

EXPLANATORY MEMORANDUM TO

THE PESTICIDES (MAXIMUM RESIDUE LEVELS IN CROPS, FOOD AND FEEDING STUFFS) (ENGLAND AND WALES) (AMENDMENT) (No.2) REGULATIONS 2007

2007 No. 2083

1. This explanatory memorandum has been prepared by the Department for Environment Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This Statutory Instrument adds new maximum residue levels (MRLs) and revises others, and sets new residue definitions for a number of different pesticides in a wide range of foodstuffs.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 The House of Lords Committee on the Merits of Statutory instruments has made clear its preference for instruments to be revoked and re-made rather than amended.

3.2 The Committee will, therefore, wish to know why the Department has amended the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuff) (England and Wales) Regulations 2005 (S.I. 2005/3286) rather than consolidate them.

3.3 The latest amendments to the 2005 Regulations are necessary to replace maximum residue levels which are 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 the domestic legislation are required. For instance, Directive 2007/7/EC needs to be transposed by 16 August 2007, which does not allow enough time for consolidation.

3.4 In addition, the current system of transposing Commission Directives by Statutory Instrument will end when EC Regulation 396/2005 comes fully into force in the near future. EC Regulation 396/2005 will provide for a fully integrated EC MRLs regime, avoiding the need for member States to transpose via National legislation. Although the framework regulation is in place, work on the first four Annexes to Regulation 396/2005 must be completed before it comes fully into force. On current estimates this work will be concluded in time for the Regulation to come into force in mid 2008. Given that the new Regulation is imminent, there is little to be gained from further consolidation at this stage.

3.5 Members of the public are most likely to need to use Schedule 2 to the 2005 Regulations. A consolidated version of this Schedule and Schedule 1 (which lists for each pesticide the specific compound(s) which comprise(s) the pesticide residue) are posted by the Pesticides Safety Directorate (an Executive Agency of the Department) in an easy to read format, on its website.

4. Legislative Background

4.1 This Instrument transposes five EC Directives (2007/7/EC, 2007/8/EC, 2007/9/EC, 2007/11/EC and 2007/12/EC) developed as part of an on-going Community program to establish MRLs for all pesticides in a wide range of foodstuffs.

4.2 This instrument transposes these Directives by amending the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuff) (England and Wales) Regulations 2005. These Regulations establish a legislative framework, enabling MRLs to be set, monitored and enforced.

4.3 A transposition note is attached.

4.4 This Instrument transposes Commission Directives which are not subject to Parliamentary Scrutiny. The Directives do, however, amend four similar Council Directives 76/895/EEC (for fruit and vegetables), 86/362/EEC (fixing MRLs for cereals), 86/363/EEC (fixing MRLs for foodstuffs of animal origin) and 90/642/EEC (fixing MRLs for fruit and vegetables and other foodstuffs of plant origin).

5. Extent

5.1 This Instrument applies to England and Wales only. Similar legislation has been made by the Scottish Executive, Environment and Rural Affairs Department, and similar legislation is being prepared by the Department of Agriculture and Rural Development, Northern Ireland.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

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

7.2 MRLs applicable to trade to or within the UK are now almost exclusively determined at EC level. The EC programme is expected to establish MRLs for between 450 and 550 pesticide active substances. This Instrument will set new MRLs and revise MRLs for a number of pesticides.

7.3 There is not a great deal of public interest in this policy. Consultations held prior to issue of the 1999 Regulations and in 2003 (in relation to an EC proposal to amend the Community's procedures for setting MRLs) attracted approximately 20 responses in total. The only substantive comments were received from farming, growing and crop protection industries and focussed on technical details, not the overall policy of setting MRLs.

7.4 This Instrument is not politically or legally significant. This is a long established and well understood piece of legislation which is being amended in an uncontroversial and relatively minor fashion.

8. Impact

8.1 A Regulatory Impact Assessment (RIA) was prepared in 2005 when the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuff) (England and Wales) Regulations were last consolidated and provides a basis for establishing the impact of amendments to the Regulations.

8.2 In 2003 the Pesticides Safety Directorate undertook a consultation in relation to an EC proposal to amend the Community's procedures for setting MRLs. Responses to the consultation indicated that compliance costs were virtually unchanged from those quoted in the 1999 RIA. We are, therefore, content that the cost information quoted in the RIA remains relevant but will continue to keep this under review.

9. Contact:

Karen Trott at the Department of Environment, Food and Rural Affairs, (Tel: 01904 455750 or email: karen.trott@psd.defra.gsi.gov.uk), can answer any queries regarding the instrument.

Transposition Note

Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuff) (England and Wales) (Amendment) Regulations 2007

“The principal Regulations” means the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuff) (England and Wales) Regulations 2005.

Commission Directive 2007/7/EC

Article	Purpose	Implementation	Comment
1-2	Amends Council Directives 86/362/EEC and 90/642/EEC in relation to the MRLs for atrazine, lambda-cyhalothrin, phenmedipham, methomyl, linuron, penconazole, pymetrozine bifenthrin and abamectin.	Regulation 6 and Schedules 1 (for phenmedipham) and 2.	Regulation 6(b)(iii) and Schedule 1 amend Schedule 1 to the principal Regulations to insert phenmedipham residue definition. Regulation 6(b) and Schedule 2 amend Schedule 2 to the principal Regulations to insert MRLs for phenmedipham and atrazine and substitute new MRLs for lambda-cyhalothrin, methomyl, linuron, penconazole, pymetrozine bifenthrin and abamectin.
3	Member States to implement Directive by 20 January 2007 (atrazine), and 15 August 2007 at the latest, and to apply the new MRLs from 21 January 2007 (atrazine) and 16 August 2007.	Regulation 1(3).	Regulation 6 to come into force on 16 August 2007.

Commission Directive 2007/8/EC

Article	Purpose	Implementation	Comment
1-3	Amends Council Directives 76/895/EEC, 86/362/EEC and 90/642/EEC in relation to the MRLs for phosphamidon and mevinphos.	Regulation 8 and Schedules 1 (for mevinphos) and 2.	Regulation 8(a)(i) and Schedule 1 amend Schedule 1 to the principal Regulations to change the residue definition for mevinphos. Regulation 8(b)(ii) and Schedule 2 amend Schedule 2 to the

			principal Regulations to substitute new MRLs for phosphamidon and mevinphos.
4	Member States to implement Directive by 1 September 2007 and apply the new MRLs from 2 September 2007	Regulation 1(5).	Regulation 8 to come into force on 2 September 2007.

Commission Directive 2007/9/EC

Article	Purpose	Implementation	Comment
1	Amends Council Directive 90/642/EEC in relation to the MRLs for aldicarb.	Regulation 8(b)(i) and Schedule 2.	Regulation 8(b)(i) and Schedule 2 amend Schedule 2 to the principal Regulations to substitute new MRLs for aldicarb.
2	Member States to implement Directive by 1 September 2007, and to apply the new MRLs from 2 September 2007.	Regulation 1(5).	Regulation 8 to come into force on 2 September 2007.

Commission Directive 2007/11/EC

Article	Purpose	Implementation	Comment
1-3	Amends Council Directives 86/362/EEC, 86/363/EEC and 90/642/EEC in relation to the MRLs for acetamiprid, thiacloprid, imazosulfuron, methoxyfenozide, S-metholachlor, milbemectin and tribenuron.	Regulation 8(a)(ii) and 8(b)(ii) and Schedules 1 and 2.	Regulation 8(a)(ii) and Schedule 1 amend Schedule 1 to the principal Regulations to insert residue definitions. Regulation 8(b)(ii) and Schedule 2 amend Schedule 2 to the principal Regulations to insert MRLs.
4	Member States to implement Directive by 1 September 2007 at the latest, and to apply the new MRLs from 2 September 2007.	Regulation 1(5).	Regulation 8 to come into force on 2 September 2007.

Commission Directive 2007/12/EC

Article	Purpose	Implementation	Comment
1	Amends Council Directive 90/642/EEC in relation to the MRLs for penconazole, benomyl and carbendazim.	Regulation 7 and Schedule 2.	Regulation 7 and Schedule 2 amend Schedule 2 to the principal Regulations to substitute new MRLs.
2	Member States to implement Directive by 27 August 2007 at the latest, and to apply the new MRLs from 28 August 2007.	Regulation 1(4).	Regulation 7 to come into force on 28 August 2007.