

EXECUTIVE NOTE TO

THE PESTICIDES (MAXIMUM RESIDUE LEVELS IN CROPS, FOOD AND FEEDING STUFFS) (SCOTLAND) AMENDMENT (NO. 4) REGULATIONS 2007 SSI/2007/523

1. The above instrument is made in exercise of the powers conferred by section 2(2) of the European Communities Act 1972. The instrument is subject to negative resolution procedure.

Policy Objective

2. The Regulations amend the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs) (Scotland) Regulations 2005 (SSI 2005/599) (“the principal Regulations”) which establish a legislative framework for the control of pesticide residues in food (MRLs). The principal Regulations are amended on a regular basis as new MRLs are set under an ongoing EC programme to establish MRLs for all pesticides in a wide range of foodstuffs. They were last amended by the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs) (Scotland) Amendment (No. 3) Regulations 2007 (SSI 2007/481).

3. The Regulations implement Commission Directives 2007/55, 2007/56, 2007/57 and 2007/62 by amending 3 of the Schedules to the principal Regulations:

- they add new and revised definitions for 9 pesticides in Schedule 1 (which lists the pesticides covered by this legislation and defines the residues that are controlled);
- they specify new or revised MRLs for 16 pesticides in Schedule 2 (which lists MRLs agreed under the EC programme) and
- they add 2 new products to Schedule 3 (which sets out what parts of products are to be tested for residues).

4. These Regulations apply to any home-grown or imported produce put into circulation in Scotland. Separate but similar legislation applies in England, Wales and Northern Ireland.

Policy Background

5. MRLs reflect levels of pesticides that can be expected to be found in produce that has been treated in accordance with good agricultural practice. They therefore provide a mechanism for statutory controls on pesticides in produce moving in trade and for monitoring the correct use of pesticides. MRLs are not safety limits and are always set below levels that would cause harm.

6. MRLs applicable to trade to or within the UK are now almost exclusively determined at EC level. The EC programme is directed to establishing MRLs for up to 550 pesticides. The Regulations are made in order to implement recent EC Directives which the Scottish Government has an obligation to transpose.

Administration

7. The day to day administration of the pesticides approval system (which includes MRLs) is undertaken by the Pesticides Safety Directorate, an Executive Agency of Defra operating on behalf of the Scottish Ministers under an Agency Arrangement.

Consolidation of principal Regulations

8. The latest amendments to the principal Regulations are necessary to replace MRLs which were set down by Council Directives 76/895/EEC, 86/362/EEC, 86/363/EEC and 90/642/EEC. These Directives are amended on a regular basis and frequent rapid changes to domestic legislation are required.

9. Further changes are imminent in this area with the coming into force of EC Regulation 396/2005. This EC Regulation is due to come fully into force in mid 2008 and will provide for a fully integrated EC MRLs regime. Any necessary domestic legislation will be put in place at the relevant time.

10. It is considered that there is little to be gained from a consolidation of the principal Regulations at this stage. Previous amending instruments have primarily amended only the Schedules to the principal Regulations (principally Schedule 2, which lists maximum residue levels and currently totals around 250 pages in length). Also, a database including all the levels set by Schedule 2 along with all of the residue definitions set in Schedule 1 is available to members of the public and key external stakeholders (farmers, growers, suppliers and retailers) in an easy to read format on the Pesticides Safety Directorate (PSD) website. In this way, those affected by the amending legislation have access to a readily available and current consolidating database, and in practice, anecdotal evidence suggests that most rely on the PSD website as opposed to the legislation as a first port of call.

11. The body of the principal Regulations is relatively unchanged, and when EC Regulation 396/2005 comes into force it will end the system of transposing Directives by statutory instruments.

Consultation and financial effects

12. In 2003, the Pesticides Safety Directorate undertook a consultation on a GB basis in relation to an EC proposal to amend the Community's procedures for setting MRLs. Responses indicated that compliance costs were virtually unchanged since the previous assessment made in 1999.

13. A Regulatory Impact Assessment was prepared in 2005 when the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs) (Scotland) Regulations were last consolidated and provides a basis for establishing the impact of amendments to the principal Regulations. The financial data contained in the RIA

relates to the whole cost which pesticide companies bear in providing data necessary for a pesticide product to be authorised for marketing and not simply the average cost of establishing individual maximum residue levels.

The Scottish Government – Rural Directorate
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