

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

EXPLANATORY MEMORANDUM

PESTICIDES, ENGLAND AND WALES

THE PLANT PROTECTION PRODUCTS REGULATIONS 2005

These joint Regulations will revoke and replace the Plant Protection Products Regulations 2003 (as amended), which implement in England and Wales Council Directive 91/414/EEC concerning the placing of plant protection products on the market.

1. This Memorandum is submitted to the National Assembly's Business Committee in relation to the Plant Protection Products Regulations 2005, in accordance with Standing Order 25 (Section 3).
2. A copy of the Instrument is submitted with this Memorandum.

Enabling Power

3. The power enabling this Instrument to be made is contained in section 2(2) of the European Communities Act 1972. These powers can only be exercisable jointly by the National Assembly for Wales and by the Secretary of State for Environment, Food and Rural Affairs. The National Assembly for Wales has been designated, under section 2(2) of the 1972 Act to make Regulations in relation to the common agricultural policy, by virtue of the European Communities (Designation) (No. 3) Order 1999 (SI 1999/2788). Assembly functions in relation to this designation have been delegated to my portfolio as Minister for Environment, Planning and Countryside.

Effect

4. Schedule 1 sets out the Instruments that amend Council Directive 91/414/EEC, and details additional Directives that add further active substances to Annex 1 of Directive 91/414/EEC. In consequence the list of active substances which can be used in products capable of being approved under the Regulations for placing on the market is extended accordingly.
5. The 1991 Directive establishes an authorisation system whereby plant protection products (defined as active substances and preparations containing one or more active substances intended *inter alia* to protect plants against harmful organisms) may not be placed on the market and used in the territory of a Member State unless that Member State has authorised it under the 1991 Directive. The 1991 Directive establishes uniform rules on the conditions and procedures for authorisation, including rules on the mutual recognition of authorisations between Member States. The purpose of the system is to ensure that wherever they are placed on

the market and used within the Community plant protection products are effective without causing harm to human or animal health and without adversely affecting plants and ground water or the environment in general.

Target Implementation

6. It is intended that the proposed Instrument will be made on 24 May 2005 and come into force on 1 July 2005. Failure to transpose on time could lead to infraction proceedings against the UK Government and could cause pesticide users in the UK to be placed at a disadvantage in comparison to their competitors elsewhere in the EU. Similar legislation will be introduced in Scotland and Northern Ireland before the summer recess.

Financial Implications

7. The costs associated with making these Regulations will be met by the Department for Environment, Food and Rural Affairs, Pesticide Safety Directorate's existing budgets. There will be no additional financial implications for the Assembly.
8. There are no additional costs to industry or other organisations as a result of these Regulations.

Regulatory Appraisal

9. As the Regulations falls outside the definition of Assembly general subordinate legislation in section 58(6) of the Government of Wales Act 1998, a Regulatory Appraisal has not been prepared.
10. Nor has a Regulatory Impact Assessment been prepared by Defra.

Consultation

With Stakeholders

11. No formal consultation has been conducted on these Regulations as they reflect a consolidation of previous amendments to the framework Directive rather than a policy change. However, if a company produces a new product they will then send it to the Advisory Committee on Pesticides for approval for their product to be added to the lists of active substances available for use in plant protection products. No change has been made to the procedural requirements.

With Subject Committee

12. While no formal consultation with the Subject Committee has been carried out, the Regulations were included on the list of forthcoming legislation put to the Environment, Planning and Countryside Committee on 6 October 2004 (EPC(2)-09-04 (P.4) Annex 1, item no. 109) but were not identified for detailed scrutiny.

Recommended Procedure

13. Subject to the views of the Business Committee, I recommend that these Regulations should proceed to Plenary under the Accelerated procedure as they only reflect technical changes rather than a policy change.

Compliance

14. I confirm that the proposed legislation will (as far as applicable):

- have due regard to the principle of equality of opportunity for all people (Government of Wales Act 1998, section 120);
- be compatible with the Assembly's scheme for sustainable development (section 121);
- be compatible with Community law (section 106);
- be compatible with the Assembly's human rights legislation (section 107);
- be compatible with any international obligations binding the UK Government and the Assembly (section 108).

15. This Memorandum has been cleared with the Directorate of Legal Services and the Assembly Compliance Officer.

16. Drafting Lawyer: Chrishan Kamalan (Ext 1246)

17. Head of Division: Norma Barry (Ext 3544)

18. Policy Division Contact: Lesley George (Ext 1153)

CARWYN JONES AM

MAY 2005

MINISTER FOR ENVIRONMENT, PLANNING AND COUNTRYSIDE