

EXECUTIVE NOTE

THE PESTICIDES (MAXIMUM RESIDUE LEVELS IN CROPS, FOOD AND FEEDING STUFFS) (SCOTLAND) AMENDMENT (NO. 3) REGULATIONS 2007 S.S.I. 2007/481

1. The above instrument is 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.

Policy Objective

2. The Regulations amend the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuff) (Scotland) Regulations 2005 (SSI 2005/599) (“the principal Regulations”) which establish a legislative framework for the control of pesticide residues in food (MRLs). The principal Regulations are amended on a regular basis as new MRLs are set under an ongoing EC programme to establish MRLs for all pesticides in a wide range of foodstuffs.

3. The Regulations implement Commission Directives 2007/27, 2007/28 and 2007/39 by amending 3 schedules to the principal Regulations:

- they amend one and insert 7 new definitions in Schedule 1 which lists the pesticides covered by this legislation and defines the residues that are controlled;
- they specify new or revised MRLs for 16 pesticides (active substances) in Schedule 2, which lists MRLs agreed under the EC programme, and
- they make a minor amendment to a product description in Schedule 3.

4. These Regulations apply to any home-grown or imported produce put into circulation in Scotland. Separate but similar legislation applies in England, Wales and Northern Ireland.

Policy Background

5. MRLs reflect levels of pesticides that can be expected to be found in produce that has been treated in accordance with good agricultural practice. They therefore 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 always set below levels that would cause harm.

6. MRLs applicable to trade to or within the UK are now almost exclusively determined at EC level. The EC programme establishes MRLs for up to 550 pesticide active substances.

7. The Regulations are made in order to implement recent EC Directives which the Scottish Government has an obligation to transpose.

Administration

8. 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.

Consolidation of principal Regulations

9. The latest amendments to the principal Regulations are necessary to replace MRLs which were set down by Council Directives 76/895/EEC, 86/362/EEC, 86/363/EEC and 90/642/EEC. These Directives are amended on a regular basis and frequent rapid changes to domestic legislation are required.

10. Further changes are imminent in this area with the coming into force of EC Regulation 396/2005. This EC Regulation will come fully into force in the near future (on current estimates - mid 2008) and will provide for a fully integrated EC MRLs regime. Any necessary domestic legislation will be put in place at the relevant time.

11. It is considered that there is little to be gained from a consolidation of the principal Regulations at this stage. The 5 previous amending instruments have primarily amended only the Schedules to the principal Regulations (principally Schedule 2, which lists maximum residue levels and currently totals around 250 pages in length). Also, a consolidated version of Schedule 2 and Schedule 1 (which lists all the pesticides covered by this legislation and defines their residues) is relied upon by the industry and is available to members of the public and key external stakeholders (farmers, growers, suppliers and retailers) in an easy to read format on the Pesticides Safety Directorate website.

12. The body of the principal Regulations is relatively unchanged, and when EC Regulation 396/2005 comes into force it will end the system of transposing Directives by statutory instruments.

Consultation and financial effects

13. In 2003, the Pesticides Safety Directorate undertook a consultation on a GB basis in relation to an EC proposal to amend the Community's procedures for setting MRLs. Responses indicated that compliance costs were virtually unchanged since the previous assessment made in 1999.

14. A Regulatory Impact Assessment was prepared in 2005 when the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuff) (Scotland) Regulations were last consolidated and provides a basis for establishing the impact of amendments to the Regulations. The financial data contained in the RIA relates to the whole cost which pesticide companies bear in providing data necessary for a pesticide product to be authorised for marketing and not simply the average cost of establishing individual maximum residue levels.

Transposition Note

The Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuff) (Scotland) Amendment (No. 3) Regulations 2007 S.S.I. 2007/

These Regulations give effect to the terms of the Directives: 2007/27/EC, 2007/28/EC and 2007/39/EC by amending the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuff) (Scotland) Regulations 2005 (the principal Regulations) which in turn transposed Directives 76/895/EEC, 86/362/EEC, 86/363/EEC and 90/642/EEC. They specify new and revised Maximum Residue Levels (MRLs) for 16 active substances (pesticides) and make consequential changes to domestic legislation to ensure its coherence in the area to which they apply. They do not make provision in addition to those necessary to give proper effect to the Directives. The following table demonstrates how each relevant provision of the Directive has been given effect in the Regulations.

Directive 2007/27/EC

Article	Purpose	Implementation	Comment
1-3	Amends Council Directives 86/362/EEC, 86/363/EEC and 90/642/EEC in relation to the MRLs for etoxazole, indoxacarb, mesosulfuron, 1-methylcyclopropene, MCPA and MCPB, tolyfluanid and triticonazole.	Regulation 3(2), 3(3), 3(4), Schedule 1 and Schedule 2.	Regulation 3(2) and Schedule 1 amend Schedule 1 to the principal Regulations to insert residue definitions for the substances covered by the Directive. Regulation (3)(3) and Schedule 2 amend Schedule 2 to the principal Regulations to insert MRLs for the substances covered by the Directive. Regulation 3(4) amends para 2(v)(a) of Schedule 3 to the principal Regulations to extend the product description of "leaves and stems of brassica".
4	Member States to implement Directive by 16 November 2007, and to apply the new MRLs from 17 November 2007.	Regulations 1 and 3, and Schedule 1 and Schedule 2.	Residue definitions, revised product description and new MRLs for the substances covered by the Directive are added from 17 November 2007.

Commission Directive 2007/28/EC

Article	Purpose	Implementation	Comment
1-2	Amends Council Directives 86/363/EEC and 90/642/EEC in relation to the MRLs for azoxystrobin, chlorfenapyr, folpet, iprodione, lambda-cyhalothrin, maleic hydrazide, metalaxyl-M and trifloxystrobin.	Regulation 4, Schedule 1 and Schedule 2	Regulation 4(1) and Schedule 1 amend Schedule 1 to the principal Regulations to add a revised residue definition for maleic hydrazide. Regulation 4(2) and Schedule 2 amend Schedule 2 to the principal Regulations to add revised MRLs for the substances covered by the Directive.
3	Member States to implement Directive by 26 November 2007 and apply the new MRLs from 27 November 2007	Regulations 1 and 4, and Schedules 1 and 2.	The revised residue definition for maleic hydrazide and revised MRLs for the substances covered by the Directive are added from 27 November 2007.

Directive 2007/39/EC

Article	Purpose	Implementation	Comment
1	Amends Council Directive 90/642/EEC in relation to the MRLs for diazinon	Regulation 5 and Schedule 2.	Regulation 5 and Schedule 2 amend Schedule 2 to the principal Regulations to add revised MRLs for the active substance diazinon.
2	Member States to adopt and publish laws, regulations and administrative provisions to comply with the Directive by 27 December 2007 at the latest and to apply them from 28 December 2007.	Regulations 1 and 5, and Schedule 2	Revised MRLs for diazinon are added from 28 December 2007.