1995 No. 33

AGRICULTURE

PESTICIDES

Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs) (EEC Limits) Regulations (Northern Ireland) 1995

Made . . . . . 13th February 1995

Coming into operation . . 24th April 1995

The Department of Agriculture, being a Department designated(**a**) for the purposes of section 2(2) of the European Communities Act 1972(**b**) 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 of every other power enabling it in that behalf, 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) (EEC Limits) Regulations (Northern Ireland) 1995 and shall come into operation on 24th April 1995.

Interpretation

2.—(1) In these Regulations—

"authorised officer" means an officer of any Northern Ireland Department authorised by it to carry out functions under these Regulations;

"pesticide" means any pesticide specified in column 1 of Schedule 1;

"premises" includes any land, vehicle, vessel, aircraft or hovercraft;

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

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

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

(a) S.I. 1972/1811

(b) 1972 c. 68; section 2 is subject to Schedule 2 to that Act and is to be read with S.I. 1984/703 (N.I. 3) and S.R. 1984 No. 253

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

(2) Any reference in a Schedule to any product, figure or pesticide includes any qualifying words relating to that product, figure or pesticide in that Schedule.

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

Meaning of pesticide residue

3. Any reference in these Regulations to a pesticide residue contained in any product after the product has—

(*a*) had a pesticide applied to it; or

(*b*) been grown on land to which a pesticide has been applied,

shall be construed as a reference to the substance specified in column 2 of Schedule 1 opposite the reference to that pesticide.

Maximum residue levels

4. Where any product has—

(*a*) had a pesticide applied to it; or

(*b*) been grown on land to which a pesticide has been applied,

a person shall not put that product into circulation if it contains a level of pesticide residue greater than the number of milligrammes of that residue per kilogramme of the product (if any) specified in Schedule 2 under the name of that pesticide opposite the name of that product.

Seizure or disposal of products

5.—(1) This regulation applies to any product the putting into circulation of which is prohibited by regulation 4.

(2) Any Northern Ireland Department shall have the power to—

(*a*) seize or dispose of any consignment containing a product to which this regulation applies, or any part of it, or to direct that some other person shall dispose of that consignment; or

(*b*) direct some other person to take such remedial action in relation to that consignment as appears to that Department to be necessary.

Powers of an Authorised Officer

6.—(1) An authorised officer may, at any reasonable time and on production if so required of his authority, enter any premises if he has reasonable grounds to believe that it is necessary for him to do so for the purposes of these Regulations.

(2) Where an authorised officer has entered any premises in accordance with paragraph (1) he may, for the purposes of these Regulations—

(**a**) This definition is derived, in its application to fruit and vegetables, from Article 2(2) of Council Directive 76/895/EEC (O.J. No. L340, 9.12.76, p. 26) and, in its application to other products, from Article 2(2) of Council Directive 86/362/EEC (O.J. No. L221, 7.8.86, p. 37) and Article 2(2) of Council Directive 86/363/EEC (O.J. No. L221, 7.8.86, p. 43)

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

(*a*) open any container;

(*b*) carry out searches, inspections, measurements and tests;

(*c*) take samples;

(*d*) require the production of documents, books and records;

(*e*) photograph or copy anything whose production he has the power to require under sub-paragraph (*d*).

Sampling and analysis

7. In determining whether the level of pesticide residue contained in any product exceeds the limit permitted by regulation 4 for it to be put into circulation—

(*a*) only so much of that product shall, so far as is practicable, be taken into account as is specified in column 3 of Schedule 3 opposite the name of that product in column 2, and

(*b*) the procedure laid down in Part 5 of the Codex Recommendations Concerning Pesticide Residues(**a**) shall so far as is practicable be followed, and

(*c*) in the case of any product specified in paragraphs 3, 4 or 5 of Schedule 2 which has been dried, that Schedule shall have effect as if for the number of milligrammes of each pesticide residue specified opposite the name of that product there were substituted that number of milligrammes divided by the fraction of 1 kilogramme to which 1 kilogramme of the product is reduced by the drying process.

Offences and penalties

8.—(1) A person who, without reasonable excuse, contravenes, or causes or permits any other person to contravene regulation 4 shall be guilty of an offence, and shall be liable—

(*a*) on summary conviction, to a fine not exceeding £2,000; and

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

(2) A person who, without reasonable excuse fails to comply with any direction given under regulation 5(2), shall be guilty of an offence and liable on summary conviction, to a fine not exceeding £2,000.

(3) Any person who intentionally obstructs an authorised officer in the performance of his functions under these Regulations is guilty of an offence and liable on summary conviction to a fine not exceeding £2,000.

(4) In any proceedings for an offence under paragraph (1) it is a defence for the person charged to prove that when the product to which the proceedings relate was put into circulation—

(*a*) it was so put with the intention of its being exported to a country outside the European Community and the level of pesticide residue in

(**a**) Food and Agriculture Organisation of the United Nations and World Health Organisation joint Food Standards Programme Codex Alimentarius Commission, document CAC/PR5-1984. Part 5 is entitled "Recommended Method of Sampling for the Determination of Pesticide Residues"

that product was caused by the application thereto of a treatment which was—

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

(ii) necessary to product 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.

Sealed with the Official Seal of the Department of Agriculture for Northern Ireland on 13th February 1995.

(L.S.) *I. C. Henderson*
Assistant Secretary

Column 1 *Pesticide*	Column 2 *Residues*
Acephate	acephate
Aldrin and dieldrin	singly or combined, expressed as dieldrin (HEOD)
Aminotriazole	aminotriazole
Atrazine	atrazine
Binapacryl	binapacryl
Bromophos-ethyl	bromophos-ethyl
Camphechlor (Toxaphene)	camphechlor (toxaphene)
Captafol	captafol
Carbaryl	carbaryl
Carbendazim, Benomyl and Thiophanate-methyl	carbendazim, benomyl and thiophanate-methyl (expressed as carbendazim)
Carbon disulphide	carbon disulphide
Carbon Tetrachloride	carbon tetrachloride
Cartap	cartap
Chlordane	(1) for products of animal origin: sum of *cis*- and *trans*-isomers and oxychlordane, expressed as chlordane; (2) for cereals, fruit and vegetables: sum of *cis*- and *trans*-isomers, expressed as chlordane
Chlorothalonil	chlorothalonil
Chlorpyrifos	chlorpyrifos
Chlorpyrifos-methyl	chlorpyrifos-methyl
Cypermethrin	cypermethrin (sum of isomers)
DDT	sum of pp′—DDT, op′—DDT, pp′—DDE and pp′—TDE (DDD) expressed as DDT
Deltamethrin	deltamethrin
Diazinon	diazinon
1,2-Dibromoethane	1,2-dibromoethane
Dichlorvos	dichlorvos
Dichlorprop	dichlorprop (including dichlorprop P)
Dimethoate	dimethoate
Dinoseb	dinoseb
Dioxathion	dioxathion
Endosulfan	sum of alpha- and beta- isomers and of endosulfan sulphate, expressed as endosulfan
Endrin	endrin
Ethion	ethion
Fenchlorphos	fenchlorphos (sum of fenchlorphos and fenchlorphos oxon expressed as fenchlorphos)
Fenvalerate	fenvalerate (sum of isomers)
Glyphosate	glyphosate