

EXPLANATORY MEMORANDUM TO
THE OFFICIAL CONTROLS (PLANT PROTECTION PRODUCTS)
REGULATIONS (NORTHERN IRELAND) 2020

SR 2020 No 360

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department of Agriculture, Environment and Rural Affairs to accompany the Statutory Rule and is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under section 2(2) of the European Communities Act 1972 and is subject to the negative resolution procedure.
- 1.3 The Statutory Rule comes into operation on 31st December 2020.

2. Purpose of the instrument

- 2.1 The Statutory Rule enforces and applies Regulation (EU) 2017/625 of the Parliament and of the Council (“the new EU Regulation”) on official controls in respect of plant protection products (pesticides). The new EU Regulation regulates official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products. It has been directly applicable in the UK from 14 December 2019. This instrument will implement the new EU Regulation and will enable the Department to strengthen and develop the efficiency and effectiveness of its regulatory system in respect of the pesticide related elements of, the new EU Regulation. The objective of the new EU Regulation is to create a harmonised and consistent risk-based approach to official controls. It does so by simplifying current control rules and by extending those rules to the entire agri-food chain.

3. Background

- 3.1 Pesticides policy is aimed at providing a high level of protection for people and the environment whilst recognising that pesticides are economically important. Under the current system of pesticides regulation in Northern Ireland there are three main instruments. The Plant Protection Products Regulations (Northern Ireland) 2011 (S.R. (NI) 2011 No. 295) and The Plant Protection Products (Sustainable Use) Regulations 2012 (S.I. 2012 No. 1657) create a strict regulatory framework for the placing on the market and responsible use of plant protection products. The Pesticides (Maximum Residue Levels) Regulations (Northern Ireland) 2008 (S.R. (NI) 2008 No. 433) put in place a requirement to monitor food and feeding stuffs for the presence of plant protection products to ensure they do not exceed the maximum permitted level. These three instruments collectively establish a framework to ensure that individual pesticides are only

permitted for use if scientific risk assessments find no harmful effect on people and no unacceptable effects on the environment, and that authorised products are used in a sustainable manner.

- 3.2 While a strong regulatory framework is in place for the authorisation and sustainable use of plant protection products, enforcement arrangements are currently light touch and are based on monitoring and reactive intelligence. The new EU Regulation introduces a proactive, risk-based approach to official controls.
- 3.3 This Statutory Rule will provide the powers to enable Northern Ireland to operate more effective, proactive controls across the plant protection products supply chain, targeting enforcement to where it is most needed and adding strength to the existing pesticides regulatory regime. In doing so, it will provide additional assurance that adequate official controls are in place across the plant protection products supply chain to ensure the safety of Northern Ireland's food and feed. This will further strengthen the other official controls that have already been put in place in Northern Ireland to implement the new EU Regulation.
- 3.4 This Statutory Rule designates the Department as the competent authority in Northern Ireland and it is anticipated that the Department will authorise other public authorities to exercise specific responsibilities for official controls under this instrument.
- 3.5 This Statutory Rule provides for the sharing of information between designated UK competent authorities and EU Member States for the purpose of applying this instrument and the new EU Regulation.
- 3.6 This Statutory Rule confers powers on authorised persons and auditors to allow them to verify the official controls that have taken place. It provides that it is an offence for someone to obstruct an authorized person or an auditor, (or anyone who accompanies them) and provide false or misleading information to an authorized person or auditor. It also sets out the penalties applied on conviction for those offences and the time frame within which prosecutions can be taken.
- 3.7 This Statutory Rule establishes a new legal requirement for operators to register with the competent authority and to provide a minimum amount of information to the competent authority.
- 3.8 This Statutory Rule provides powers of entry for authorised persons to carry out inspections and audits, and to take action as necessary where non-compliance is identified, including the issuing of enforcement notices.
- 3.9 This Statutory Rule makes provision for recovery of costs incurred by the Department in performing official controls on business operators, and costs incurred in carrying out enforcement activities taken by the Department.

4. Consultation

- 4.1 No consultation has been undertaken as the Statutory Rule makes no significant impacts or changes. It supports the implementation of EU legislation that was consulted upon at EU level. This Statutory Rule introduces a new requirement for plant protection products but is not anticipated to have a significant impact on operators in the plant protection supply chain as it is already a highly regulated field from the top of the supply chain through to the use of plant protection products.

5. Equality Impact

- 5.1 In accordance with the Department's obligations under Section 75 of the Northern Ireland Act 1998, the equality implications of the proposed Regulations have been assessed. No adverse equality impacts have been identified under the Equality and Human Rights screening procedures. The Department considers the Regulations will not result in any equality differentials amongst Section 75 groups.

6. Regulatory Impact

- 6.1 No impact is foreseen for business, charities or voluntary bodies and there is no impact on the public sector. Therefore, an Impact Assessment has not been prepared for these Regulations.

7. Financial Implications

- 7.1 The Statutory Rule is not expected to have any significant financial implications.

8. Section 24 of the Northern Ireland Act 1998

- 8.1 This Statutory Rule will ensure the Department complies fully with its obligations under European law. The Regulations do not have any human rights implications, nor are they incompatible with EU law. It is therefore deemed to comply with the requirements of section 24 of the Northern Ireland Act 1998.

9. EU Implications

- 9.1 The Statutory Rule supports the implementation of the plant protection products elements of the new EU Regulation for Northern Ireland.

10. Parity or Replicatory Measure

- 10.1 The Statutory Rule is not necessary for parity elsewhere. Similar instruments have, however, been made in other parts of the UK.

11. Additional Information

N/A