STATUTORY RULES OF NORTHERN IRELAND

2006 No. 503

AGRICULTURE

EC Fertilisers Regulations (Northern Ireland) 2006

Made - - - - 6th December 2006

Coming into operation 1st February 2007

The Department of Agriculture and Rural Development, being designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**), in relation to the common agricultural policy of the European Community, in exercise of the powers conferred upon it by the said section 2(2), makes the following Regulations:

PART 1

General

Title and commencement

1. These Regulations may be cited as the EC Fertilisers Regulations (Northern Ireland) 2006 and shall come into operation on 1st February 2007.

Interpretation

2.—(1) In these Regulations—

"the Community Regulation" means Regulation (EC) 2003/2003 of the European Parliament and the Council relating to fertilisers(**3**);

"the Department" means the Department of Agriculture and Rural Development;

"fertiliser" means material, the main function of which is to provide nutrients for plants;

"premises" includes any place, any vehicle or trailer, any container, any stall or moveable structure, and any ship or aircraft.

(2) In these Regulations—

(a) a reference to a numbered Article or Annex is a reference to the Article in, or the Annex to the Community Regulation so numbered; and

(**1**) S.I. 2000/2812
(**2**) 1972 c. 68
(**3**) O.J. No. L304, 21.11.2003, p. 1

(b) expressions that are used in the Community Regulation and these Regulations have the same meaning in these Regulations as in the Community Regulation.

(3) The Interpretation Act (Northern Ireland) 1954(**4**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

PART 2

Composition, labelling and records

Types of fertiliser for which designation "EC fertiliser" can be used

3.—(1) A manufacturer shall not place on the market a fertiliser designated as an "EC fertiliser" unless—

(a) it is of a type listed in Annex I; and

(b) he is established in accordance with Article 4.

(2) Any person who contravenes paragraph (1) shall be guilty of an offence.

Tolerances

4. Any manufacturer who—

(a) places on the market a fertiliser designated as an "EC fertiliser" the content of which does not comply with the tolerances specified in Article 13(1) and (3); or

(b) fails to comply with Article 13(2),

shall be guilty of an offence.

General provisions relating to identification, marking, labelling and packaging of EC fertilisers

5.—(1) Any manufacturer who places on the market a fertiliser designated as an EC fertiliser shall be guilty of an offence unless the identification markings relating to it—

(a) are borne as specified in Article 9(1);

(b) comply with Article 9(2);

(c) include a declaration of contents as specified in Article 6(1)(a) and (d), (4), (5) and (6);

(d) include the additional instructions called for by Article 9(3) if it is a fluid fertiliser; and

(e) have been provided as specified in Article 7(1).

(2) Any manufacturer who places on the market a packaged fertiliser designated as an EC fertiliser shall be guilty of an offence unless—

(a) the identification markings appear as specified in the first sentence of Article 7(2);

(b) the packaging and labelling of the fertiliser complies with Article 10(1) and (2);

(c) the packaging complies with Article 12; and

(d) the language in which the identification markings appear complies with Article 11.

(3) Any manufacturer who places on the market a bulk fertiliser designated as an EC fertiliser shall be guilty of an offence unless—

(a) the identification markings appear as specified in the second sentence of Article 7(2);

(**4**) 1954 c. 33 (NI)

(b) a copy of the documents containing them meets the requirements of Article 10(3); and

(c) the language in which the identification markings appear complies with Article 11.

Additional provisions relating to the marking and identification of inorganic primary nutrient fertilisers

6. Any manufacturer who places on the market a fertiliser—

(a) that is designated as an EC fertiliser;

(b) that is a fertiliser of the type described in Article 16; and

(c) for which a declaration of calcium, magnesium, sodium and sulphur content is made other than—

(i) in accordance with Articles 17, 18 and 19; and

(ii) as specified in Article 6(2)(c),

shall be guilty of an offence.

Additional provisions relating to the marking and identification of inorganic secondary nutrient fertilisers

7. Any manufacturer who places on the market a fertiliser—

(a) that is designated as an EC fertiliser;

(b) that is a fertiliser of the type described in Article 20;

(c) that is not marked in accordance with Article 21; and

(d) for which a declaration of calcium, magnesium, sodium and sulphur content is made otherwise than as specified in Article 6(2)(c),

shall be guilty of an offence.

Additional provisions relating to the identification and packaging of inorganic micro-nutrient fertilisers

8. Any manufacturer who places on the market a fertiliser that is—

(a) designated as an EC fertiliser;

(b) a fertiliser of the type described in Article 22;

(c) not marked in accordance with Article 23; and

(d) not packaged in accordance with Article 24,

shall be guilty of an offence.

Records

9. Any manufacturer who fails to comply with the requirements of Article 8 shall be guilty of an offence.

Compliance notices

10.—(1) This regulation applies where the Department is of the opinion, that a person is a manufacturer placing on the market fertiliser that does not comply with the Community Regulation, but that person has not committed an offence under regulations 3 to 9.

(2) The Department may serve a notice in writing on the person in question giving reasons why it is of that opinion and requiring him to take such steps as are specified in the notice within such period (being not less than 14 days except in an emergency) as is so specified.

(3) The steps to be so specified are steps that the Department regards as appropriate to cause it, no longer to be of the opinion in paragraph (1).

(4) Failure to comply with such a notice is an offence unless the notice has been withdrawn.

PART 3

Enforcement

Enforcement authorities

11.—(1) These Regulations and the Community Regulation shall be enforced by the Department.

(2) The Department shall appoint inspectors for the purposes of these Regulations.

Powers of entry

12.—(1) An inspector shall, on producing, if so required, some duly authenticated document showing his authority, have a right at all reasonable hours to enter any premises for the purpose of ensuring that the provisions of these Regulations are being complied with.

(2) He may take with him—

(a) such other persons as he considers necessary; and

(b) any representative of the European Commission acting for the purpose of the enforcement of the Community Regulation.

(3) Admission to any premises used only as a private dwelling house shall not be demanded as of right unless 24 hours notice of the intended entry has been given to the occupier, or the entry is in accordance with a warrant granted under this regulation.

(4) If a justice of the peace, on sworn information in writing, is satisfied that there are reasonable grounds for entry into any premises for the purposes of the enforcement of these Regulations, and either—

(a) admission has been refused, or a refusal is expected, and (in either case) that notice of intention 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,

the justice may by warrant signed by him authorise the inspector to enter the premises, if need be by reasonable force and to take with him such persons as appears to be necessary.

(5) A warrant under this section shall continue in force for one month.

(6) If an inspector enters any unoccupied premises he shall leave them as effectively secured against unauthorised entry as he found them.

Powers of inspectors

13.—(1) An inspector entering premises under regulation 12 may—

(a) inspect the premises, and any plant, machinery or equipment;

(b) search the premises;