STATUTORY INSTRUMENTS

2019 No. 557

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 9

9.—(1) Chapter 9 is amended as follows.

(2) For Article 43 substitute—

"Article 43

Scientific advice

1. In fulfilling any obligation or performing any function under this Regulation, a competent authority may obtain independent scientific advice, where the competent authority considers it appropriate to do so.

2. Where independent scientific advice is obtained in accordance with paragraph 1, the competent authority must take that advice into account when fulfilling the obligation or performing the function.".

(3) Omit Articles 44 and 45.

(4) For Article 46 substitute—

"Article 46

Implementing measures

1. A competent authority may issue guidance to assist in the application of this Regulation in relation to its constituent territory, including (but not limited to)—

(a) guidance on the scientific data required for the setting of MRLs;

(b) guidance regarding the sampling methods other than those described in Article 27(2) which are necessary for carrying out such controls of pesticide residues in products;

(c) guidance regarding the specific validation criteria and quality control procedure in relation to the methods of analysis referred to in Article 28(1).

1A. A competent authority must publish any guidance issued under paragraph 1 in a manner which the competent authority considers appropriate.

1B. The Secretary of State may issue guidance under paragraph 1 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.

1C. Where the Secretary of State issues guidance under paragraph 1B, a reference in paragraph 1A to competent authority is to be read as a reference to Secretary of State.

1D. In complying with any obligation under this Regulation, a person or competent authority must have regard to any guidance issued in accordance with paragraph 1.

2. The Secretary of State may, by regulations, amend—

(a) Article 29(2)(b) in respect of the date by which a United Kingdom control programme must be published;

(b) Article 30(2) in respect of the date by which a competent authority must submit its control programme;

(c) the date in Article 31(1) by which a competent authority must submit the information described in that Article;

(d) the date in Article 32(7) by which the Annual Report must be published.

3. The Secretary of State may only make regulations under paragraph 2 with the consent of the Welsh Ministers, the Scottish Ministers and the Department.

Article 46A

MRLs register

1. The competent authorities must jointly establish and maintain a register ("the MRLs register") in accordance with this Article.

2. The MRLs register must be divided into seven Parts as follows.

3. Part 1 of the MRLs register must contain a list of products, product groups and (where appropriate) parts of products referred to in Article 4(1) in relation to each constituent territory, and each list must be divided into the following—

(a) Section A for entries relating to products of plant and animal origin;

(b) Section B for entries relating to other products.

4. An entry for a product in Section A of a list in Part 1 must contain the following information—

(a) a unique code number,

(b) the category to which the product relates,

(c) the group and (where applicable) the subgroup to which the product relates,

(d) the common name of the product,

(e) the scientific name of the product, and

(f) where applicable, the part of the product to which MRLs or temporary MRLs apply.

5. An entry for a product in Section B of a list in Part 1 must contain the following information—

(a) a unique code number,

(b) the common name of the product,

(c) the scientific name of the product, and

(d) a reference to the product in Section A of the list to which the same MRLs apply, including the information required by paragraph 4(a) to (c) in relation to that product.

6. Part 2 of the MRLs register must contain, in relation to each constituent territory, a list of MRLs set in accordance with Article 15(2)(b).

7. Part 3 of the MRLs register must contain, in relation to each constituent territory, a list of temporary MRLs set in accordance with Article 15(2)(a).

8. An entry on Part 2 or 3 of the MRLs register must contain—

(a) a maximum residue level expressed in mg/kg for each product, product group and (where appropriate) part of a product listed in a list in Part 1 of the MRLs register to which it relates;

(b) the date from which the MRL or temporary MRL applies in accordance with Article 14(1C) or (1D);

(c) where the MRL or temporary MRL continues to apply to a product produced before a certain date by virtue of an exemption under Article 17A, that date.

9. Part 4 of the MRLs register must contain the list of evaluated active substances referred to in Article 5(1) in relation to each constituent territory.

10. Part 5 of the MRLs register must contain a list of default values set in accordance with Article 18A in relation to each constituent territory.

11. An entry on the list—

(a) in Part 4 or 5 of the MRLs register which continues to apply to a product produced before a certain date by virtue of an exemption under Article 17A, must contain that date;

(b) in Part 5 of the MRLs register must contain a maximum residue level expressed in mg/kg for each product, product group and (where appropriate) part of a product listed in a list in Part 1 of the MRLs register to which the default values relate.

12. Part 6 of the MRLs register must contain a list of concentration or dilution factors set in accordance with Article 20 in relation to each constituent territory.

13. Part 7 of the MRLs register must contain a list of combinations of active substances and products set for the purposes of Article 18(3) in relation to each constituent territory.

14. An entry on the list in Part 7 of the MRLs register for a combination must contain—

(a) an active substance,

(b) each product listed in a list in Part 1 of the MRLs register relating to the combination, and

(c) for each product included in accordance with point (b), the unique code number for that product as provided in the relevant entry in a list in Part 1 of the MRLs register.

15. Where any information to be contained in a list or entry in a Part of the MRLs register in accordance with this Article is the same in relation to one or more constituent territories, a single list or entry (as the case may be) of that information may be established and maintained instead in the relevant Part.

16. A list or entry of information established and maintained in a Part of the MRLs register in accordance with paragraph 15 must—

(a) comply with any of the requirements in paragraphs 3 to 14 relevant to that Part, and

(b) indicate each of the constituent territories to which it relates.

17. The MRLs register must contain a search facility.

18. The competent authorities must make the MRLs register available for inspection by the public on a website jointly maintained by the competent authorities.

Article 46B

Regulations

1. Regulations made by the Secretary of State or Welsh Ministers under this Regulation are to be made by statutory instrument.

2. For regulations made under this Regulation by the Scottish Ministers, see section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010(**1**).

3. Any power to make regulations conferred on the Department under this Regulation is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979(**2**).

4. A statutory instrument containing regulations made by the Secretary of State under this Regulation is subject to annulment in pursuance of a resolution of either House of Parliament.

5. A statutory instrument containing regulations made by the Welsh Ministers under this Regulation is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

6. Regulations made by the Scottish Ministers under this Regulation are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).

7. Regulations made by the Department under this Regulation are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) Act 1954(**3**).

8. Such regulations may—

(a) contain consequential, incidental, supplementary, transitional or saving provision (including provision amending, repealing or revoking enactments);

(b) make different provision for different purposes.”.

(5) Omit Article 47.

(**1**) 2010 asp 10.
(**2**) S.I. 1979/1573 (N.I.12).
(**3**) 1954 c.33. Section 41(6) was amended by S.I. 1999/663.