
STATUTORY INSTRUMENTS

2019 No. 306

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

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⁽¹⁾ 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) 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—

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

“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(2) 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(3) 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”;

(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—

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

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

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(4) 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,”.

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—

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

“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.