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⁽¹⁾ Text with EEA relevance.

EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

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II

(Non-legislative acts)

REGULATIONS

COMMISSION DELEGATED REGULATION (EU) 2022/692

of 16 February 2022

amending, for the purposes of its adaptation to technical and scientific progress, Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 ⁽¹⁾, and in particular Article 37(5) thereof,

Whereas:

- (1) Table 3 of Part 3 of Annex VI to Regulation (EC) No 1272/2008 contains the list of harmonised classification and labelling of hazardous substances based on the criteria set out in Parts 2 to 5 of Annex I to that Regulation.
- (2) Proposals to introduce harmonised classification and labelling of certain substances and to update or delete the harmonised classification and labelling of certain other substances have been submitted to the European Chemicals Agency (the 'Agency') pursuant to Article 37 of Regulation (EC) No 1272/2008. The Committee for Risk Assessment of the Agency (RAC) adopted, after having taken account of the comments received from the parties concerned, the following opinions ⁽²⁾ on those proposals:
 - Opinion of 5 December 2019 concerning silanamine, 1,1,1-trimethyl-N-(trimethylsilyl)-, hydrolysis products with silica; pyrogenic, synthetic amorphous, nano, surface treated silicon dioxide;
 - Opinion of 4 May 2020 concerning cyfluthrin (ISO); α -cyano-4-fluoro-3-phenoxybenzyl-3-(2,2-dichlorovinyl)-2,2-dimethylcyclopropanecarboxylate;
 - Opinion of 4 May 2020 concerning beta-cyfluthrin (ISO); reaction mass of rel-(R)-cyano(4-fluoro-3-phenoxyphenyl)methyl (1S,3S)-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropane-1-carboxylate and rel-(R)-cyano(4-fluoro-3-phenoxyphenyl)methyl (1S,3R)-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropane-1-carboxylate;

⁽¹⁾ OJ L 353, 31.12.2008, p. 1.

⁽²⁾ The opinions are accessible via the following website: https://echa.europa.eu/registry-of-clh-intentions-until-outcome/-/dislist/name/-/ecNumber/-/casNumber/-/dte_receiptFrom/-/dte_receiptTo/-/prc_public_status/Opinion+Adopted/dte_withdrawnFrom/-/dte_withdrawnTo/-/sbm_expected_submissionFrom/-/sbm_expected_submissionTo/-/dte_finalise_deadlineFrom/-/dte_finalise_deadlineTo/-/haz_additional_hazard/-/lec_submitter/-/dte_assessmentFrom/-/dte_assessmentTo/-/prc_regulatory_programme/-/. – The opinions of 11 June 2020 and of 10 December 2020 concerning a reassessment at the request of the European Commission are accessible via the following website: <https://echa.europa.eu/about-us/who-we-are/committee-for-risk-assessment/opinions-of-the-rac-adopted-under-specific-echa-s-executive-director-requests>

- Opinion of 4 May 2020 concerning acetamiprid (ISO); (1*E*)-*N*-[(6-chloropyridin-3-yl)methyl]-*N'*-cyano-*N*-methylethanimidamide; (*E*)-*N*1-[(6-chloro-3-pyridyl)methyl]-*N*2-cyano-*N*1-methylacetamidine;
- Opinion of 11 June 2020 concerning tellurium;
- Opinion of 11 June 2020 concerning tellurium dioxide;
- Opinion of 11 June 2020 concerning 2,2-dimethylpropan-1-ol, tribromo derivative; 3-bromo-2,2-bis(bromomethyl)propan-1-ol;
- Opinion of 11 June 2020 concerning piperonyl butoxide (ISO); 2-(2-butoxyethoxy)ethyl 6-propylpiperonyl ether;
- Opinion of 11 June 2020 concerning benzophenone;
- Opinion of 11 June 2020 concerning exo-1,7,7-trimethylbicyclo[2.2.1]hept-2-yl acrylate; isobornyl acrylate;
- Opinion of 11 June 2020 concerning daminozide (ISO); 4-(2,2-dimethylhydrazino)-4-oxobutanoic acid; *N*-dimethylaminosuccinamic acid;
- Opinion of 11 June 2020 concerning clofentezine (ISO); 3,6-bis(o-chlorophenyl)-1,2,4,5-tetrazine;
- Opinion of 11 June 2020 concerning fluopicolide (ISO); 2,6-dichloro-*N*-[3-chloro-5-(trifluoromethyl)-2-pyridylmethyl]benzamide;
- Opinion of 11 June 2020 concerning trichlorosilane;
- Opinion of 11 June 2020 concerning 2-ethylhexanoic acid and its salts;
- Opinion of 11 June 2020 concerning a reassessment at the request of the European Commission of the developmental toxicity of *N*-carboxymethyliminobis (ethylenenitrilo)tetra(acetic acid) (DTPA) and its pentasodium and pentapotassium salts
- Opinion of 17 September 2020 concerning dibutyltin bis(2-ethylhexanoate);
- Opinion of 17 September 2020 concerning dibutyltin di(acetate);
- Opinion of 17 September 2020 concerning barium diboron tetraoxide;
- Opinion of 17 September 2020 concerning quinoclamine (ISO); 2-amino-3-chloro-1,4-naphthoquinone;
- Opinion of 17 September 2020 concerning 4,4'-oxydi(benzenesulphonohydrazide);
- Opinion of 17 September 2020 concerning toluene-4-sulphonohydrazide;
- Opinion of 17 September 2020 concerning theophylline; 1,3-dimethyl-3,7-dihydro-1*H*-purine-2,6-dione;
- Opinion of 17 September 2020 concerning 1,3-bis(1-isocyanato-1-methylethyl)benzene; [*m*-TMXDI];
- Opinion of 17 September 2020 concerning Bis(isocyanatomethyl)benzene; [*m*-XDI];
- Opinion of 17 September 2020 concerning 2,4,6-triisopropyl-*m*-phenylene diisocyanate;
- Opinion of 17 September 2020 concerning *N*-(2-nitrophenyl)phosphoric triamide;
- Opinion of 17 September 2020 concerning cumene;
- Opinion of 17 September 2020 concerning 2-ethyl-2-[[[(1-oxoallyl)oxy]methyl]-1,3-propanediyl diacrylate; 2,2-bis(acryloyloxymethyl)butyl acrylate; trimethylolpropane triacrylate;
- Opinion of 17 September 2020 concerning 1,5-naphthylene diisocyanate [containing < 0,1 % (w/w) of particles with an aerodynamic diameter of below 50 µm];
- Opinion of 17 September 2020 concerning 1,5-naphthylene diisocyanate [containing ≥ 0,1 % (w/w) of particles with an aerodynamic diameter of below 50 µm];
- Opinion of 8 October 2020 concerning ammonium bromide;
- Opinion of 8 October 2020 concerning 2,4,6-tri-*tert*-butylphenol;

- Opinion of 8 October 2020 concerning pyridalyl (ISO); 2,6-dichloro-4-(3,3-dichloroallyloxy)phenyl 3-[5-(trifluoromethyl)-2-pyridyloxy]propyl ether;
 - Opinion of 8 October 2020 concerning pyridine-2-thiol 1-oxide, sodium salt; pyrithione sodium; sodium pyrithione;
 - Opinion of 8 October 2020 concerning *N*-(5-chloro-2-isopropylbenzyl)-*N*-cyclopropyl-3-(difluoromethyl)-5-fluoro-1-methyl-1*H*-pyrazole-4-carboxamide; isoflucypram;
 - Opinion of 8 October 2020 concerning 2-(2-methoxyethoxy)ethanol; diethylene glycol monomethyl ether;
 - Opinion of 8 October 2020 concerning 4,4'-isopropylidenediphenol; bisphenol A;
 - Opinion of 8 October 2020 concerning pendimethalin (ISO); *N*-(1-ethylpropyl)-2,6-dinitro-3,4-xylylene;
 - Opinion of 8 October 2020 concerning dimoxystrobin (ISO); (2*E*)-2-{2-[(2,5-dimethylphenoxy)methyl]phenyl}-2-(methoxyimino)-*N*-methylacetamide; (2*E*)-2-(methoxyimino)-*N*-methyl-2-[α-(2,5-xylyloxy)-*o*-tolyl]acetamide;
 - Opinion of 10 December 2020 concerning 4,4'-sulphonyldiphenol; bisphenol S;
 - Opinion of 10 December 2020 concerning 2-[*N*-ethyl-4-[(5-nitrothiazol-2-yl)azo]-*m*-toluidino]ethyl acetate; C.I. Disperse Blue 124;
 - Opinion of 10 December 2020 concerning perfluoroheptanoic acid; tridecafluoroheptanoic acid;
 - Opinion of 10 December 2020 concerning methyl *N*-(isopropoxycarbonyl)-*L*-valyl-(3*RS*)-3-(4-chlorophenyl)-β-alaninate; valifenalate;
 - Opinion of 10 December 2020 concerning 6-[C12-18-alkyl-(branched, unsaturated)-2,5-dioxopyrrolidin-1-yl]hexanoic acid, sodium and tris(2-hydroxyethyl)ammonium salts;
 - Opinion of 10 December 2020 concerning 6-[C10-C13]-alkyl-(branched, unsaturated)-2,5-dioxopyrrolidin-1-yl]hexanoic acid;
 - Opinion of 10 December 2020 concerning 6-[C12-18-alkyl-(branched, unsaturated)-2,5-dioxopyrrolidin-1-yl]hexanoic acid;
 - Opinion of 10 December 2020 concerning 1,3,5-triazine-2,4,6-triamine; Melamine;
 - Opinion of 10 December 2020 concerning reaction mass of 3-(difluoromethyl)-1-methyl-*N*-[(1*RS*,4*SR*,9*RS*)-1,2,3,4-tetrahydro-9-isopropyl-1,4-methanonaphthalen-5-yl]pyrazole-4-carboxamide and 3-(difluoromethyl)-1-methyl-*N*-[(1*RS*,4*SR*,9*SR*)-1,2,3,4-tetrahydro-9-isopropyl-1,4-methanonaphthalen-5-yl]pyrazole-4-carboxamide [≥ 78 % syn isomers ≤ 15 % anti isomers relative content]; isopyrazam;
 - Opinion of 10 December 2020 concerning Margosa, ext. [from the kernels of *Azadirachta indica* extracted with water and further processed with organic solvents];
 - Opinion of 10 December 2020 concerning divanadium pentaoxide; vanadium pentoxide;
 - Opinion of 10 December 2020 concerning bentazone (ISO); 3-isopropyl-2,1,3-benzothiadiazine-4-one-2,2-dioxide;
 - Opinion of 10 December 2020 concerning a reassessment at the request of the European Commission of the new information on acute inhalation toxicity of 2-butoxyethanol; ethylene glycol monobutyl ether (EGBE)
- (3) Additional information was received contesting the scientific assessment set out in the RAC opinions of 11 June 2020 concerning 2-ethylhexanoic acid and its salts; of 11 June 2020 concerning a reassessment at the request of the European Commission of the developmental toxicity of *N*-carboxymethyliminobis (ethylenenitrilo)tetra(acetic acid) (DTPA) and its pentasodium and pentapotassium salts; of 8 October 2020 concerning ammonium bromide; of 10 December 2020 concerning divanadium pentaoxide; of 10 December 2020 concerning a reassessment at the request of the European Commission of the new information on acute inhalation toxicity of 2-butoxyethanol; ethylene glycol monobutyl ether (EGBE); and of 10 December 2020 concerning melamine.

- (4) This additional information was assessed by the Commission and was not found sufficient to cast doubts on the scientific analysis contained in the RAC opinions. It is therefore appropriate to introduce, update or delete the harmonised classification and labelling of the substances concerned on the basis of the assessment made in those opinions.
- (5) Additional information pertaining to the acute inhalation toxicity of silanamine, 1,1,1-trimethyl-N-(trimethylsilyl)-, hydrolysis products with silica; pyrogenic, synthetic amorphous, nano, surface treated silicon dioxide was received after the RAC opinion was forwarded to the Commission. The classification of silanamine, 1,1,1-trimethyl-N-(trimethylsilyl)-, hydrolysis products with silica; pyrogenic, synthetic amorphous, nano, surface treated silicon dioxide as acute toxic by inhalation Cat. 2, recommended in the RAC opinion of 5 December 2019, should not be included in Annex VI to Regulation (EC) No 1272/2008, as the new scientific information was assessed by the Commission and was found to require further assessment by RAC. However, the classification of this substance as STOT RE 2, recommended in the RAC opinion of 5 December 2019, should be included in Annex VI to Regulation (EC) No 1272/2008, since no new information has been received that would require further assessment for that classification.
- (6) Regulation (EC) No 1272/2008 should therefore be amended accordingly.
- (7) Compliance with the new or updated harmonised classifications should not be required immediately as a certain period of time is necessary to allow suppliers to adapt the labelling and packaging of substances and mixtures to the new or updated classifications and to sell existing stocks subject to the pre-existing regulatory requirements. That period of time is also necessary to allow suppliers sufficient time to take the actions required to ensure continuing compliance with other legal requirements following the changes made under this Regulation. Suppliers should, however, have the possibility to apply the new or updated harmonised classifications, and to adapt the labelling and packaging accordingly, on a voluntary basis before the date of application of this Regulation, to ensure a high level of protection of human health and of the environment and to provide sufficient flexibility to suppliers,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EC) No 1272/2008

Annex VI to Regulation (EC) No 1272/2008 is amended as set out in the Annex to this Regulation.

Article 2

Entry into force and application

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 23 November 2023.

By way of derogation from the second paragraph of this Article, substances and mixtures may be classified, labelled and packaged in accordance with this Regulation from its date of entry into force.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 16 February 2022.

For the Commission
The President
Ursula VON DER LEYEN

Annex VI to Regulation (EC) No 1272/2008 is amended as follows:

(1) in Part 3, Table 3 is amended as follows:

(a) the following entries are inserted:

Index No	Chemical Name	EC No	CAS No	Classification		Labelling			Specific Conc. Limits, M- factors and ATE	Notes
				Hazard Class and Category Code(s)	Hazard statement Code(s)	Pictogram, Signal Word Code(s)	Hazard statement Code(s)	Suppl. Hazard statement Code(s)		
'014-052-00-7	silanamine, 1,1,1-trimethyl-N-(trimethylsilyl)-, hydrolysis products with silica; pyrogenic, synthetic amorphous, nano, surface treated silicon dioxide	272-697-1	68909-20-6	STOT RE 2	H373 (lungs) (inhalation)	GHS08 Wng	H373 (lungs) (inhalation)	EUH066'		
'035-005-00-7	ammonium bromide	235-183-8	12124-97-9	Repr. 1B Lact. STOT SE 3 STOT RE 1 Eye Irrit. 2	H360FD H362 H336 H372 (nervous system) H319	GHS08 GHS07 Dgr	H360FD H362 H336 H372 (nervous system) H319'			
'050-032-00-4	dibutyltin bis (2-ethylhexanoate)	220-481-2	2781-10-4	Muta. 2 Repr. 1B STOT RE 1	H341 H360FD H372 (immune system)	GHS08 Dgr	H341 H360FD H372 (immune system)'			
'050-033-00-X	dibutyltin di(acetate)	213-928-8	1067-33-0	Muta 2 Repr. 1B STOT RE 1	H341 H360FD H372 (immune system)	GHS08 Dgr	H341 H360FD H372 (immune system)'			

Index No	Chemical Name	EC No	CAS No	Classification		Labelling			Specific Conc. Limits, M- factors and ATE	Notes
				Hazard Class and Category Code(s)	Hazard statement Code(s)	Pictogram, Signal Word Code(s)	Hazard statement Code(s)	Suppl. Hazard statement Code(s)		
'052-001-00-0	tellurium	236-813-4	13494-80-9	Repr. 1B Lact.	H360Df H362	GHS08 Dgr	H360Df H362'			
'052-002-00-6	tellurium dioxide	231-193-1	7446-07-3	Repr. 1B Lact.	H360Df H362	GHS08 Dgr	H360Df H362'			
'056-005-00-3	barium diboron tetraoxide	237-222-4	13701-59-2	Repr. 1B Acute Tox. 4 Acute Tox. 3	H360FD H332 H301	GHS08 GHS06 Dgr	H360FD H332 H301		inhalation: ATE = 1,5 mg/L (dusts or mists) oral: ATE = 100 mg/kg bw'	
'601-097-00-8	Propylbenzene	203-132-9	103-65-1	Flam. Liq. 3 Asp. Tox. 1 STOT SE 3 Aquatic Chronic 2	H226 H304 H335 H411	GHS02 GHS08 GHS07 GHS09 Dgr	H226 H304 H335 H411'			
'603-243-00-6	2,2-dimethylpropan-1-ol, tribromo derivative; 3-bromo-2,2-bis (bromomethyl)propan- 1-ol	253-057-0	36483-57-5; 1522-92-5	Carc. 1B Muta. 2	H350 H341	GHS08 Dgr	H350 H341'			
'604-096-00-0	piperonyl butoxide (ISO); 2-(2-butoxyethoxy)ethyl 6-propylpiperonyl ether	200-076-7	51-03-6	STOT SE 3 Eye Irrit. 2 Aquatic Acute 1 Aquatic Chronic 1	H335 H319 H400 H410	GHS07 GHS09 Wng	H335 H319 H410	EUH066	M = 1 M = 1'	

Index No	Chemical Name	EC No	CAS No	Classification		Labelling			Specific Conc. Limits, M- factors and ATE	Notes
				Hazard Class and Category Code(s)	Hazard statement Code(s)	Pictogram, Signal Word Code(s)	Hazard statement Code(s)	Suppl. Hazard statement Code(s)		
'604-097-00-6	2,4,6-tri- <i>tert</i> -butylphenol	211-989-5	732-26-3	Repr. 1B Acute Tox. 4 STOT RE 2 Skin Sens. 1B	H360D H302 H373 (liver) H317	GHS08 GHS07 Dgr	H360D H302 H373 (liver) H317		oral: ATE = 500 mg/kg bw'	
'604-098-00-1	4,4'-sulphonyldiphenol; bisphenol S	201-250-5	80-09-1	Repr. 1B	H360FD	GHS08 Dgr	H360FD'			
'606-153-00-5	benzophenone	204-337-6	119-61-9	Carc. 1B	H350	GHS08 Dgr	H350'			
'606-154-00-0	quinoxaline (ISO); 2-amino- 3-chloro-1,4-naphthoqui- none	220-529-2	2797-51-5	Carc. 2 Repr. 2 Acute Tox. 4 STOT RE 2 Eye Irrit. 2 Skin Sens. 1A Aquatic Acute 1 Aquatic Chronic 1	H351 H361d H302 H373 (blood system, kidneys) H319 H317 H400 H410	GHS08 GHS07 GHS09 Wng	H351 H361d H302 H373 (blood system, kidneys) H319 H317 H410		oral: ATE = 500 mg/kg bw M = 10 M = 10'	
'607-756-00-6	exo-1,7,7-trimethylbicyclo [2.2.1]hept-2-yl acrylate; isobornyl acrylate	227-561-6	5888-33-5	Skin Sens. 1A	H317	GHS07 Wng	H317'			
'607-757-00-1	daminozide (ISO); 4-(2,2-dimethylhydra- zino)-4-oxobutanoic acid; N- dimethylaminosuccinamic acid	216-485-9	1596-84-5	Carc. 2	H351	GHS08 Wng	H351'			

Index No	Chemical Name	EC No	CAS No	Classification		Labelling			Specific Conc. Limits, M- factors and ATE	Notes
				Hazard Class and Category Code(s)	Hazard statement Code(s)	Pictogram, Signal Word Code(s)	Hazard statement Code(s)	Suppl. Hazard statement Code(s)		
'607-758-00-7	4,4'-oxydi (benzenesulphonohydrazide)	201-286-1	80-51-3	Self-react. D Aquatic Acute 1 Aquatic Chronic 1	H242 H400 H410	GHS02 GHS09 Dgr	H242 H410		M = 1 M = 1'	
'607-759-00-2	toluene-4-sulphonohydrazide	216-407-3	1576-35-8	Self-react. D	H242	GHS02 Dgr	H242'			
'607-760-00-8	2-[N-ethyl-4-[(5-nitrothiazol-2-yl)azo]-m-toluidino]ethyl acetate; C.I. Disperse Blue 124	239-203-6	15141-18-1	Skin Sens. 1A	H317	GHS07 Wng	H317		Skin Sens. 1A; H317: C ≥ 0,001 %'	
'607-761-00-3	Perfluoroheptanoic acid; tridecafluoroheptanoic acid	206-798-9	375-85-9	Repr. 1B STOT RE 1	H360D H372 (liver)	GHS08 Dgr	H360D H372 (liver)'			
'607-762-00-9	methyl N-(isopropoxycarbonyl)-L-valyl-(3RS)-3-(4-chlorophenyl)-β-alaninate; valifenalate	-	283159-90-0	Carc. 2 Aquatic Chronic 2	H351 H411	GHS08 GHS09 Wng	H351 H411'			
'607-763-00-4	6-[C12-18-alkyl-(branched, unsaturated)-2,5-dioxopyrrolidin-1-yl]hexanoic acid, sodium and tris (2-hydroxyethyl) ammonium salts	-	-	Repr. 1B Eye Irrit. 2	H360FD H319	GHS08 GHS07 Dgr	H360FD H319'			
'607-764-00-X	6-[(C10-C13)-alkyl-(branched, unsaturated)-2,5-dioxopyrrolidin-1-yl]hexanoic acid	-	2156592-54-8	Repr. 1B Eye Irrit. 2	H360FD H319	GHS08 GHS07 Dgr	H360FD H319'			

Index No	Chemical Name	EC No	CAS No	Classification		Labelling			Specific Conc. Limits, M- factors and ATE	Notes
				Hazard Class and Category Code(s)	Hazard statement Code(s)	Pictogram, Signal Word Code(s)	Hazard statement Code(s)	Suppl. Hazard statement Code(s)		
'607-765-00-5	6-[C12-18-alkyl-(branched, unsaturated)-2,5-dioxopyrrolidin-1-yl]hexanoic acid	-	-	Repr. 1B	H360FD	GHS08 Dgr	H360FD'			
'613-341-00-0	clofentezine (ISO); 3,6-bis (o-chlorophenyl)-1,2,4,5-tetrazine	277-728-2	74115-24-5	Aquatic Chronic 1	H410	GHS09 Wng	H410		M = 1'	
'613-342-00-6	theophylline; 1,3-dimethyl-3,7-dihydro-1H-purine-2,6-dione	200-385-7	58-55-9	Repr. 1B	H360D	GHS08 Dgr	H360D'			
'613-343-00-1	pyridalyl (ISO); 2,6-dichloro-4-(3,3-dichloroallyloxy) phenyl 3-[5-(trifluoromethyl)-2-pyridyloxy]propyl ether	-	179101-81-6	Skin Sens. 1 Aquatic Acute 1 Aquatic Chronic 1	H317 H400 H410	GHS07 GHS09 Wng	H317 H410		M = 1 000 M = 100'	
'613-344-00-7	Pyridine-2-thiol 1-oxide, sodium salt; pyrithione sodium; sodium pyrithione	223-296-5; 240-062-8	3811-73-2; 15922-78-8	Acute Tox. 3 Acute Tox. 3 Acute Tox. 4 STOT RE 1 Skin Irrit. 2 Eye Irrit. 2 Skin Sens. 1 Aquatic Acute 1 Aquatic Chronic 2	H331 H311 H302 H372 (nervous system) H315 H319 H317 H400 H411	GHS06 GHS08 GHS09 Dgr	H331 H311 H302 H372 (nervous system) H315 H319 H317 H410	EUH070	inhalation: ATE = 0,5 mg/L (dusts or mists) dermal: ATE = 790 mg/kg bw oral: ATE = 500 mg/kg bw M = 100'	

Index No	Chemical Name	EC No	CAS No	Classification		Labelling			Specific Conc. Limits, M- factors and ATE	Notes
				Hazard Class and Category Code(s)	Hazard statement Code(s)	Pictogram, Signal Word Code(s)	Hazard statement Code(s)	Suppl. Hazard statement Code(s)		
'613-345-00-2	1,3,5-triazine-2,4,6-triamine; melamine	203-615-4	108-78-1	Carc. 2 STOT RE 2	H351 H373 (urinary tract)	GHS08 Wng	H351 H373 (urinary tract)			
'615-046-00-2	1,3-bis(1-isocyanato-1-methylethyl)benzene; [<i>m</i> -TMXDI]	220-474-4	2778-42-9	Resp. Sens. 1 Skin Sens. 1A	H334 H317	GHS08 Dgr	H334 H317			
'615-047-00-8	1,3-bis(isocyanatomethyl)benzene; [<i>m</i> -XDI]	222-852-4	3634-83-1	Resp. Sens. 1 Skin Sens. 1A	H334 H317	GHS08 Dgr	H334 H317		Skin Sens. 1A; H317: C ≥ 0,001 %	
'615-048-00-3	2,4,6-triisopropyl- <i>m</i> -phenylene diisocyanate	218-485-4	2162-73-4	Resp. Sens. 1 Skin Sens. 1	H334 H317	GHS08 Dgr	H334 H317			
'615-049-00-9	1,5-naphthylene diisocyanate [containing < 0,1 % (w/w) of particles with an aerodynamic diameter of below 50 µm]	221-641-4	3173-72-6	STOT SE 3 Skin Irrit. 2 Eye Irrit. 2 Resp. Sens. 1 Skin Sens. 1A Aquatic Chronic 3	H335 H315 H319 H334 H317 H412	GHS07 GHS08 Dgr	H335 H315 H319 H334 H317 H412			

Index No	Chemical Name	EC No	CAS No	Classification		Labelling			Specific Conc. Limits, M- factors and ATE	Notes
				Hazard Class and Category Code(s)	Hazard statement Code(s)	Pictogram, Signal Word Code(s)	Hazard statement Code(s)	Suppl. Hazard statement Code(s)		
'615-050-00-4	1,5-naphthylene diisocyanate [containing ≥ 0,1 % (w/w) of particles with an aerodynamic diameter of below 50 µm]	221-641-4	3173-72-6	Acute Tox. 2 STOT SE 3 Skin Irrit. 2 Eye Irrit. 2 Resp. Sens. 1 Skin Sens. 1A Aquatic Chronic 3	H330 H335 H315 H319 H334 H317 H412	GHS06 GHS08 Dgr	H330 H335 H315 H319 H334 H317 H412		inhalation: ATE = 0,27 mg/L (dusts or mists)	
'616-237-00-3	fluopicolide (ISO); 2,6-dichloro-N-[3-chloro-5-(trifluoromethyl)-2-pyridylmethyl] benzamide	-	239110-15-7	Repr. 2	H361d	GHS08 Wng	H361d'			
'616-238-00-9	N-(2-nitrophenyl) phosphoric triamide	477-690-9	874819-71-3	Repr. 1B STOT RE 2	H360Fd H373 (kidneys)	GHS08 Dgr	H360Fd H373 (kidneys)'			
'616-239-00-4	N-(5-chloro-2-isopropylbenzyl)-N-cyclopropyl-3-(difluoromethyl)-5-fluoro-1-methyl-1H-pyrazole-4-carboxamide; isoflucypram	-	1255734-28-1	Repr. 2 Acute Tox. 4 Skin Sens. 1B Aquatic Acute 1 Aquatic Chronic 1	H361f H332 H317 H400 H410	GHS08 GHS07 GHS09 Wng	H361f H332 H317 H410		inhalation: ATE = 2,2 mg/L (dusts or mists) M = 10 M = 1'	

Index No	Chemical Name	EC No	CAS No	Classification		Labelling			Specific Conc. Limits, M- factors and ATE	Notes
				Hazard Class and Category Code(s)	Hazard statement Code(s)	Pictogram, Signal Word Code(s)	Hazard statement Code(s)	Suppl. Hazard statement Code(s)		
'616-240-00-X	Reaction mass of 3-(difluoromethyl)-1-methyl-N-[(1RS,4SR,9RS)-1,2,3,4-tetrahydro-9-isopropyl-1,4-methanonaphthalen-5-yl]pyrazole-4-carboxamide and 3-(difluoromethyl)-1-methyl-N-[(1RS,4SR,9SR)-1,2,3,4-tetrahydro-9-isopropyl-1,4-methanonaphthalen-5-yl]pyrazole-4-carboxamide [≥ 78 % syn isomers ≤ 15 % anti isomers relative content]; isopyrazam	-	881685-58-1	Carc. 2 Repr. 1B Skin Sens. 1B Aquatic Acute 1 Aquatic Chronic 1	H351 H360D H317 H400 H410	GHS08 GHS07 GHS09 Dgr	H351 H360D H317 H410		Repr. 1B; H360D: C ≥ 3 % M = 10 M = 10'	
'650-058-00-1	Margosa, ext. [from the kernels of Azadirachta indica extracted with water and further processed with organic solvents]	283-644-7	84696-25-3	Repr. 2 Skin Sens. 1 Aquatic Chronic 1	H361d H317 H410	GHS08 GHS07 GHS09 Wng	H361d H317 H410		M = 10'	

(b) the entries corresponding to index numbers 014-001-00-9; 023-001-00-8; 601-024-00-X; 603-014-00-0; 603-107-00-6; 604-030-00-0; 607-111-00-9; 607-230-00-6; 607-253-00-1; 607-254-00-7; 607-734-00-6; 607-735-00-1; 607-736-00-7; 608-032-00-2; 609-042-00-X; 613-012-00-1; 616-164-00-7 are replaced by the following entries respectively:

Index No	Chemical Name	EC No	CAS No	Classification		Labelling			Specific Conc. Limits, M- factors and ATE	Notes
				Hazard Class and Category Code(s)	Hazard statement Code(s)	Pictogram, Signal Word Code(s)	Hazard statement Code(s)	Suppl. Hazard statement Code(s)		
'014-001-00-9	trichlorosilane	233-042-5	10025-78-2	Flam. Liq. 1 Water-react. 1 Acute Tox. 3 Acute Tox. 4 Skin Corr. 1A Eye Dam. 1	H224 H260 H331 H302 H314 H318	GHS02 GHS06 GHS05 Dgr	H224 H260 H331 H302 H314	EUH014 EUH029 EUH071	inhalation: ATE = 7,6 mg/L (vapour) oral: ATE=1 000 mg/kg bw'	
'023-001-00-8	divanadium pentaoxide; vanadium pentoxide	215-239-8	1314-62-1	Muta. 2 Carc. 1B Repr. 2 Lact. Acute Tox. 3 Acute Tox. 2 STOT SE 3 STOT RE 1 Aquatic Chronic 2	H341 H350 H361fd H362 H301 H330 H335 H372 (respiratory tract, inhalation) H411	GHS06 GHS08 GHS09 Dgr	H341 H350 H361fd H362 H301 H330 H335 H372 (respiratory tract, inhalation) H411		inhalation: ATE = 0,05 mg/L (dusts or mists) oral: ATE = 220 mg/kg bw'	
'601-024-00-X	Cumene	202-704-5	98-82-8	Flam. Liq. 3 Carc. 1B Asp. Tox. 1 STOT SE 3 Aquatic Chronic 2	H226 H350 H304 H335 H411	GHS02 GHS08 GHS07 GHS09 Dgr	H226 H350 H304 H335 H411'			

Index No	Chemical Name	EC No	CAS No	Classification		Labelling			Specific Conc. Limits, M- factors and ATE	Notes
				Hazard Class and Category Code(s)	Hazard statement Code(s)	Pictogram, Signal Word Code(s)	Hazard statement Code(s)	Suppl. Hazard statement Code(s)		
'603-014-00-0	2-butoxyethanol; ethylene glycol monobutyl ether	203-905-0	111-76-2	Acute Tox. 3 Acute Tox. 4 Skin Irrit. 2 Eye Irrit. 2	H331 H302 H315 H319	GHS06 Dgr	H331 H302 H315 H319		inhalation: ATE = 3 mg/L (Vapours) oral: ATE = 1 200 mg/kg bw'	
'603-107-00-6	2-(2-methoxyethoxy) ethanol; diethylene glycol monomethyl ether	203-906-6	111-77-3	Repr. 1B	H360D	GHS08 Dgr	H360D		Repr. 1B; H360D: C ≥ 3 %'	
'604-030-00-0	4,4'-isopropylidenediphenol; bisphenol A	201-245-8	80-05-7	Repr. 1B STOT SE 3 Eye Dam. 1 Skin Sens. 1 Aquatic Acute 1 Aquatic Chronic 1	H360F H335 H318 H317 H400 H410	GHS08 GHS07 GHS05 GHS09 Dgr	H360F H335 H318 H317 H410		M = 1 M = 10'	
'607-111-00-9	2-ethyl-2-[[[(1-oxoallyl) oxy] methyl]-1,3-propanediyl diacrylate; 2,2-bis (acryloyloxymethyl)butyl acrylate; trimethylolpropane triacrylate	239-701-3	15625-89-5	Carc. 2 Skin Irrit. 2 Eye Irrit. 2 Skin Sens. 1 Aquatic Acute 1 Aquatic Chronic 1	H351 H315 H319 H317 H400 H410	GHS08 GHS07 GHS09 Wng	H351 H315 H319 H317 H410		M = 1 M = 1	D'

Index No	Chemical Name	EC No	CAS No	Classification		Labelling			Specific Conc. Limits, M- factors and ATE	Notes
				Hazard Class and Category Code(s)	Hazard statement Code(s)	Pictogram, Signal Word Code(s)	Hazard statement Code(s)	Suppl. Hazard statement Code(s)		
'607-230-00-6	2-ethylhexanoic acid and its salts, with the exception of those specified elsewhere in this Annex	-	-	Repr. 1B	H360D	GHS08 Dgr	H360D'			
'607-253-00-1	cyfluthrin (ISO); α -cyano-4-fluoro-3-phenoxybenzyl-3-(2,2-dichlorovinyl)-2,2-dimethylcyclopropanecarboxylate	269-855-7	68359-37-5	Lact. Acute Tox. 2 Acute Tox. 2 STOT SE 1 Aquatic Acute 1 Aquatic Chronic 1	H362 H330 H300 H370 (nervous system) H400 H410	GHS06 GHS08 GHS09 Dgr	H362 H330 H300 H370 (nervous system) H410		inhalation: ATE = 0,14 mg/L (dusts or mists) oral: ATE = 14 mg/kg bw M = 1 000 000 M = 1 000 000'	
'607-254-00-7	beta-cyfluthrin (ISO); reaction mass of rel-(R)-cyano(4-fluoro-3-phenoxyphenyl)methyl (1S,3S)-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropane-1-carboxylate and rel-(R)-cyano(4-fluoro-3-phenoxyphenyl)methyl (1S,3R)-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropane-1-carboxylate	-	1820573-27-0	Lact. Acute Tox. 2 Acute Tox. 2 STOT SE 1 Aquatic Acute 1 Aquatic Chronic 1	H362 H330 H300 H370 (nervous system) H400 H410	GHS06 GHS08 GHS09 Dgr	H362 H330 H300 H370 (nervous system) H410		inhalation: ATE = 0,081 mg/L (dusts or mists) oral: ATE = 11 mg/kg bw M = 1 000 000 M = 1 000 000'	

Index No	Chemical Name	EC No	CAS No	Classification		Labelling			Specific Conc. Limits, M- factors and ATE	Notes
				Hazard Class and Category Code(s)	Hazard statement Code(s)	Pictogram, Signal Word Code(s)	Hazard statement Code(s)	Suppl. Hazard statement Code(s)		
'607-734-00-6	pentapotassium 2,2',2'',2''',2''''-(ethane-1,2-diynitrilo) pentaacetate	404-290-3	7216-95-7	Repr. 1B Acute Tox. 4 STOT RE 2 Eye Irrit. 2	H360D H332 H373 (inhalation) H319	GHS08 GHS07 Dgr	H360D H332 H373 (inhalation) H319		Repr. 1B; H360D: C ≥ 3 % inhalation: ATE = 1,5 mg/L (dusts or mists)'	
'607-735-00-1	N-carboxymethyliminobis (ethylenenitrilo)tetra(acetic acid)	200-652-8	67-43-6	Repr. 1B Acute Tox. 4 STOT RE 2 Eye Irrit. 2	H360D H332 H373 (inhalation) H319	GHS08 GHS07 Dgr	H360D H332 H373 (inhalation) H319		Repr. 1B; H360D: C ≥ 3 % inhalation: ATE = 1,5 mg/L (dusts or mists)'	
'607-736-00-7	pentasodium (carboxylatomethyl) iminobis(ethylenenitrilo) tetraacetate	205-391-3	140-01-2	Repr. 1B Acute Tox. 4 STOT RE 2	H360D H332 H373 (inhalation)	GHS08 GHS07 Dgr	H360D H332 H373 (inhalation)		Repr. 1B; H360D: C ≥ 3 % inhalation: ATE = 1,5 mg/L (dusts or mists)'	

Index No	Chemical Name	EC No	CAS No	Classification		Labelling			Specific Conc. Limits, M- factors and ATE	Notes
				Hazard Class and Category Code(s)	Hazard statement Code(s)	Pictogram, Signal Word Code(s)	Hazard statement Code(s)	Suppl. Hazard statement Code(s)		
'608-032-00-2	acetamiprid (ISO); (1E)-N-[(6-chloropyridin-3-yl)methyl]-N'-cyano-N-methylethananimidamide; (E)-N1-[(6-chloro-3-pyridyl)methyl]-N2-cyano-N1-methylacetamidine	-	135410-20-7-160430-64-8	Repr. 2 Acute Tox. 3 Aquatic Chronic 1 Aquatic Acute 1	H361d H301 H410 H400	GHS08 GHS06 GHS09 Dgr	H361d H301 H410		oral: ATE = 140 mg/kg bw M = 10 M = 10'	
'609-042-00-X	pendimethalin (ISO); N-(1-ethylpropyl)-2,6-dinitro-3,4-xylylene	254-938-2	40487-42-1	Repr. 2 Aquatic Acute 1 Aquatic Chronic 1	H361d H400 H410	GHS08 GSH09 Wng	H361d H410		M = 100 M = 10'	
'613-012-00-1	bentazone (ISO); 3-isopropyl-2,1,3-benzothiadiazine-4-one-2,2-dioxide	246-585-8	25057-89-0	Repr. 2 Acute Tox. 4 Eye Irrit. 2 Skin Sens. 1	H361d H302 H319 H317	GHS08 GHS07 Wng	H361d H302 H319 H317		oral: ATE = 1 600 mg/kg bw'	
'616-164-00-7	dimoxystrobin (ISO); (2E)-2-[2-[(2,5-dimethylphenoxy)methyl]phenyl]-2-(methoxyimino)-N-methylacetamide; (E)-2-(methoxyimino)-N-methyl-2-[α-(2,5-xylyloxy)-o-tolyl]acetamide		149961-52-4	Carc. 2 Repr. 2 Acute Tox. 4 Aquatic Acute 1 Aquatic Chronic 1	H351 H361d H332 H400 H410	GHS08 GHS07 GHS09 Wng	H351 H361d H332 H410		inhalation: ATE = 1,3 mg/L (dusts or mists) M = 100 M = 100'	

(c) the entry corresponding to index number 615-007-00-X is deleted.

COMMISSION IMPLEMENTING REGULATION (EU) 2022/693
of 27 April 2022
on the temporary suspension of the visa exemption for nationals of Vanuatu

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2018/1806 of the European Parliament and of the Council of 14 November 2018 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement ⁽¹⁾, and in particular Article 8(6), point (a) thereof,

Whereas:

- (1) The Republic of Vanuatu is listed in Annex II to Regulation (EU) 2018/1806 among the third countries whose nationals are exempt from the requirement to be in possession of a visa when crossing the external borders of the Member States for stays of no more than 90 days in any 180-day period. The exemption from the visa requirement for nationals of Vanuatu is applicable since 28 May 2015, when the Agreement between the European Union and the Republic of Vanuatu on the short-stay visa waiver ⁽²⁾ ('the Agreement') was signed and started to apply on a provisional basis in accordance with Article 8(1) of the Agreement. The agreement entered into force on 1 April 2017.
- (2) On 3 March 2022, the Council adopted Decision (EU) 2022/366 ⁽³⁾ on the partial suspension of the application of the Agreement between the European Union and the Republic of Vanuatu on the short-stay visa waiver, in accordance with Article 8(4) of the Agreement. The suspension of the application of the Agreement is limited to ordinary passports issued as of 25 May 2015, when the number of successful applicants under Vanuatu's investor citizenship schemes started to increase significantly.
- (3) Whilst Decision (EU) 2022/366 suspended the Agreement between the European Union and the Republic of Vanuatu on the short-stay visa waiver, it is also necessary to provide for the suspension at the level of Union law.
- (4) According to Article 8(3) and (6) of Regulation (EU) 2018/1806, where the Commission has concrete and reliable information that the circumstances referred to in Article 8(2), point (d) exist, namely 'an increased risk or imminent threat to the public policy or internal security of Member States substantiated by objective, concrete and relevant information and data provided by the competent authorities', the Commission is to adopt an implementing act temporarily and partially suspending the exemption from the visa requirement for a period of nine months.
- (5) By means of Vanuatu's investor citizenship schemes operated by Vanuatu since 25 May 2015, third country nationals who are otherwise visa-required have the possibility to obtain the citizenship of Vanuatu in exchange for investment, therefore obtaining visa-free access to the Union.
- (6) The said schemes do not contain any requirement of effective residence or physical presence in Vanuatu for the applicants. The application process is managed by specialised agencies located outside Vanuatu (e.g., in Dubai, Thailand and Malaysia) whereby the applicant does not need to have any direct contact with Vanuatu's authorities. The absence of a requirement for a physical interview reduces the opportunities for the authorities of Vanuatu to properly assess the applicant or to corroborate the information provided in the application, including its veracity and credibility. The schemes are commonly advertised as a way to by-pass the Schengen visa procedure and easily obtain visa-free access to the EU ⁽⁴⁾. The attractiveness of Vanuatu's schemes is commercially based on their fast-track screening procedures and their light checks on the origin of the funds.

⁽¹⁾ OJ L 303, 28.11.2018, p. 39.

⁽²⁾ OJ L 173, 3.7.2015, p. 48.

⁽³⁾ Council Decision (EU) 2022/366 of 3 March 2022 on the partial suspension of the application of the Agreement between the European Union and the Republic of Vanuatu on the short-stay visa waiver (OJ L 69, 4.3.2022, p. 105).

⁽⁴⁾ Vanuatu Key Benefits - GCI UNIT Vanuatu (vanuatu-dsp-citizenship.com).

- (7) As confirmed by Vanuatu's authorities, the applications are processed within very short deadlines ⁽⁷⁾. Such short processing periods do not allow for a proper security screening and exchange of information with the applicants' country of origin or main past residence before the granting of the citizenship. Due to this short processing period and to the absence of systematic exchange of information with the applicants' country of origin, Vanuatu had granted the citizenship to persons subject to a criminal investigation, including persons listed on Interpol's databases.
- (8) The rejection rate is extremely low, thus corroborating the Commission's assessment concerning the security failures and the low reliability of the screening process. According to information provided by Vanuatu's Passport Office on 14 June 2021, until March 2021, Vanuatu issued over 10 500 passports in exchange for investment under the schemes and by the end of 2020 the Vanuatu authorities had rejected only one application.
- (9) Furthermore, the countries of origin of successful applicants include some that are typically excluded from other citizenship schemes, such as Iran and Afghanistan, and other countries whose nationals need a visa for short stays in the EU, including Nigeria, Yemen, Syria, Pakistan and Libya.
- (10) The security risks are further exacerbated by the lax legislation on name changes. As confirmed by Vanuatu's authorities during the technical meeting held on 15 April 2021, successful citizenship-by-investment applicants can also apply for an identity change.
- (11) The aforementioned circumstances lead to the conclusion that the citizenship-by-investment schemes of Vanuatu, in their current form and operation, go against the objectives of the Union's visa policy, which provides for a screening of nationals from visa-required third countries against the criteria set out in Article 21 of Regulation (EC) No 810/2009 ⁽⁸⁾ and in equivalent national legislation of those Member States where Regulation (EC) No 810/2009 does not yet apply in full. The relevant case by case verifications are carried out in the light of criteria relating, inter alia, to public policy and security. The manner in which the said schemes are being implemented constitutes a circumvention of the Union short-stay visa procedure and the assessment of security and migratory risks it entails.
- (12) In exchanges between the Commission and Vanuatu's authorities in October 2017, November 2019, June 2020 and March 2021, the Commission expressed serious concerns regarding the granting of citizenship to persons listed in Interpol databases, the absence of physical presence or residence requirements, the schemes' short processing periods and the lack of systematic exchange of information with applicants' countries of origin or past main residence, and warned the government of Vanuatu of the possibility of the visa requirement being reinstated. The explanations provided by Vanuatu were not sufficient to alleviate those concerns.
- (13) Taking account of the aforementioned information and data, reports and statistics, and in accordance with Article 8(2)(d), 8(3) and 8(6) of Regulation (EU) 2018/1806, the Commission concludes that the granting of citizenship by Vanuatu under its investor citizenship schemes constitutes an increased risk to the internal security and public policy of the Member States and has decided that action is needed.
- (14) The increased risk to the public policy and internal security linked to the nationals of Vanuatu having obtained the citizenship under the investor citizenship schemes can be mitigated only by means of a partial suspension of the visa exemption.
- (15) In accordance with Article 8(6) of Regulation (EU) 2018/1806, the Commission should, based on the information available, include categories that are broad enough in order to efficiently contribute to remedying the circumstances while respecting the principle of proportionality. Therefore, since Vanuatu does not differentiate between passports issued under investor citizenship schemes and other passports, the suspension should apply to all ordinary passports issued as of 25 May 2015, date on which Vanuatu started issuing a substantial number of passports in exchange for investment.

⁽⁷⁾ How to get citizenship in Vanuatu - GCI UNIT Vanuatu (vanuatu-dsp-citizenship.com): *A fast-track immigration plan offers citizenship in Vanuatu in just 14 to 45 days.*

⁽⁸⁾ Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) (OJ L 243, 15.9.2009, p. 1).

- (16) Nationals of Vanuatu who entered the EU before the date of entry into force of this Regulation should be allowed to continue their stay in the EU and exit without a visa. This should not apply for the crossing of temporary external borders between Member States as defined in Article 2, point c of Regulation (EU) No 515/2014 of the European Parliament and of the Council ⁽⁷⁾.
- (17) As regards Iceland and Norway, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen *acquis*, which fall within the area referred to in point B of Article 1 of Council Decision 1999/437/EC ⁽⁸⁾.
- (18) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement signed between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, which fall within the area referred to in points B and C of Article 1 of Decision 1999/437/EC, read in conjunction with Article 3 of Council Decision 2008/146/EC ⁽⁹⁾.
- (19) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, which fall within the area referred to in points B and C of Article 1 of Decision 1999/437/EC, read in conjunction with Article 3 of Council Decision 2011/350/EU ⁽¹⁰⁾.
- (20) This Regulation constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC ⁽¹¹⁾; Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.
- (21) This Regulation constitutes an act building upon, or otherwise relating to, the Schengen *acquis* within, respectively, the meaning of Article 3(1) of the 2003 Act of Accession, Article 4(1) of the 2005 Act of Accession and Article 4(1) of the 2011 Act of Accession.
- (22) The measures provided for in this Regulation are in accordance with the opinion of the committee established in accordance with Article 11(1) of Regulation (EU) 2018/1806,

⁽⁷⁾ Regulation (EU) No 515/2014 of the European Parliament and of the Council of 16 April 2014 establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa and repealing Decision No 574/2007/EC (OJ L 150, 20.5.2014, p. 143).

⁽⁸⁾ Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* (OJ L 176, 10.7.1999, p. 31).

⁽⁹⁾ Council Decision 2008/146/EC of 28 January 2008 on the conclusion, on behalf of the European Community, of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* (OJ L 53, 27.2.2008, p. 1).

⁽¹⁰⁾ Council Decision 2011/350/EU of 7 March 2011 on the conclusion, on behalf of the European Union, of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, relating to the abolition of checks at internal borders and movement of persons (OJ L 160, 18.6.2011, p. 19).

⁽¹¹⁾ Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* (OJ L 64, 7.3.2002, p. 20).

HAS ADOPTED THIS REGULATION:

Article 1

Temporary suspension of the exemption from the visa requirement

The application of the exemption from the visa requirement, provided for in Article 4(1) of Regulation (EU) 2018/1806, with regard to holders of ordinary passports issued by Vanuatu as of 25 May 2015, is temporarily suspended.

Article 2

Continuation of visa-free stay

Holders of passports issued by Vanuatu falling within the scope of Article 1 and having entered the EU before the date of entry into force of this Regulation may continue their stay in the EU and exit without a visa. This does not apply to the crossing of temporary external borders, as defined in Article 2, point c of Regulation (EU) No 515/2014, after the date of entry into force of this Regulation.

Article 3

Entry into force and period of application

This Regulation shall enter into force on the date following that of its publication in the *Official Journal of the European Union*.

It shall apply from 4 May 2022 to 3 February 2023.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels, 27 April 2022.

For the Commission
The President
Ursula VON DER LEYEN

COMMISSION IMPLEMENTING REGULATION (EU) 2022/694**of 2 May 2022****amending Regulation (EU) 2016/403 as regards new serious infringements of the Union rules which may lead to the loss of good repute by the road transport operator**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC ⁽¹⁾, and in particular Article 6(2a) thereof,

Whereas:

- (1) Regulation (EC) No 1071/2009 has been amended by Regulation (EU) 2020/1055 of the European Parliament and of the Council ⁽²⁾ which added new serious infringements with regard to the law applicable to contractual obligations, cabotage and posting of workers in road transport to the list of infringements that may lead to the loss of good repute set out in Article 3(1), point (b), of Regulation (EC) No 1071/2009.
- (2) Regulation (EU) 2020/1055 also introduced an additional criterion to be taken into account by the Commission when defining the degree of seriousness of serious infringements, by adding the reference to the risk to distort competition in the road transport market.
- (3) Regulation (EU) 2020/1055 also amended Regulation (EC) No 1071/2009 in order to provide that, when establishing the frequency of occurrence beyond which repeated infringements are to be regarded as more serious, the Commission should take into account the number of vehicles, and not the number of drivers, used for the transport activities.
- (4) Regulation (EU) 2020/1054 of the European Parliament and of the Council ⁽³⁾ introduced new provisions as regards infringements leading to risks of serious injuries or fatalities or distortion of competition in the road transport market. Those infringements should be added to the list of serious infringements of the Union rules referred to in Article 6(1), third subparagraph, point (b), of Regulation (EC) No 1071/2009, which may affect good repute of the road transport undertaking or the transport manager.
- (5) Therefore, Commission Regulation (EU) 2016/403 ⁽⁴⁾ should be amended to include the new infringements and take into account the new criteria for defining their level of seriousness and frequency of occurrence.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Road Transport,

⁽¹⁾ OJ L 300, 14.11.2009, p. 51.

⁽²⁾ Regulation (EU) 2020/1055 of the European Parliament and of the Council of 15 July 2020 amending Regulations (EC) No 1071/2009, (EC) No 1072/2009 and (EU) No 1024/2012 with a view to adapting them to developments in the road transport sector (OJ L 249, 31.7.2020, p. 17).

⁽³⁾ Regulation (EU) 2020/1054 of the European Parliament and of the Council of 15 July 2020 amending Regulation (EC) No 561/2006 as regards minimum requirements on maximum daily and weekly driving times, minimum breaks and daily and weekly rest periods and Regulation (EU) No 165/2014 as regards positioning by means of tachographs (OJ L 249, 31.7.2020, p. 1).

⁽⁴⁾ Commission Regulation (EU) 2016/403 of 18 March 2016 supplementing Regulation (EC) No 1071/2009 of the European Parliament and of the Council with regard to the classification of serious infringements of the Union rules, which may lead to the loss of good repute by the road transport operator, and amending Annex III to Directive 2006/22/EC of the European Parliament and of the Council (OJ L 74, 19.3.2016, p. 8).

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 2016/403 is amended as follows:

- (1) Annex I is amended in accordance with Annex I to this Regulation;
- (2) Annex II is replaced by the text in Annex II to this Regulation.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 2 May 2022.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX I

Annex I to Regulation (EU) 2016/403 is amended as follows:

(1) the introductory paragraphs and Section 1 are replaced by the following:

'Categorisation of serious infringements

(referred to in Article 1)

The following tables contain categories and types of serious infringements against the Union rules in commercial road transport, divided into three categories of seriousness according to their potential to create a risk of fatalities or serious injuries and/or of distorting competition in the road transport market.

1. Groups of infringements against Regulation (EC) No 561/2006 of the European Parliament and of the Council (*) (Driving and resting time)

No	LEGAL BASIS	TYPE OF INFRINGEMENT	LEVEL OF SERIOUSNESS (*)			
			MSI	VSI	SI	
	Crew					
1.	Article 5(1)	Not respecting minimum ages for conductors			X	
Driving periods						
2.	Article 6(1)	Exceed daily driving time of 9h if possibilities to extend to 10h not allowed	$10h \leq \dots < 11h$		X	
3.			$11h \leq \dots$		X	
4.		Exceed daily driving time of 9h by 50 % or more	$13h30 \leq \dots$	X		
5.		Exceed extended daily driving time of 10h if extension allowed	$11h \leq \dots < 12h$			X
6.			$12h \leq \dots$		X	
7.		Exceed daily driving time of 10h by 50 % or more	$15h \leq \dots$	X		
8.	Article 6(2)	Exceed weekly driving time	$60h \leq \dots < 65h$			X
9.			$65h \leq \dots < 70h$		X	
10.		Exceed weekly driving time by 25 % or more	$70h \leq \dots$	X		
11.	Article 6(3)	Exceed maximum total driving time during 2 consecutive weeks	$100h \leq \dots < 105h$			X
12.			$105h \leq \dots < 112h30$		X	
13.		Exceed maximum total driving time during 2 consecutive weeks by 25 % or more	$112h30 \leq \dots$	X		
Breaks						
14.	Article 7	Exceed uninterrupted driving time of 4,5 hours before taking the break	$5h \leq \dots < 6h$			X
15.			$6h \leq \dots$		X	

Rest Periods						
16.	Article 8(2)	Insufficient daily rest period of less than 11h if reduced daily rest period not allowed	$8h30 \leq \dots < 10h$			X
17.			$\dots < 8h30$		X	
18.		Insufficient reduced daily rest period of less than 9h if reduce allowed	$7h \leq \dots < 8h$			X
19.			$\dots < 7h$		X	
20.		Insufficient split daily rest period of less than 3h + 9h	$3h + [7h \leq \dots < 8h]$			X
21.			$3h + [\dots < 7h]$		X	
22.	Article 8(5)	Insufficient daily rest period of less than 9h for multi-manning	$7h \leq \dots < 8h$			X
23.			$\dots < 7h$		X	
24.	Article 8(6)	Insufficient reduced weekly resting period of less than 24 h	$20h \leq \dots < 22h$			X
25.			$\dots < 20h$		X	
26.		Insufficient weekly resting period of less than 45 h if reduced weekly resting period not allowed	$36h \leq \dots < 42h$			X
27.			$\dots < 36h$		X	
28.	Article 8(6)	Exceeding 6 consecutive 24-hour periods following the previous weekly rest period	$3h \leq \dots < 12h$			X
29.			$12h \leq \dots$		X	
30.	Article 8(6b)	No compensation rest for two consecutive reduced weekly rest periods			X	
31.	Article 8(8)	Regular weekly rest period or any weekly rest period of more than 45 hours taken in a vehicle			X	
32.	Article 8(8)	The employer not covering costs for accommodation outside the vehicle				X
	12-day rule derogation					
33.	Article 8(6a)	Exceeding 12 consecutive 24-hour periods following a previous regular weekly rest	$3h \leq \dots < 12h$			X
34.			$12h \leq \dots$		X	
35.	Article 8(6a), Point (b)(ii)	Weekly rest period taken following 12 consecutive 24-hour periods	$65h < \dots \leq 67h$			X
36.			$\dots \leq 65h$		X	
37.	Article 8(6a), point (d)	Driving period, between 22.00 and 6.00, of more than 3 hours before the break, if the vehicle is not multi-manned	$3h < \dots < 4,5\text{ h}$			X
38.			$4,5\text{ h} \leq \dots$		X	
Work organisation						
39.	Article 8(8a)	Transport undertaking not organising the work of drivers in such a way that the drivers are able to return to the employer's operational centre, or to return to the drivers' place of residence			X	

40.	Article 10(1)	Link between wage/payment and distance travelled, speed of delivery and/or amount of goods carried		X	
41.	Article 10(2)	No or improper organisation of driver's work, no or improper instructions given to driver enabling him to comply with the law		X	

(¹) MSI = most serious infringements / VSI = very serious infringement / SI = serious infringement.

(*) Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85 (OJ L 102, 11.4.2006, p. 1).;

(2) Section 2 is replaced by the following:

2. **Groups of infringements against Regulation (EU) No 165/2014 of the European Parliament and of the Council (*) (Tachograph)**

No	LEGAL BASIS	TYPE OF INFRINGEMENT	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
Installation of tachograph					
1.	Articles 3(1), (4), (4a) and Article 22	Not having type-approved tachograph installed and used	X		
Use of tachograph, driver card or record sheet					
2.	Article 23(1)	Using a tachograph not inspected by an approved workshop		X	
3.	Article 27	Driver holding and/or using more than one own driver card		X	
4.		Driving with a driver card that has been falsified (considered as driving without driver card)	X		
5.		Driving with a driver card of which the driver is not the holder (considered as driving without driver card)	X		
6.		Driving with a driver card which has been obtained on the basis of false declarations and/or forged documents (considered as driving without driver card)	X		
7.	Article 32(1)	Tachograph not correctly functioning (e.g.: tachograph not properly inspected, calibrated and sealed)		X	
8.	Article 32(1) and Article 33(1)	Tachograph improperly used (e.g.: deliberate, voluntary or imposed misuse, lack of instructions on correct use, etc.)		X	
9.	Article 32(3)	Having in the vehicle and/or using a fraudulent device able to modify the records of the tachograph	X		

10.		Falsifying, concealing, suppressing or destroying data recorded on the record sheets or stored and downloaded from the tachograph and/or the driver card	X		
11.	Article 33(2)	Undertaking not keeping record sheets, printouts and downloaded data		X	
12.		Recorded and stored data not available for at least a year		X	
13.	Article 34(1)	Incorrect use of record sheets/driver card		X	
14.		Unauthorised withdrawal of record sheets or driver card which has an impact on the record of relevant data		X	
15.	Article 34(1a)	Record sheet or driver card used to cover a period longer than that for which it is intended and data is lost		X	
16.	Article 34(2)	Use dirty or damaged record sheets or drivers card and data not legible		X	
17.	Article 34(3)	Not using manual input when required to do so		X	
18.	Article 34(4)	Not using correct record sheet or driver card not in the correct slot (multi-manning)			X
19.	Article 34(5)	Incorrect use of switch mechanism		X	

Producing information

20.	Article 34(5), point (b)(v)	Incorrect use or non-use of the ferry/train sign			X
21.	Article 34(6)	Required information not entered on the record sheet		X	
22.	Article 34(7)	Records not showing the symbols of the countries whose borders were crossed by the driver during the daily working period			X
23.	Article 34(7)	Records not showing the symbols of the countries where the driver's daily working period started and finished			X
24.	Article 36	Refusing to be checked		X	
25.	Article 36	Unable to produce manual records and printouts made during the current day and the previous 28 days (until 30 December 2024) Unable to produce manual records and printouts made during the current day and the previous 56 days (as of 31 December 2024)		X	
26.	Article 36	Unable to produce a driver card, if the driver holds one		X	

Malfunctioning					
27.	Article 37(1) and Article 22(1)	Tachograph not repaired by an approved fitter or workshop		X	
28.	Article 37(2)	Driver not marking all required information for the periods of time, which are no longer recorded while tachograph is unserviceable or malfunctioning		X	

(*) Regulation (EU) No 165/2014 of the European Parliament and of the Council of 4 February 2014 on tachographs in road transport, repealing Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and of the Council on the harmonisation of certain social legislation relating to road transport (OJ L 60, 28.2.2014, p. 1).;

(3) Section 6 is replaced by the following:

‘6. **Groups of infringement against Council Directive 92/6/EEC (*) (Speed limitation devices)**

No	LEGAL BASIS	TYPE OF INFRINGEMENT	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
1.	Article 2 and 3	Speed limitation device not fitted	X		
2.	Article 5	Speed limitation device not satisfying the applicable technical requirements		X	
3.	Article 5	Speed limitation device not fitted by an approved workshop			X
4.		Having and/or using a fraudulent device able to falsify data of speed limitation device or having and/or using a fraudulent speed limitation device	X		

(*) Council Directive 92/6/EEC of 10 February 1992 on the installation and use of speed limitation devices for certain categories of motor vehicles in the Community (OJ L 57, 2.3.1992, p. 27);

(4) Section 10 is replaced by the following:

‘10. **Groups of infringements against Regulation (EC) No 1072/2009 of the European Parliament and of the Council (*) (Access to the international road haulage market)**

No	LEGAL BASIS	TYPE OF INFRINGEMENT	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
Community licence					
1.	Article 3 and Article 8(1)	Carrying goods without holding a valid Community licence (i.e.: a licence is non-existent, falsified, withdrawn, expired, etc.)	X		

2.	Article 4	The haulage undertaking or the driver unable to present a valid Community licence or a valid certified true copy of the Community licence to the inspecting officer (i.e.: Community licence or certified true copy of the Community licence lost, forgotten, damaged, etc.)		X	
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Driver attestation

3.	Article 3 and Article 8(1)	Carrying goods without holding a valid driver attestation (i.e. driver's attestation is non-existent, falsified; withdrawn, expired, etc.)		X	
4.	Article 5	The driver or the haulage undertaking unable to present a valid driver attestation or a valid certified true copy of the driver attestation to the inspecting officer (i.e. driver attestation or certified true copy of the driver attestation lost, forgotten, damaged, etc.)			X

Cabotage

5.	Article 8(2)	Carrying out a cabotage operation not in compliance with the laws, regulations and administrative provisions in force in the host Member State		X	
6.	Article 8(2a)	Carrying out cabotage operations in the same Member State within 4 days following the end of the last legitimate cabotage operation in that Member State		X	
7.	Article 8(3) and (4)	The haulier being unable to produce clear evidence of the preceding international carriage and/or of each consecutive cabotage operation carried out, and/or of all operations carried out in cases where the vehicle is present in the host Member State within the period of 4 days preceding the international carriage, and to present these evidences within the duration of the roadside check.		X	

(*) Regulation (EC) No 1072/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international road haulage market (OJ L 300, 14.11.2009, p.72).;

(5) Section 11 is replaced by the following:

11. Groups of infringements against Regulation (EC) No 1073/2009 of the European Parliament and of the Council (*) (Access to the market for coach and bus services)

No	LEGAL BASIS	TYPE OF INFRINGEMENT	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
Community licence					
1.	Article 4	Carrying passengers without holding a valid Community licence (i.e.: a licence is non-existent, falsified, withdrawn, expired, etc.)	X		

2.	Article 4(3)	The carrier or the driver unable to present a valid Community licence or a valid certified true copy of the Community licence to the inspecting officer (i.e. licence or certified true copy lost, forgotten, damaged, etc.)		X	
Authorisation for regular services					
3.	Articles 5 and 6	Regular services without a valid authorisation (i.e.: authorisation is non-existent, falsified, withdrawn, expired, misused, etc.)		X	
4.	Article 19	The driver unable to present the authorisation to the inspecting officer (i.e. authorisation is lost, forgotten, damaged, etc.)			X
5.	Articles 5 and 6	Stops of regular services in a Member State do not correspond to the issued authorisation			X
Journey form for occasional services and other services exempt from authorisation					
6.	Article 12	Driving without holding a required journey form (i.e. journey form is non-existent, falsified, not containing the required information, etc.)			X
Rules applicable to cabotage operations					
7.	Article 16	Carrying out a cabotage operation not in compliance with the laws, regulations and administrative provisions in force in the host Member State		X	
8.	Article 17	Not having on board the vehicle or not being able to present at the request of any authorised inspecting officer the control documents for cabotage operations (journey form for occasional services, or the contract concluded between the carrier and the transport organiser or a certified true copy thereof in the case of special regular services)		X	

(*) Regulation (EC) No 1073/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international market for coach and bus services, and amending Regulation (EC) No 561/2006 (OJ L 300, 14.11.2009, p. 88).;

(6) the following Sections 13 and 14 are added:

13. Infringement against Regulation (EC) No 593/2008 of the European Parliament and of the Council (*) (Rome I) (law applicable to contractual obligations)

No	LEGAL BASIS	TYPE OF INFRINGEMENT	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
1.	Rome I	Violation of the law applicable to contractual obligations		X	

14. Groups of infringements against Directive (EU) No 2020/1057 of the European Parliament and of the Council () (posting of workers in road transport)**

No	LEGAL BASIS	TYPE OF INFRINGEMENT	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
1.	Article 1(11), point (a)	Incomplete information on the posting declaration			X
2.	Article 1(11), point (a)	Failure to submit a posting declaration to the Member State to which the driver is posted no later than at the commencement of the posting		X	
3.	Article 1(11), point (b)	Falsified posting declaration for drivers		X	
4.	Article 1(11), point (b)	Impossibility of the driver to present a valid posting declaration		X	
5.	Article 1(11), point (b)	Failure to put at the disposal of the driver a valid posting declaration		X	
6.	Article 1(11), point (c)	Failure to submit the requested documents to the host Member State within eight weeks from the date of the request		X	
7.	Article 1(12)	Failure of the operator to keep the posting declarations up to date in the public interface connected to IMI			X

(*) Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (OJ L 177, 4.7.2008, p. 6).

(**) Directive (EU) 2020/1057 of the European Parliament and of the Council of 15 July 2020 laying down specific rules with respect to Directive 96/71/EC and Directive 2014/67/EU for posting drivers in the road transport sector and amending Directive 2006/22/EC as regards enforcement requirements and Regulation (EU) No 1024/2012 (OJ L 249, 31.7.2020, p. 49).¹

ANNEX II

‘ANNEX II

Frequency of occurrence of serious infringements

1. The serious (SI) and very serious (VSI) infringements listed in Annex I, when committed repeatedly shall be regarded as more serious by the competent authority of a Member State of establishment. When calculating the frequency of occurrence of repeated infringements Member States shall take into account the following factors:
 - (a) seriousness of infringement (SI or VSI);
 - (b) time (at least one rolling year from the date of a control);
 - (c) number of vehicles used for the transport activities managed by the transport manager (average per year)
 2. Taking into account the potential of creating a risk to road safety the maximum frequency of serious infringements beyond which they should be considered as more serious shall be established as follows:
$$3 \text{ SI/per vehicle/per year} = 1 \text{ VSI}$$
$$3 \text{ VSI/per vehicle/per year} = \text{launch of a national procedure on good repute}$$
 3. The number of infringements per vehicle per year is an average figure calculated by dividing the total number of all infringements of the same level of seriousness (SI or VSI) by the average number of vehicles used during the year. The frequency formula provides for a maximum threshold for occurrence of serious infringements beyond which they shall be considered more serious. Member States may establish stricter thresholds if envisaged in their national administrative procedure for assessing good repute’.
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COMMISSION IMPLEMENTING REGULATION (EU) 2022/695**of 2 May 2022****laying down rules for the application of Directive 2006/22/EC of the European Parliament and of the Council as regards the common formula for calculating the risk rating of transport undertakings**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2006/22/EC of the European Parliament and of the Council of 15 March 2006 on minimum conditions for the implementation of Regulations (EC) No 561/2006 and (EU) No 165/2014 and Directive 2002/15/EC as regards social legislation relating to road transport activities and repealing Council Directive 88/599/EEC ⁽¹⁾, and in particular Article 9(1), second subparagraph thereof,

Whereas:

- (1) Effective and cost-efficient enforcement of the Union road transport legislation is of paramount importance for improving road safety, drivers' working conditions and social protection and ensuring fair competition between road transport undertakings.
- (2) National risk rating systems introduced by Member States to better target controls at undertakings with high-risk rating are based on different national calculation methods. This hampers comparability and exchange of information on risk scores in the context of cross-border enforcement.
- (3) Article 9(1), second subparagraph of Directive 2006/22/EC requires the Commission to establish, by means of implementing acts, a common formula for calculating the risk rating of an undertaking.
- (4) In establishing this formula, the Commission should take into account all infringements susceptible to affect the risk rating of the undertakings, which includes infringements of Regulation (EC) No 561/2006 of the European Parliament and of the Council ⁽²⁾, of Regulation (EU) No 165/2014 of the European Parliament and of the Council ⁽³⁾, of national provisions transposing Directive 2002/15/EC of the European Parliament and of the Council ⁽⁴⁾, and the infringements specified in Article 6 of Regulation (EC) No 1071/2009 of the European Parliament and of the Council ⁽⁵⁾.
- (5) The common formula should take into account the number, gravity and frequency of occurrence of infringements, the results of controls where no infringement has been detected and whether a road transport undertaking has been using the smart tachograph, pursuant to Chapter II of Regulation (EU) No 165/2014, on all its vehicles.
- (6) The common formula for calculating the risk rating of an undertaking should contribute significantly to the harmonisation of enforcement practices throughout the Union, by ensuring that all drivers and transport undertakings are treated equally as regards checks and sanctions under the applicable Union rules.

⁽¹⁾ OJ L 91, 29.3.2019, p. 45.

⁽²⁾ Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85 (OJ L 102, 11.4.2006, p. 1).

⁽³⁾ Regulation (EU) No 165/2014 of the European Parliament and of the Council of 4 February 2014 on tachographs in road transport, repealing Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and of the Council on the harmonisation of certain social legislation relating to road transport (OJ L 60, 28.2.2014, p. 1).

⁽⁴⁾ Directive 2002/15/EC of the European Parliament and of the Council of 11 March 2002 on the organisation of the working time of persons performing mobile road transport activities (OJ L 80, 23.3.2002, p. 35).

⁽⁵⁾ Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC (OJ L 300, 14.11.2009, p. 51).

- (7) Where the measures provided for in this Regulation entail the processing of personal data, they should be carried out in accordance with Union law on the protection of personal data and privacy, in particular Regulation (EU) 2016/679 of the European Parliament and of the Council ⁽⁶⁾, and, where applicable, Directive 2002/58/EC of the European Parliament and of the Council ⁽⁷⁾.
- (8) The measures provided for in this Regulation are in accordance with the opinion of the committee established by Article 42(1) of Regulation (EU) No 165/2014,

HAS ADOPTED THIS REGULATION:

Article 1

The common formula for calculating the risk rating of a transport undertaking and the requirements for its application are laid down in the Annex.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 2 May 2022.

For the Commission
The President
Ursula VON DER LEYEN

⁽⁶⁾ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (OJ L 119, 4.5.2016, p. 1).

⁽⁷⁾ Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (OJ L 201, 31.7.2002, p. 37).

ANNEX

COMMON FORMULA FOR CALCULATING THE RISK RATING OF TRANSPORT UNDERTAKINGS AND THE REQUIREMENTS FOR ITS APPLICATION

- (1) The overall risk rating of a transport undertaking shall be calculated using the following common formula:

$$R = \left(\frac{\sum_i \frac{n_{i_{MSI}} \times v_{MSI} + n_{i_{VSI}} \times v_{VSI} + n_{i_{SI}} \times v_{SI} + n_{i_{MI}} \times v_{MI}}{N_i}}{r} \right) \times g$$

Where:

- R — the undertaking's overall risk rating
- n — number of infringements of a given type per individual check (all types of controls).
- i — individual check
- v — weighted score according to type/seriousness of infringement (MI/SI/VSI/MSI)
- MSI — most serious infringement
- VSI — very serious infringement
- SI — serious infringement
- MI — minor infringement
- N — number of vehicles controlled during an individual check
- r — total number of checks on the undertaking
- g — weighting for the use of the smart tachograph pursuant to Chapter II of Regulation (EU) No 165/2014

- (2) The following principles and elements shall be used when applying the common formula:
- (3) The period of time during which an infringement is counted in the formula shall be 2 years.
- (4) Transport operators shall be classified into the following risk bands based on their score:
- operators on which no checks were performed (grey band)
 - 0-100 points: low-risk operators (green band)
 - 101-200 points: medium-risk operators (amber band)
 - 201 points or more: high risk operators (red band)
- (5) The weighted score of an individual check ('i') shall be calculated by applying the following weighting factors ('v') according to the type of infringement:
- MI = 1
 - SI = 10
 - VSI = 30
 - MSI = 90
- (6) An undertakings' final risk rating shall take into account the total number of checks carried out ('r'), both at the roadside and at its premises, including those checks where no infringements were detected.
- (7) Checks where no infringements are detected shall be recorded with zero points.
- (8) The weighted score of an individual check shall take into account all the vehicles checked ('N').

- (9) The date of infringement that is taken into account in the common formula is deemed the date on which the infringement has become definitive, i.e. no longer subject to review. Infringements shall be counted only once in the formula.
 - (10) If a check at a transport undertaking's premises establishes that its whole fleet is equipped with the smart tachograph pursuant to Chapter II of Regulation (EU) No 165/2014, its final score shall be multiplied by a factor of 0,9 ('g').
-

DECISIONS

COMMISSION IMPLEMENTING DECISION (EU) 2022/696

of 29 April 2022

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

(notified under document C(2022) 2596)

(only the English and the Irish texts are authentic)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources ⁽¹⁾, and in particular paragraph 2, third subparagraph, of Annex III thereto,

Whereas:

- (1) Directive 91/676/EEC lays down rules on the protection of waters against pollution caused by nitrates from agricultural sources.
- (2) Paragraph 2 of Annex III to Directive 91/676/EEC establishes that Member States intending to apply more livestock manure than 170 kg nitrogen per hectare (ha) are to fix amounts so as not to prejudice the achievement of the objectives specified in Article 1 of that Directive. These amounts are to be justified on the basis of objective criteria.
- (3) On 22 October 2007, the Commission adopted Decision 2007/697/EC ⁽²⁾ granting a derogation requested by Ireland pursuant to Directive 91/676/EEC for the purpose of allowing the application of livestock manure up to a limit of 250 kg nitrogen/ha per year, under certain conditions, on farms with at least 80 % grassland, in the context of the Irish Action Programme, as implemented by Ireland by means of the European Communities (Good Agricultural Practices for Protection of waters) Regulations 2006 ⁽³⁾.
- (4) On 24 February 2011, the Commission adopted Decision 2011/127/EU ⁽⁴⁾ amending Decision 2007/697/EC and extending the derogation until 31 December 2013, in the context of the Irish Action Programme as implemented by Ireland by means of the European Communities (Good Agricultural Practices for Protection of waters) Regulations 2010 ⁽⁵⁾.
- (5) On 27 February 2014, the Commission adopted Implementing Decision 2014/112/EU ⁽⁶⁾ granting a derogation requested by Ireland pursuant to Directive 91/676/EEC for the purpose of allowing the application of livestock manure up to a limit of 250 kg nitrogen/ha per year, under certain conditions, on farms with at least 80 % grassland, in the context of the Irish Action Programme as implemented by Ireland by means of the European Communities (Good Agricultural Practices for Protection of waters) Regulations 2014 ⁽⁷⁾.

⁽¹⁾ OJ L 375, 31.12.1991, p. 1.

⁽²⁾ Commission Decision 2007/697/EC of 22 October 2007 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 (OJ L 284, 30.10.2007, p. 27).

⁽³⁾ Statutory Instrument No 378 of 2006.

⁽⁴⁾ Commission Decision 2011/127/EU of 24 February 2011 amending Decision 2007/697/EC 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 (OJ L 51, 25.2.2011, p. 19).

⁽⁵⁾ Statutory Instrument No 610 of 2010.

⁽⁶⁾ Commission Implementing Decision 2014/112/EU of 27 February 2014 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 (OJ L 61, 1.3.2014, p. 7).

⁽⁷⁾ Statutory Instrument No 31 of 2014.

- (6) On 8 February 2018, the Commission adopted Implementing Decision (EU) 2018/209 ⁽⁸⁾ granting a derogation requested by Ireland pursuant to Directive 91/676/EEC for the purpose of allowing the application of livestock manure up to a limit of 250 kg nitrogen/ha per year, under certain conditions, on farms with at least 80 % grassland, in the context of the Irish Action Programme as implemented by Ireland by means of the European Union (Good Agricultural Practices for Protection of waters) Regulations 2017 ⁽⁹⁾. Implementing Decision (EU) 2018/209 expired on 31 December 2021.
- (7) The derogation granted by Implementing Decision (EU) 2018/209 concerned, in 2020, 6 016 farms, corresponding to approximately 4,9 % of the total number of holdings with grazing animals, 15,9 % of the total number of livestock units and 9,6 % of the total net agricultural area in Ireland.
- (8) On 14 October 2021, Ireland submitted to the Commission a request for an extension of the derogation under paragraph (2), third subparagraph, of Annex III to Directive 91/676/EEC.
- (9) In accordance with the European Union (Good Agricultural Practice for Protection of Waters) Regulations 2022 ⁽¹⁰⁾, Ireland has adopted a new action programme with additional and reinforced measures to comply with the objectives of Directive 91/676/EEC.
- (10) In conformity with Article 5(2) of Directive 91/676/EEC, Ireland applies an action programme throughout its whole territory.
- (11) The data provided by Ireland in the context of the reporting obligation required by Article 10 of Directive 91/676/EEC show that, for the period 2016-2019, the waters are of generally good quality. In this regard, 98,5 % of all monitoring stations for groundwater in Ireland had mean nitrate concentrations below 50 mg/l, and 81,5 % of those monitoring stations had mean nitrate concentrations below 25 mg/l. All monitoring stations for surface water in Ireland had mean nitrate concentrations below 50 mg/l, and 99,2 % of those monitoring stations had mean nitrate concentrations below 25 mg/l. Furthermore 14 % of the surface water monitoring stations reported eutrophication and 10 % reported risk of eutrophication. Regarding trends, 37,5 % of groundwater monitoring stations reported an increase of nitrate concentrations, 45,5 % reported stable trends and 17 % reported decreasing trends. As regards surface water, 11,1 % of monitoring stations reported an increase of nitrate concentrations, 86,2 % reported stable trends and 2,8 % reported decreasing trends.
- (12) The number of livestock in Ireland has increased in recent years. Cattle, pig and sheep numbers increased respectively by 4,78 %, 2,81 % and 0,54 % from the period 2012-2015 to the period 2016-2019, pursuing the increasing trends of the previous reporting period. Average nitrogen loading from livestock manure in the period 2016-2018 was 117 kg nitrogen/ha, compared to 104 kg nitrogen/ha in the period 2012-2015. Average phosphorus loading in the period 2016-2018 was 14 kg phosphorus/ha compared to 15 kg phosphorus/ha in the period 2012-2015. Average chemical nitrogen fertiliser application increased by 13 % in the period 2016-2019 compared to the period 2012-2015. Average chemical phosphorus fertiliser application increased by 24 % in the period 2016-2019 compared to the period 2012-2015. Average phosphorus surplus in the period 2016-2018 was 23,1 kg phosphorus/ha compared to 20 kg phosphorus/ha in the period 2012-2015. Average nitrogen surplus in the period 2016-2018 was 62,3 kg nitrogen/ha compared to 44,8 kg nitrogen/ha in the period 2012-2015.
- (13) In Ireland, 92 % of agricultural land is devoted to grassland. Overall, 67 % of the land area is farmed extensively and has therefore a relatively low stocking rate and low fertiliser inputs, 33 % is farmed under agro-environmental programmes and only 14 % is farmed intensively. Arable agriculture accounts for 6,6 % of use. The average chemical fertiliser use on grassland is 78,3 kg nitrogen/ha and 8,6 kg phosphorus/ha.

⁽⁸⁾ Commission Implementing Decision (EU) 2018/209 of 8 February 2018 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 (OJ L 39, 13.2.2018, p. 5).

⁽⁹⁾ Statutory Instrument No 605 of 2017.

⁽¹⁰⁾ Statutory Instrument No 113 of 2022.

- (14) The Irish climate, characterised by an annual rainfall evenly distributed throughout the year and a relatively narrow annual temperature range, promotes a long grass-growing season ranging from 330 days per year in the south-west to around 250 days per year in the north-east ⁽¹¹⁾.
- (15) The supporting information presented by Ireland shows that the proposed amount of 250 kg nitrogen/ha per year on farms with at least 80 % grassland is justified on the basis of objective criteria, such as long growing seasons and high yields of grass with high nitrogen uptake.
- (16) After an examination of the request from Ireland in accordance with paragraph 2, third subparagraph, of Annex III to Directive 91/676/EEC, and in the light of the Irish Action Programme coupled with the experience gained from the derogation provided for in Decision 2007/697/EC and Implementing Decisions 2014/112/EU and (EU) 2018/209, the Commission considers that the amount of manure proposed by Ireland, corresponding to 250 kg nitrogen/ha per year, will not prejudice the achievement of the objectives set out in Directive 91/676/EEC, subject to certain strict conditions that should apply to farmers covered by authorisation.
- (17) In the light of the data referred to in recitals 11 to 13, the conditions provided for in this Decision should be strengthened compared to those provided for in Implementing Decision (EU) 2018/209. The conditions established as well as the monitoring and control systems should be sufficient to ensure that this derogation is coherent with the legally binding targets of the Water Framework Directive ⁽¹²⁾, the increasing ambition of Effort Sharing Regulation ⁽¹³⁾ as well as the aspirational objectives of the European Green Deal concerning nutrient pollution.
- (18) Additional measures should be taken as regards the application of manure and other fertilisers. These measures should contribute to the improvement in nutrient management through optimised fertilisation and limited use of fertilisers. The measures listed in this Decision should be additional to the measures already being applied through the Code of Good Agricultural Practices.
- (19) Yearly administrative controls and field inspections should be increased to 10 % of farms benefiting from an authorisation. Field inspections should be based on a sound methodology, including risk assessment, random controls and the results of controls of the previous years. The national authorities should review the agricultural inspection programme carried out by the local authorities as well as the resources required to perform the inspections. Dissuasive sanctions (including economic) should be applied. Complaints or reports of non-compliance from citizens, non-governmental organisations or whistle-blowers should be followed up.
- (20) In 2023, the Irish authorities should carry out a two-year review of water quality, including nitrate concentration and trophic status. In areas where monitoring data reveal either worsening trends or a situation of pollution or risk of pollution as regards nitrate concentrations or eutrophication, from 2024, the maximum amount of manure applicable that may be applied should be reduced to 220 kg nitrogen/ha.
- (21) The monitoring requirements of nitrate concentration and trophic status in accordance with Directive 91/676/EEC continue to apply. The two-year review should be based on data from this monitoring. Additional monitoring and yearly reporting in the areas covered by the derogation will be necessary.
- (22) Directive 2007/2/EC of the European Parliament and of the Council ⁽¹⁴⁾ lays down general rules for establishing the Infrastructure for Spatial Information in the Union for the purposes of environmental policies of the Union and policies or activities which may have an impact on the environment. Where applicable, the spatial information collected pursuant to this Decision should be in line with the provisions set out in that Directive. In order to reduce

⁽¹¹⁾ Teagasc – the Agriculture and Food Development Authority, Ireland.

⁽¹²⁾ Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1).

⁽¹³⁾ Regulation (EU) 2018/842 of the European Parliament and of the Council of 30 May 2018 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement and amending Regulation (EU) No 525/2013 (OJ L 156, 19.6.2018, p. 26).

⁽¹⁴⁾ Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) (OJ L 108, 25.4.2007, p. 1).

the administrative burden and enhance data coherence, Ireland, when collecting the necessary data under this Decision, should make use of the information generated under the Integrated Administration and Control System established pursuant to Title V, Chapter II, of Regulation (EU) No 1306/2013 of the European Parliament and of the Council ⁽¹⁵⁾.

- (23) The derogation provided for in this Decision is without prejudice to the obligations of Ireland to apply Council Directive 92/43/EEC ⁽¹⁶⁾, including the ruling of the Court of Justice of the European Union in Case C-293/17 *Coöperatie Mobilisation for the Environment and Vereniging Leefmilieu* ⁽¹⁷⁾, in particular on the interpretation of Article 6(3) of that Directive.
- (24) The conditions laid down in Articles 6 to 9 of this Decision are mandatory conditions for all grassland farms benefitting from an authorisation under the derogation. These conditions are therefore considered as mandatory standards and requirements established in national law for these entities in the meaning of Article 12 and 13 of Regulation (EU) 2021/2115 of the European Parliament and of the Council ⁽¹⁸⁾.
- (25) The measures provided for in this Decision are in accordance with the opinion of the Nitrates Committee set up pursuant to Article 9 of Directive 91/676/EEC,

HAS ADOPTED THIS DECISION:

Article 1

Derogation

The derogation requested by Ireland, by letter of 14 October 2021, for the purpose of allowing the application to the land of a higher amount of nitrogen from livestock manure than that provided for in paragraph 2, second subparagraph, first sentence, of Annex III to Directive 91/676/EEC, namely 170 kg nitrogen, is granted, subject to the conditions laid down in Articles 4 to 12 of this Decision.

Article 2

Definitions

For the purpose of this Decision, the following definitions shall apply:

- (a) 'grass' means permanent grassland or temporary grazing land of less than 4 years;
- (b) 'grassland farms' means holdings where 80 % or more of the agricultural area available for manure application is grass;
- (c) 'grazing livestock' means cattle (with the exclusion of veal calves), sheep, deer, goats and horses;
- (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;

⁽¹⁵⁾ Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 (OJ L 347, 20.12.2013, p. 549).

⁽¹⁶⁾ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7).

⁽¹⁷⁾ Case C-293/17 *Coöperatie Mobilisation for the Environment and Vereniging Leefmilieu* (ECLI:EU:C:2018:882).

⁽¹⁸⁾ Regulation (EU) 2021/2115 of the European Parliament and of the Council of 2 December 2021 establishing rules on support for strategic plans to be drawn up by Member States under the common agricultural policy (CAP Strategic Plans) and financed by the European Agricultural Guarantee Fund (EAGF) and by the European Agricultural Fund for Rural Development (EAFRD) and repealing Regulations (EU) No 1305/2013 and (EU) No 1307/2013 (OJ L 435, 6.12.2021, p. 1).

- (f) 'fertilisation account' means the nutrient balance based on the real use and uptake of nutrients;
- (g) 'commonage' means a land parcel which is held by two or more persons in specified shares or jointly and originally purchased from the Irish Land Commission under the Land Purchase Acts, including land over which two or more persons have grazing rights or the right to take turf.

Article 3

Scope

The derogation granted pursuant to Article 1 shall apply to grassland farms for which an authorisation has been granted in accordance with Article 5 ('an authorisation').

Article 4

Annual application and commitment

1. Grassland farmers who want to benefit from a derogation shall, each year, submit an application for an authorisation to apply livestock manure containing up to 250 kg nitrogen/ha per year to the competent authorities. The application shall contain a declaration stating that the grassland farmer will submit to the controls provided for in Article 11.
2. In the application referred to in paragraph 1, the applicant shall undertake, in writing, to fulfil the conditions laid down in Articles 6 to 9.

Article 5

The granting of authorisations

Authorisations to apply an amount of livestock manure on grassland farms containing up to 250 kg nitrogen/ha per year shall be granted subject to the conditions laid down in Articles 6 to 9.

Article 6

Conditions regarding 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/ha per year, subject to the conditions laid down in paragraphs 2 to 6 of this Article. From 2024, as a consequence of the two-year review, this maximum amount shall not exceed 220 kg nitrogen/ha per year in the areas referred to in Article 12.
2. The total nitrogen inputs shall neither exceed the foreseeable nutrient demand of each crop nor the maximum fertilisation rate applicable to grassland farms as 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 the stocking rate and grassland productivity.
3. A fertilisation plan shall be prepared and kept for each grassland farm. The fertilisation plan shall describe the crop rotation of the farmland and the planned application of manure and other fertilisers. That plan shall be available on the grassland farm for each calendar year, before 1 March of that year. That plan shall include at least the following:
 - (a) the crop rotation plan specifying the following:
 - (i) the acreage of parcels with grass;
 - (ii) the acreage of parcels with crops other than grass;
 - (iii) a sketch map indicating the location of individual parcels;
 - (b) the number of livestock on the grassland farm;
 - (c) a description of the housing and manure storage system, including the volume of manure storage available;

- (d) a calculation of the manure nitrogen and phosphorus produced on the grassland farm;
- (e) the amount, type and characteristics of manure delivered outside the grassland farm or to the grassland farm;
- (f) the foreseeable nitrogen and phosphorus crop requirements for each parcel;
- (g) results of soil analysis related to nitrogen and phosphorus soil status if available;
- (h) the nature of the fertiliser to be used;
- (i) a calculation of nitrogen and phosphorus application from manure for each parcel;
- (j) a calculation of nitrogen and phosphorus application from chemical and other fertilisers for each parcel.

The fertilisation plan shall be revised no later than 7 days following any change in agricultural practices at the grassland farm.

Fertilisation accounts, including information related to the management of nitrogen and phosphorus inputs and the 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.

A liming programme shall be adopted based on a nutrient management plan and associated to soil analysis results.

- 4. Livestock manure shall not be spread in the autumn before grass cultivation.
- 5. At least 50 % of slurry produced on the grassland farm shall be applied by 15 June. Low-emission slurry spreading equipment shall be used for all slurry applications.
- 6. The stocking rate allowance on commonage areas shall not exceed 50 kg nitrogen/ha. Chemical fertiliser shall not be permitted on commonage areas.

Article 7

Conditions regarding soil sampling and analyses

- 1. Periodic nitrogen and phosphorus analysis in soil shall be done for each grassland farm.
- 2. Sampling and analysis shall be carried out at least once every 4 years for each type of area with similar features with regard to crop rotation and soil characteristics.
- 3. At least one analysis per every five hectares of grassland farm shall be carried out.
- 4. The results of the nitrogen and phosphorus analysis in soil shall be available for inspection at the grassland farm.

Article 8

Conditions regarding land management

- 1. Farmers who wish to plough grassland shall do so between 1 March and 31 May.
- 2. Ploughed grass on all soil types shall be followed by a crop with high nitrogen demand immediately and no later than 3 weeks after ploughing grass.
- 3. 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.
- 4. All new grass reseeds on the grassland farm shall incorporate at least 1,5 kg/ha of naked clover seed or at least 2,5 kg/ha of pelleted clover.
- 5. Parcels shall be equipped with fences ensuring a minimum distance of 1,5 metres between livestock and watercourses, and drinking points shall be installed at a minimum distance of 20 metres from a watercourse.

*Article 9***Condition for livestock feeding**

A maximum of 15 % crude protein in concentrate feed for grazing livestock shall be allowed each year between 15 April and 30 September.

*Article 10***Monitoring**

1. The competent authorities shall ensure that maps are drawn up every year showing the following:
 - (a) the percentage of grassland farms in each county which are covered by authorisations;
 - (b) the percentage of livestock in each county which is covered by authorisations;
 - (c) the percentage of agricultural land in each county which is covered by authorisations;
 - (d) local land use.
2. The competent authorities shall monitor root zone water, surface water and groundwater. They shall also, both under derogation and non-derogation conditions, provide the Commission with data on nitrogen and phosphorus in the root zone and nitrate concentrations in surface and groundwater.
3. The monitoring shall be carried out at farm-field scale and in agricultural monitoring catchments. The monitoring sites shall be representative of the main soil types and levels of intensity, the prevalent fertilisation practices and the main crops.
4. The competent authorities shall conduct reinforced water monitoring in agricultural catchments located in proximity to the most vulnerable water bodies.
5. The competent authorities shall carry out surveys on local land use, crop rotations and agricultural practices for grassland farms covered by authorisations.
6. Information and data collected from nutrient analysis, as referred to in Article 7(1), (2) and (3), shall be used for model-based calculations of the magnitude of nitrate and phosphorus losses from grassland farms covered by authorisations.

*Article 11***Controls**

1. The competent authorities shall carry out administrative controls in respect of all applications for authorisation to assess compliance with the conditions set out in Articles 6 to 9. Where it is demonstrated that those conditions are not fulfilled, the application shall be refused and the applicant shall be informed of the reasons for the refusal. Every year, the competent authorities shall carry out administrative controls for at least 10 % of the grassland farms covered by authorisations with regard to land use, livestock number and type and manure production and export.
2. The competent authorities shall establish a programme for field inspections of grassland farms covered by authorisations on a risk basis and with appropriate frequency, taking account of the results of controls of the previous years and the results of general random controls of legislation transposing Directive 91/676/EEC and any other information that might indicate non-compliance with the conditions set out in Articles 6 to 9. Every year, field inspections shall be carried out in at least 10 % of the grassland farms covered by authorisations to assess compliance with the conditions set out in Articles 6 to 9.
3. Where it is established, in any year, that a grassland farm covered by an authorisation does not fulfil the conditions set out in Articles 6 to 9, the holder of the authorisation shall be sanctioned in accordance with national rules and shall not be eligible for an authorisation the following year.
4. The competent authorities shall be granted the necessary powers and means to verify compliance with the conditions for an authorisation granted under this Decision to verify compliance with the conditions set out in Articles 6 to 9 prior to and after granting an authorisation under this Decision.

Article 12

Two-year review

1. The competent authorities shall submit, by 30 June 2023, with the report described in Article 13, corresponding to the year 2022, an annex containing the results of monitoring as regards the nitrates concentrations of groundwater and surface waters and the trophic status of surface water bodies, based on the monitoring network and requirements of the Nitrates Directive 91/676/EEC and including at least maps showing those areas draining into waters where monitoring data reveal:

- (a) average values of nitrate concentrations above 50 mg/l or increasing trends of nitrates concentration compared to 2021;
- (b) 'Eutrophic' status or 'could become eutrophic' status with a stable or worsening trend compared to 2021.

Waters identified by either point (a) or (b) of the first subparagraph shall be considered as polluted, at risk of pollution or showing worsening trends. The data for the estimation of the average values shall cover the period from 1 January 2020 to 31 December 2022. For the assessment of trends, the data from 2021 and 2022 shall be compared.

2. For the elaboration of the annex referred to in paragraph 1 of this Article, the data used shall be taken from the monitoring network set up under Directive 91/676/EEC.

3. As from 1 January 2024, in areas draining into polluted or at-risk-of-pollution waters or presenting worsening trends, additional measures shall be applied under the Nitrates Action Programme. For farms that have been granted an authorisation pursuant to this Decision and located in such areas, the amount of manure that may be applied to the land shall not exceed 220 kg nitrogen/ha per year.

4. The competent authorities shall inform the Commission, by 30 September 2023, of the outcomes of this two-year review, and in particular on the areas and farms with an authorisation where the maximum amount of manure to be applied is 220 kg nitrogen/ha per year and of the additional measures to be applied within the Nitrates Action Programme.

Article 13

Reporting

The competent authorities shall, every year by 30 June, submit a report to the Commission containing the following information:

- (a) maps showing the percentage of grassland farms, the percentage of livestock and the percentage of agricultural land covered by authorisations for each county, as well as maps on local land use, as referred to in Article 10(1);
- (b) the results of ground and surface water monitoring as regards nitrate and phosphorus concentrations, including information on water trends, both under derogation and non-derogation conditions, as well as the impact of the derogation granted under this Decision on water quality, as referred to in Article 10(2);
- (c) the results of soil monitoring as regards nitrogen and phosphorus concentrations in soil water and as regards mineral nitrogen in soil profile, both under derogation and non-derogation conditions, as referred to in Article 10(2);
- (d) a summary and an evaluation of data obtained from the reinforced water monitoring, as referred to in Article 10(4);
- (e) the results of the surveys on local land use, crop rotations and agricultural practices, as referred to in Article 10(5);
- (f) the results of the model-based calculations of the magnitude of nitrate and phosphorus losses, as referred to in Article 10(6);
- (g) an evaluation of the results of the administrative controls and field inspections as referred to in Article 11(1) and (2);
- (h) trends in livestock numbers and manure production for each livestock category and in grassland farms benefitting from an authorisation;

- (i) a comparative analysis of controls of grassland farms covered by authorisations and grassland farms not covered by authorisations, including data on the following:
- field inspections;
 - administrative controls;
 - agricultural inspections in the context of cross-compliance arrangements;
 - statistics on non-compliance.

The spatial information contained in the report shall, where applicable, comply with Directive 2007/2/EC. In collecting the necessary data, Ireland shall, where appropriate, make use of the information generated under the Integrated Administration and Control System set up in accordance with Article 67(1) of Regulation (EU) No 1306/2013.

Article 14

Application

This Decision shall apply in the context of the Irish Action Programme as implemented in the Statutory Instrument No 113 of 2022, European Union (Good Agricultural Practice for Protection of Waters) Regulations 2022.

This Decision shall apply until 31 December 2025.

Article 15

Addressee

This Decision is addressed to Ireland.

Done at Brussels, 29 April 2022.

For the Commission
Virginijus SINKEVIČIUS
Member of the Commission

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