
STATUTORY INSTRUMENTS

2011 No. 2131

The Plant Protection Products Regulations 2011

Citation, commencement, extent and review

1.—(1) These Regulations may be cited as the Plant Protection Products Regulations 2011 and come into force on 24th September 2011.

(2) Except as provided in paragraph (3) and subject to paragraphs (4) and (5), these Regulations extend to Great Britain.

(3) Regulation 4 extends to the United Kingdom.

(4) Any amendment made by Schedule 4 has the same extent as that of the enactment, or instrument made by the Scottish Parliament, to which it relates.

(5) Any revocation made by Schedule 5 has the same extent as that of the enactment, or instrument made by the Scottish Parliament, to which it relates.

(6) Before the end of each review period, the Secretary of State must—

- (a) carry out a review of regulations 2 to 31;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

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

(8) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how Regulation 1107/2009 (which is implemented by means of these Regulations) is implemented in other Member States.

(9) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations;
- (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.

(10) If a report under these Regulations is published before the last day of the review period to which it relates, the following review period is to begin with the day on which that report is published.

(11) “review period” means—

- (a) the period of five years beginning with the day on which these Regulations come into force, and
- (b) subject to paragraph (10), each successive period of five years.

Interpretation

2.—(1) In these Regulations—

“the 1986 Regulations” means the Control of Pesticides Regulations 1986(1);

“authorised person” means a person authorised under regulation 7(1) or 7(7) of these Regulations;

“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 and 91/414/EEC, of which Articles 30(3) and 52(4) and Annexes I to V of that Regulation are to be read as amended from time to time.

(2) Expressions used in both these Regulations and Regulation 1107/2009 have the same meaning in these Regulations as they have in Regulation 1107/2009.

(3) In these Regulations any reference to a numbered Article is to be construed as a reference to the Article so numbered in Regulation 1107/2009.

Competent Authority

3. For the purposes of Article 75(1) the designated competent authority is—
- (a) in relation to England and Wales, the Secretary of State; and
 - (b) in relation to Scotland, the Scottish Ministers.

Co-ordinating national authority

4. The Secretary of State is the designated co-ordinating national authority for the purposes of Article 75(2).

Emergency measures

5.—(1) Where the Secretary of State reasonably considers that treated seeds are likely to constitute a serious risk to human or animal health or to the environment, the Secretary of State may issue a notice in writing restricting or prohibiting their sale or use, or both, in relation to England and Wales.

(2) Where the Scottish Ministers reasonably consider that treated seeds are likely to constitute a serious risk to human or animal health or to the environment, they may issue a notice in writing restricting or prohibiting their sale or use, or both, in relation to Scotland.

- (3) A notice served pursuant to paragraph (1) or (2) must—
- (a) set out the grounds for issuing the notice; and
 - (b) give a time limit for compliance with the notice.

Enforcement

6. These Regulations are enforced—
- (a) by the Secretary of State in relation to England;
 - (b) by the Welsh Ministers in relation to Wales; and
 - (c) by the Scottish Ministers in relation to Scotland.

Powers of authorised persons

7.—(1) The Secretary of State (in relation to England), the Welsh Ministers (in relation to Wales) and the Scottish Ministers (in relation to Scotland) may authorise any person to exercise the powers set out in Schedule 1 to these Regulations.

(2) An authorised person, if so authorised by the person authorising him or her, may, although not of counsel or a solicitor, 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 1 (Powers of authorised persons) has effect.

(9) In this regulation “enforcement powers” means the powers set out in Schedule 1 to these Regulations.

(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(2), 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(3).

Evidence of authorisation

8.—(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;

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

(3) 1994. c.39.

- (b) the functions to be performed; and
- (c) the grounds for proposing to perform those functions.

Placing on the market and use

9. A person must not place on the market or use a plant protection product in contravention of Article 28, or cause or permit another person to do so.

Seeds treated with plant protection products

10.—(1) A person must not place on the market or use seeds treated with plant protection products that are not authorised for use on such seeds in any Member State, or cause or permit another person to do so.

(2) A person must not place on the market treated seeds in contravention of Article 49(4), or cause or permit another person to do so.

(3) In this regulation “treated seeds” means seeds treated with plant protection products authorised for that use in at least one Member State.

Parallel trade permits and permits for trial purposes

11.—(1) A person must not place on the market or use a plant protection product in contravention of Article 52(5), or cause or permit another person to do so.

(2) A person must not place on the market or use a plant protection product in contravention of one or more conditions in a permit granted for trial purposes under Article 54(1), or cause or permit another person to do so.

Use of plant protection products

12. A person must use a plant protection product in compliance with the conditions established in accordance with Article 31 and specified on the labelling as required in Article 55.

The provision of information on potentially harmful or unacceptable effects

13. An authorisation holder must include in a notification under Article 56(1) the information required by Article 56(2).

Adjuvants

14.—(1) A person must not place on the market or use an adjuvant in contravention of Article 58, or cause or permit another person to do so.

(2) For the purposes of Article 81(3), until the adoption of detailed rules referred to in Article 58(2), the national provisions for authorisation of adjuvants are set out in Schedule 2.

(3) A person must not use an adjuvant with a plant protection product authorised or permitted, or deemed to be authorised or permitted, in accordance with Regulation 1107/2009 in contravention of a requirement imposed pursuant to paragraph 3(b) of Schedule 2 to these Regulations.

(4) Schedule 2 (Adjuvants) has effect.

The sharing of tests and studies involving vertebrate animals

15.—(1) A person must not undertake tests on vertebrate animals in contravention of the first sentence of Article 62(1), or cause or permit another person to do so.

(2) A person must comply with a direction issued by the Secretary of State or the Scottish Ministers pursuant to Article 62(6).

Packaging and presentation

16.—(1) A person must not package a plant protection product or an adjuvant in contravention of Article 64(1), or cause or permit another person to do so.

(2) A person must not make available to the general public a plant protection product or adjuvant in contravention of Article 64(2), or cause or permit another person to do so.

Labelling

17. A person must not place on the market a plant protection product in contravention of Article 65(1), or cause or permit another person to do so, unless the plant protection product is—

- (a) placed on the market before 14th June 2015;
- (b) approved under the 1986 Regulations, the Plant Protection Products Regulations 2005(4) or the Plant Protection Products (Scotland) Regulations 2005(5); and
- (c) labelled in accordance with Article 16 of Council Directive 91/414/EEC concerning the placing of plant protection products on the market(6).

Advertising

18. A person must not advertise a plant protection product in contravention of Article 66(1), (2), (4), (5) or (6), or cause or permit another person to do so.

Record keeping

19.—(1) Producers, suppliers, distributors, importers, and exporters of plant protection products must not contravene the requirement set out in the first sentence of Article 67(1).

(2) A professional user of plant protection products must not contravene the requirements set out in the second sentence of Article 67(1).

(3) Producers, suppliers, distributors, importers, exporters and professional users of plant protection products must not contravene the second paragraph of Article 67(1).

(4) A producer of a plant protection product must not contravene Article 67(2).

(5) An authorisation holder must not contravene Article 67(3).

The provision of information

20.—(1) A person listed in paragraph (2) 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,

in relation to the application or request specified in paragraph (2).

(2) Paragraph (1) applies to the following persons in relation to the following applications or requests—

(4) [S.I. 2005/1435](#), amended by [S.I. 2007/2466](#); there is another amending instrument but it is not relevant.

(5) [S.S.I. 2005/331](#), amended by [S.S.I. 2007/410](#).

(6) OJNo. L230, 19.8.1991, p.1.

- (a) an applicant, or their representative, in relation to an application under Article 33(1);
 - (b) an authorisation holder, in relation to an application under Article 40(1) or Article 43(1);
 - (c) a person making an application on behalf of an official or scientific body involved in agricultural activities or on behalf of a professional agricultural organisation, in relation to an application under Article 40(2);
 - (d) an authorisation holder, a person making an application on behalf of an official or scientific body involved in agricultural activities, a person making an application on behalf of a professional agricultural organisation or a professional user, in relation to a request under Article 51(1); or
 - (e) an applicant, or their representative, in relation to an application under Article 52(1) or 54(2).
- (3) A prospective applicant must not—
- (a) submit data knowing them to be false in a material particular;
 - (b) recklessly submit data which are false in a material particular; or
 - (c) intentionally fail to disclose data,

in a submission for the purposes of the second paragraph of Article 61(1).

(4) A prospective applicant must not provide samples or mock ups of packaging and drafts of labels and leaflets required by the Secretary of State or the Scottish Ministers pursuant to Article 65(2)—

- (a) knowing them to be false in a material particular; or
- (b) recklessly as to whether they are false in a material particular.

(5) A person must not cause or permit any person, in relation to an application under Article 52(1) or 54(2), to make a statement which the former knows to be false in a material particular.

Non-compliance with notices

21.—(1) A person must comply with the provisions of a notice served under—

- (a) regulation 5(1) or (2);
- (b) paragraph 7(1), (3) or (8) of Schedule 1 to these Regulations; or
- (c) paragraph 8(1), (3) or (6) of Schedule 1 to these Regulations.

(2) The Secretary of State, the Scottish Ministers or 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 the Secretary of State, the Scottish Ministers or 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

22.—(1) A person—

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

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

- (a) any paragraph of regulations 9 to 13, 15 to 19, or 22;
- (b) regulation 14(1) or 14(3);
- (c) regulation 20(1), 20(3), 20(4) or 20(5);
- (d) regulation 21(1);
- (e) Article 56(1);
- (f) Article 56(4); or
- (g) the second sentence of Article 62(2),

is guilty of an offence.

Offences by bodies corporate

24.—(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

25.—(1) In any proceedings for an offence under these Regulations, other than in relation to regulation 15(2), 22(1)(a) or 22(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 leave 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.

(4) It shall be a defence in proceedings for an offence under section 8(b) of the Protection of Animals Act 1911(7) or under section 7(b) of the Protection of Animals (Scotland) Act 1912(8) (which restrict the placing on land of poison and poisonous substances) for the person charged to show that they acted in accordance with an authorisation or permission granted, or deemed to be granted, in accordance with Regulation 1107/2009.

Penalties

26.—(1) A person guilty of an offence under these Regulations, other than for contravention of or failure to comply with regulation 13, 19, 21(1) or 22(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 13, 19, 21(1) or 22(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 Great Britain.

Service of documents

27. Schedule 3 (Service of documents) has effect.

Agency arrangements

28.—(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 Regulation 1107/2009 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 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.

(7) 1911 c.27.

(8) 1912 c.14.

Application to the Crown

29.—(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.

Savings and transitionals

30.—(1) The Plant Protection Products Regulations 2005 and the Plant Protection Products (Scotland) Regulations 2005 are saved for the purposes of deciding applications for approvals of plant protection products referred to in Article 80(5). Any approval granted under either of those sets of Regulations or the 1986 Regulations, following such an application, shall be deemed to be granted under Regulation 1107/2009.

(2) Any plant protection product that has a valid approval granted—

(a) by, or on behalf of, the Secretary of State or the Scottish Ministers under the 1986 Regulations;

(b) by, or on behalf of, the Secretary of State under the Plant Protection Products Regulations 2005; or

(c) by, or on behalf of, the Scottish Ministers under the Plant Protection Products (Scotland) Regulations 2005,

when these Regulations come into force is deemed to be authorised in accordance with Regulation 1107/2009.

(3) Any conditions or requirements in an approval referred to in paragraph (2) are deemed to be requirements made under Article 31(2).

(4) Any parallel trade approval granted by, or on behalf of, the Secretary of State or the Scottish Ministers which is valid when these Regulations come into force is deemed to be a parallel trade permit granted in accordance with Article 52.

Amendments and revocations

31.—(1) The enactments, or instruments made by the Scottish Parliament, specified in the Table in Schedule 4 are amended to the extent specified in the Table.

(2) The enactments, or instruments made by the Scottish Parliament, specified in the Table in Schedule 5 are revoked in accordance with the provisions of that Table.

Signed by the authority of the Secretary of State for Environment, Food and Rural Affairs.

20th August 2011

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