1978 No. 240

AGRICULTURE

The Fertilisers (Sampling and Analysis) Regulations (Northern Ireland) 1978

Made . . . . . 23*rd August,* 1978

Coming into operation . . . 1*st October,* 1978

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The Department(a) of Agriculture, after consultation with such persons or organisations as appear to it to represent the interests concerned, in exercise of the powers conferred on it by sections 66(1), 74A (inserted by section 4(1) of, and paragraph 6 of Schedule 4 to, the European Communities Act 1972(b)), 75(1), 77, 78(2), (4) and (6), 79(1), (2) and (9), 84 and 86 of the Agriculture Act 1970(c) and of every other power enabling it in that behalf, hereby makes the following regulations:—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Fertilisers (Sampling and Analysis) Regulations (Northern Ireland) 1978, and shall come into operation on 1st October, 1978.

(a) Formerly Ministry: *see* 1973 c. 36 s. 40 and Sch. 5 para. 8(1)
(b) 1972 c. 68
(c) 1970 c. 40

(2) In these regulations, unless the context otherwise requires—

"the Act" means the Agriculture Act 1970, as amended by section 4(1) of, and paragraph 6 of Schedule 4 to, the European Communities Act 1972;

AND other expressions have the same meaning as in the Act.

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

(4) 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 Act.

Prescribed amount for the purposes of the definition of sampled portion

2.—(1) The prescribed amount of material for the purposes of the definition of sampled portion in section 66(1) shall be determined in accordance with the provisions of this regulation.

(2) In relation to solid fertiliser in packages, the prescribed amount shall be the quantity of material present or 5 tonnes, whichever is the less.

(3) In relation to solid fertiliser in bulk containers, the prescribed amount shall be the contents of the lowest number of containers which together hold not less than 5 tonnes, save that if all the containers together hold less than 5 tonnes or if all the fertiliser is in one container, the prescribed amount shall be the quantity of material present, or if any such bulk containers hold not less than 5 tonnes, the prescribed amount shall be the contents of any such bulk container.

(4) In relation to solid fertiliser which is loose in heaps or bays, the prescribed amount shall be the contents of the lowest number of heaps or bays which together contain not less than 5 tonnes, save that if all the heaps or bays together contain less than 5 tonnes or if all the fertiliser is in one heap or bay, the prescribed amount shall be the quantity of material present, or if any such heaps or bays hold not less than 5 tonnes, the prescribed amount shall be the content of any such heap or bay.

(5) In relation to liquid or semi-liquid fertiliser in containers, the prescribed amount shall be the contents of the lowest number of containers which together hold not less than 5,000 litres, save that if all the containers together hold less than 5,000 litres or if all the fertiliser is in one container, the prescribed amount shall be the quantity of material present, or if any such containers hold not less than 5,000 litres, the prescribed amount shall be the content of any such container.

Manner of taking, dividing, marking, sealing and fastening of samples

3. The manner in which samples are to be taken, divided, marked, sealed and fastened in cases where under Part IV of the Act they are taken in the prescribed manner shall be set out in Schedule 1.

Methods of sending part of a sample

4. Any part of a sample required to be sent to any person in pursuance of subsection (1)(*b*) or (2) of section 77 shall be sent by registered post or by the recorded delivery service or may be delivered or given by hand.

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

Application of the methods of analysis

5.—(1) The methods of analysis prescribed in Schedule 2 shall apply, as respects materials specified in Schedule 1 to the Fertilisers Regulations (Northern Ireland) 1977(e), as follows:—

(*a*) in the case of those materials set out in Groups 1(*a*), 1(*b*), 2(*a*) and 3(*a*) of Section A, and Groups 1 to 4 inclusive of Section B, determination of all analytical constituents;

(*b*) in the case of "Nitrogenous fertiliser" in Group 1(*d*) of Section A, and "Compound fertiliser" in Group 5 of Section B, determination of ureic nitrogen; and

(*c*) in the case of "Phosphated slag" and "Rock phosphate" in Group 2(*b*) of Section A, and "Phosphatic fetiliser" in Group 2(*d*) of Section A, determination of phosphorus pentoxide soluble in 2% formic acid.

(2) As respects materials or analytical constituents not specified or referred to in paragraph (1) the requirements of Schedule 6 of the Fertilisers and Feeding Stuffs Regulations (Northern Ireland) 1973(f) shall apply thereto.

(3) As respects analytical constituents for which methods of analysis are specified in Schedule 2, and in Schedule 6 to the Fertilisers and Feeding Stuffs Regulations (Northern Ireland) 1973, the methods of analysis to be made for the purpose of the Act shall be those respectively set out in the said Schedules.

Form of certificate of analysis

6. The certificate of an agricultural analyst of the analysis shall be in the form set out in Schedule 3.

Amendment as respects metrication

7. In relation to any material to which these regulations apply the operation of the provisions of sections 66(1) and 76(5) shall be modified as follows:—

(*a*) the definition of "sampled portion" in section 66(1) shall have effect as if "five tonnes or 5,000 litres" were substituted for "five tons or 1,000 gallons or the prescribed metric substitution"; and

(*b*) section 76(5) shall have effect as if "six kilograms" were substituted for "fourteen pounds or the prescribed metric substitution".

Amendment of the Fertilisers Regulations (Northern Ireland) 1977

8. The Fertilisers Regulations (Northern Ireland) 1977 shall be amended as follows:—

(*a*) in regulation 1(1)(*b*) for "shall come into operation on 1st June 1978" there shall be substituted "shall, in the case of fertilisers sold or offered for sale in bulk or in packages or containers exceeding 25 kilograms or 10 litres, as the case may be, come into operation on 1st June 1978, and in the case of fertilisers sold or offered for sale in packages or containers not exceeding 25 kilograms or 10 litres, as the case may be, come into operation on 1st June 1980";

(e) S.R. 1977 No. 288 (II, p. 1551)
(f) S.R. & O. (N.I.) 1973 No. 494 (II, p. 2862)

(*b*) for regulation 3 there shall be substituted:—

"**3.**—(1) Any material, which is sold or offered for sale in bulk or in packages or containers exceeding 25 kilograms or 10 litres, as the case may be, manufactured on or after 1st June 1978 and not designated as an EEC fertiliser, shall comply with the requirements of these regulations and any such material manufactured before 1st June 1978 shall, subject to the provisions of regulation 14, comply with the requirements of the Fertilisers and Feeding Stuffs Regulations (Northern Ireland) 1973(**e**), as amended by the Fertilisers and Feeding Stuffs (Amendment) Regulations (Northern Ireland) 1976(**f**) until 31st December 1979.

(2) Any material, which is sold or offered for sale in packages or containers not exceeding 25 kilograms or 10 litres, as the case may be, manufactured on or after 1st June 1980 and not designated as an EEC fertiliser, shall comply with the requirements of these regulations and any such material manufactured before 1st June 1980 shall, subject to the provisions of regulation 14, comply with the requirements of the Fertilisers and Feeding Stuffs Regulations (Northern Ireland) 1973 as amended by the Fertilisers and Feeding Stuffs (Amendment) Regulations (Northern Ireland) 1976 until 31st May 1983";

(*c*) in regulation 13 for "1st January 1980" there shall be substituted "1st June 1983";

(*d*) in regulation 14 for "in the case of all other fertilisers" there shall be substituted "in the case of fertilisers sold or offered for sale in bulk or in packages or containers exceeding 25 kilograms or 10 litres, as the case may be, or before 1st June 1980 in the case of all other fertilisers";

(*e*) in paragraph 3 of Part II of Schedule 2 after "other than a bulk container" there shall be inserted "or a container of liquid fertilisers of a capacity not exceeding 10 litres".

Revocations

9. Regulations 3, 4, 14, 15 and 16 and Parts I, II and IV of Schedule I and Part I of Schedule 8 of the Fertilisers and Feeding Stuffs Regulations (Northern Ireland) 1973, and regulations 2(1), (6), (7), (8), (15) and (17) and 3(2) and Schedule 8 of the Fertilisers and Feeding Stuffs (Amendment) Regulations (Northern Ireland) 1976(**g**) shall cease to have effect as respects their application to fertilisers on 1st June 1983.

Sealed with the Official Seal of the Department of Agriculture for Northern Ireland on 23rd August, 1978.

(L.S.) *W. H. Parker*
Assistant Secretary

(g) S.R. 1976 No. 255 (II, p. 1202)

SCHEDULE 1

MANNER OF TAKING, DIVIDING, MARKING, SEALING AND FASTENING OF SAMPLES

(Sections 66(1), 74A, 75(1), 76(1), 77(1), (2) and (3), 78(2) and (4) and 79(1) and (2) and Regulation 3)

PART I

DEFINITIONS

In this Schedule:—

"sampled portion" means a quantity of a material constituting a unit and having characteristics presumed to be uniform;

"incremental sample" means a quantity taken from one point in the sampled portion;

"aggregate sample" means an aggregate of incremental samples taken from the same sampled portion;

"reduced sample" means a representative part of the aggregate sample obtained from the latter by a process of reduction;

"final sample" means a representative part of the reduced sample or, where no intermediate reduction is required, of the aggregate sample; and

"unit" means a material identifiable as such by reason of its manufacturer, packer, uniform manner of packaging or labelling.

PART II

GENERAL INSTRUCTIONS FOR THE TAKING OF SAMPLES

1. In the case of fertiliser in packages or containers, only unopened packages or containers which appear to the inspector proposing to take the sample to be the original packages or containers of the fertiliser shall be selected for the purpose of the sample.

2. The sample shall be taken and prepared as quickly as possible having regard to the precautions necessary to ensure that it remains representative of the sampled portion. Instruments, surfaces and containers used in sampling shall be clean and dry.

3. No sample shall be drawn from any part of the sampled portion which appears to be damaged.

4. When stones are naturally present in a fertiliser, they shall, if possible, be broken up and mixed with the quantity from which a sample is to be drawn. Failing this they shall be removed from the mixture from which a sample is to be drawn and the weight of the residue of that mixture and the weight of the stones ascertained and reported to the analyst. In addition, a representative sample of the stones shall be sent to the analyst with the final sample.

5. An inspector who intends to take a sample in accordance with the provisions of section 76(1) on premises (not being premises used only as a dwelling) on which he has reasonable cause to believe that there is any fertiliser which the occupier of the premises has purchased, shall:—

(*a*) satisfy himself that the conditions in which the fertiliser is stored are not such as might cause undue deterioration of the fertiliser, and that the fertiliser appears not to have been contaminated by any other material;