

[<sup>F1</sup>SCHEDULE A1

Regulation 2(1)

Modification of the Directive

**Textual Amendments**

**F1** Sch. A1 inserted (31.12.2020) by [The Pesticides and Fertilisers \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/306\)](#), reg. 1(4), **Sch.** (as amended by [S.I. 2020/1376](#), regs. 1(4), **5(5)**); 2020 c. 1, **Sch. 5 para. 1(1)**

1. For the purposes of these Regulations, the Directive is to be read as follows.
2. A reference in the Directive to “Member States”—
  - (a) in Article 4, is to be read as a reference to the Ministers and the Department;
  - (b) except in Article 8(6), is otherwise to be read as a reference to the appropriate United Kingdom competent authority.
3. Article 3 is to be read as if in paragraph 10(b), for the words from “Directive [98/8/EC](#)” to the end there were substituted “ Regulation (EU) No 528/2012 of the European Parliament and of the Council concerning the making available on the market and use of biocidal products ”.
4. Article 4 is to be read as if—
  - (a) in paragraph 1, in the fifth subparagraph, for the words from “Community” to the end substitute “ retained EU law on the use of pesticides ”;
  - (aa) after paragraph 1 there were inserted—

“**1A.** For the purposes of paragraph 1, “retained EU law on the use of pesticides” in relation to Northern Ireland includes any European Union legislation on the use of pesticides which has effect in Northern Ireland by virtue of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement.”;
  - (b) in paragraph 2—
    - (i) the first subparagraph were omitted;
    - (ii) in the second subparagraph, the words from “and any substantial” to the end were omitted;
  - (c) paragraphs 3 and 4 were omitted;
  - (d) in paragraph 5, the reference to Article 2 of Directive [2003/35/EC](#) were a reference to that Article read in accordance with paragraph 16.
5. Article 5 is to be read as if paragraph 3 were omitted.
6. Article 6 is to be read as if—
  - (a) in paragraph 1, in the third sentence, for the words from “as toxic” to the end there were substituted “ for acute toxicity, carcinogenicity, germ cell mutagenicity, or reproductive toxicity pursuant to Regulation [1272/2008](#) ”;
  - (b) in paragraph 3, for “Community legislation” there were substituted “ retained EU law ”.
  - (c) after paragraph 3 there were inserted—

“**3A.** For the purposes of paragraph 3, “retained EU law on waste” in relation to Northern Ireland includes any European Union legislation on waste which has effect in Northern Ireland by virtue of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement.”.

7. Article 7 is to be read as if paragraph 3 were omitted.
8. Article 8 is to be read as if—
  - (a) in paragraph 4, the second subparagraph were omitted;
  - (b) in paragraph 6—
    - (i) in the first subparagraph—
      - (aa) for “Member States” there were substituted “ The appropriate United Kingdom competent authority ”;
      - (bb) “and inform the Commission thereof” were omitted;
    - (ii) in the second subparagraph—
      - (aa) for “Member State” in the first place it occurs there were substituted “ appropriate United Kingdom competent authority ”;
      - (bb) for “in other” there were substituted “ by the other appropriate United Kingdom competent authorities or ”;
      - (cc) for “in another” there were substituted “ by another appropriate United Kingdom competent authority or by a ”;
    - (iii) in the third subparagraph—
      - (aa) for “Member States” in the first place it occurs there were substituted “ The appropriate United Kingdom competent authority ”;
      - (bb) for “in other” there were substituted “ by other appropriate United Kingdom competent authorities or ”;
  - (c) paragraph 7 were omitted.
9. Article 9 is to be read as if—
  - (a) in paragraph 2(b), for “Member State” there were substituted “ appropriate United Kingdom competent authority ”;
  - (b) in paragraph 3, in the first subparagraph, for “shall designate the authorities competent for establishing” there were substituted “ must establish ”;
  - (c) in paragraph 6, for “or Community law” there were substituted “law or, in relation to Northern Ireland, any European Union legislation which has effect in Northern Ireland by virtue of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement.”.
10. Article 11(2)(a) is to be read as if—
  - (a) for “dangerous for the aquatic environment pursuant to Directive 1999/45/EC” there were substituted “ hazardous to the aquatic environment pursuant to Regulation 1272/2008 ”;
  - (b) for “Article 16(3) of” there were substituted “ Annex 10 to ”.
11. Article 12 is to be read as if for point (b) there were substituted—

“(b) the areas described in regulation 10(2)(c) of the Plant Protection Products (Sustainable Use) Regulations 2012;”.
12. Article 13 is to be read as if—
  - (a) in paragraph 1(e), for “Community legislation” there were substituted “retained EU law”;
  - (b) after paragraph 1 there were inserted—

“1A. For the purposes of paragraph 1(e), “retained EU law on waste” in relation to Northern Ireland, includes any European Union legislation on waste which has effect in Northern Ireland by virtue of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement.”.

- 13.** Article 14 is to be read as if—
- (a) paragraph 3 were omitted;
  - (b) in paragraph 4, the second subparagraph were omitted.
- 14.** Article 15 is to be read as if—
- (a) in paragraph 1—
    - (i) in the first subparagraph—
      - (aa) in the first sentence, “Harmonised” were omitted;
      - (bb) in the second sentence, for “harmonised ones” there were substituted “ risk indicators in Annex IV ”;
    - (ii) the second subparagraph were omitted;
  - (b) in paragraph 2, in point (a)—
    - (i) “harmonised” were omitted;
    - (ii) for “the Community legislation concerning statistics on plant protection products” there were substituted—
      - (aa) in relation to Northern Ireland, “Annex 4 to [Directive 2009/128/EC](#)”;
      - (bb) otherwise, “Article 67(3) of Regulation [\(EC\) No 1107/2009](#) of the European Parliament and of the Council”.
  - (c) for paragraph 3 there were substituted—

“3. The appropriate United Kingdom competent authority must make available the results of the evaluations carried out pursuant to paragraph 2 to the public.”;
  - (d) paragraph 4 were omitted.
- 15.** Annex 1 is to be read as if, in paragraph 7 for “relieves” there were substituted “topography”.
- 15A.—**(1) Annex 4 is to be read as follows.
- (2) Section 1 is to be read as if—
- (a) in the heading, “Harmonised” were omitted;
  - (b) in the paragraph, “harmonised” were omitted”;
  - (c) after the paragraph there were inserted—

“In this Annex, “approvals register” has the meaning given in Article 3(31B) of Regulation 1107/2009.”.
- (3) Section 2 is to be read as if—
- (a) “Harmonised” in each place it occurs (including in the headings) were omitted;
  - (b) in paragraph 1, in the first sentence, for the words from “provided to” to the end there were substituted—

“in relation to Northern Ireland, collected in accordance with Annex 4 to [Directive 2009/128/EC](#), otherwise, collected in accordance with Article 67(3) of that Regulation.”;
  - (c) for paragraph 2(b) to (e) there were substituted—
    - “(b) the active substances in Group 1 (categories A and B)—
      - (i) in relation to Northern Ireland, are those listed in Part D of the Annex to Commission Implementing Regulation (EU) No 540/2011;

**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)

- (ii) otherwise, are those listed as low-risk active substances in the approvals register;
- (c) the active substances in Group 2 (categories C and D)—
  - (i) in relation to Northern Ireland, are those listed in Parts A and B of the Annex to Commission Implementing Regulation (EU) No 540/2011;
  - (ii) otherwise, are those listed in the approvals register as active substances which are not basic substances, low-risk active substances or candidates for substitution;
- (d) the active substances in Group 3 (categories E and F)—
  - (i) in relation to Northern Ireland, are those listed in Part E of the Annex to Commission Implementing Regulation (EU) No 540/2011;
  - (ii) otherwise, are those listed as candidates for substitution in the approvals register;
- (e) the active substances in Group 4 (category G) are those not approved under Regulation (EC) No 1107/2009, and therefore not listed—
  - (i) in relation to Northern Ireland, in the Annex to Commission Implementing Regulation (EU) No 540/2011;
  - (ii) otherwise, in the approvals register;”;
- (d) in Table 1, in Row (i)—
  - (i) in the second column—
    - (aa) after “listed” there were inserted “, in relation to Northern Ireland,”;
    - (bb) at the end there were inserted “, or, otherwise, in the approvals register”;
  - (ii) for the entry in the third column there were substituted—

“Active substances approved or deemed to be approved under Regulation (EC) No 1107/2009 which—

    - (a) in relation to Northern Ireland—
      - (i) do not fall in other categories, and
      - (ii) are listed in Parts A and B of the Annex to Implementing Regulation (EU) No 540/2011;
    - (b) otherwise, are not basic substances, low-risk active substances or candidates for substitution and are listed in the approvals register”;
  - (iii) in the fourth and fifth columns—
    - (aa) after “listed” there were inserted “, in relation to Northern Ireland,”;
    - (bb) at the end there were inserted “, or, otherwise, in the approvals register”;
- (e) in paragraph 7—
  - (i) for “Member States and the Commission” there were substituted “appropriate United Kingdom competent authority”;
  - (ii) for “15(4)” there were substituted “15(3)”.
- (4) Section 3 is to be read as if—
  - (a) “Harmonised” in each place it occurs (including in the headings) were omitted;
  - (b) in paragraph 1, in the first sentence, after “Regulation (EC) No 1107/2009” there were inserted “and, in relation to Northern Ireland only,”;
  - (c) for paragraph 2(b) to (e) there were substituted—

- “(b) the active substances in Group 1 (categories A and B)—
    - (i) in relation to Northern Ireland, are those listed in Part D of the Annex to Commission Implementing Regulation (EU) No 540/2011;
    - (ii) otherwise, are those listed as low-risk active substances in the approvals register;
  - (c) the active substances in Group 2 (categories C and D)—
    - (i) in relation to Northern Ireland, are those listed in Parts A and B of the Annex to Commission Implementing Regulation (EU) No 540/2011;
    - (ii) otherwise, are those listed in the approvals register as active substances which are not basic substances, low-risk active substances or candidates for substitution;
  - (d) the active substances in Group 3 (categories E and F)—
    - (i) in relation to Northern Ireland, are those listed in Part E of the Annex to Commission Implementing Regulation (EU) No 540/2011;
    - (ii) otherwise, are those listed as candidates for substitution in the approvals register;
  - (e) the active substances in Group 4 (category G) are those not approved under Regulation (EC) No 1107/2009, and therefore not listed—
    - (i) in relation to Northern Ireland, in the Annex to Commission Implementing Regulation (EU) No 540/2011;
    - (ii) otherwise, in the approvals register;”;
  - (d) in Table 2, in row (i)—
    - (i) in the second column—
      - (aa) after “listed” there were inserted “, in relation to Northern Ireland;”;
      - (bb) at the end there were inserted “, or, otherwise, in the approvals register”;
    - (ii) for the entry in the third column there were substituted—

“Active substances approved or deemed to be approved under Regulation (EC) No 1107/2009 which—

      - (a) in relation to Northern Ireland—
        - (i) do not fall in other categories, and
        - (ii) are listed in Parts A and B of the Annex to Implementing Regulation (EU) No 540/2011;
      - (b) otherwise, are not basic substances, low-risk active substances or candidates for substitution and are listed in the approvals register”;
    - (iii) in the fourth and fifth columns—
      - (aa) after “listed” there were inserted “, in relation to Northern Ireland;”;
      - (bb) at the end there were inserted “, or, otherwise, in the approvals register”;
  - (e) in paragraph 6—
    - (i) for “Member States and the Commission” there were substituted “appropriate United Kingdom competent authority”;
    - (ii) for “15(4)” there were substituted “15(3)”.
- 16.** For the purposes of paragraph 4(d), Article 2 of Directive 2003/35/EC is to be read as if—
- (a) a reference to Member States were a reference to the Ministers and the Department;

(b) paragraph 5 were omitted.]

## SCHEDULE 1

Regulation 9(3)

### Exemption for micro-distributors

#### The exemption

1. Regulation 9(1) does not apply in relation to a distributor—
  - (a) if the distributor was a micro-distributor in its preceding financial year and the accounts for that period are closed;
  - (b) if the distributor had an annual turnover which did not exceed 2 million euros in its preceding financial year; and
  - (c) if the only plant protection products offered for sale by that distributor are for non-professional use and are not formulations classified as toxic, very toxic, carcinogenic, mutagenic or toxic for reproduction pursuant to [F2Regulation 1272/2008].

#### Textual Amendments

- F2** Words in Sch. 1 para. 1(c) substituted (17.9.2018) by [The Environment, Food and Rural Affairs \(Miscellaneous Amendments and Revocations\) Regulations 2018 \(S.I. 2018/942\)](#), regs. 1(2), **20(4)**

#### Micro-distributor

2. A distributor is a micro-distributor in a financial year if the number of weeks when the distributor has fewer than 10 employees is greater than the number of weeks when the distributor has 10 or more employees.

#### Number of employees of a distributor

3. A distributor has fewer than 10 employees in a week if the total number of hours for which all the employees of the distributor are contracted to work in that week is less than 375.

#### Employees

4.—(1) “Employee” means an individual who has entered into or works under a contract of employment.

(2) In paragraph (1) “contract of employment” means a contract of service, whether express or implied, and (if it is express) whether oral or in writing.

#### Franchises

5. A distributorship that is carried on pursuant to a franchise agreement is treated as part of the distributorship of the franchisor (and not as a separate distributorship carried on by the franchisee).

#### Interpretation

6.—(1) “Annual turnover” means the amounts derived from the provision of goods and services falling within the distributor's ordinary activities, after deduction of—

- (a) trade discounts,
  - (b) value added tax, and
  - (c) any other taxes based on the amounts so derived.
- (2) “Financial year” means the period of twelve months for which the income of the distributor is computed for the purposes of the tax legislation that applies to it.
- (3) “Preceding financial year” means the financial year immediately preceding the distributor's current financial year.
- (4) References to an amount in euros includes references to an equivalent amount in sterling, and the equivalent amount in sterling is calculated using the London closing exchange rate for sterling and the euro on the last day of the distributor's preceding financial year.
- (5) Paragraphs 2 to 5 and this paragraph apply in relation to the interpretation of the exemption in paragraph 1.

## SCHEDULE 2

Regulation 15(3)

### Aerial spraying permits

1. An application for an aerial spraying permit must be made to the appropriate United Kingdom competent authority.
2. The appropriate United Kingdom competent authority must publish the deadlines by which applications for aerial spraying must be submitted to the competent authorities and the deadlines by which the competent authorities must communicate their decisions on applications for aerial spraying to the applicants.
3. An application for an aerial spraying permit must be accompanied by the following (“the required information”)—
  - (a) a request for approval of an application plan or confirmation that an application plan has already been approved by the appropriate United Kingdom competent authority;
  - (b) information about the provisional time of spraying and the amount and type of plant protection product or products to be applied; and
  - (c) evidence to show that the conditions set out in paragraph 7, other than at sub-paragraph (b), are satisfied.
4. If an applicant for an aerial spraying permit—
  - (a) has been informed by the appropriate United Kingdom competent authority that the application plan accompanying that application has been approved; but
  - (b) has not received confirmation that an aerial spraying permit covering all or part of the applications referred to in that plan has been granted before the published deadline for the appropriate United Kingdom competent authority to communicate that decision,the application for that aerial spraying permit is deemed to be approved.
5. If the application for an aerial spraying permit—
  - (a) is not accompanied by the required information; or
  - (b) has not been submitted by the relevant deadline established under paragraph 2,the relevant United Kingdom competent authority must inform the applicant of that fact by a notice in writing and need not consider the application.

6. Where an application for an aerial spraying permit is not accompanied by the required information, the application is only treated as being submitted when the last piece of that information is submitted to the appropriate United Kingdom competent authority.

7. An aerial spraying permit must not be issued unless the application plan is approved and the following conditions are met—

- (a) there must be no viable alternatives, or there must be clear advantages in terms of reduced impacts on human health and the environment as compared with land-based application of plant protection products;
- (b) the application contains information about the provisional time of spraying and the amounts and type of plant protection product or products to be applied;
- (c) the plant protection product or products to be used must be explicitly authorised for aerial spraying by the appropriate United Kingdom competent authority following a specific assessment addressing the risks from aerial spraying;
- (d) the application contains the reference numbers of the specified certificates of all individuals who will be carrying out the aerial spraying or any part of it;
- (e) every aircraft to be used for aerial spraying must be identified in an aerial application certificate granted by the Civil Aviation Authority under [F3 article 91(2) of the Air Navigation Order 2016] and held by the operator of such aircraft;
- (f) the area to be sprayed must not be in close proximity to any residential area; and
- (g) after 31st December 2012, the aircraft is equipped with accessories that constitute the best available technology to reduce spray drift.

#### Textual Amendments

**F3** Words in Sch. 2 para. 7(e) substituted (25.8.2016) by [The Air Navigation Order 2016 \(S.I. 2016/765\)](#), art. 1, [Sch. 14 para. 4](#) (with arts. 17-23, 274(2)-(4))

8. The appropriate United Kingdom competent authority must specify in each aerial spraying permit it issues—

- (a) the conditions under which aerial spraying must be carried out;
- (b) the conditions which apply to the individual carrying out the aerial spraying (“the pilot”) or the holder of the aerial spraying permit (“the permit holder”) or to both;
- (c) specific risk management measures to ensure that there are no adverse effects on the health of bystanders if the area to be sprayed by way of aerial spraying is in close proximity to areas open to the public; and
- (d) the necessary measures to be taken by the permit holder for warning residents and bystanders in due time, and the measures necessary to protect the environment in the vicinity of the area sprayed.

9. A United Kingdom competent authority may withdraw or amend an aerial spraying permit it has issued where—

- (a) any of the conditions in paragraph 7, other than sub-paragraph (b), are not or are no longer satisfied;
- (b) false or misleading information was supplied concerning the facts on the basis of which the permit was granted;
- (c) a condition in the permit has not been met;

- (d) on the basis of developments in scientific and technical knowledge, the manner of use of the plant protection product or products referred to in the permit or the amounts used or both can be amended; or
- (e) the permit holder or the pilot has contravened or has failed to comply with any of the obligations imposed upon them under these Regulations, the Plant Protection Products Regulations 2011 <sup>M1</sup> or the Plant Protection Products Regulations (Northern Ireland) 2011 <sup>M2</sup>.

#### Marginal Citations

**M1** S.I. 2011/2131.

**M2** S.R. (NI) 2011 No 295 amended by S.R. (NI) 2012 No 12.

**10.** The appropriate United Kingdom competent authority may withdraw or amend an aerial spraying permit it has issued at the request of the permit holder.

**11.** If the permit holder requests that the permit be amended or withdrawn by the appropriate United Kingdom competent authority, that person must state the reasons for the request.

**12.** If the appropriate United Kingdom competent authority withdraws or amends an aerial spraying permit it has issued in accordance with paragraph 9 or 10, it shall immediately inform the permit holder.

## SCHEDULE 3

Regulation 20(8)

### Powers of authorised persons

#### Powers of entry

**1.—(1)** An authorised person may enter any premises (except any premises used wholly or mainly as a private dwelling) if he or she has reasonable grounds to believe that any plant protection product is being, or has been, applied to or stored on or in them, transported on or applied by means of them and that it is necessary to enter for the purpose of ensuring that these Regulations are complied with.

**(2)** 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 the power of entry may be frustrated if he or she seeks to exercise them at a reasonable hour.

**(3)** An authorised person who enters any unoccupied premises must leave them as effectively secured against unauthorised entry as they were before his or her entry.

#### Search warrants

**2.—(1)** A justice of the peace in England and Wales, a lay magistrate in Northern Ireland, or a sheriff, stipendiary magistrate or justice of the peace in Scotland may issue a warrant permitting an authorised person to enter any premises if necessary by reasonable force for the purposes of the enforcement of these Regulations, if satisfied that the authorised person has reasonable grounds for requiring entry and any of the conditions set out in sub-paragraph (2) are satisfied.

**(2)** The conditions referred to in sub-paragraph (1) are that—

- (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 premises are unoccupied or the occupier is temporarily absent.
- (3) Where an authorised person applies for a warrant under sub-paragraph (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.
- (4) An application for a warrant under sub-paragraph (1) must be supported by an information in writing, in England and Wales; on sworn complaint in writing in Northern Ireland; or by evidence on oath in Scotland.
- (5) An application for a warrant under sub-paragraph (1), where the condition satisfied is set out in sub-paragraph (2)(a), must be made on notice, and where the condition satisfied is set out in sub-paragraph(2)(b), (c) or (d), must be made without notice.
- (6) The authorised person shall answer on oath any question that the justice of the peace, lay magistrate, sheriff or stipendiary magistrate hearing the application asks him or her.
- (7) A warrant shall authorise entry on one occasion only.
- (8) 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; and
  - (d) the address of the premises to be entered and searched;
- and shall identify, so far as is practicable, what is to be sought.
- (9) The court shall provide two copies of the warrant certified as such.

### **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 premises to be entered and searched is present at the time when an authorised person seeks to execute a warrant to enter and search them, 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 certified copy of it.
- (3) Where the occupier of the premises 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 premises 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 premises, the authorised person must leave a copy of the warrant in a prominent place on the premises.
- (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 designated officer for the local justice area in which the justice of the peace, lay magistrate, sheriff or stipendiary 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) In Scotland the designated officer is the sheriff clerk if the warrant was issued by a sheriff, and the clerk of the justice of the peace's court if the warrant was issued by a justice of the peace or stipendiary magistrate.

(9) In Northern Ireland the designated officer is the clerk of the court for the area in which the lay magistrate was acting when the warrant was issued.

(10) A warrant which is returned under sub-paragraph (7) shall be retained for 12 months from its return by the designated officer for the local justice area.

(11) If during the period for which a warrant is to be retained the occupier of the premises 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 in accordance with a warrant granted under paragraph 2(1), 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 him or her any persons and equipment or materials he or she considers necessary for the enforcement of these Regulations;
- (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 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; 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 that authorised person.

(3) Where an authorised person takes samples under sub-paragraph (1)(f) 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 sub-paragraph (1)(g), (h) or (i) 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 England and Wales, or Northern Ireland, or on grounds of confidentiality of communications in proceedings in the Court of Session in Scotland.

(5) An authorised person may require any person to give him or her 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 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 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 the United Kingdom against that person, his or her spouse, or his or her civil partner in proceedings for any offence.

### **Protection of authorised persons**

5. 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**

6.—(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 a 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; or
- (b) seize or dispose of anything treated with a 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 the United Kingdom.

(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 that the power has been exercised.

- (3) A notice served under this paragraph must be in writing.
- (4) A notice served under sub-paragraph (1) must give a time limit for compliance with the notice.
- (5) A notice served under sub-paragraph (1) or (2) 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 any plant protection product or treated item to which the notice relates; and
  - (d) state the quantity of any plant protection product or treated item to which the notice relates.
- (6) An authorised person may withdraw a notice served under this paragraph at any time.
- (7) An authorised person may serve a person with a notice under this paragraph even if a previous notice served on that person has been withdrawn.
- (8) In sub-paragraph (2) “relevant person” means—
- (a) in relation to the seizure, disposal or both of a plant protection product—
    - (i) the holder of any approval, authorisation or permit relating to that plant protection product; or
    - (ii) the owner of the plant protection product; or
    - (iii) any other person appearing to the authorised person to be in charge of it; and
  - (b) in relation to the seizure, disposal or both of a treated item—
    - (i) any person appearing to the authorised person to be the owner of that treated item; or
    - (ii) the person appearing to the authorised person to be in charge of that treated item.

#### **Enforcement notices**

- 7.—(1) If an authorised person is of the opinion that a person—
- (a) is committing an offence under regulation 24 by contravening or failing to comply with any paragraph of regulations 8 to 17 or regulation 31; or
  - (b) has committed such an offence in circumstances that make it likely that the offence will be repeated,
- he or she may serve on that person a notice 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 in sub-paragraph (2).
- (2) A notice under sub-paragraph (1) may direct—
- (a) that any premises on or in which it appears that the offence was being committed or anything which is on or in them, shall be left undisturbed (whether generally or in particular respects) for as long as it appears to be reasonably necessary; or
  - (b) that specific 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 regulation 24 by contravening or failing to comply with any paragraph of regulations 8 to 17, or regulation 31 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 4

Regulation 28

Service of documents

1. The provisions of this Schedule apply to the service of a notice or requirement in writing under these Regulations.
2. A notice or requirement may be served on, or given to, a person by—
  - (a) delivering it to that person in person;
  - (b) leaving it at that person's proper address; or
  - (c) sending it by post or electronic means to that person's proper address.
3. In the case of a body corporate, a notice or requirement may be served on, or given to, a director of that body.
4. In the case of a partnership, a notice or requirement may be served on, or given to, a partner or a person having control or management of the partnership business.
5. If a person to be served with, or given, a notice or requirement has specified an address in the United Kingdom (other than that person's proper address) at which that person or someone on that person's behalf will accept service, that address must also be treated as that person's proper address.
6. For the purposes of this Schedule, “proper address” means—
  - (a) in the case of a body corporate or its director—
    - (i) the registered or principal office of that body; or
    - (ii) the email address of the secretary or clerk of that body;
  - (b) in the case of a partnership, a partner or person having control or management of the partnership business—
    - (i) the principal office of the partnership; or
    - (ii) the email address of a partner or a person having that control or management;
  - (c) in any other case, a person's last known address, which includes an email address.
7. In this Schedule, “partnership” includes a Scottish partnership.

SCHEDULE 5

Regulation 32(2)

Amendments

<i>Regulations to be amended</i>	<i>Regulation or Schedule to be amended</i>	<i>Amendments to be made</i>
The Plant Protection Products Regulations (Northern Ireland) 2011 M3	Regulation 2	After the definition of “the Department” insert— “premises” includes any place and, in particular, includes— (a) any vehicle, vessel, aircraft, hovercraft or marine structure; and (b) any tent or moveable structure;

Schedule 1 paragraph 1(1)	For the word “land” substitute— “premises (except any premises used wholly or mainly as a private dwelling)”. For the words “stored on it” substitute— “stored on or in them or transported or applied by means of them”.
Schedule 1 paragraph 1(2) and 1(3)	Omit.
Schedule 1 paragraph 1	Sub-paragraph (4) of that Schedule is renumbered as sub-paragraph (2).
Schedule 1 paragraph 1	Sub-paragraph (5) of that Schedule is renumbered as sub-paragraph (3).
Schedule 1 paragraph 1(3) as renumbered	For the word “land” substitute— “premises”.
Schedule 1 paragraph 2(1)	Substitute— “(1) A lay magistrate may issue a warrant permitting an authorised person to enter any premises if necessary by reasonable force for the purposes of the enforcement of these Regulations if satisfied that the authorised person has reasonable grounds for requiring entry and any of the conditions set out in sub-paragraph 2(1A) are satisfied.”.
Schedule 1 paragraph 2	After paragraph 2(1) insert— (1A) The conditions referred to in paragraph 2(1) are that— (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 premises are unoccupied or the occupier is temporarily absent.

**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)

- Schedule 1 paragraph 2(3)      Substitute—  
“(3) An application for a warrant under paragraph 2(1), where the condition satisfied is set out at paragraph 2(1A)(a), must be made on notice and on sworn complaint in writing and, where the condition satisfied is set out in paragraph 2(1A)(b), (c) or (d), must be made without notice on sworn complaint in writing.”
- Schedule 1 paragraph 2(5)(d)      Substitute—  
“the address of the premises to be entered and searched; and”.
- Schedule 1 paragraph 3(2)      For the words “private dwelling which is” substitute—  
“premises”.
- Schedule 1 paragraph 3(3), 3(4) and 3(9)      Each time the words “private dwelling” appear, substitute—  
“premises”.
- Schedule 1 paragraph 3(3) and 3(4)      Each time the word “land” appears, substitute—  
“premises”.
- Schedule 1 paragraph 4(1)      Substitute—  
“(1) An authorised person exercising powers of entry pursuant to paragraph 1(1), or in accordance with a warrant granted under paragraph 2(1), 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 him or her any persons and equipment or materials he or she considers necessary for the enforcement of these Regulations;  
(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 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; and
	(i) seize any computers and associated equipment for the purpose of copying documents provided that they are returned as soon as practicable.”
Schedule 1 paragraph 4(2)	For “paragraph 4(1)(a)” substitute— “paragraph 4(1)(c)”.
Schedule 1 paragraph 4(3)	For “paragraph 4(1)(d)” substitute— “paragraph 4(1)(f)”.
Schedule 1 paragraph 4(4)	For “paragraph 4(1)(e), (f) or (g)” substitute— “paragraph 4(1)(g), (h) or (i)”.
Schedule 1 paragraph 5	Omit.
Schedule 1 paragraph 8(2)(a)	For the words “land, vehicle, vessel, aircraft, hovercraft or marine structure” substitute— “premises”.
The Plant Protection Products Regulations 2011 M4	Regulation 2(1) After the definition of “authorised person” insert— “premises” includes any place and, in particular, includes— (a) any vehicle, vessel, aircraft, hovercraft or marine structure; and (b) any tent or moveable structure;.
Regulation 6	Regulation 6 is renumbered as paragraph (1) of that regulation.

**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)

	After paragraph (1) as so renumbered insert— “(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.”.
Schedule 1 paragraph 1(1)	For the word “land” substitute— “premises (except any premises used wholly or mainly as a private dwelling)” For the words “stored on it” insert— “stored on or in them or transported on or applied by means of them”.
Schedule 1 paragraph 1(2) and 1(3)	Omit.
Schedule 1 paragraph 1	Sub-paragraph (4) of that Schedule is renumbered as sub-paragraph (2).
Schedule 1 paragraph 1	Sub-paragraph (5) of that Schedule is renumbered as sub-paragraph (3).
Schedule 1 paragraph 1(3) as renumbered	For the word “land” substitute— “premises”.
Schedule 1 paragraph 2(1)	Substitute— “(1) A justice of the peace in England and Wales, or a sheriff, stipendiary magistrate or justice of the peace in Scotland, may issue a warrant permitting an authorised person to enter any premises if necessary by reasonable force, for the purposes of the enforcement of these Regulations if satisfied that the authorised person has reasonable grounds for requiring entry and any of the conditions set out in paragraph 2(1A) are satisfied.”.  After paragraph 2(1) insert —“(1A) The conditions

	referred to in sub-paragraph (1) are that— (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 premises are unoccupied or the occupier is temporarily absent.”.
Schedule 1 paragraph 2(4)	Substitute— “(4) An application for a warrant under paragraph 2(1), where the condition satisfied is set out at paragraph 2(1A)(a), must be made on notice and, where the condition satisfied is set out in paragraph 2(1A)(b), (c) or (d), must be made without notice.”
Schedule 1 paragraph 2(7)(d)	Substitute— “the address of the premises to be entered and searched; and”.
Schedule 1 paragraph 3(2)	For the words “private dwelling which is” substitute— “premises”
Schedule 1 paragraph 3(3), 3(4) and 3(10)	Each time the words “private dwelling” appear, substitute— “premises”.
Schedule 1 paragraph 3(3) and 3(4)	Each time the word “land” appears, substitute— “premises”.
Schedule 1 paragraph 4(1)	Substitute— “(1) An authorised person exercising powers of entry pursuant to paragraph 1(1), or in accordance with a warrant granted under paragraph 2(1), 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

**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)

the premises, if necessary using reasonable force;  
(c) take with him or her any persons and equipment or materials he or she considers necessary for the enforcement of these Regulations;  
(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 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; and  
(i) seize any computers and associated equipment for the purpose of copying documents provided that they are returned as soon as practicable.”

Schedule 1 paragraph 4(2)	For “paragraph 4(1)(a)” substitute— “paragraph 4(1)(c)”.
Schedule 1 paragraph 4(3)	For “paragraph 4(1)(d)” substitute— “paragraph 4(1)(f)”.
Schedule 1 paragraph 4(4)	For “paragraph 4(1)(e), (f) or (g)” substitute— “paragraph 4(1)(g), (h) or (i)”.
Schedule 1 paragraph 5	Omit.
Schedule 1 paragraph 8(1)(a) and 8(3)	For the words “under regulations 9 to 19” substitute—

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- “under regulation 23 by contravening or failing to comply with any paragraph of regulations 9 to 19”.
- Schedule 1 paragraph 8(1)(b) For the word “unlikely” substitute — “likely”.
- Schedule 1 paragraph 8(2)(a) For the words “land, vehicle, vessel, aircraft, hovercraft or marine structure” substitute— “premises”.

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**Marginal Citations**

**M3** S.R.(NI) 2011 No 295 amended by S.R.(NI) 2012 No 12.

**M4** [S.I. 2011/2131](#).

**Changes to legislation:**

There are currently no known outstanding effects for the The Plant Protection Products (Sustainable Use) Regulations 2012.