

SCHEDULE 1

Regulation 15

Transitional provisions and savings

PART 1

Interpretation

Interpretation

1. In this Schedule—

“competent authority” and “constituent territory” have the meanings given in Article 3A of Regulation (EC) No 396/2005 (as inserted by regulation 3(5));

“MRLs register” has the meaning given by Article 3(2)(zb) of Regulation (EC) No 396/2005 (as inserted by regulation 3(4)(c)(i)).

PART 2

Existing MRLs etc. under Regulation (EC) No 396/2005

Existing MRL product list

2. The list of products in Parts A and B of Annex 1 to Regulation (EC) No 396/2005 as it had effect immediately before exit day is taken to be the list of products established by each competent authority in relation to its constituent territory in accordance with Article 4(1) of Regulation (EC) No 396/2005.

Existing MRLs under Annexes 2 and 3 to Regulation (EC) No 396/2005

3.—(1) In accordance with this paragraph, an MRL which immediately before exit day is set out in an entry in a table in Annex 2 or 3 to Regulation (EC) No 396/2005 as it has effect immediately before exit day is taken to have been set by each competent authority in relation to its constituent territory—

- (a) for an MRL set out in an entry in the table in Annex 2, under Articles 14(1B)(a) and 15(2)(b) of Regulation (EC) No 396/2005;
- (b) for an MRL set out in an entry in the table in Part A of Annex 3, under Articles 14(1B)(a) and 15(2)(a)(i) of Regulation (EC) No 396/2005;
- (c) for an MRL set out in an entry in the table in Part B of Annex 3, under Articles 14(1B)(a), 15(2)(a)(ii) and 16 of Regulation (EC) No 396/2005.

(2) An MRL to which sub-paragraph (1) applies is taken to apply from the date which it applied from in accordance with a regulation made under Article 14(1) of Regulation (EC) No 396/2005 as it had effect immediately before exit day, except in accordance with sub-paragraph (3).

(3) For the purposes of Article 15(3) of Regulation (EC) No 396/2005, an MRL to which sub-paragraph (1)(b) applies is taken to apply from exit day.

(4) In sub-paragraph (1), “Annex 2” and “Annex 3” means Annex 2 and 3 respectively to Regulation (EC) No 396/2005 as it has effect immediately before exit day and read in accordance with paragraph 4.

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(5) Sub-paragraph (6) applies where an MRL to which sub-paragraph (1) applies is immediately before exit day subject to a requirement for the European Commission—

- (a) to take specified information into account when reviewing that MRL if the information is submitted by a specified date, or the lack of that information if it is not submitted by that date; or
- (b) to take into account the commercial availability of a specified reference standard when reviewing that MRL by a specified date, or the unavailability of it if it is not commercially available by that date.

(6) Where this sub-paragraph applies, on and after exit day the MRL is taken to be subject to the requirement as modified as follows—

- (a) a reference in the requirement to the Commission is to be read as a reference to the competent authority;
- (b) if the specified date occurred before exit day and on or before that specified date—
 - (i) the specified information was submitted to the European Commission, the specified date is to be read as 1st January 2020;
 - (ii) the specified information was not submitted to the European Commission, the requirement is to be read as a requirement on the competent authority to take the lack of that information into account when reviewing the MRL.

(7) For the purposes of sub-paragraphs (5) and (6), a date, a reference standard or information is “specified” if it is specified in the requirement.

Existing MRLs: modifications of Annexes 2 and 3 to Regulation (EC) No 396/2005

4.—(1) For the purposes of paragraph 3, Annexes 2 and 3 of Regulation (EC) No 396/2005 as they had effect immediately before exit day are to be read as follows.

- (2) Annex 2 is to be read as if, in the table—
 - (a) in table footnote (**), for “Annex III Part B” there were substituted “Part 3 of the MRLs register”;
 - (b) in table footnote (1)—
 - (i) in the first sentence, the words from “, pending” to the end were omitted;
 - (ii) in the second sentence, “, unless modified by a Regulation” were omitted;
 - (c) in table footnote (2), in the second sentence “unless modified by a Directive or a Regulation” were omitted;
 - (d) in table footnote (a)—
 - (i) after “apply” there were inserted “in relation to a constituent territory”;
 - (ii) for “Annex I” there were substituted “Part 1 of the MRLs register”;
 - (e) in the column for Chlormequat, in entry 0151010 (Table grapes), in table footnote (+), “by a Regulation” were omitted;
 - (f) in the column for Fipronil, in entry 0211000 ((a) potatoes), entry 1011020 (Fat), entry 1011030 (Liver), entry 1011040 (Kidney), entry 1011050 (Edible offal), entry 1011990 (Others), entry 1012010 (Muscle), entry 1012020 (Fat), entry 1012030 (Liver), entry 1012040 (Kidney), entry 1012050 (Edible offal), entry 1012990 (Others), entry 1013010 (Muscle), entry 1013020 (Fat), entry 1013030 (Liver), entry 1013040 (Kidney), entry 1013050 (Edible offal), entry 1013990 (Others), entry 1014010 (Muscle), entry 1014020 (Fat), entry 1014030 (Liver), entry 1014040 (Kidney), entry 1014050 (Edible offal), entry 1014990 (Others), entry 1015010 (Muscle), entry 1015020 (Fat), entry 1015030 (Liver), entry 1015040 (Kidney), entry 1015050 (Edible offal), entry 1015990 (Others), entry

- 1016010 (Muscle), entry 1016020 (Fat), entry 1016030 (Liver), entry 1017010 (Muscle), entry 1017020 (Fat), entry 1017030 (Liver), entry 1017040 (Kidney), entry 1017050 (Edible offal), entry 1017990 (Others), entry 1020000 ((ii) Milk), entry 1020010 (Cattle), entry 1020020 (Sheep), entry 1020030 (Goat), entry 1020040 (Horse), entry 1020990 (Others), entry 1030000 ((iii) Bird eggs), entry 1030010 (Chicken), entry 1030020 (Duck), entry 1030030 (Goose), entry 1030040 (Quail), and entry 1030990 (Others), in table footnote (+), “by a Regulation” were omitted;
- (g) in the column for Metalaxyl, in entry 0820000 (Fruit spices), entry 0820010 (Allspice/pimento), entry 0820020 (Sichuan pepper), entry 0820030 (Caraway), entry 0820040 (Cardamom), entry 0820050 (Juniper berry), entry 0820060 (Peppercorn), entry 0820070 (Vanilla), entry 0820080 (Tamarind) and entry 0820090 (Others), in table footnote (+), in the second sentence, “by a Regulation” were omitted;
- (h) in the column for Mepiquat—
- (i) in entry 0280010 (Cultivated fungi), in table footnote (+), in the second sentence, the words from “by a Regulation” to the end were omitted;
- (ii) in entry 0401090 (Cotton seeds), in table footnote (+), in the first sentence, “by a Regulation” were omitted;
- (i) in the column for Hexachlorobenzene, in entry 0401100 (Pumpkin seeds), in table footnote (+), in the second sentence—
- (i) for “Commission” there were substituted “competent authority”;
- (ii) for “within 10 years from the date of publication” there were substituted “on or before 20th October 2026”;
- (j) in the column for Cyantraniliprole, in entry 0153010 (Blackberries), in table footnote (+), in the first sentence, “by a Regulation” were omitted.
- (3) Annex 3 is to be read as if—
- (a) in Part A, in the table—
- (i) in table footnote (a)—
- (aa) after “apply” there were inserted “in relation to a constituent territory”;
- (bb) for “Annex I” there were substituted “Part 1 of the MRLs register”;
- (ii) in table footnote (**), for “Annex III Part B” there were substituted “Part 3 of the MRLs register”;
- (iii) in table footnote (***), for “Annex V” there were substituted “Part 5 of the MRLs register”;
- (iv) in the column for Chlorantraniliprole, in entry 0700000 (HOPS), in table footnote (+), “by a Regulation” were omitted;
- (v) in the column for Diphenylamine, in entry 0130010 (Apples) and entry 0130020 (Pears), in table footnote (+), in the second sentence—
- (aa) for “Commission” there were substituted “competent authority”;
- (bb) for “within 2 years from the date of publication” there were substituted “on or before 21st January 2018”;
- (vi) in the column for Mercury compounds, in entry 0120000 (Tree nuts), entry 0256000 ((f) herbs and edible flowers), entry 0280010 (Cultivated fungi), entry 0280020 (Wild fungi), entry 0401000 (Oilseeds), entry 0610000 (Teas), entry 0620000 (Coffee beans), entry 0630000 (Herbal infusions from), entry 0640000 (Cocoa beans), entry 0800000 (SPICES), entry 1011000 ((a) Tissues from swine), entry 1012000 ((b) Tissues from bovine), entry 1013000 ((c) Tissues from sheep), entry

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1014000 ((d) Tissues from goat), entry 1015000 ((e) Tissues from equine), entry 1016010 (Muscle (poultry)), entry 1016020 (Fat tissue (poultry)), entry 1016030 (Liver (poultry)), entry 1016040 (Kidney (poultry)), entry 1016050 (Edible offals (poultry)), entry 1017000 ((g) Tissues from other farmed terrestrial animals), entry 1020000 (Milk), entry 1040000 (Honey and other apiculture products), and entry 1070000 (Wild terrestrial vertebrate animals), in table footnote (+)—

(aa) for “Commission” there were substituted “competent authority”;

(bb) for “within 10 years from the date of publication” there were substituted “on or before 17th January 2028”;

(b) in Part B, in the table, in table footnote (a)—

(i) after “apply” there were inserted “in relation to a constituent territory”;

(ii) for “Annex I” there were substituted “Part 1 of the MRLs register”.

Existing list of active substances in Annex 4 to Regulation (EC) No 396/2005

5. The list of active substances in Annex 4 to Regulation (EC) No 396/2005 as it had effect immediately before exit day is taken to be the list of active substances established by each competent authority in relation to its constituent territory in accordance with Article 5(1) of Regulation (EC) No 396/2005.

Existing default values for active substances in Annex 5 to Regulation (EC) No 396/2005

6.—(1) In accordance with this paragraph, a default value for an active substance which immediately before exit day is set out in an entry in the table in Annex 5 is taken to have been set by each competent authority in relation to its constituent territory under Article 18A(1) of Regulation (EC) No 396/2005.

(2) Sub-paragraph (3) applies where a default value to which sub-paragraph (1) applies is immediately before exit day subject to a requirement for the European Commission to take specified information into account when reviewing that default value if the information is submitted by a specified date, or the lack of that information if it is not submitted by that date.

(3) Where this sub-paragraph applies, on and after exit day the default value is taken to be subject to the requirement as modified as follows—

(a) a reference in the requirement to the Commission is to be read as a reference to the competent authority;

(b) if the specified date occurred before exit day and on or before that specified date—

(i) the specified information was submitted to the European Commission, the specified date is to be read as 1st January 2020;

(ii) the specified information was not submitted to the European Commission, the requirement is to be read as a requirement on each competent authority to take the lack of that information into account when reviewing the default value.

(4) In sub-paragraph (1), “Annex 5” means Annex 5 to Regulation (EC) No 396/2005 as it has effect immediately before exit day, read as if, in the table—

(a) in table footnote (a)—

(i) after “apply” there were inserted “in relation to a constituent territory”;

(ii) for “Annex I” there were substituted “Part 1 of the MRLs register”;

(b) in table footnote (**), for “Annex III Part A” there were substituted “Part 3 of the MRLs register”;

(5) In sub-paragraphs (2) and (3), “specified” means specified in the requirement.

Existing concentration or dilution factors

7. A concentration or dilution factor set out in Annex 6 to Regulation (EC) No 396/2005 as it had effect immediately before exit day is taken to be specified by each competent authority in relation to its constituent territory in accordance with Article 20(2) of Regulation (EC) No 396/2005.

Existing active substance/product combinations

8.—(1) An active substance/product combination set out in the table in Annex 7 to Regulation (EC) No 396/2005 as it had effect immediately before exit day is taken to be defined by each competent authority in relation to its constituent territory in accordance with Article 18(3A) of Regulation (EC) No 396/2005.

(2) For the purposes of sub-paragraph (1), Annex 7 to Regulation (EC) No 396/2005 as it had effect immediately before exit day is to be read as if, in the heading of the second column of the table in that Annex, the reference to Annex 1 were a reference to Part 1 of the MRLs register.

Existing transitional measures for MRLs under Article 49(2) of Regulation (EC) No 396/2005

9.—(1) Sub-paragraph (2) applies where immediately before exit day a Regulation listed in Schedule 2 includes provision which continues to apply Regulation (EC) No 396/2005 as it had effect before that Regulation applied in respect of the pesticide residue of an active substance in or on one or more products lawfully produced before a specified date (a “transitional measure”).

(2) In respect of the pesticide residue and the product or products to which the transitional measure applies, paragraphs 3 to 6 of this Part apply as if a reference in those paragraphs to Regulation (EC) No 396/2005 as it had effect immediately before exit day were a reference to Regulation (EC) No 396/2005 as it had effect before the specified date.

(3) For the purposes of this paragraph, a date is “specified” if it is specified in the transitional measure.

PART 3

Ongoing applications for MRLs

Ongoing applications under Article 7 of Regulation (EC) No 396/2005

10.—(1) This paragraph applies to an application where—

- (a) before exit day, that application was submitted under Article 7 of Regulation (EC) No 396/2005 as it had effect immediately before exit day to the United Kingdom for evaluation, and
- (b) immediately before exit day, a regulation or decision adopted under Article 14(1) of Regulation (EC) No 396/2005 as it had effect immediately before exit day in relation to that application has not entered into force.

(2) An application to which this paragraph applies is taken as being made under Article 7 of Regulation (EC) No 396/2005 on the date on which it was made, to each competent authority in relation to its constituent territory.

- (3) Anything done before exit day in relation to an application to which this paragraph applies—
 - (a) by the United Kingdom as the evaluating member State;

(b) by the European Food Safety Authority under Article 10 or 11 of Regulation (EC) No 396/2005 as it had effect immediately before exit day;
is taken to have been done by the competent authority.

PART 4

Ongoing MRL assessments

Ongoing EFSA assessments under Article 12 of Regulation (EC) No 396/2005

11.—(1) This paragraph applies where—

- (a) before exit day, the European Food Safety Authority is required to provide a reasoned opinion in respect of an active substance, in accordance with Article 12(1) of Regulation (EC) No 396/2005 as it had effect immediately before exit day, and
- (b) immediately before exit day, either—
 - (i) such an opinion has not been provided in accordance with Article 12(1) of Regulation (EC) No 396/2005 as it had effect immediately before exit day, or
 - (ii) such an opinion has been provided, but a regulation or decision made as a result of that reasoned opinion under Article 14(1) of Regulation (EC) No 396/2005 as it had effect immediately before exit day has not come into force.

(2) A competent authority may produce a reasoned opinion within a period of 36 months beginning with 1st April 2019 in respect of that active substance in relation to its constituent territory, except where sub-paragraph (3) applies.

(3) Where at the end of the 36 month period described in sub-paragraph (2) there are outstanding renewals of authorisations under Article 43 of Regulation (EC) No 1107/2009 relating to that active substance in relation to its constituent territory, a competent authority may instead produce a reasoned opinion before the end of the period of 6 months beginning with the date on which the last of those outstanding renewals is concluded.

(4) Articles 12(3) to (6) and 14 of Regulation (EC) No 396/2005 apply to a reasoned opinion under sub-paragraph (2) as they apply to a reasoned opinion under Article 12(1) of that Regulation.

(5) In providing a reasoned opinion under sub-paragraph (2), the competent authority may also consider relevant information provided by an interested person, including (but not limited to)—

- (a) the GAP;
- (b) evidence of an authorisation;
- (c) relevant assessments undertaken in other countries;
- (d) data required by regulations made under Article 8(4) of Regulation (EC) No 1107/2009, including, where appropriate, toxicological data and data on routine analytical methods for use in control laboratories, as well and plant and animal metabolism data.

(6) In sub-paragraph (5), “interested person” includes manufacturers, growers, importers and producers of products listed in a list in Part 1 of the MRLs register in relation to the competent authority’s constituent territory.

(7) In this Article, “Regulation (EC) No 1107/2009” means Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market.

PART 5

Existing technical guidelines

Existing technical guidelines under Article 28(2) of Regulation (EC) No 396/2005

12.—(1) This paragraph applies to technical guidelines which—

- (a) before exit day, were adopted in accordance with Article 28(2) of Regulation (EC) No 396/2005 as it had effect immediately before exit day, and
- (b) immediately before exit day had not been withdrawn.

(2) Technical guidelines to which this paragraph applies are taken to have been issued by each competent authority in relation to its constituent territory in accordance with Article 46(1) of Regulation (EC) No 396/2005.

PART 6

Control programmes

Saving for existing EU control programme under Article 29 of Regulation (EC) No 396/2005

13.—(1) Despite the amendment of Article 29 of Regulation (EC) No 396/2005 by regulation 7(6), Commission Implementing Regulation (EU) 2018/555 (as amended by regulation 12) continues to have effect, and for the purposes of Sections 2 to 4 of Chapter 5 of Regulation (EC) No 396/2005 is taken to have been prepared by the competent authorities jointly as the United Kingdom control programme for 2019, 2020 and 2021.

(2) The appropriate authority may, by regulations, amend or revoke Commission Implementing Regulation (EU) 2018/555.

(3) In sub-paragraph (2), “the appropriate authority” means—

- (a) for regulations applying in relation to England, the Secretary of State;
- (b) for regulations applying in relation to Wales, the Welsh Ministers;
- (c) for regulations applying in relation to Scotland, the Scottish Ministers;
- (d) for regulations applying in relation to Northern Ireland, the Department.

(4) But the appropriate authority is the Secretary of State if consent is given by—

- (a) for regulations applying in relation to Wales, the Welsh Ministers;
- (b) for regulations applying in relation to Scotland, the Scottish Ministers;
- (c) for regulations applying in relation to Northern Ireland, the Department.

(5) In this Part, “the Department” means the Department of Agriculture, Environment and Rural Affairs in Northern Ireland.

Regulations under paragraph 13(2)

14.—(1) Regulations made by the Secretary of State or Welsh Ministers under paragraph 13(2) are to be made by statutory instrument.

(2) For regulations made under paragraph 13(2) by the Scottish Ministers, see section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010.

(3) The power to make regulations conferred on the Department under paragraph 13(2) is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.

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(4) A statutory instrument containing regulations made by the Secretary of State under paragraph 13(2) is subject to annulment in pursuance of a resolution of either House of Parliament.

(5) A statutory instrument containing regulations made by the Welsh Ministers under paragraph 13(2) is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

(6) Regulations made by the Scottish Ministers under paragraph 13(2) are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).

(7) Regulations made by the Department under paragraph 13(2) are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) Act 1954.

(8) Such regulations may—

(a) contain consequential, incidental, supplementary, transitional or saving provision (including provision amending, repealing or revoking enactments);

(b) make different provision for different purposes.