

EXPLANATORY MEMORANDUM

THE PESTICIDES (MAXIMUM RESIDUE LEVELS IN CROPS, FOOD AND FEEDING STUFFS) (ENGLAND AND WALES) (AMENDMENT) REGULATIONS 2004

Summary

The European Commission has a major programme to develop Maximum Residue Levels (MRLs) to protect short and long term impacts on human health for all the active substances used as pesticides on all significant crops. The Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuff) (England and Wales) (Amendment) Regulations 2004 will implement Commission Directive 2003/118/EC and corrigenda to Commission Directives 2002/79/EC and 2003/60/EC and introduce a number of new MRLs.

1. This memorandum is submitted to the Assembly's Business Committee in relation to the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuff) (England and Wales) (Amendment) Regulations 2004 in accordance with Standing Order 23.
2. A copy of the instrument is submitted with this memorandum.
3. The functions of the National Assembly in relation to the regulation and approval of pesticides are joint functions of the National Assembly and DEFRA.
4. These regulations are being made under section 2 (2) of the European Communities Act 1972. The National Assembly is designated for the purposes of section 2 (2) in relation to the common agricultural policy of the European Community (SI 1999/2788). Schedule 2 (2) (a) (ii) of the Designation Order (SI 1999/2278) provides that regulations made by the National Assembly relating to maximum levels for pesticide residues shall be made jointly with the Secretary of State for the Environment, Food and Rural Affairs. The functions of the National Assembly under this designation have been delegated to the Assembly Minister for Environment, Planning and Countryside.

Effect

5. These Regulations which extend to England and Wales, are made under section 2(2) of the European Communities Act 1972 and further amend the provisions of the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuff) (England and Wales) Regulations 1999 (S.I. 1999/3483). The Regulations implement Commission Directive 2003/118/EC and corrigenda (OJ No. L342, 30.12.2003, p. 58, OJ No. L14, 21.1.2004, p. 55) to Commission Directives 2002/79/EC (OJ No. L291 28/10/2002, p.1) and 2003/60/EC (OJ No. L155, 24.6.2003, p.15).
6. The definition of "the Residues Directives" is updated (regulation 2(2)). In Schedule 1, the residue entries for Metalaxyl-M are corrected (regulation

2(3)). In Part 2 of Schedule 2 the maximum permitted levels of residue for the pesticides Abamectin and Diquat are corrected and the maximum residue levels for 2,4-D on citrus fruits are amended (regulation 2(4)).

7. On 1st December 2004 the entry for the residue of Parathion-methyl is amended. In addition, the entry for Parathion-methyl which sets national maximum residue levels for the pesticide is to be deleted from Part 1 of Schedule 2 and replaced by a new entry in Part 2 of Schedule 2 establishing the Community maximum residue levels for the pesticide (regulation 2(5)).
8. On the same date the existing maximum residue levels for Acephate which are set out in Part 2 of Schedule 2 are replaced with new maximum residue levels (regulation 2(5)).

Target Implementation

9. It is intended that the proposed instrument be made on or before 3rd March 2004, and laid in Parliament on 5th March 2004, to come into force on 31st March 2004. If the intended making and coming into force dates are not achieved, it could result in Wales and England being out of step with the rest of the EU with regard to pesticide usage on all significant crops..

Financial Implications

10. The Regulations reflect a technical change to the framework Directive rather than a policy change. There are no additional financial implications for the Assembly, for business or others.

Regulatory Appraisal

11. As these regulations fall outside the definition of Assembly General subordinate legislation in Section 58 of the Government of Wales Act 1998. A regulatory appraisal is not required to be undertaken. No Regulatory Impact Assessment has been carried out in relation to these Regulations in England.

Consultation

With Stakeholders

12. A consultation has not been conducted with the stakeholders as the Regulations reflect a technical change to the framework Directive rather than a substantive policy change.

With Subject Committee

13. These regulations were included in the list of forthcoming legislation submitted to the EPC Committee on 4th February (item 14 on the list) and were not identified for detailed scrutiny by the committee. The committee has therefore not scrutinised these regulations in any detail.

Recommended Procedure

14. I recommend that they proceed to Plenary for vote without debate, without further reference to Subject Committee. This is because the Regulations reflect a technical change to the EU framework Directive rather than a policy change and are not contentious. There is no scope for separate Welsh policy.

Compliance

15. I can confirm that the proposed legislation (as far as applicable):

- Has due regard to the principle of equality of opportunity for all people (Government of Wales Act 1998, section 120);
- Is compatible with the Assembly's scheme for sustainable development (section 121);
- Is compatible with Community law (section 106); and
- Is compatible with any international obligations of the United Kingdom.

16. This memorandum has been cleared by the Office of the Counsel General.

17. Drafting lawyer – Amanda Jones ext 1246

18. Head of Policy Division – Norma Barry ext 3544

19. **Policy Division Contact:** Jonathan Williams (Ext 6144), Plant Health and Biotechnology.

CARWYN JONES **FEBRUARY 2004**
MINISTER FOR ENVIRONMENT, PLANNING AND COUNTRYSIDE