STATUTORY RULES OF NORTHERN IRELAND

2002 No. 20

AGRICULTURE
PESTICIDES

Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs) Regulations (Northern Ireland) 2002

Made - - - -	*28th January 2002*
Coming into operation	*4th March 2002*

The Department of Agriculture and Rural Development, being a Department 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 on it by the said section 2(2), and, in respect of the provisions of these Regulations relating to Part I of Schedule 2 to these Regulations, in exercise of the powers conferred on it by section 16(2) of the Food and Environment Protection Act 1985(**3**), and of every other power enabling it in that behalf, after consultation in accordance with section 16(9) of the said Act of 1985 with the Advisory Committee on Pesticides for Northern Ireland established under section 16(7) of that Act(**4**), hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs) Regulations (Northern Ireland) 2002 and shall come into operation on 4th March 2002.

Interpretation

2.—(1) In these Regulations—

(**1**) S.I. 2000/2812
(**2**) 1972 c. 68; the powers conferred by section 2(2) were extended by virtue of the amendment of section 1(2) of the European Communities Act 1972 by section 1 of the European Economic Area Act 1993 (c. 51)
(**3**) 1985 c. 48; section 16 was amended by the Pesticides (Fees and Enforcement) Act 1989 (c. 27) and by the Pesticides Act 1998 (c. 26); *see also* section 25(2) and Article 3(4) of the Department (Northern Ireland) Order 1999 S.I. 1999/283 (N.I.1), and section 25(2A) as inserted by section 1(5) of the Pesticides Act 1998
(**4**) Established by S.R. 1987 No. 341

"EEA State" means a State which is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992(**5**) as adjusted by the Protocol signed at Brussels on 17th March 1993(**6**);

"the maximum permitted level" means the level mentioned in regulation 3(1) or 4(1);

"product" means any crop, food or feeding stuff specified in Schedule 2;

"putting into circulation" means any handing over, whether or not for a consideration, of any product—

(a) in the case of fruit and vegetables, after they have been harvested, and

(b) in any other case, at any time.

"the Residues Directives" means Council Directive 86/362/EEC(**7**) (as amended by Council Directives 88/298/EEC(**8**), 90/654/EEC(**9**), 93/57/EEC(**10**), 94/29/EC(**11**), 95/39/EC(**12**), 96/33/EC(**13**), 97/41/EC(**14**) and Commission Directives 97/71/EC(**15**), 98/82/EC(**16**), 1999/65/EC(**17**), 1999/71/EC(**18**), 2000/24/EC(**19**), 2000/42/EC(**20**), 2000/48/EC(**21**) and 2000/58/EC(**22**)), together with Council Directive 86/363/EEC(**23**) (as amended by Council Directives 93/57/EEC, 94/29/EC, 95/39/EC, 96/33/EC, 97/41/EC and Commission Directives 97/71/EC, 98/82/EC, 1999/71/EC, 2000/24/EC, 2000/42/EC and 2000/58/EC) and Council Directive 90/642/EEC(**24**) (as amended by Council Directives 93/58/EEC(**25**), 94/30/EC(**26**), 95/38/EC(**27**), 95/61/EC(**28**), 96/32/EC(**29**), 97/41/EC and Commission Directives 97/71/EC, 98/82/EC, 1999/65/EC, 1999/71/EC, 2000/24/EC, 2000/42/EC, 2000/48/EC, 2000/57/EC(**30**), 2000/58/EC and 2001/35/EC(**31**)).

(2) The words and expressions "dried", "processed", "composite food", "drying" and "processing" when used either in regulation 4 or in paragraphs (*d*) and (*e*) of regulation 6 shall have the same meaning as when used in the Residues Directives and any related expressions shall be construed accordingly.

(3) Any reference in these Regulations, in relation to a pesticide, to a pesticide residue is a reference to the substance named in column 2 of Schedule 1 opposite the reference to that pesticide in column 1 of that Schedule.

(**5**) O.J. No. L1, 3.1.94, p. 3
(**6**) O.J. No. L1, 3.1.94, p. 572
(**7**) O.J. No. L221, 7.8.86, p. 37
(**8**) O.J. No. L126, 20.5.88, p. 53
(**9**) O.J. No. L353, 17.12.90, p. 48
(**10**) O.J. No. L211, 23.8.93, p. 1
(**11**) O.J. No. L189, 23.7.94, p. 67
(**12**) O.J. No. L197, 22.8.95, p. 29
(**13**) O.J. No. L144, 18.6.96, p. 35
(**14**) O.J. No. L184, 12.7.97, p. 33
(**15**) O.J. No. L347, 18.12.97, p. 42
(**16**) O.J. No. L290, 29.10.98, p. 25
(**17**) O.J. No. L172, 8.7.99, p. 40
(**18**) O.J. No. L194, 27.7.99, p. 36
(**19**) O.J. No. L107, 4.5.2000, p. 28
(**20**) O.J. No. L158, 30.6.2000, p. 51
(**21**) O.J. No. L197, 3.8.2000, p. 26
(**22**) O.J. No. L244, 29.9.2000, p. 78
(**23**) O.J. No. L221, 7.8.86, p. 43
(**24**) O.J. No. L350, 14.12.90, p. 71
(**25**) O.J. No. L211, 23.8.93, p. 6
(**26**) O.J. No. L189, 23.7.94, p. 70
(**27**) O.J. No. L197, 22.8.95, p. 14
(**28**) O.J. No. L292, 7.12.95, p. 27
(**29**) O.J. No. L144, 18.6.96, p. 12
(**30**) O.J. No. L244, 29.9.2000, p. 76
(**31**) O.J. No. L136, 18.5.2001, p. 42

(4) Any reference in any Schedule to these Regulations to any product, figure or pesticide includes any qualifying words relating to that product, figure or pesticide in that Schedule.

(5) The Interpretation Act (Northern Ireland) 1954(**32**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Maximum permitted residue level in certain crops, food or feeding stuffs not subject to Residues Directives

3.—(1) The maximum level of any pesticide residue which may be left in any product named in Part I of Schedule 2 shall be the number of milligrams of the pesticide residue per kilogram of the product specified opposite the name of that product under the name of the pesticide concerned.

(2) In the case of any product named in paragraph 3, 4 or 5 of Part I of Schedule 2 which has been dried, paragraph (1) applies to the maximum level of pesticide residue applicable under that Part of that Schedule as it has effect by virtue of regulation 6(*c*).

Maximum permitted residue level in crops, food or feeding stuffs subject to Residues Directives

4.—(1) A person shall not put into circulation any product named in Part II of Schedule 2 which contains a level of pesticide residue greater than the number of milligrams of that pesticide residue per kilogram of the product specified opposite the name of that product under the name of the pesticide concerned.

(2) Subject to paragraph (3), paragraph (1) shall apply in relation to—

(a) any product (in this regulation a "dried or processed product") which after drying or processing is obtained from any of the products named in Part II of Schedule 2, and

(b) any composite food which includes any of the products named in that Part of that Schedule,

and the reference in paragraph (1) to a product named in that Part of that Schedule shall be construed accordingly.

(3) Where—

(a) paragraph (1) applies in relation to a dried or processed product or a composite food by virtue of paragraph (2), and

(b) no maximum permitted level has been expressly specified in Part II of Schedule 2 as the amount of pesticide residue which may be contained in that dried or processed product or composite food,

paragraph (1) applies by reference to the maximum permitted level of pesticide residue applicable under that Part of that Schedule as it has effect by virtue of regulation 6(*d*) or, as the case may be, (*e*).

(4) Any person who, without reasonable excuse, contravenes or causes or permits any other person to contravene any provision of this regulation shall be guilty of an offence, and shall be liable —

(a) on summary conviction, to a fine not exceeding the statutory maximum; and

(b) on conviction on indictment, to a fine.

(5) In any proceedings for an offence under this regulation, it is a defence for the person charged to prove that when the product in question (or, as appropriate, the dried or processed product or the composite food) was put into circulation—

(a) it was so put with the intention of its being exported to a country which is not an EEA State and the offence was caused by a treatment applied to that product being a treatment—

(**32**) 1954 c. 33 (N.I.)

(i) required by the country of destination in order to prevent the introduction of harmful organisms into its territory; or

(ii) necessary to protect the product from harmful organisms during transport to the country of destination and storage there, or

(b) it was so put with the intention that—

(i) it be used in the manufacture of things other than foodstuffs and animal feed; or

(ii) it be used for sowing or planting.

(6) Sections 19 and 22 of, and Schedule 2 to, the Food and Environment Protection Act 1985 shall apply for the purposes of this regulation as they apply for the purposes of that Act taking references therein to that Act or any part of it to be references to this regulation.

Seizure or disposal of crops, food or feeding stuffs

5. If any product contains a level of pesticide residue exceeding the maximum permitted level under either regulation 3(1) or 4(1), any Northern Ireland department may—

(a) seize or dispose of the consignment containing that product, or any part of it, or require that some other person shall dispose of it, or

(b) direct some other person to take such remedial action as appears to that department to be necessary.

Sampling and Analysis

6. In determining for the purposes of regulation 3(1) or 4(1) whether the level of pesticide residue left or contained in any product exceeds the maximum permitted level—

(a) the whole or such part only of that product shall, so far as is practicable, be taken into account as specified in column 3 of Schedule 3 opposite the name of that product in column 2 of that Schedule;

(b) the procedure laid down in the Codex Recommended Method of Sampling for the Determination of Pesticide Residues(**33**) shall so far as is practicable be followed;

(c) in the case of any product named in paragraph 3, 4 or 5 of Part I of Schedule 2 which has been dried that Part of that Schedule shall have specified opposite the name of that product there were substituted that number of milligrams divided by the fraction of 1 kilogram to which 1 kilogram of the product is reduced by the drying process;

(d) in the case of any product named in Part II of Schedule 2 which has been dried or processed, that Part of that Schedule shall have effect where no such maximum permitted level of pesticide residue is specified therein for the product in its dried or processed form as if the maximum permitted level of pesticide residue specified opposite the name of the product in that Part of that Schedule has been modified to take account of the concentration of the product caused by the drying process or, as the case may be, the dilution or concentration of the product caused by the processing; and

(e) in a case where two or more products have been mixed to form a single composite food in relation to which no such maximum permitted levels are specified in Part II of Schedule 2, that Part of that Schedule shall have effect as if such maximum permitted levels had been specified in relation to that composite food for each of the pesticide residues which are

(**33**) Food and Agriculture Organisation of the United Nations and World Health Organisation Joint Food Standards Programme Codex Alimentarius Commission, Recommended Method of Sampling for the determination of Pesticide Residues, Volume 2 Section 3 *Codex Alimentarius*, 1993

specified therein opposite the names of each of the products which have been mixed to form the composite food, taking into account—

(i) the relative concentrations of each of the constituent production the mixture; and

(ii) the provisions of paragraph (*d*).

Revocations

7. The Regulations specified in Schedule 4 are hereby revoked.

Sealed with the Official Seal of the Department of Agriculture and Rural Development on 28th January 2002.

Liam McKibben
A senior officer of the
Department of Agriculture and Rural
Development