
STATUTORY RULES OF NORTHERN IRELAND

2006 No. 503

EC Fertilisers Regulations (Northern Ireland) 2006

PART 4

Competent laboratories, treatment of samples and further controls

Competent laboratories

15.—(1) The Department shall be responsible for granting or withdrawing authorisations for the purposes of Article 33 (competent laboratories).

(2) In deciding whether to grant or withdraw authorisation under this regulation, the Department shall take into account the actual and expected competence of the laboratory to check compliance of fertilisers designated as EC fertilisers with the requirements of the Community Regulation.

(3) A statement given by the Department to the operator of a laboratory in anticipation of the coming into force of this regulation that the laboratory is authorised for the purposes of Article 33 is deemed to be an authorisation under this regulation.

Treatment of samples

16. In any proceedings for an offence under these Regulations to which the content of a fertiliser is relevant—

- (a) a court shall not conclude that a sample is representative of the fertiliser unless—
 - (i) the sample has been taken in accordance with Annex IV, and
 - (ii) it has been subjected to analysis in accordance with Annex IV in a laboratory listed in accordance with Article 30(2) or (5);
- (b) a certificate given by a person that he is an inspector and took the sample in accordance with Annex IV shall, unless the contrary is proved, be taken as evidence of his being one and having done so;
- (c) a certificate given on behalf of a laboratory that it is authorised under Article 33 and that it analysed the sample in question in accordance with Annex IV shall, unless the contrary is proved, be evidence of it being so authorised and having done so; and
- (d) the combination of those certificates shall, unless the contrary is proved, be taken as evidence that the sample is representative of the fertiliser.

Remedial action and seizure

17.—(1) Where an inspector has reasonable grounds to believe that a fertiliser designated as an EC fertiliser is one in relation to which an offence under these Regulations has been committed he may—

- (a) give to the person whom he considers to be in charge of the fertiliser a notice requiring him to take such action as is specified in the notice; or

- (b) seize the fertiliser in order to have it dealt with by a justice of the peace.
- (2) The action that may be so specified is action to ensure that the fertiliser is removed from the market and not placed on the market again until it can be so placed without an offence under these Regulations being committed.
- (3) A notice given under paragraph (1)(a) shall also specify the grounds for the inspector's belief.
- (4) Where an inspector has seized fertiliser under paragraph (1)(b)—
 - (a) he shall inform the person whom he considers liable to prosecution of the grounds for his belief;
 - (b) that person may attend before the justice of the peace who deals with the fertiliser; and
 - (i) shall be entitled to be heard; and
 - (ii) may call witnesses; and
 - (c) if the justice of the peace finds that the fertiliser is one in relation to which an offence under these Regulations has been committed—
 - (i) he shall order that it be destroyed or disposed of in an appropriate manner; and
 - (ii) any expenses reasonably incurred in connection with the destruction or disposal shall be defrayed by the person in question.
- (5) Any person who fails to comply with a notice given under paragraph (1)(a) shall be guilty of an offence.

Safeguard measures

- 18.**—(1) Where a risk identified in Article 15 applies in relation to a fertiliser covered by that Article, the Department may direct any person whom it considers to be in charge of the fertiliser to take such action for mitigation or elimination of the risk as is specified in the direction.
- (2) A direction shall be given by notice served on the person in question.
 - (3) If the Department considers that—
 - (a) the direction should be given to a number of persons; and
 - (b) the most efficient way of bringing it quickly to their attention would be publicising it by other means,the direction shall be given to them by publicising it by those other means.
 - (4) Any person who fails to comply with a direction given under this regulation shall be guilty of an offence unless the direction has been withdrawn.
 - (5) In any proceedings for an offence under paragraph (4) it shall be a defence for the person accused to show that—
 - (a) he was not in charge of the fertiliser; or
 - (b) he was not aware of the direction.