

EXECUTIVE NOTE

THE PESTICIDES (MAXIMUM RESIDUE LEVELS IN CROPS, FOOD AND FEEDING STUFFS) (SCOTLAND) REGULATIONS 2005 SSI/2005/599

The Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuff) (Scotland) Regulations 2005 are made in exercise of the powers conferred by section 2(2) of the European Communities Act 1972. The instrument is subject to negative resolution procedure.

Consolidation

The Regulations consolidate and replace the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuff) (Scotland) Regulations 2000 (SSI 2000/22), as amended (“the 2000 Regulations”). The 2000 Regulations were made in exercise of the powers conferred by: section 16(2) of the Food and Environment Protection Act 1985 (FEPA), to reflect maximum residue levels (MRLs) set at a national level (Schedule 2 Part 1 of the 2000 Regulations); and section 2(2) of the European Communities Act 1972 (ECA), to reflect MRLs set at a European level (Schedule 2 Part 2 of the 2000 Regulations).

However the new Regulations are made solely under the European Communities Act. This is because all of the MRLs contained within the Regulations are based on EC Directive provisions. Making the Regulations under the ECA alone has the advantage of greater clarity, simplicity of content and enforceability. There will now be a single prohibition provision governing produce placed in the market with excess residues (previously there were separate and different provisions for MRLs made under FEPA and the ECA). The new Regulations will be easier to enforce because in all cases individuals will be given responsibility to comply with the regulations, whereas the 2000 Regulations did not identify persons or other bodies responsible for complying with FEPA-based MRLs.

Purpose

The Regulations implement Council Directives 76/895/EEC, 86/362/EEC, 86/363/EEC and 90/642/EEC (as amended) which specify maximum levels of pesticide residues which can be contained in crops, food and feeding stuffs.

The Regulations also establish a legislative framework for the control of pesticide residues in food. This includes: the creation of an offence should produce containing residues in excess of a specified MRL be put into circulation; the power to seize and dispose of products where MRLs are exceeded; how to sample and analyse produce to ensure compliance; and lists in Schedule 2 the MRLs themselves (specific tolerances being set for each active substance in a particular foodstuff).

In addition, the Regulations also implement Commission Directives 2005/37/EC, 2005/46/EC and 2005/48/EC which specify new or revised MRLs for 17 active substances -

- Directive 2005/37/EC: Carfentrazone-ethyl, Fenamidone, Isoxaflutole, Maleic hydrazide, Mecoprop, Propyzamide and Trifloxystrobin;
- Directive 2005/46/EC: Amitraz;

- Directive 2005/48/EC: Flufenacet, Fosthiazate, Iodosulfuron-methyl sodium, Iprodione, Mesotrione, Molinate, Picoxystrobin, Propiconazole and Silthiofam.

Background

Pesticide approvals are given jointly by the Scottish Ministers and the Department for Environment, Food and Rural Affairs, the Department of Health, the National Assembly for Wales and the Department of Agriculture and Rural Development in Northern Ireland. The policy on pesticides is designed to ensure that all pesticides used in the UK are safe to those who use them, to consumers of the treated produce and to the environment.

MRLs reflect levels of pesticides that are expected to be found in produce that has been treated in accordance with good agricultural practice. This means using only the amount of pesticide necessary to control a particular pest, disease or weed. Thus, MRLs provide a mechanism for statutory controls on pesticides in produce moving in trade and for monitoring the correct use of pesticides. MRLs are not safety limits and are set below safety limits.

The Regulatory Departments run a major annual surveillance programme to check for pesticide residues in food. This involves collecting 4000 samples of food per year from retail outlets throughout the United Kingdom and testing each sample for a variety of pesticides, thus generating over 90,000 analytical results a year. The programme currently costs £2.2 million per year. The results of this programme together with the MRLs established in these Regulations are used in 3 main practical ways:

1. to confirm that regulatory decisions on pesticide approval have been soundly based and that the scientific assessment reflects what is actually happening in the field;
2. to confirm that farmers are using approved pesticides in accordance with those approvals and that there is no misuse; and
3. to provide a standard against which to judge imported produce where we clearly cannot control directly how pesticides are used.

The Regulations therefore provide a benchmark in these 3 ways. They also make provision for enforcement action where necessary.

MRLs are a key element in the Regulatory Departments' pesticide controls and an important component in wider food safety arrangements.

Administrative Arrangements

The day to day administration of the pesticides approval system (which includes MRLs) is undertaken by the Pesticides Safety Directorate, an Executive Agency of Defra operating on behalf of the Scottish Ministers under an Agency Arrangement.

Consultation and financial effects

The instrument has no additional financial effects on the Scottish Executive, local government or Scottish business.

However, the opportunity has been taken to provide an updated Regulatory Impact Assessment to address the overall costs of the MRLs regime.

The overall cost of the MRL programme is approximately £110,000,000. This figure represents the cost across the whole EC. The UK share and therefore the Scottish share cannot be reliably estimated.

Scottish Executive Environment and Rural Affairs Department
November 2005