



STATUTORY INSTRUMENTS.

S.I. No. 716 of 2022



EUROPEAN UNION (GOOD AGRICULTURAL PRACTICE
FOR PROTECTION OF WATERS) (AMENDMENT)(No. 2)
REGULATIONS 2022

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I, DARRAGH O'BRIEN, Minister for Housing, Local Government and Heritage, 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 1991¹, Directive 2000/60/EC of 23 October 2000², Directive 2003/35/EC of 26 May 2003³, Directive 2006/118/EC of 12 December 2006⁴ and Directive 2008/98/EC of 19 November 2008⁵ 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) (No. 2) Regulations 2022.

Interpretation

2. In these Regulations :

(i) "The 2022 Regulations" means the European Union (Good Agricultural Practice for the Protection of Waters) Regulations 2022 (S.I. No. 113 of 2022).

Amendment of 2022 Regulations

3. Article 4 is amended by inserting the following:

"grassland stocking rate" means the total nitrogen produced by grazing livestock on the holding prior to exports, across the entire grassland area declared".

"poaching" is the damage that may be done to land and its underlying soil structure arising from the presence of livestock where the underlying risk may cause the transport of sediment and/or nutrients to watercourses.

"dairy cow" is any bovine animal that has calved or has been maintained on the holding for the purposes of supplying milk to a milk purchaser.

¹ O.J. No. L 375/1, 31 December 1991.

² O.J. No. L 327/1, 22 December 2000

³ O.J. No. L 156/17, 25 June 2003

⁴ O.J. No. L 372/19, 27 December 2006.

⁵ O.J. No. L 312/3, 22 November 2008.

4. The following Article 5 (3) is substituted for Article 5 (3) of the 2022 Regulations:

“The spreading of soiled water to land for milk producers is prohibited between the following dates:

- a) Between 21st December and 31st December for all milk producers from 2022,
- b) Between 10th December and 31st December for all milk producers from 2023,
- c) Between 1st December and 31st December from 2024 onwards for all milk producers with the exception of winter/liquid milk⁶ producers, and
- d) Between 1st December and 31st December from 1st January 2025 onwards for all milk producers including winter/liquid milk¹ producers.”

5. The following Article 12 is substituted for Article 12 of the 2022 Regulations:

“Without prejudice to the generality of Article 8, the capacity of facilities for the storage on a holding of livestock manure produced by deer, goats, horses and sheep shall, subject to Article 14, equal or exceed the capacity required to store all such livestock manure produced on the holding during a period of six weeks.”

6. The following Article 14 (2) is substituted for Article 14 (2) of the 2022 Regulations:

“Subject to sub-article (3), the capacity of facilities for the storage of livestock manure may be less than the capacity specified in Article 12 or 13, as appropriate, in relation to—

- (a) deer, goats, horses or sheep which are out-wintered at a grassland stocking rate which does not exceed 130 kg nitrogen until 31st December 2024 and 100 kg nitrogen from 1st January 2025 onwards at any time during the period specified in Schedule 4 in relation to the application of organic fertiliser other than farmyard manure, or
- (b) livestock (other than dairy cows, deer, goats, horses or sheep) which are out-wintered at a grassland stocking rate which does not exceed 85 kg nitrogen at any time during the period specified in Schedule 4 in relation to the application of organic fertiliser other than farmyard manure.

⁶ Holdings that produce milk during the winter and hold a winter/liquid milk contract with their milk processor.

The requirement for full storage for those holdings stocked between 100 kg N/ha and 130 kg N/ha applies from 1st January 2025.”

7. The following Article 15 (6) is substituted for Article 15 (6) of the 2022 Regulations:

“On holdings with previous year grassland stocking rates of 130 kg nitrogen per hectare from grazing livestock manure (dairy cows and other bovines two years old and over) or above prior to export of livestock manure from the holding, a maximum crude protein content of 15% is permissible in concentrate feedstuff fed to grazing livestock on the holding between 15th April and 30th September. Records of crude protein content of concentrate feedstuff shall be kept in accordance with Article 23(1)(j).”

8. The following Article 15 (7) is substituted for Article 15 (7) of the 2022 Regulations:

“On holdings with previous year grassland stocking rates of 170 kg nitrogen per hectare from grazing livestock manure or above prior to export of livestock manure from the holding, a liming programme shall be prepared and must establish the following: -

- (a) A calculation of liming requirements for each parcel to achieve optimum pH;
- (b) A lime application programme for the farm.”

9. The following Article 16 (3)(f) is substituted for Article 16 (3)(f) of the 2022 Regulations:

“All occupiers of holdings that have a previous years grassland stocking rate of 170 kg N/ha or above prior to export of livestock manure, shall take soil tests and shall assume P index 4 until soil tests are taken. From 1st January 2023 all occupiers of holdings with a previous year’s grassland stocking rate above 130 kg N/ha shall take soil tests and shall assume P index 4 until soil tests are taken. From 1st January 2023 all arable land shall take soil tests.”

10. The following Article 16 (6) is substituted for Article 16 (6) of the 2022 Regulations:

“In the case of a holding on which grazing livestock are held, the amount of available phosphorus supplied to the holding by concentrated feedstuff shall be the amount fed to such livestock in excess of 300 kg per 92 kg of livestock manure nitrogen in the previous calendar year and the phosphorus content of such concentrated feedstuff shall, in the absence of a known phosphorus content or phosphorus content provided by the supplier, be deemed to be 0.5 kg phosphorus in respect of each 100 kg of such concentrated feedstuff.”

11. The following Article 17 (1) is substituted for Article 17 (1) of the 2022 Regulations:

“Chemical fertiliser shall not be applied to land within 3m of any surface waters.”

12. The following Article 17 (15) is substituted for Article 17 (15) of the 2022 Regulations:

“Where there is inadequate facilities for the collection and storage of any potential effluent from silage bales, bales may only be stored at a maximum height of 2 bales, and at least 20m from surface water or a drinking water abstraction point.”

13. The following Article 17 (16) is substituted for Article 17 (16) of the 2022 Regulations:

“No cultivation shall take place within 3m of a watercourse identified on a modern 1:5,000 scale OSi mapping or better, except in the case of grassland establishment or the sowing of grass crops.”

14. The following Article 18 (1) (b) is substituted for Article 18 (1) (b) of the 2022 Regulations:

“Low emission slurry spreading equipment must be used for the application of slurry on holdings with a previous year’s grassland stocking rates of:

- (i) 170 kg nitrogen per hectare from grazing livestock manure or above prior to export of livestock manure from the holding.
- (ii) 150 kg nitrogen per hectare from grazing livestock manure or above prior to export of livestock manure from the holding from 1st January 2023.
- (iii) 130 kg nitrogen per hectare from grazing livestock manure or above prior to export of livestock manure from the holding from 1st January 2024.
- (iv) 100 kg nitrogen per hectare from grazing livestock manure or above prior to export of livestock manure from the holding from 1st January 2025.
- (v) slurry produced by pigs on any holding from 1st January 2023.”

15. The following Article 21 (7) is substituted for Article 21 (7) of the 2022 Regulations:

“In counties Carlow, Cork, Dublin, Kildare, Kilkenny, Laois, Louth, Meath, Offaly, Tipperary, Waterford, Westmeath, Wexford and Wicklow shallow

cultivation or sowing of a crop must take place within 10 days of baling of straw post harvest. Where straw is chopped shallow cultivation or sowing a crop must take place within 10 days of harvest. In all circumstances, shallow cultivation or sowing of a crop must take place within 14 days of harvesting. In certain weather conditions, the Minister, in discussion with the Minister for Agriculture, Food and the Marine, may advise when this should not apply.

Soil consolidation as an alternative to shallow cultivation may apply in situations following oilseed rape or where the Land Parcel Identification System (LPIS) parcel, or part thereof, has been certified by a Farm Advisory System (FAS) approved advisor as containing certain grass weeds (*Bromus hordeaceus*, *Bromus commutatus*, *Bromus secalinus* or *Alopecurus myosuroides*). If soil consolidation is practiced as an alternative to shallow cultivation it must take place within the times set out in the first sub-paragraph above.

A minimum of 20% and a maximum of 25% of cereal land on each holding shall not be subject to shallow cultivation post-harvest. Unless a crop has subsequently been established, this land shall not be subject to the use of any herbicides until at least February 1st in the following year. If the cereal area includes land where water flowing over the land surface can enter a watercourse this area should be prioritised for inclusion within the cereal area that is not subject to shallow cultivation post-harvest.”

16. The following Article 23 (3) is substituted for Article 23 (3) of the 2022 Regulations:

“Records shall be prepared for each calendar year by 31st March of the following year and:

- (a) shall be retained for a period of not less than five years, or
- (b) In the case of an organic matter test result, records shall be retained for a period of not less than 12 years.”

17. The 2022 Regulations are amended by the insertion of the following as Article 23 (5) after Article 23 (4):

“For the calculation of excretion rate bands:

- (a) An occupier of a holding shall maintain records of all milk deliveries to milk purchasers from that holding over the previous three calendar years, and shall, with effect from 1 January 2023, make available, on an annual basis, to the Minister for Agriculture, Food and the Marine, or any third party certified by the Minister for Agriculture, Food and the Marine such records in order to determine the excretion rates of dairy cows on the holding in accordance with Table 6 of Schedule 2.
- (b) If the record of all milk delivered to milk purchaser on an annual basis over the previous three calendar years from a holding is not submitted to the Minister, or a third party certified by the Minister, by 14th February of any year, the designation of that

occupier's herd will be assigned, by default, to the highest excretion rate band as set out in Table 6 of Schedule 2 for that year, or until the occupier submits information to the satisfaction of the Minister for Agriculture, Food and the Marine confirming a different excretion rate band as set out in Table 6 of Schedule 2 is appropriate for their herd."

18. The 2022 Regulations are amended by the insertion of the following as Article 27 (5) (f) after Article 27 (5) (e):

"A third party may be certified to provide a service for the Minister for Agriculture, Food and the Marine in the provision of data in order for the Minister for Agriculture, Food and the Marine to monitor and evaluate compliance with Article 20 and Table 6. The third party shall then confirm the banding of each respective dairy herd to the occupier of the holding and the Minister for Agriculture, Food and the Marine."

19. The following Article 29 (2) is substituted for Article 29 (2) of the 2022 Regulations:

"The Agency shall undertake a review of progress made in implementing these Regulations and shall submit a report to the Minister by 1st October 2024 and every four years thereafter with the results of that review and with recommendations as to such additional measures, if any, as appear to be necessary to prevent and reduce water pollution from agricultural sources."

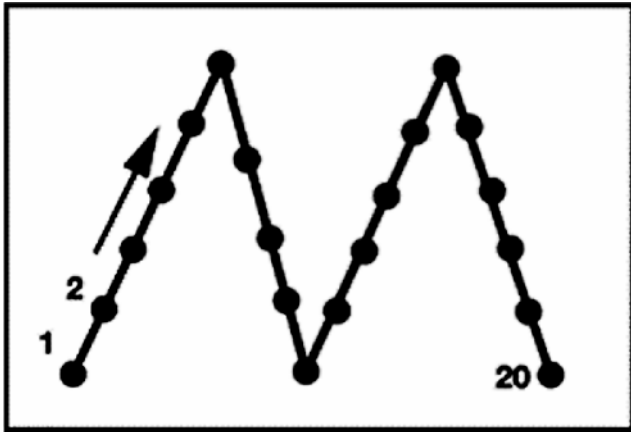
20. The 2022 Regulations are amended by the substitution of the following Schedule 1 Soil Test Soil Sampling Procedures of the 2022 Regulations:

- (a) The sampling area shall not exceed 4 hectares. Exceptionally, where soil types and cropping of lands were similar during the previous five years, a sample area of up to 5 hectares shall be deemed acceptable.
- (b) A soil test result determining organic matter content will be valid for 12 years following sampling.
- (c) Separate samples shall be taken from areas that are different in soil type, previous cropping history, slope, drainage or persistent poor yields
- (d) Any unusual spots such as old fences, ditches, drinking troughs, dung or urine patches or where fertiliser or lime has been heaped or spilled shall be avoided.
- (e) A field shall not be sampled for phosphorus until 3 months after the last application of any fertiliser containing this nutrient (chemical or organic).
- (f) The sampling pattern shown in the figure below shall be followed. A soil core shall be taken to the full 100 mm depth. 20 cores shall be taken from the sampling area and placed in the

soil container to make up the sample. Ensure the container is full of soil.

- (g) The field and sample numbers shall be written/attached onto the soil container.

Figure 1: Sampling pattern



21. The following will be inserted after Table 6 Annual nutrient excretion rates for livestock in the 2022 Regulations:

From 2023 onwards the N excretion rate of the Dairy cow will be determined by the average milk yield per annum for the three preceding years or the year preceding the implementation of the respective band.



GIVEN under the Official Seal of the Minister for Housing,
Local Government and Heritage,
20 December, 2022.

DARRAGH O'BRIEN,
Minister for Housing, Local Government and Heritage.

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 2022. The purpose of the amendment is to give effect to changes made under the Common Agricultural Policy Strategic Plan Regulations on the width of buffers strips, to the processing and sharing of data to enable calculation of the livestock excretion rate bands, to reducing the storage height of silage bales outside of farmyards, and to an earlier reporting date for the Environmental Protection Agency Nitrates Action Programme (NAP) Review and Recommendations Report to ensure that there is sufficient time to inform development of the next NAP. In addition, other articles have been amended to provide clarification and three definitions on poaching, grassland stocking rate and dairy cow have also been added.

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