subjects listed in Annex I to the Directive acquired by professional users, distributors and advisors either by undergoing training or by other means.

(7) Where the holder of a specified certificate is convicted of an offence under these Regulations, under the Plant Protection Products Regulations 2011⁽⁹⁾, or under the Plant Protection Products Regulations (Northern Ireland) 2011⁽¹⁰⁾ that certificate is deemed to be withdrawn immediately

⁽⁹⁾ S.I. 2011/2131.

⁽¹⁰⁾ S.R. (NI) 2011 No 295 amended by S.R. (NI) 2012 No12.

on receipt of a notice in writing notifying him or her of that fact served by the appropriate United Kingdom competent authority.

(8) A person whose certificate is deemed to be withdrawn pursuant to paragraph (7) may, by satisfying the relevant criteria, obtain another certificate.

(9) If the holder of a certificate deemed to be withdrawn pursuant to paragraph (7) successfully appeals against his or her conviction, his or her certificate is no longer deemed to be withdrawn.

(10) For the purposes of Article 5(1), the bodies designated by awarding bodies are deemed to be those bodies that offer training on the subjects listed in Annex I to the Directive leading to an accredited award in relation to plant protection products.

(11) Before 26th November 2013, the appropriate United Kingdom competent authority must publish a list of certificates, updated from time to time, that provide evidence of sufficient knowledge of the subjects listed in Annex I to the Directive acquired either by undergoing training or by other means.

(12) In this regulation—

“accredited award” means an award accredited by a regulator in the United Kingdom or an award that is offered by a body that is subject to independent review by a regulator in the United Kingdom;

“advisor” means any person who has acquired adequate knowledge of and advises on pest management and the safe use of plant protection products, in the context of a professional capacity or commercial service, including private, self-employed and public advisory services, commercial agents, food producers and retailers where applicable;

“awarding body” means a body responsible for implementing a certification system;

“a regulator in the United Kingdom” means—

- (a) in relation to England, the Quality Assurance Agency or the Office of Qualifications and Examinations Regulation;
- (b) in relation to Wales, the Welsh Ministers or the Quality Assurance Agency (Wales);
- (c) in relation to Scotland, the Quality Assurance Agency (Scotland) or the Scottish Qualifications Authority;
- (d) in relation to Northern Ireland, the Northern Ireland Council for Curriculum Examinations and Assessment or the Office of Qualifications and Examinations Regulation.

Designation of authorities (inspection of equipment in use)

6.—(1) For the purposes of Article 8(6), the appropriate United Kingdom competent authority must designate the bodies responsible for implementing inspection systems for plant protection product application equipment (“implementing bodies”) by including their names on a list published by that authority.

(2) The appropriate United Kingdom competent authority must designate implementing bodies if it is of the opinion that those bodies implement inspection systems which comply with the requirements for inspections set out in Annex II to the Directive.

(3) The appropriate United Kingdom competent authority may remove the name of an implementing body from its published list of implementing bodies if it is of the opinion that it no longer satisfies the criterion set out in paragraph (2).

(4) Implementing bodies must keep a register of inspectors who carry out inspections of plant protection product application equipment, such inspections being carried out in order to ascertain whether such equipment meets the relevant requirements set out in Annex II to the Directive (“the register”).

(5) Where an inspector on the register (“registered inspector”) is satisfied that plant protection product application equipment meets the relevant requirements listed in Annex II to the Directive, such equipment will pass inspection and “passed inspection” in this regulation shall be construed accordingly.

(6) Implementing bodies must ensure that the systems implemented by them require registered inspectors to provide the owner or lessee of plant protection product application equipment that has passed inspection with an inspection certificate.

(7) An inspection certificate issued by a registered inspector pursuant to paragraph (6), or by a body responsible for implementing inspection systems for plant protection product application equipment in another Member State is evidence that the plant protection product application equipment to which the certificate relates has passed inspection.

(8) In this regulation, “inspection certificate” means evidence in writing that plant protection product application equipment has passed inspection.

Designation of authorities (aerial spraying)

7.—(1) For the purposes of Article 9, the appropriate United Kingdom competent authority is the competent authority for—

- (a) authorising aerial spraying;
- (b) establishing the specific conditions under which aerial spraying may be carried out;
- (c) examining requests pursuant to Article 9(4); and
- (d) making information public in accordance with Article 9(3).

(2) For the purposes of Article 9(2)(d), the Civil Aviation Authority is the competent authority responsible for issuing certificates referred to in Schedule 2, paragraph (7)(e).

Requirements for specified certificates

8.—(1) No person shall use a plant protection product authorised for professional use unless they hold a specified certificate or work under supervision.

(2) No person shall cause or permit any other person to use a plant protection product authorised for professional use unless the person using the product holds a specified certificate or works under supervision.

(3) This regulation does not apply to any person who uses a plant protection product authorised for professional use if—

- (a) he or she was born on or before 31st December 1964; and
- (b) he or she uses plant protection products authorised for professional use on crops, land, produce, buildings, or the contents of buildings, materials or other areas intended to be treated which are owned or occupied by himself or herself or by his or her employer and he or she is competent to use such products.

(4) Paragraph (3) ceases to have effect on 25th November 2015.

Requirements for sales and purchases of plant protection products

9.—(1) Subject to Schedule 1 (exemption for micro-distributors), distributors who sell to end-users must ensure that sufficient staff holding specified certificates are available at the time of the sale of plant protection products to provide adequate information to customers as regards use, health and environmental risks and safety instructions to manage those risks for the products in question.

(2) This regulation does not oblige any distributor to employ staff, but any distributor to which the exemption for micro-distributors in paragraph 1 of Schedule 1 does not apply and who does not employ staff must hold a specified certificate.

(3) Schedule 1 has effect.

(4) Distributors who sell plant protection products to persons other than professional users must provide general information regarding the risks for human health and the environment of plant protection product use, in particular on hazards, exposure, proper storage, handling, application and safe disposal in accordance with European Union legislation on waste, as well as regarding low-risk alternatives.

(5) A person (P) must not purchase, or cause another person to purchase, a professional product for use by any individual (including P) unless that individual holds a specified certificate or, if that individual does not hold a certificate, either of the conditions set out in paragraph (6) is satisfied.

(6) The conditions referred to in paragraph (5) are—

- (a) where a professional product is purchased for use by P, P intends to work under supervision; or
- (b) where a professional product is purchased for use by an individual other than P, P must reasonably believe that such an individual will use that product under supervision.

(7) In this regulation, “professional product” means a plant protection product authorised for professional use.

Use of plant protection products

10.—(1) A person who uses, or causes or permits an individual to use, a plant protection product must ensure—

- (a) that all reasonable precautions are taken to protect human health and the environment;
- (b) that the application of the plant protection product is confined to the crop, land, produce, buildings, contents of buildings, materials or other areas intended to be treated; and
- (c) when the product is used in any of the places listed in paragraph (2), that the amount used and the frequency of use are as low as reasonably practicable.

(2) The places referred to in paragraph (1)(c) are—

- (a) areas used by the general public or by vulnerable groups;
- (b) areas in the close vicinity of healthcare facilities;
- (c) protected areas of the type referred to in paragraph 1(v) of Annex IV to Directive [2000/60/EC](#) of the European Parliament and of the Council establishing a framework for Community action in the field of water policy⁽¹¹⁾ (“Directive [2000/60/EC](#)”) or other areas identified for the purposes of establishing the necessary conservation measures in accordance with the provisions in Directive [2009/147/EC](#) of the European Parliament and of the Council on the conservation of wild birds⁽¹²⁾ and Council Directive [92/43/EEC](#) on the conservation of natural habitats and of wild fauna and flora⁽¹³⁾;
- (d) areas recently treated with a plant protection product and used by or accessible to agricultural workers;
- (e) on or along roads, railway lines, very permeable surfaces, or other infrastructure close to surface water or groundwater; or
- (f) on sealed surfaces with a high risk of run-off into surface water or sewage systems.

⁽¹¹⁾ OJ No L 327, 22.12.2000, p1.

⁽¹²⁾ OJ No L 20, 26.1.2010, p7.

⁽¹³⁾ OJ No L206, 22.7.1992, p7.

(3) A person who uses, or causes or permits an individual to use a plant protection product in the circumstances set out in paragraph (4) must, so far as is reasonably practicable, use or cause or require the use of a plant protection product not classified as dangerous for the aquatic environment pursuant to Directive 1999/45/EC⁽¹⁴⁾ nor containing priority hazardous substances as referred to in Article 16(3) of Directive 2000/60/EC (“priority hazardous substances”).

(4) The circumstances referred to in paragraph (3) are—

- (a) the use of the plant protection product represents a risk to the aquatic environment or drinking water; and
- (b) there is a product authorised for use in the particular situation which is neither classified as dangerous for the aquatic environment pursuant to Directive 1999/45/EC nor containing priority hazardous substances.

(5) Where necessary in order to protect non-target aquatic organisms, the appropriate United Kingdom competent authority must include in authorisations and permits granted under Regulation 1107/2009 a requirement for an appropriately sized buffer zone.

(6) In this regulation—

- (a) “areas used by the general public” includes public parks and gardens, sports and recreation grounds, school grounds and children’s playgrounds;
- (b) “sealed surfaces” means surfaces that do not allow liquid to pass through them;
- (c) “vulnerable groups” means persons needing specific consideration when assessing the acute and chronic health effects of plant protection products, including pregnant and nursing women, the unborn, infants and children, the elderly and workers and residents subject to high plant protection product exposure over the long term.

Inspection of specified plant protection product application equipment

11.—(1) This regulation applies in relation to the following plant protection product application equipment in professional use (“specified equipment”)—

- (a) spraying equipment mounted on trains or aircraft;
- (b) boom sprayers longer than 3 metres, including boom sprayers mounted on sowing equipment and variable geometry booms; and
- (c) vehicle-mounted or drawn sprayers which broadcast spray droplets, in an air stream produced by forced air, which carry upwards and outwards from the source of the spray.

(2) A person who owns or leases specified equipment that was purchased for the first time on or before 26th November 2011 must ensure that it is inspected before 26th November 2016.

(3) Paragraph (2) ceases to have effect on 26th November 2016.

(4) A person who owns or leases specified equipment that was purchased for the first time after 26th November 2011 and is less than five years old starting with the date of first purchase must ensure that it is inspected before the fifth anniversary of the date of first purchase.

(5) A person who owns or leases specified equipment that is more than five years old starting with the date of first purchase must ensure that—

- (a) prior to 26th November 2020 such equipment is inspected at least once every five years;
- (b) after 26th November 2020 such equipment is inspected at least once every three years.

(6) Where by 26th November 2020 specified equipment that is more than five years old starting with the date of first purchase has not been inspected for three years, the person who owns or leases that equipment must ensure that it is inspected by that date.

(14) OJ No L200, 30.7.1999, p1.

Inspection of other plant protection product application equipment

12.—(1) This regulation applies in relation to plant protection product application equipment in professional use other than—

- (a) plant protection product application equipment to which regulation 11(1) applies;
- (b) handheld equipment; and
- (c) knapsack sprayers.

(2) A person who owns or leases other equipment that was purchased for the first time on or before 26th November 2011 must ensure that it is inspected before 26th November 2016.

(3) Paragraph (2) ceases to have effect on 26th November 2016.

(4) A person who owns or leases other equipment that was purchased for the first time after 26th November 2011 and is less than five years old starting with the date of first purchase must ensure that it is inspected before the fifth anniversary of the date of first purchase.

(5) A person who owns or leases other equipment that is more than five years old starting with the date of first purchase must ensure that it is inspected at least once every six years.

(6) In this regulation, “other equipment” means plant protection product application equipment to which this regulation applies.

Inspection by professional user

13. Professional users must conduct regular calibrations and technical checks of the plant protection product application equipment they use having regard to the nature of the equipment and in accordance with the training referred to in regulation 5(1).

Use of equipment

14.—(1) A person who owns or leases plant protection product application equipment must ensure that such equipment is not used by a professional user unless it has passed inspection conducted in accordance with the requirements of regulation 11 or 12 (as the case may be).

(2) In this regulation “passed inspection” has the same meaning as in regulation 6(5).

Aerial spraying

15.—(1) Subject to paragraph (2), no person shall carry out aerial spraying or cause or permit another person to carry out aerial spraying.

(2) A person may carry out aerial spraying or cause or permit another person to carry out aerial spraying if such spraying is authorised by an aerial spraying permit.

(3) Schedule 2 (aerial spraying permits) has effect.

(4) The pilot carrying out the aerial spraying must comply with the conditions set out in the aerial spraying permit which are identified as being for the pilot.

(5) The holder of the aerial spraying permit (“permit holder”) must—

- (a) comply with the conditions set out in the aerial spraying permit which are identified as being for the permit holder; and
- (b) take all reasonable precautions to ensure that the pilot complies with the conditions set out in the aerial spraying permit which are identified as being for the pilot.

(6) The appropriate United Kingdom competent authority must—

- (a) keep records of the applications for aerial spraying permits and the information accompanying those applications which is required by paragraph 3 of Schedule 2; and

- (b) make available to the public information contained in those records such as the area to be sprayed, the provisional day and time of spraying and the type of plant protection product in accordance with its national law or European Union law.

Applications for aerial spraying permits: provision of information

16.—(1) A person making an application for an aerial spraying permit must not—

- (a) make a statement which that person knows 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.

(2) A person must not cause or permit any person, in relation to an application for an aerial spraying permit, to make a statement which the former knows to be false in a material particular.

Handling and storage of plant protection products and treatment of their packaging and remnants

17.—(1) A professional user or distributor who carries out any of the operations set out in paragraph (2) must take all reasonable precautions to ensure that such operations do not endanger human health or the environment.

(2) The operations referred to in paragraph (1) are—

- (a) the storing, handling, diluting or mixing of plant protection products before application;
- (b) the handling of the packaging and remnants of plant protection products;
- (c) the disposal of tank mixtures remaining after the application of plant protection products;
- (d) the cleaning of plant protection product application equipment after the application of that product;
- (e) the recovering or disposing of plant protection product remnants and their packaging.

(3) No person shall combine or mix for use two or more plant protection products which are anticholinesterase compounds unless such a combination or mixture is expressly authorised or permitted by —

- (a) the conditions of an authorisation or permit granted in accordance with Regulation 1107/2009 given in relation to at least one of those plant protection products; or
- (b) the labelling of the container in which at least one of those plant protection products has been sold, supplied or otherwise marketed to that person.

(4) No person shall combine or mix for use two or more plant protection products unless—

- (a) all of the conditions of the authorisation or the permit given in relation to each of those plant protection products; and
- (b) the conditions on the label of the container in which each of those plant protection products has been sold, supplied or otherwise marketed to that person

are complied with.

(5) A person who stores plant protection products for professional use must ensure that such products are stored in areas that are constructed in such a way as to prevent unwanted releases.

(6) A person must not store a plant protection product, or cause or permit another person to do so, unless storage of that product is authorised or permitted under a valid authorisation or permission granted in accordance with Regulation 1107/2009.

Code of practice

18.—(1) The appropriate United Kingdom competent authority may from time to time, for the purpose of providing practical guidance in respect of any requirements in these Regulations or Regulation 1107/2009—

- (a) prepare and issue such codes of practice as are in its opinion suitable for that purpose; and
- (b) revise any such code by revoking, amending or adding to the provision of the code.

(2) The appropriate United Kingdom competent authority must not issue or revise a code of practice under paragraph (1) without having consulted such persons, government departments and bodies that appear to it to be appropriate.

(3) Where a code of practice is issued or revised by the appropriate United Kingdom competent authority under paragraph (1), that authority must issue a notice identifying the code in question and stating the date on which it, or the revision, is to take effect.

(4) The appropriate United Kingdom competent authority may withdraw a code issued under paragraph (1) or any part of it and, if it does so, it must issue a notice identifying the code in question or relevant part of it and stating the date on which it, or the relevant part of it, is to cease to have effect.

(5) A failure on the part of any person to follow any guidance contained in a code issued under paragraph (1) shall not render that person liable to proceedings of any kind.

(6) In all civil and criminal proceedings any code issued under this regulation shall be admissible in evidence and if the failure to follow any guidance in such a code appears to the court conducting the proceedings to be relevant to any question arising in the proceedings, it shall be taken into account in determining that question.

Enforcement

19.—(1) These Regulations are enforced by—

- (a) the Secretary of State in relation to England;
- (b) the Welsh Ministers in relation to Wales;
- (c) the Scottish Ministers in relation to Scotland; and
- (d) the Department in relation to Northern Ireland.

(2) The Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of offences under these Regulations in so far as those functions relate to offences committed in England.

Powers of authorised persons

20.—(1) The Secretary of State (in relation to England), the Welsh Ministers (in relation to Wales), the Scottish Ministers (in relation to Scotland) and the Department (in relation to Northern Ireland) may authorise any person to exercise the powers set out in Schedule 3.

(2) An authorised person, if so authorised by the person authorising him or her, may prosecute before a magistrates' court in England and Wales proceedings for an offence under these Regulations.

- (3) A person may be authorised for specified purposes.
- (4) An authorisation must be evidenced in writing.

(5) The Secretary of State and the Welsh Ministers acting jointly in relation to local authority officers in England and Wales, and the Scottish Ministers in relation to local authority officers in Scotland, may specify descriptions of local authority 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) If the Secretary of State and Welsh Ministers or the Scottish Ministers specify a description of local authority officers under paragraph (5), a local authority may authorise any of its officers falling within that description to exercise enforcement powers.

(8) Schedule 3 (powers of authorised persons) has effect.

(9) In this regulation “enforcement powers” means the powers set out in Schedule 3.

(10) In this regulation “local authority” means—

(a) in relation to England—

(i) where there is a unitary authority, within the meaning of the Local Government Changes for England Regulations 1994⁽¹⁵⁾, that authority;

(ii) where there is not a unitary authority—

(aa) in a metropolitan district, the council of that district;

(bb) in a non-metropolitan district, the council of that county or the council of a district within the county area;

(cc) in each London borough, the council of that borough;

(iii) in the City of London, the Common Council; or

(iv) the Council of the Isles of Scilly;

(b) in relation to Wales, a county council or a county borough council; and

(c) in relation to Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994⁽¹⁶⁾.

Evidence of authorisation

21.—(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.

Non-compliance with notices

22.—(1) A person must comply with the provisions of a notice served under paragraph 6(1) or 7(1) or (3) of Schedule 3.

(2) 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 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

23.—(1) A person—

⁽¹⁵⁾ S.I. 1994/867, to which there are amendments not relevant to these Regulations.

⁽¹⁶⁾ 1994 c.39.

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

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

- (a) regulation 8(1) or (2);
- (b) regulation 9(1), (2), (4) or (5);
- (c) regulation 10(1) or (3);
- (d) regulation 11(2), (4), (5) or (6);
- (e) regulation 12(2), (4) or (5);
- (f) regulation 13;
- (g) regulation 14(1);
- (h) regulation 15(1), (4) or (5);
- (i) regulation 16(1) or (2);
- (j) regulation 17(1), (3), (4), (5) or (6);
- (k) regulation 22(1);
- (l) regulation 23(1) or (2); or
- (m) regulation 31(1)

is guilty of an offence.

Offences by bodies corporate

25.—(1) Where a body corporate is guilty of an offence under these Regulations, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—

- (a) any director, manager, secretary or other similar officer of the body corporate; or
- (b) any person who was purporting to act in any such capacity,

he or she, as well as the body corporate, shall be guilty of the offence and be liable to be proceeded against and punished accordingly.

(2) In paragraph (1) “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

(3) Where an offence under these Regulations is committed in Scotland by a Scottish partnership and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of a partner or any person who was purporting to act in any such capacity, he or she as well as the partnership shall be guilty of the offence and liable to be proceeded against and punished accordingly.

Defences

26.—(1) In any proceedings for an offence under these Regulations, other than in relation to regulation 23(1)(a) or (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 the permission 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.

Penalties

27.—(1) A person guilty of an offence under these Regulations, other than for contravention of or failure to comply with regulation 22(1) or 23(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 22(1) or 23(1)(b) is liable on summary conviction to a fine of an amount not exceeding level 5 on the standard scale.

(3) For the purposes of the jurisdiction of a court to try offences under these Regulations, any offence under these Regulations may be treated as having been committed in any place in the United Kingdom.

Service of documents

28. Schedule 4 (service of documents) has effect.

Agency arrangements

29.—(1) The Scottish Ministers may arrange, with the agreement of the Secretary of State, for any of their functions under or for the purposes of the Directive and these Regulations to be exercised on their behalf by the Secretary of State.

(2) An arrangement under these Regulations in respect of any functions may include provisions for any fees and charges payable to the Scottish Ministers pursuant to regulation 6 of the Plant Protection Product (Fees and Charges) Regulations 2011(17) in respect of that function to be collected by the Secretary of State on behalf of the Scottish Ministers.

(3) An arrangement under these Regulations shall be in writing and be signed by, or on behalf of, the Scottish Ministers and the Secretary of State and such an arrangement may be subject to such conditions (including conditions as to the costs) as may be agreed.

Application to the Crown

30.—(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 or Duchy 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 Duchy 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 an office holder in the Scottish Administration or held in trust for Her Majesty for the purposes of a government department or the Scottish Administration;

“Crown occupation” means occupation by Her Majesty in right of the Crown or occupation by a government department or the Scottish Administration; and

“Duchy interest” means an interest belonging to Her Majesty in right of the Duchy of Lancaster, or belonging to the Duchy of Cornwall.

Transitional provisions

31.—(1) No person shall sell, supply or otherwise market to an end-user a plant protection product authorised for agricultural use unless that person—

- (a) has obtained a specified certificate; or
- (b) sells or supplies that plant protection product under supervision.

(2) In this regulation, “plant protection product authorised for agricultural use” means a plant protection product (other than a plant protection product with methyl bromide or chloropicrin as one of its active substances) authorised for one or more of the following uses—

- (a) agriculture;
- (b) horticulture (including amenity horticulture);
- (c) forestry
- (d) use in or near water other than for amateur, public hygiene or anti-fouling uses;
- (e) use as an industrial herbicide, including weed-killers for use on land not intended for the production of any crop.

(3) A certificate issued before 26th November 2013 which evidences knowledge of the safe use of plant protection products acquired by undergoing training or by other means, other than—

- (a) a certificate referred to in paragraphs (a) to (d) in the definition of “specified certificate” in regulation 2(1); and
- (b) a certificate issued by a body that has been designated under regulation 5(2),

is deemed to be a specified certificate until 26th November 2013 when it ceases to be a specified certificate for the purposes of these Regulations unless it appears in a list referred to in regulation 5(11).

(4) Paragraphs (1) and (2) cease to have effect after midnight on 25th November 2015.

(5) Any consent—

- (a) under the Plant Protection Products (Basic Conditions) Regulations 1997⁽¹⁸⁾ granted by, or on behalf of, the Secretary of State or the Scottish Ministers; or
- (b) under the Plant Protection Products (Basic Conditions) Regulations (Northern Ireland) 1997⁽¹⁹⁾ granted by or on behalf of the Department,

which is valid on 18th July 2012 is deemed to be an authorisation in accordance with Regulation 1107/2009 and any conditions in that consent are deemed to be requirements imposed under Regulation 1107/2009.

Amendments and revocations

32.—(1) The enactments specified in the Table in Schedule 5 are amended to the extent specified in the Table.

(2) Schedule 5 shall have effect.

(3) The following Regulations are revoked—

- (a) the Plant Protection Products (Basic Conditions) Regulations 1997; and
- (b) the Plant Protection Products (Basic Conditions) Regulations (Northern Ireland) 1997.

Richard Benyon
Parliamentary Under Secretary of State
Department for Environment, Food and Rural
Affairs

20th June 2012

⁽¹⁸⁾ S.I. 1997/189 amended by S.I.2011/2131.

⁽¹⁹⁾ S.R.(NI) 1997 No 470.