
STATUTORY INSTRUMENTS

2019 No. 306

**The Pesticides and Fertilisers (Miscellaneous
Amendments) (EU Exit) Regulations 2019**

PART 1

Introduction

Citation and commencement

1.—(1) These Regulations may be cited as the Pesticides and Fertilisers (Miscellaneous Amendments) (EU Exit) Regulations 2019.

(2) This Part and Part 2 comes into force 21 days after the day on which these Regulations are laid.

(3) Part 3 come into force on 1st March 2019.

(4) Part 4 comes into force on exit day.

PART 2

Amendment of out of date references relating to ammonium nitrate material

The Ammonium Nitrate Materials (High Nitrogen Content) Safety Regulations 2003

2.—(1) The Ammonium Nitrate Materials (High Nitrogen Content) Safety Regulations 2003⁽¹⁾ are amended as follows.

(2) Regulation 2 is amended in accordance with paragraphs (3) and (4).

(3) In paragraph (2)—

(a) in the definition of “batch”—

(i) in paragraph (a), in the words before sub-paragraph (i)—

(aa) for “neither” substitute “not”;

(bb) omit “nor material which is or has been kept in accordance with regulation 7”;

(ii) in paragraph (b), omit the words from “and is not” to “regulation 7”;

(iii) omit paragraph (c);

(b) in the definition of “competent laboratory” omit paragraph (b);

(c) in the definition of “production run” omit paragraph (b)(ii) (together with the preceding “or”).

(4) Omit paragraph (3)(c) (together with the preceding “and”).

⁽¹⁾ [S.I. 2003/1082](#), to which there are amendments not relevant to these Regulations.

(5) In regulation 4(2)(d)(ii), for the words from “for Environment” to the end substitute “, whether by post or by electronic means”.

(6) In regulation 5—

(a) in paragraph (1), in the words before sub-paragraph (a) omit “7 and”;

(b) in paragraph (2), for the words from “for Environment” to “regulation 4(2)(d)” substitute “, whether by post or by electronic means”.

(7) Omit regulation 7.

(8) In regulation 9—

(a) in paragraph (3)(a) omit “subject to paragraph (4)”;

(b) omit paragraph (4).

(9) In regulation 10(5), for the words from “earlier of” to the end substitute “date at which the exempting certificate is issued”.

(10) In Schedule 3, in sub-paragraph (n), for “(2002 edition)” substitute “as revised or re-issued from time to time”.

PART 3

Transfer of pesticide functions to Welsh Ministers

Amendment of the Pesticides (Maximum Residue Levels) (England and Wales) Regulations 2008

3.—(1) The Pesticides (Maximum Residue Levels) (England and Wales) Regulations 2008(2) are amended as follows.

(2) For regulations 4 and 5 substitute—

“Designated national authority

4. The designated national authority for the purposes of Article 38 of Regulation 396/2005 is—

(a) in relation to England, the Secretary of State;

(b) in relation to Wales, the Welsh Ministers.

Functions of the member State

5. The functions of the member State in Regulation 396/2005 are to be performed by—

(a) the Secretary of State, in relation to England;

(b) the Welsh Ministers, in relation to Wales.”.

Transitional provision: the Pesticides (Maximum Residue Levels) (England and Wales) Regulations 2008

4.—(1) For the purposes of the 2008 Regulations, anything done before the coming into force of this Part by the Secretary of State under the 2008 Regulations or, in relation to Regulation 396/2005, as designated national authority, in relation to Wales is deemed to have been done by the Welsh Ministers.

(2) [S.I. 2008/2570](#), amended by [S.I. 2011/2131](#).

(2) For the purposes of the 2008 Regulations, anything done before the coming into force of this Part by the Secretary of State in the performance of a function of the member State in Regulation 396/2005 in relation to Wales is deemed to have been done by the Welsh Ministers.

(3) In paragraph (1), “designated national authority” has the same meaning as in regulation 4 of the 2008 Regulations.

(4) In this regulation—

“the 2008 Regulations” means the Pesticides (Maximum Residue Levels) (England and Wales) Regulations 2008;

“Regulation 396/2005” has the meaning given in regulation 2(1) of the 2008 Regulations.

Amendment of the Plant Protection Products Regulations 2011

5.—(1) The Plant Protection Products Regulations 2011(3) are amended as follows.

(2) In regulation 1(7), omit “and Wales”.

(3) In regulation 3—

(a) in paragraph (a), omit “and Wales” (and the final “and”);

(b) after paragraph (a) insert—

“(aa) in relation to Wales, the Welsh Ministers; and”.

(4) In regulation 5—

(a) in paragraph (1), omit “and Wales”;

(b) after paragraph (1) insert—

“(1A) Where the Welsh Ministers reasonably consider that treated seeds are likely to constitute a serious risk to human or animal health or to the environment, they may issue a notice in writing restricting or prohibiting their sale or use, or both, in relation to Wales.”;

(c) in paragraph (3), in the words before sub-paragraph (a), after “paragraph (1)” insert “, (1A)”.

(5) In regulations 15(2) and 20(4), after “Secretary of State” insert “, the Welsh Ministers”.

(6) In regulation 21—

(a) in paragraph (1)(a), after “regulation 5(1)” insert “, (1A)”;

(b) in paragraphs (2) and (3), after “Secretary of State” insert “, the Welsh Ministers”.

(7) In regulation 28—

(a) in paragraphs 1 and 2, after “Scottish Ministers” in each place it occurs insert “or Welsh Ministers”;

(b) in paragraph 3, after “Scottish Ministers” insert “or Welsh Ministers, as the case may be”.

(8) In Schedule 2—

(a) in paragraph 1—

(i) omit “and Wales”;

(ii) omit “and Welsh” in each place it occurs;

(b) after paragraph 1 insert—

“**1A.** An adjuvant is authorised for use with an authorised plant protection product in Wales if it is included in a list of adjuvants published by the Welsh Ministers from time to time (in this paragraph referred to as “the Welsh list”) or, if not included in the Welsh list,

if it is used with an authorised plant protection product for the sole purpose of research and development. A person may apply to the Welsh Ministers for an adjuvant to be included on the Welsh list.”;

- (c) in paragraphs 3, 4, 5 and 6, after “Secretary of State” in each place it occurs insert “, the Welsh Ministers”.

Transitional provision: transfer of competent authority status in relation to Wales

6.—(1) For the purposes of the 2011 Regulations, anything done before the coming into force of this Part by the Secretary of State under the 2011 Regulations or in relation to Regulation 1107/2009 as competent authority in relation to Wales is deemed to have been done by the Welsh Ministers.

(2) A notice issued by the Secretary of State under regulation 5(1) of the 2011 Regulations before the coming into force of this Part in relation to Wales is deemed to have been issued by the Welsh Ministers under regulation 5(1A) of the 2011 Regulations (as inserted by regulation 5(4)(b)).

(3) A direction issued by the Secretary of State under regulation 15(2) of the 2011 Regulations before the coming into force of this Part in relation to Wales is deemed to have been issued by the Welsh Ministers under that regulation (as amended by regulation 5(5)).

(4) An adjuvant which immediately before the coming into force of this Part is included on the English and Welsh list published by the Secretary of State in relation to Wales is deemed to be included in the Welsh list.

(5) In paragraph (1), “competent authority” has the same meaning as in regulation 3 of the 2011 Regulations.

(6) In paragraph (4)—

“the English and Welsh list” has the meaning given by paragraph 1 of Schedule 2 to the 2011 Regulations as it had effect immediately before the coming into force of this Part;

“the Welsh list” has the meaning given by paragraph 1A of Schedule 2 to the 2011 Regulations (as inserted by regulation 5(8)(b)).

(7) In this regulation—

“the 2011 Regulations” means the Plant Protection Products Regulations 2011;

“Regulation 1107/2009” has the meaning given in regulation 2(1) of the 2011 Regulations.

Amendment of the Plant Protection Products (Fees and Charges) Regulations 2011

7.—(1) The Plant Protection Products (Fees and Charges) Regulations 2011(4) are amended as follows.

(2) In regulation 2(1), for the definition of “United Kingdom competent authorities” substitute—

““United Kingdom competent authorities” means—

(a) in relation to England, the Secretary of State;

(b) in relation to Wales, the Welsh Ministers;

(c) in relation to Scotland, the Scottish Ministers;

(d) in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs.”.

(3) In regulation 8—

(a) in sub-paragraph (3), in the second sentence, for “The” substitute “Except where paragraphs (3A) to (3C) apply, the”;

(4) [S.I. 2011/2132](#), to which there are amendments not relevant to these Regulations.

(b) after sub-paragraph (3) insert—

“(3A) For a charge payable to the Welsh Ministers as United Kingdom competent authority in respect of the liability period ending 31st March 2019, the percentage referred to in sub-paragraph (3) must be calculated by applying the following formula—

$$A/B \times (31/365) \times 100\% = \text{the percentage}$$

where A and B have the meanings given in sub-paragraph (3).

(3B) Sub-paragraph (3C) applies where, for the liability period ending 31st March 2019, an authorisation holder is liable to pay a charge to both the Secretary of State and the Welsh Ministers as United Kingdom competent authorities in relation to Wales.

(3C) Where this sub-paragraph applies—

(a) for the charge payable to the Welsh Ministers, the percentage referred to in sub-paragraph (3) must be calculated by applying the formula set out in sub-paragraph (3A);

(b) for the charge payable to the Secretary of State, the percentage referred to in sub-paragraph (3) must be calculated by applying the following formula—

$$A/B \times (334/365) \times 100\% = \text{the percentage}$$

where A and B have the meanings given in sub-paragraph (3).”

Saving for work carried out by the Secretary of State as United Kingdom competent authority in relation to Wales

8. The amendment made by regulation 7(2) does not prevent the Secretary of State from charging fees in accordance with regulation 4 of the Plant Protection Products (Fees and Charges) Regulations 2011 for any work carried out before the coming into force of this Part by the Secretary of State as the United Kingdom competent authority in relation to Wales.

Amendment of the Plant Protection Products (Sustainable Use) Regulations 2012

9.—(1) The Plant Protection Products (Sustainable Use) Regulations 2012(5) are amended as follows.

(2) In regulation 2(1), in the definition of “the appropriate United Kingdom competent authority”—

(a) in sub-paragraph (a), omit “and Wales”;

(b) after sub-paragraph (a), insert—

“(aa) in relation to Wales, the Welsh Ministers;”.

(3) In regulation 3(2), omit “and Wales”.

(4) In regulation 4, omit “Secretary of State, the Scottish”.

(5) In regulation 29—

(a) in paragraphs 1 and 2, after “Scottish Ministers” in each place it occurs insert “or Welsh Ministers”;

(b) in paragraph 3, after “Scottish Ministers” insert “or Welsh Ministers, as the case may be,”.

(5) [S.I. 2012/1657](#), amended by [S.I. 2018/942](#); there are other amending instruments but none is relevant.

Transitional provision: transfer of competent authority status in relation to Wales

10.—(1) For the purposes of the 2012 Regulations, anything done before the coming into force of this Part by the Secretary of State under the 2012 Regulations or in relation to the Directive as appropriate United Kingdom competent authority in relation to Wales is deemed to have been done by the Welsh Ministers.

(2) In this regulation—

“the 2012 Regulations” means the Plant Protection Products (Sustainable Use) Regulations 2012;

“the Directive” has the same meaning as in regulation 2(1) of the 2012 Regulations.

PART 4

**Amendment of secondary legislation in preparation for the
United Kingdom’s withdrawal from the European Union**

The Pesticides (Maximum Residue Levels) (England and Wales) Regulations 2008

11. Omit regulations 4 and 5 of the Pesticides (Maximum Residue Levels) (England and Wales) Regulations 2008.

The Plant Protection Products Regulations 2011

12.—(1) The Plant Protection Products Regulations 2011 are amended as follows.

(2) In regulation 2(1), in the definition of “Regulation 1107/2009”, for “Articles 30(3) and 52(4) and Annexes I to V” substitute “Annexes 2 and 4”.

(3) Omit regulations 3, 4 and 14(2).

(4) In regulation 17(c), at the end insert “as it had effect immediately before 14th June 2011”.

(5) In regulation 20—

(a) in paragraph (2)—

(i) in sub-paragraph (b), after “Article 40(1)” insert “as it had effect immediately before exit day”;

(ii) in sub-paragraph (c), after “Article 40(2)” insert “as it had effect immediately before exit day”;

(iii) in sub-paragraph (e), omit “52(1) or”;

(b) in paragraph (5), omit “52(1) or”.

(6) In regulation 30(1), after “Article 80(5)” insert “as it had effect immediately before exit day”.

Saving: the Plant Protection Products Regulations 2011

13.—(1) The amendments to regulation 20(2)(e) and (5) of the Plant Protection Products Regulations 2011 made by regulation 12(5)(a)(iii) and 12(5)(b) do not affect—

(a) any obligation or liability acquired, accrued or incurred immediately before exit day;

(b) any penalty, forfeiture or punishment incurred in respect of any offence committed before exit day; or

(c) any investigation, legal proceeding or remedy in respect of (a) or (b) above.

(2) Any penalty, forfeiture or punishment referred to in paragraph (1)(b) may be imposed as if regulation 12(5)(a)(iii) and 12(5)(b) had not come into force.

(3) Any investigation, legal proceeding or remedy referred to in paragraph (1)(c) may be instituted, continued or enforced as if regulation 12(5)(a)(iii) and 12(5)(b) had not come into force.

The Plant Protection Products (Sustainable Use) Regulations 2012

14.—(1) The Plant Protection Products (Sustainable Use) Regulations 2012 are amended as follows.

(2) In regulation 2(1), in the definition of “the Directive”, after “Council” in the second place it appears insert “, as read in accordance with Schedule A1”.

(3) In regulation 9(4), for “European Union legislation” substitute “retained EU law”.

(4) In regulation 10—

(a) in paragraph (2)(c), for the words from “other areas” to the end substitute “a European site or European marine site within the meaning of regulation 8 of the Conservation of Habitats and Species Regulations 2017(6)”;

(b) in paragraphs (3) and (4)(b), for “dangerous for” substitute “hazardous to”.

(5) In regulation 15(6)(b), omit “or European Union law”.

(6) Before Schedule 1, insert new Schedule A1 which is set out in the Schedule to these Regulations.

George Eustice
Minister of State
Department for Environment, Food and Rural
Affairs

13th February 2019

We consent

Mike Freer
Rebecca Harris
Two of the Lords Commissioners of Her
Majesty’s Treasury

12th February 2019