



STATUTORY INSTRUMENTS.

**S.I. No. 65 of 2018**



EUROPEAN UNION (GOOD AGRICULTURAL PRACTICE FOR  
PROTECTION OF WATERS) (AMENDMENT) REGULATIONS 2018

## EUROPEAN UNION (GOOD AGRICULTURAL PRACTICE FOR PROTECTION OF WATERS) (AMENDMENT) REGULATIONS 2018

I, EOGHAN MURPHY, Minister for Housing, Planning and Local Government, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving further effect to Directive 91/676/EEC of 12 December 1991<sup>1</sup>, Directive 2000/60/EC of 23 October 2000<sup>2</sup>, Directive 2003/35/EC of 26 May 2003<sup>3</sup>, Directive 2006/11/EC of 15 February 2006<sup>4</sup>, Directive 2006/118/EC of 12 December 2006<sup>5</sup> and Directive 2008/98/EC of 19 November 2008<sup>6</sup> hereby make the following regulations:

## PART 1 PRELIMINARY

*Citation, commencement and application*

1. These Regulations may be cited as the European Union (Good Agricultural Practice for Protection of Waters) (Amendment) Regulations 2018.

*Interpretation*

2. In these Regulations:

- (i) “Commission Decision” means the Commission Implementing Decision of 8 February 2018 on granting a derogation requested by Ireland pursuant to Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources;
- (ii) “The 2017 Regulations” means the European Union (Good Agricultural Practice for the Protection of Waters) Regulations 2017 (S.I. No. 605 of 2017).

*Amendment of 2017 Regulations*

3. The following Article 16 (3)(d) is substituted for Article 16 (3)(d) of the 2017 Regulations:

“An occupier of a holding located in an area where soils have an organic matter content of 20% and above, as defined on Teagasc-EPA Indicative Soils map, shall ensure that the soil test undertaken includes organic matter determination, subject to

<sup>1</sup>O.J. No. L 375/1, 31 December 1991.

<sup>2</sup>O.J. No. L 327/1, 22 December 2000.

<sup>3</sup>O.J. No. L 156/17, 25 June 2003.

<sup>4</sup>O.J. No. L 64/52, 4 March 2006.

<sup>5</sup>O.J. No. L 372/19, 27 December 2006.

<sup>6</sup>O.J. No. L 312/3, 22 November 2008.

*Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 13th March, 2018.*

the provisions of paragraph (e). The phosphorus fertilisation rate for soils with more than 20% organic matter shall not exceed the amounts permitted for Index 3 soils.”

4. Article 16 (3) of the 2017 Regulations is amended by the insertion of the following after Article 16 (3)(d):

“(e) Soil organic matter determination, in accordance with paragraph (d), shall not be required where it is certified by a Farm Advisory System Advisor that soils on a holding/field in such areas are either mineral soils or organic soils.”

5. The following Article 16 (5)(a) is substituted for Article 16 (5)(a) of the 2017 Regulations:

“Soil analysis is carried out for soil phosphorus and soil organic matter contents; soil organic matter testing shall not be required where it is certified by a Farm Advisory System Advisor that the sample area is a mineral soil.”

6. The following Article 17 (2)(f) is substituted for Article 17 (2)(f) of the 2017 Regulations:

“subject to sub-article (12), 5m of any surface waters (other than a lake or surface waters specified at paragraph (a) or (b)), or”

7. The following Article 17 (14) is substituted for Article 17 (14) of the 2017 Regulations:

“Organic fertiliser shall not be held in a field at any time during the periods specified in Schedule 4 as applicable to that substance.”

8. The following Table 19 is substituted for Table 19 of the 2017 Regulations:

“Table 19 Maximum fertilisation rates of phosphorus on vegetable crops

| Crop                            | Phosphorus Index                          |    |    |    |
|---------------------------------|---|----|----|----|
|                                 | 1   | 2  | 3  | 4  |
|                                 | Available Phosphorus (kg/ha) <sup>1</sup> |    |    |    |
| Asparagus (Establishment)       | 65  | 45 | 35 | 20 |
| Asparagus (After harvest)       | 27  | 22 | 15 | 10 |
| Broad Beans                     | 65  | 45 | 35 | 20 |
| French Beans                    | 65  | 45 | 35 | 20 |
| Beetroot                        | 65  | 45 | 35 | 20 |
| Brussels Sprouts                | 65  | 45 | 35 | 20 |
| Spring Cabbage                  | 65  | 45 | 35 | 20 |
| Other Cabbage                   | 65  | 45 | 35 | 20 |
| Broccoli                        | 65  | 45 | 35 | 20 |
| Cauliflower (Winter and Spring) | 65  | 45 | 35 | 20 |
| Cauliflower (Summer and Autumn) | 65  | 45 | 35 | 20 |

| Crop                       | Phosphorus Index |    |    |    |
|----------------------------|------------------|----|----|----|
|                            | 65               | 45 | 35 | 20 |
| Carrots                    | 65               | 45 | 35 | 20 |
| Celery                     | 88               | 65 | 55 | 28 |
| Courgettes                 | 65               | 45 | 35 | 20 |
| Leeks                      | 65               | 45 | 35 | 20 |
| Lettuce                    | 80               | 60 | 40 | 20 |
| Onions                     | 65               | 45 | 35 | 20 |
| Scallions                  | 65               | 45 | 35 | 20 |
| Parsley                    | 65               | 45 | 35 | 20 |
| Parsnip                    | 65               | 45 | 35 | 20 |
| Peas (Market)              | 65               | 45 | 35 | 20 |
| Rhubarb                    | 65               | 45 | 35 | 20 |
| Spinach                    | 65               | 45 | 35 | 20 |
| Swede (Horticultural)      | 70               | 60 | 45 | 35 |
| Swede (Transplanted crops) | 70               | 60 | 45 | 35 |

<sup>1</sup>The fertilisation rates for soils which have more than 20% organic matter shall not exceed the amounts permitted for Index 3 soils.”

9. The 2017 Regulations are amended by the insertion of the following after Part 6:

“Part 7

IMPLEMENTATION OF COMMISSION DECISION

35. The Minister for Agriculture, Food and the Marine shall be the competent authority for the purposes of verifying compliance with a derogation granted under the Commission Decision.

36. (1) The application to land on a holding in any year of livestock manure in excess of the amount specified in Article 20(1) shall be deemed not to be a contravention of that sub-article where all of the following conditions are met—

- (a) the occupier of the holding has made application in respect of that year to the Minister for Agriculture, Food and the Marine for authorisation of a derogation from the requirements of that sub-article;
- (b) the application under paragraph (a) is duly completed in the form and on or before the date specified for the time being by that Minister;
- (c) the application under paragraph (a) is accompanied by an undertaking in writing by the occupier to comply with all the conditions specified in Schedule 5, and
- (d) all the conditions set out in Schedule 5 are met by the occupier in relation to the holding.

(2) Where an application is made to the Minister for Agriculture, Food and the Marine in accordance with this Article that Minister shall consider the application and, where that Minister considers that the application does not comply with the conditions therein, shall issue a notice of refusal to the occupier.

37. The Minister for Agriculture, Food and the Marine shall carry out, or arrange for the carrying out of, such monitoring, controls and reporting as are necessary for the purposes of Articles 8, 9 and 10 of the Commission Decision.

38. The Agency shall prepare annually a report of the results of water quality monitoring carried out by local authorities for the purposes of Article 8(3) of the Commission Decision and, where appropriate and as agreed from time to time between the Agency and the Minister for Agriculture, Food and the Marine, shall assist that Minister in compiling water quality data for reporting in accordance with the requirements of the Commission Decision.

39. The Agency shall make such recommendations and give such directions to a local authority in relation to the monitoring of water quality as it considers appropriate and/or necessary for the purposes of the Commission Decision.”

10. The 2017 Regulations are amended by the insertion of the following Schedule 5 after Schedule 4:

#### “Schedule 5

##### CONDITIONS APPLYING IN RELATION TO DEROGATION

The following are the conditions for the purposes of Article 36 (1) of these Regulations in relation to the application to land on a holding in any year of livestock manure in excess of the amount specified in Article 20(1):

#### *Application of manure and other fertilisers*

1. The amount of livestock manure from grazing livestock applied to the land each year on grassland farms, including by the animals themselves, shall not exceed the amount of manure containing 250 kg nitrogen per hectare, subject to the conditions laid down in paragraphs 2 to 7.

2. The total nitrogen inputs shall neither exceed the foreseeable nutrient demand of the considered crop, nor the maximum fertilisation rate applicable to the grassland farm, established in the Nitrates Action Programme and shall take into account the supply from the soil. Total nitrogen application shall be differentiated on the basis of stocking rate and grassland productivity.

3. A fertilisation plan shall be prepared and kept for each grassland farm describing the crop rotation of the farmland and the planned application of manure and other fertilisers. It shall be available at the grassland farm for each calendar year before 1 March of that year. The fertilisation plan shall comprise at least the following:

- (a) The crop rotation plan, which must specify the acreage of parcels with grass and parcels with other crops, including a sketch map indicating the location of individual parcels;
- (b) the number of livestock on the grassland farm, a description of the housing and storage system, including the volume of manure storage available;
- (c) a calculation of manure nitrogen and phosphorus produced on the grassland farm;
- (d) the amount, type and characteristics of manure delivered outside the grassland farm or to the grassland farm;
- (e) the foreseeable nitrogen and phosphorus crop requirements for each parcel;
- (f) results of soil analysis related to nitrogen and phosphorus soil status if available;
- (g) the nature of the fertiliser to be used;
- (h) a calculation of nitrogen and phosphorus application from manure for each parcel;
- (i) a calculation of nitrogen and phosphorus application from chemical and other fertilisers for each parcel.

The fertilisation plan shall be revised no later than seven days following any change in agricultural practices at the grassland farm.

4. Fertilisation accounts, including information related to management of nitrogen and phosphorus inputs and management of soiled water, shall be prepared and kept for each grassland farm. They shall be submitted to the competent authority for each calendar year by 31 March of the following calendar year.

5. Periodic nitrogen and phosphorus analysis in soil shall be done for each grassland farm.

Sampling and analysis shall be carried out at least once every four years for each homogeneous area of the grassland farm, with regard to crop rotation and soil characteristics.

At least one analysis per five hectares of farmland shall be carried out.

The results of nitrogen and phosphorus analysis in soil shall be available at the grassland farm.

6. Livestock manure shall not be spread in the autumn before grass cultivation.

7. At least 50% of slurry produced on the holding shall be applied by 15 June. Low emission slurry spreading equipment shall be used for any slurry applications after 15 June.

*Land management*

8. Temporary grassland shall be ploughed in Spring.

9. Ploughed grass on all soil types shall be followed immediately by a crop with high nitrogen demand.

10. Crop rotation shall not include leguminous or other plants fixing atmospheric nitrogen. This shall, however, not apply to clover in grassland with less than 50% clover and to other leguminous plants that are undersown with grass.

*Definitions*

11. In this schedule, the following definitions shall apply:

- (a) 'grassland farms' means holdings where 80 % or more of the agricultural area available for manure application is grass;
- (b) 'grazing livestock' means cattle (with the exclusion of veal calves), sheep, deer, goats and horses;
- (c) 'grass' means permanent grassland or temporary grassland (temporary implying leys of less than four years);
- (d) 'parcel' means an individual field or a group of fields, homogeneous regarding cropping, soil type and fertilisation practices;
- (e) 'fertilisation plan' means an advance calculation about the planned use and availability of nutrients;
- (f) 'fertilisation account' means the nutrient balance based on the real use and uptake of nutrients.



GIVEN under the Official Seal of the Minister for Housing, Planning and Local Government,  
8 March 2018.

EOGHAN MURPHY,  
Minister for Housing, Planning and Local Government.

EXPLANATORY NOTE

*(This note is not part of the Instrument and does not purport to be a legal interpretation)*

These Regulations amend the European Union (Good Agricultural Practice for Protection of Waters) Regulations 2017. The purpose of the amendment is to give effect to the Commission Implementing Decision of 8 February 2018 on granting a derogation requested by Ireland pursuant to Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources. They also make minor amendments to Articles 16, 17 and Table 19 of the 2017 Regulations.

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