

To: Business Committee
From: Carwyn Jones AM
Minister for Environment, Planning and Countryside

EXPLANATORY MEMORANDUM

THE PESTICIDES (MAXIMUM RESIDUE LEVELS IN CROPS, FOOD AND FEEDING STUFFS) (ENGLAND AND WALES) (AMENDMENT) (No 2) 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 Stuffs) (England and Wales) (Amendment) (No 2) Regulations 2004 will implement Commission Directive 2003/113/EC and Commission Directive 2004/2/EC as read with the corrigenda to it.

1. This memorandum is submitted to the Assembly's Business Committee for information in relation to the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs) (England and Wales) (Amendment) (No 2) Regulations 2004. This S.I. is being made jointly with DEFRA in accordance with Standing Order 23.
2. A copy of the instrument is submitted with this memorandum.

Enabling Power

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 my portfolio as Assembly Minister for Environment, Planning and Countryside.

Effect

5. These Regulations which extend to England and Wales, further amend the provisions of the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs) (England and Wales) Regulations 1999 (S.I. 1999/3483). The Regulations implement Commission Directive 2003/113/EC and Commission Directive 2004/2/EC as read with the corrigenda to it.
6. The definition of "the Residues Directives" is updated (regulation 2(2)).

7. A replacement maximum residue level is established for the pesticide Benalaxyl in lettuce (regulation 2(4)(a)).
8. On 1st August 2004 new maximum residue levels are inserted in Part 2 of Schedule 2 for residues of the pesticide Fenamiphos (regulation 2(4)(b)).
9. On 4th June 2005 new maximum residue levels are inserted in Part 2 of Schedule 2 for residues of the pesticides Cyazofamid, 2,4-DB, Ethoxysulfuron, Foramsulfuron, Imazamox, Linuron, Oxadiargyl, Oxasulfuron and Pendimethalin (regulation 2(4)(c)).
10. Schedule 1, which identifies the substances residues of which are taken into account in the measuring of residue levels for each pesticide, is amended to cover the new maximum residue levels and to effect a consequential entry repositioning (regulation 2(3)).

Target Implementation

11. It is intended that the proposed instrument be made on 11th May 2004, be laid in Parliament on 14th May 2004, and will come into force on 11th June 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

12. 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. Financial Planning Division has been consulted and has agreed the financial details provided.

Regulatory Appraisal

13. In the case of these Regulations, falling outside the definition of Assembly subordinate legislation in Section 58 of the Government of Wales Act 1998, a regulatory appraisal is not required to be undertaken. I can also confirm that no UK Regulatory Appraisal has been prepared in respect of amending legislation.

Consultation

With Stakeholders

14. 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

15. A consultation has not been conducted with the Environment, Planning and Countryside. These regulations were included on the list of forthcoming legislation on 04 February 2004 (item no.15) but were not identified for scrutiny by the Committee.

Recommended Procedure

16. Subject to the views of the Business Committee, I recommend that these Regulations proceed to Plenary for under the accelerated procedure. This

is because the Regulations reflect a technical change to the EU framework Directive rather than a policy change.

Compliance

17. I 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.

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

19. Drafting Lawyer: Amanda Jones, ext 1246

20. Head of Division: Norma Barry (ext 3544)

21. Policy Division Contact: Jonathan Williams, ext 6144, Plant Health and Biotechnology Branch.

APRIL 2004

**CARWYN JONES AM
MINISTER FOR ENVIRONMENT, PLANNING AND COUNTRYSIDE**