
EXPLANATORY NOTE

(This note is not part of the Regulation)

These Regulations, as respects the United Kingdom, transpose 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 (OJ No L309, 24.11.2009, p.71) (“the Directive”) and provide enforcement provisions.

The Directive applies to pesticides that are plant protection products as defined 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](#) (OJ No L309, 24.11.2009, p.1) (“PPPs”) and requires a common legal framework to be established for achieving a sustainable use of pesticides, taking account of precautionary and preventive approaches.

The terms and expressions used in these Regulations are defined in regulation 2, including a definition of “the appropriate United Kingdom competent authority” (“UKCA”).

Regulation 3 requires the Secretary of State to review the operation and effect of these Regulations as they have effect in relation to England and Wales and to publish a report within five years after they come into force and within every five years after that. Following a review it will fall to the Secretary of State to consider whether the Regulations, as they have effect in relation to England and Wales, should remain as they are, or be revoked or be amended. A further instrument would be needed to revoke the Regulations or to amend them.

Regulation 4 requires the Secretary of State, the Scottish Ministers and the Department to adopt a National Action Plan and to revise it as necessary.

Regulations 5 and 6 require the UKCA to designate the bodies to implement certification systems for training and the bodies responsible for implementing inspection systems for PPP application equipment respectively. The former provides for the withdrawal of certificates and deems training bodies as designated. The latter also deals with the registration of inspectors and certification of equipment.

Regulation 7 provides that the UKCA is the competent authority in relation aerial spraying and that the Civil Aviation Authority is the competent authority for certifying the operator responsible for providing aerial spray applications.

Regulation 8 prohibits the use of PPPs authorised for professional use unless the user holds a specified certificate or works under supervision except for those who are not required to hold certificates of competence by existing legislation. This exemption will not be available after 25th November 2015.

Regulation 9 requires distributors who sell to end-users to have sufficient staff who hold specified certificates to provide information at the time of sale. Micro-distributors are excluded from this requirement. It also prohibits purchase for use by a person who does not hold a certificate or work under supervision.

Regulation 10 provides that PPPs may only be used if all reasonable precautions are taken to protect human health and the environment, if the application is confined to the target area and, when used in specified places, if use is minimised. Preference must be given to certain products in specified situations (regulation 10(3)) and the UKCA must include a requirement for buffer zones in PPP authorisation where necessary.

Regulations 11 to 14 deal with the inspection of PPP application equipment.

Regulations 15 and 16 prohibit aerial spraying, unless permitted by an aerial spraying permit, and require the pilot and permit holder to comply with certain conditions. Requirements are imposed regarding the provision of information when applying for an aerial permit.

Changes to legislation: There are currently no known outstanding effects for the The Plant Protection Products (Sustainable Use) Regulations 2012. (See end of Document for details)

Regulation 17 requires reasonable precautions to be taken in relation to the storing, handling and mixing of PPPs and related activities.

Regulation 18 enables the UKCA to issue a code of practice and Regulations 19 to 23 set out enforcement provisions.

Regulation 24 creates a criminal offence of contravention or failure to comply with regulations 8 to 17, 22, 23 and 31. Regulation 25 makes provision in relation to offence by bodies corporate and Regulation 26 provides, in relation to certain regulations, the defence of having taken all reasonable precautions and having exercised due diligence to avoid the commission of an offence. Regulation 27 sets out the penalties for offences under these Regulations and regulation 28 gives effect to Schedule 4 (service of documents).

Regulation 29 provides that the Scottish Ministers may make agency agreements with the Secretary of State and Regulation 30 describes the circumstances in which an authorised person may perform his or her functions in relation to land in which there is a Crown or Duchy interest. Regulation 31 sets out the transitional provisions and regulation 32 provides for the amendments set out in Schedule 6 making changes to enforcement provisions and revokes the Plant Protection Products (Basic Condition) Regulations 1997 and the Plant Protection Products (Basic Condition) Regulation (Northern Ireland) 1997.

An impact assessment of the effect that this instrument will have on the costs to business and the voluntary sector is available publically on the Impact Assessment Library <http://www.ialibrary.bis.gov.uk/> and is published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk.

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