

**EXPLANATORY MEMORANDUM TO**

**THE PESTICIDES (MAXIMUM RESIDUE LEVELS IN CROPS, FOOD AND FEEDING STUFFS) (ENGLAND AND WALES) (AMENDMENT) (No. 2) REGULATIONS 2006**

**2006 No. 1742**

**1.** This explanatory memorandum has been prepared by the Department for Environment Food and Rural Affairs and is laid before Parliament by Command of Her Majesty. This memorandum contains information for the Joint Committee on Statutory Instruments.

**2. Description**

2.1 This Statutory Instrument revises maximum residue levels (MRLs) and sets new residue definitions for a number of different pesticides in a wide range of foodstuffs.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 The Committee will wish to know why the Department has amended the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuff) (England and Wales) Regulations 2005 (S.I. 2005/3286) rather than consolidate them.

3.2 The latest amendments to the 2005 Regulations are necessary to replace maximum residue levels which are set down by Council Directives 86/362/EEC, 86/363/EEC and 90/642/EEC. These Directives are amended on a regular basis and accordingly frequent rapid changes to the domestic legislation are required.

3.3 The House of Lords Committee on the Merits of Statutory instruments has made clear its preference for instruments to be revoked and re-made rather than amended. However, the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuff) (England and Wales) Regulations 2005 have recently been consolidated (December 2005).

3.4 Directives 2006/4/EC and 2006/9/EC need to be transposed by 27 July 2006. The Pesticides Safety Directorate does not think it is an appropriate use of Departmental resources to consolidate the Regulations at this time. It is, on balance, preferable to amend the Regulations and bring in the revised MRLs as close to the transposition date as practicable.

3.5 Members of the public are most likely to need to use Schedule 2 to the 2005 Regulations. A consolidated version of this Schedule and Schedule 1 (which lists for each pesticide the specific compound(s) which comprise(s) the pesticide residue) are posted by the Pesticides Safety Directorate (an executive agency of the Department) in an easy to read format, on its website.

#### **4. Legislative Background**

4.1 This Instrument transposes three EC Directives (2006/4/EC, 2006/9/EC and 2006/30/EC) developed as part of an on-going Community program to establish MRLs for all pesticides in a wide range of foodstuffs.

4.2 This instrument transposes these Directives by amending the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuff) (England and Wales) Regulations 2005. These Regulations establish a legislative framework, enabling MRLs to be set, monitored and enforced.

4.3 A transposition note is attached.

4.4 This Instrument transposes Commission Directives which are not subject to Parliamentary Scrutiny. The Directives do, however, amend three similar Council Directives 86/362/EEC (fixing MRLs for cereals), 86/363/EEC (fixing MRLs for foodstuffs of animal origin) and 90/642/EEC (fixing MRLs for fruit and vegetables and other foodstuffs of plant origin).

#### **5. Extent**

5.1 This Instrument applies to England and Wales only. Similar legislation is being prepared by the Scottish Executive, Environment and Rural Affairs Department and Department of Agriculture and Rural Development, Northern Ireland.

#### **6. European Convention on Human Rights**

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

#### **7. Policy background**

7.1 MRLs reflect levels of pesticides that are expected to be found in produce that has been treated in accordance with good agricultural practice. Thus, they provide a mechanism for statutory controls on pesticides in produce moving in trade and for monitoring correct use of pesticides. MRLs are not safety limits and are always set below safety limits.

7.2 MRLs applicable to trade to or within the UK are now almost exclusively determined at EC level. The EC programme is expected to establish MRLs for approximately 450 pesticides. This Instrument will set new MRLs and revise MRLs for a number of pesticides.

7.3 There is not a great deal of public interest in this policy. Consultations held prior to issue of the 1999 Regulations and in 2003 (in relation to an EC proposal to amend the Community's procedures for setting MRLs) attracted approximately 20 responses in total. The only substantive comments were received from farming, growing and crop protection industries and focussed on technical details, not the overall policy of setting MRLs.

7.4 This Instrument is not politically or legally important. This is a long established and well understood piece of legislation which is being amended in an uncontroversial and relatively minor fashion.

## **8. Impact**

8.1 A Regulatory Impact Assessment (RIA) was prepared in 2005 when the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuff) (England and Wales) Regulations were last consolidated and provides a basis for establishing the impact of amendments to the Regulations.

8.2 In 2003 the Pesticides Safety Directorate undertook a consultation in relation to an EC proposal to amend the Community's procedures for setting MRLs. Responses to the consultation indicated that compliance costs were virtually unchanged from those quoted in the 1999 RIA. We are, therefore, content that the cost information quoted in the RIA remains relevant but will continue to keep under review.

## **9. Contact:**

Karen Trott at the Department of Environment, Food and Rural Affairs, (Tel: 01904 455750 or email: [karen.trott@psd.defra.gsi.gov.uk](mailto:karen.trott@psd.defra.gsi.gov.uk)), can answer any queries regarding the instrument.

## Transposition Note

### Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuff) (England and Wales) (Amendment) (No. 2) Regulations 2006

#### Commission Directive 2006/4/EC

<b>Article</b>	<b>Purpose</b>	<b>Implementation</b>	<b>Comment</b>
1-2	Amends Council Directives 86/362/EEC and 90/642/EEC in relation to the MRLs for carbofuran.	Regulation 2, and Schedule 1.	Regulation 2 amends Schedule 2 to the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuff) (England and Wales) Regulations 2005 to substitute new MRLs for carbofuran.
3	Member States to implement Directive by 27 July 2006 at the latest and to apply the new MRLs from 27 July 2006 at the latest.		Regulation to come into force on 27 July 2006.

#### Commission Directive 2006/9/EC

<b>Article</b>	<b>Purpose</b>	<b>Implementation</b>	<b>Comment</b>
1-2	Amends Council Directive 90/642/EEC in relation to the MRLs for diquat.	Regulation 2 and Schedule 1.	Regulation 2 amends Schedule 2 to the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuff) (England and Wales) Regulations 2005 to substitute new MRLs for diquat. Regulation 2(4) adds hemp seed to Schedule 3 to the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuff) (England and Wales) Regulations 2005.
3	Member States to implement Directive by 26 July 2006 at the latest and to apply the new MRLs from 27 July 2006 at the latest.		Regulation to come into force on 27 July 2006.

Commission Directive 2006/30/EC

<b>Article</b>	<b>Purpose</b>	<b>Implementation</b>	<b>Comment</b>
1-4	Amends Council Directives 86/362/EEC, 86/363/EEC and 90/642/EEC in relation to the MRLs for the benomyl group (benomyl, carbendazim and thiophanate-methyl).	Regulation 3 and Schedule 1, 2 and 3.	Regulation 3 amends Schedule 1 to the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs) (England and Wales) Regulations 2005 to separate out residues for the benomyl group. It also amends Schedule 2 to the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs) (England and Wales) Regulations 2005 to add and substitute new MRLs for the benomyl group. Finally, it adds okra to Schedule 3 to the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs) (England and Wales) Regulations 2005.
5	Member States to implement Directive by 14 September 2006 at the latest and to apply the new MRLs from 15 September 2006 at the latest.		Regulation to come into force on 15 September 2006.