
STATUTORY INSTRUMENTS

2021 No. 207

**The Fertilisers and Ammonium Nitrate Material
(Amendment) (EU Exit) Regulations 2021**

Amendment of the Fertilisers and Ammonium Nitrate Material (Amendment) (EU Exit) Regulations 2019

2.—(1) The Fertilisers and Ammonium Nitrate Material (Amendment) (EU Exit) Regulations 2019⁽¹⁾ are amended as follows.

(2) In regulation 5—

(a) for paragraph (3)(b)(iv) substitute—

“(iv) after point (x) insert—

“(y) “Appropriate authority” means:

(i) in relation to a decision in respect of ammonium nitrate fertilisers of high nitrogen content where the decision is outside devolved competence, the Secretary of State;

(ii) in relation to a decision in respect of other fertilisers:

- in relation to England, the Secretary of State;
- in relation to Wales, the Welsh Ministers;
- in relation to Scotland, the Scottish Ministers.

(z) “Enforcement authority” means:

(i) in England and Wales, an enforcement authority specified in regulation 11 of the EC Fertilisers (England and Wales) Regulations 2006⁽²⁾;

(ii) in Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994⁽³⁾.

(zl) “Relevant authority” means:

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

(ii) in relation to Scotland, the Scottish Ministers.”;”;

(b) in paragraph (3)(c), for the inserted text substitute—

“2. References in this Regulation to devolved competence are to be read in accordance with the following provisions:

(a) it is outside devolved competence to make any provision by subordinate legislation which would not be within the legislative competence of:

(i) in relation to Wales, Senedd Cymru if it were contained in an Act of Senedd Cymru (assuming, in the case of provision that could only be made with

⁽¹⁾ S.I. 2019/601, amended by S.I. 2020/998.

⁽²⁾ S.I. 2006/2486, amended by S.I. 2011/1043.

⁽³⁾ 1994 c. 39.

- the consent of a Minister of the Crown within the meaning of the Ministers of the Crown Act 1975, that such consent were given);
- (ii) in relation to Scotland, the Scottish Parliament if it were included in an Act of the Parliament (see section 29 of the Scotland Act 1998);
- (b) in the case of any function other than a function of making, confirming or approving subordinate legislation, it is outside devolved competence to exercise the function (or to exercise it in a particular way) if or to the extent that:
- (i) in relation to Wales, a provision of an Act of Senedd Cymru conferring the function (or conferring it so as to be exercisable in that way) would not be within the legislative competence of Senedd Cymru if it were contained in an Act of Senedd Cymru (assuming, in the case of provision that could only be made with the consent of a Minister of the Crown within the meaning of the Ministers of the Crown Act 1975, that such consent were given);
 - (ii) in relation to Scotland, a provision of an Act of the Scottish Parliament conferring the function (or conferring it so as to be exercisable in that way) would be outside the legislative competence of the Parliament.”;
- (c) in paragraph (16), in the substituted Article 32, in paragraph 2 for “the whole of the United Kingdom” substitute “Great Britain”.