1990 No. 286

AGRICULTURE

The Fertilisers Regulations (Northern Ireland) 1990

Made . . . . . *30th July 1990*

Coming into operation . . *17th September 1990*

ARRANGEMENT OF REGULATIONS

Regulations

1. Citation, commencement and interpretation.
2. Control of materials designated as EEC fertilisers.
3. Control of materials not designated as EEC fertilisers.
4. Use and meaning of prescribed names and descriptions of materials.
5. Prescribed descriptions of material and particulars and information to be contained in the statutory statement.
6. Limits of variation.
7. Time by which a statutory statement relating to certain material must be given.
8. Manner of marking and labelling materials.
9. Modification of section 69(1) and (2) for certain imported material.
10. Register of marks.
11. Application of section 82 of the Agriculture Act 1970.
12. Amendment as respects metrication.
13. Revocation.

SCHEDULES

Schedule 1. — Prescribed descriptions of material, meanings of names, particulars and information to be contained in the statutory statement and limits of variation.

Schedule 2. — Manner of marking and labelling material and fastening of packaged material.

Part I Provisions as to the manner of marking material.

Part II Requirements as to the manner of labelling material and fastening of packaged material.

The Department of Agriculture in exercise of the powers conferred on it by sections 66(1)(**a**), 68(1), (2) and (3), 69(1), (3), (6) and (7), 70(1), 74(1), 74A(1), (2) and (4), 84 and 86(1), (2), (3) and (9) of the Agriculture Act 1970(**b**) and of every other power enabling it in that behalf, after consultation with such persons or organisations as appear to it to represent the interests concerned, hereby make the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Fertilisers Regulations (Northern Ireland) 1990 and shall come into operation on 17th September 1990.

(2) In these Regulations—

"EEC fertiliser" means any material listed in Groups 1(*a*), 2(*a*) or 3(*a*) of Section A, or Groups 1 to 4 of Section B, or Groups 1(*a*) and 2 of Section C of the table in Schedule 1, which conforms in all respects with regulation 2 and with the relevant requirements laid down for such materials in the said table, and which is designated "EEC FERTILISER" as required by paragraph 1(*a*) of Part I of Schedule 2;

"herbicide" means a substance calculated to destroy or control any unwanted plant;

"pesticide" means a substance calculated to destroy or control any insect, mite, mollusc, nematode, fungus or any other pest capable of destroying, damaging or retarding the growth of any form of plant life; and

"register" means the register kept in accordance with regulation 10.

(3) Any reference in these Regulations to a numbered section shall, unless the reference is to a section of a specified Act, be construed as a reference to the section bearing that number in the Agriculture Act 1970.

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

Control of materials designated as EEC fertilisers

2.—(1) A person shall not sell, or have in possession with a view to sale for use as a fertiliser, any material designated as an EEC fertiliser, or give any indication directly or indirectly that the material is an EEC fertiliser, unless the material complies with all the relevant provisions of Schedules 1 and 2 as respects content and marking.

(2) A person shall not sell, or have in possession with a view to sale for use as an EEC fertiliser, any material containing any pesticide or herbicide, or any organic nutrient of animal or vegetable origin, or any of the substances boron, cobalt, copper, iron, magnesium (except in those cases where magnesium is specified in column 3 of the table in Schedule 1), manganese or molybdenum which have been added in the course of manufacture or preparation for sale.

(**a**) *See* the definitions of "prescribed" and "regulations"

(**b**) 1970 c. 40; section 74A was inserted by s. 4(1) of, and paragraph 6 of Schedule 4 to the European Communities Act 1972 (c. 68) and there are other amendments to the Act not relevant to these Regulations

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

(3) A person shall not make available to any other person for the final use by that other person as a fertiliser any ammonium nitrate, as defined in column 3 of section A of the table in Schedule 1, which is designated as an EEC fertiliser and contains more than 28% by weight of nitrogen unless the material is in a package or container which complies with the provisions of Part II of Schedule 2.

Control of materials not designated as EEC fertilisers

3. A person shall not sell, or have in possession with a view to sale, for use as a fertiliser, any solid or fluid material which, not being designated as an EEC fertiliser, but containing any material named in the table in Schedule 1, does not comply with the requirements of these Regulations.

Use and meaning of prescribed names and descriptions of material

4.—(1) Subject to the provisions of paragraphs (4) and (5), a person shall not sell, or have in possession with a view to sale, as a fertiliser or for use as a fertiliser, any material specified in Section A, B or C of the table in Schedule 1 which complies with the corresponding meaning in column 3 of that table unless the statutory statement relating to any such material and required by section 68(1) contains the corresponding name or one of the corresponding names, as the case may be, designated in column 2 of that table.

(2) For the purposes of section 70, any name of a material specified in column 2 of the table in Schedule 1 shall, subject to the provisions of paragraphs (4) and (5), have the meaning corresponding thereto in column 3 of that table.

(3) A person shall not sell, or have in possession with a view to sale, as a fertiliser or for use as a fertiliser, any material specified in Groups 1(*b*), 2(*c*), 3(*c*) and 5(*b*) of Section A and Groups 1(*c*), 1(*e*) and 1(*g*) of Section C of the table in Schedule 1 unless he gives in the statutory statement or in any other document or label referring to the material a name or description, or name and description, sufficiently specific to indicate to the intending purchaser the true nature of the material.

(4) In the case of those materials in Groups 1 to 4 of Section B and Group 2 of Section C of the table in Schedule 1 which are not sold or offered for sale as EEC fertilisers and for which the declared content of any or all nutrients, or the total nutrient content, falls below the minimum levels specified in column 3 of that table, the statutory statement shall contain the name designated in column 2 thereof provided that the material complies in all other respects with the requirements of the said column 3.

(5) In the case of materials specified in Sections A, B and C of the table in Schedule 1 any meaning given in column 3 of that table shall be deemed not to exclude the presence of a substance added to improve the handling qualities of the material and, in the case of materials which are not sold or offered for sale as EEC fertilisers, the said meaning shall be deemed not to exclude the presence of boron, cobalt, copper, iron, magnesium, manganese or molybdenum (or a compound of any such element), or any herbicide or pesticide.

Prescribed descriptions of material and particulars and information to be contained in the statutory statement

5. The descriptions of material prescribed for the purposes of sections 68(1) and 69(1) shall be those names designated in column 2 of the table in Schedule 1 and the particulars or information required to be contained in a statutory statement relating to any such material shall be the particulars or information specified in relation thereto in column 4 of the table in Schedule 1 and in Part I of Schedule 2.

Limits of variation

6. For the purposes of section 74, the limits of variation in relation to any mis-statement as to the nature, substance or quality of any material specified in column 2 of the table in Schedule 1 shall, subject to the provisions of that Schedule, be the corresponding limits in relation to that material set out in column 5 and, as the case may be, in column 6 of that table.

Time by which a statutory statement relating to certain material must be given

7. For the purposes of section 68(3), any statutory statement required to be given on the sale of—

(*a*) any fertiliser, in packages, of a description specified in Group 4 of Section A of the table in Schedule 1,

(*b*) any solid fertiliser, not sold or offered for sale as an EEC fertiliser, other than a solid fertiliser sold or offered for sale in packages, of a description specified in Sections A and B of the table in Schedule 1, or

(*c*) any fluid fertiliser not sold or offered for sale as an EEC fertiliser in a container of a capacity in excess of 100 kilograms,

shall be given at the time of delivery of the material to the purchaser.

Manner of marking and labelling material

8. The manner in which material shall be marked and labelled for the purposes of section 69(1) and section 74A shall be as set out in Schedule 2.

Modification of section 69(1) and (2) for certain imported material

9. In the case of—

(*a*) any fertiliser, in packages, of a description specified in Group 4 of Section A of the table in Schedule 1,

(*b*) any solid fertiliser, not sold or offered for sale as an EEC fertiliser, other than a solid fertiliser sold or offered for sale in packages, of a description specified in Sections A and B of the table in Schedule 1, or

(*c*) any fluid fertiliser not sold or offered for sale as an EEC fertiliser in a container of a capacity in excess of 100 kilograms,

which has been imported and is of a description prescribed for the purposes of section 69(1) by regulation 5, subsections (1) and (2) of section 69 shall have effect as if—

(i) the words "and in either case before it is removed from the premises", were omitted from the said subsection (1), and

(ii) the words "any material which has been marked in accordance with this subsection" were substituted for the words "the material" in the said subsection (1).

Register of marks

10.—(1) Except in the case of materials sold or offered for sale as EEC fertilisers, as respects any material of a description prescribed for the purposes of section 69(1) by regulation 5 which comprises—

(*a*) any fertiliser in packages of a description specified in Group 4 of Section A of the table in Schedule 1,

(*b*) any solid fertiliser, other than a solid fertiliser in packages, of a description specified in Sections A and B of the table in Schedule 1,

(*c*) any fluid fertiliser in a container of a capacity in excess of 100 kilograms, or

(*d*) any material, not being of a standard formulation on general sale by the seller concerned, which is specially manufactured or mixed to the order of a particular purchaser,

the matters required by section 69 to be marked on that material may be denoted by a mark whose meaning can be ascertained by reference to the register.

(2) The register shall show those matters to which the mark relates, being matters required to be contained in a statutory statement relating to the material to which the mark relates, and the date of entry of those particulars in the register, and entries relating to material of a kind mentioned in paragraph (1)(*d*) shall include the name and address of the purchaser, the date of the order and the amount ordered. The register shall be kept as a separate record in book form marked on the outside "Register of marks under section 69(6) of the Agriculture Act 1970" and shall be kept on the premises where the material is held for the purpose of selling it in the course of trade for use as a fertiliser, save that if the material is in a public store the register shall be kept on the premises of the person who has the material for sale.

(3) The period for which the register is to be preserved in accordance with section 69(7) shall be a period of 6 months commencing with the first day on which none of the materials referred to in the register remains on the premises for sale as aforesaid.

Application of section 82 of the Agriculture Act 1970

11. Section 82 (which provides for a defence of mistake or accident to apply to proceedings in certain cases) shall apply for the purposes of these Regulations and for the purposes of section 74A(3) as if references therein to proceedings under the Agriculture Act 1970 included reference to proceedings in respect of an offence under these Regulations.

Amendment as respects metrication

12. In relation to any material to which these Regulations apply the operation of the provisions of sections 66(1), 68(2)(*b*) and 76(5) shall be modified as follows:—