
DRAFT STATUTORY INSTRUMENTS

2019 No.

**The Pesticides (Maximum Residue Levels)
(Amendment etc.) (EU Exit) Regulations 2019**

PART 2

Amendment of retained direct EU legislation relating to maximum residue levels

CHAPTER 1

Regulation (EC) No 396/2005 of the European Parliament and of the Council on maximum residue levels of pesticides in or on food and feed of plant and animal origin

Chapter 3

5.—(1) Chapter 3 is amended as follows.

(2) In Article 18—

(a) for paragraph 1 substitute—

“1. A product listed in Part 1 of the MRLs register in relation to a constituent territory must not contain, from the time it is placed on the market as food or feed, or fed to animals in that constituent territory, any pesticide residue exceeding—

- (a) the MRL for that product listed in Part 2 or 3 of the MRLs register in relation to that constituent territory;
- (b) the level described in paragraphs 1A or 1B, where there is no MRL.

1A. Where there is no MRL for a product listed in Part 2 or 3 of the MRLs register in relation to a constituent territory, the level is the default value for an active substance as listed in Part 5 of the MRLs register in relation to that constituent territory (see Article 18A).

1B. Where in relation to a constituent territory—

- (a) there is no MRL for the product in Part 2 or 3 of the MRLs register,
- (b) there is no default value for an active substance listed in Part 5 of the MRLs register, and
- (c) the active substance is not listed in Part 4 of the MRLs register,

the level applicable is 0.01mg/kg.”;

(b) in paragraph 2—

(i) in the words before point (a)—

- (aa) for “Member States” substitute “A competent authority”;
- (bb) for “their territories” substitute “its constituent territory”;
- (cc) for “covered by Annex I” substitute “listed in Part 1 of the MRLs register in relation to its constituent territory”;

- (ii) in point (b), for “Annex IV” substitute “Part 4 of the MRLs register in relation to that constituent territory”;
- (c) in paragraph 3—
 - (i) in the first subparagraph—
 - (aa) for the words before point (a) substitute—

“By way of derogation from paragraph 1, a competent authority may authorise, further to a post-harvest treatment with a fumigant on its constituent territory, residue levels for an active substance which exceed the limits specified in Part 2 or 3 of the MRLs register in relation to that constituent territory where the active substance/product combinations are listed in Part 7 of the MRLs register in relation to that constituent territory, provided that—”;
 - (bb) in point (b), for “Annexes II or III” substitute “Part 2 or 3 of the MRLs register”;
 - (cc) in point (c), for “Member States and the Commission” substitute “competent authorities”;
 - (ii) omit the second subparagraph;
- (d) after paragraph 3 insert—
 - “**3A.** A competent authority may, in relation to its constituent territory—
 - (a) define combinations of active substances and products for the purposes of paragraph 3;
 - (b) modify or withdraw any such combinations.
 - 3B.** As soon as reasonably practicable after defining, modifying or withdrawing a combination in accordance with paragraph 3A the competent authority must—
 - (a) notify the other competent authorities of the defining, modifying or withdrawing of the combination and the reason for that decision, and
 - (b) update the MRLs register accordingly.”;
- (e) in paragraph 4—
 - (i) in the first sentence—
 - (aa) for “Article 8(4) of [Directive 91/414/EEC](#)” substitute “Article 53 of [Regulation \(EC\) No 1107/2009](#)”;
 - (bb) after “set out in” insert “the EU-derived domestic legislation which transposed⁽¹⁾”;
 - (cc) for “Member State” substitute “competent authority”;
 - (dd) after “within its” insert “constituent”;
 - (ii) omit the second, third and fourth sentences;
- (f) after paragraph 4 insert—
 - “**5.** Where a competent authority grants an authorisation in accordance with paragraph 4, the competent authority must—
 - (a) notify the other competent authorities of that authorisation;

(1) See for example: in relation to England, [S.I. 2015/610](#); in relation to Wales, [S.I. 2006/1643 \(W.158\)](#); in relation to Scotland, [S.S.I. 2005/613](#); in relation to Northern Ireland, [S.R. 2006 No. 82](#).

- (b) as soon as reasonably practicable, undertake an appropriate risk assessment with a view to setting a temporary MRL for a specified period, or taking any other necessary measure in relation to the products to which the authorisation relates.

6. After the completion of the risk assessment described in paragraph 5(b) the competent authority may set a temporary MRL, and Article 15(3) to (9) applies to any temporary MRL set.

7. In paragraph 4, “EU-derived domestic legislation” has the meaning given by section 2(2) of the European Union (Withdrawal) Act 2018..”.

(3) After Article 18 insert—

“Article 18A

Setting default values for active substances

1. A competent authority may, in relation to its constituent territory, set a default value for an active substance where—

- (a) there is no specific MRL for that active substance listed in Part 2 or 3 of the MRLs register in relation to that constituent territory, and
- (b) the active substance is not listed in Part 4 of the MRLs register in relation to that constituent territory.

2. A competent authority may modify or withdraw a default value listed in Part 5 of the MRLs register in relation to its constituent territory.

3. When setting, modifying or withdrawing a default value, the competent authority must take into account the routine analytical methods available.

4. As soon as reasonably practicable after setting, modifying or withdrawing a default value the competent authority must—

- (a) notify the other competent authorities of the setting, modifying or withdrawing of the default value and the reason for that decision, and
- (b) update the MRLs register accordingly.

5. The Secretary of State may set, modify or withdraw a default value in accordance with paragraph 1 or 2 instead of a competent authority—

- (a) in relation to Wales, with the consent of the Welsh Ministers;
- (b) in relation to Scotland, with the consent of the Scottish Ministers;
- (c) in relation to Northern Ireland, with the consent of the Department.

6. Where the Secretary of State sets, modifies or withdraws a default value in accordance with paragraph 5, a reference in paragraph 3 or 4 to the competent authority is to be read as a reference to the Secretary of State..”.

(4) In Article 19—

- (a) for “covered by Annex I” substitute “listed in Part 1 of the MRLs register in relation to a constituent territory”;
- (b) after “animals” insert “in that constituent territory”.

(5) In Article 20—

- (a) in paragraph 1—
 - (i) for “Annexes II or III” substitute “Part 2 or 3 of the MRLs register in relation to a constituent territory”;

- (ii) for “covered by Annex I” substitute “listed in Part 1 of the MRLs register in relation to that constituent territory”;
- (b) for paragraph 2 substitute—
 - “**2.** A competent authority may, in relation to its constituent territory—
 - (a) specify concentration factors or dilution factors for—
 - (i) specified processing or mixing operations, or
 - (ii) specified processed or composite products;
 - (b) modify or withdraw any such factors.
 - 3.** As soon as reasonably practicable after specifying, modifying or withdrawing concentration or dilution factors in accordance with paragraph 2 the competent authority must—
 - (a) notify the other competent authorities of the specifying, modifying or withdrawing of the factors and the reason for that decision, and
 - (b) update Part 6 of the MRLs register accordingly.
 - 4.** The Secretary of State may specify, modify or withdraw concentration or dilution factors in accordance with paragraph 2 instead of a competent authority—
 - (a) in relation to Wales, with the consent of the Welsh Ministers;
 - (b) in relation to Scotland, with the consent of the Scottish Ministers;
 - (c) in relation to Northern Ireland, with the consent of the Department.
 - 5.** Where the Secretary of State specifies, modifies or withdraws concentration or dilution factors in accordance with paragraph 4, a reference in paragraph 3 to the competent authority is to be read as a reference to the Secretary of State..”.