

**EXPLANATORY MEMORANDUM TO**  
**THE OFFICIAL CONTROLS (PLANT PROTECTION PRODUCTS)**  
**REGULATIONS 2020**

**2020 No. 552**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs (“Defra”) and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

- 2.1 This instrument enforces and applies Regulation (EU) 2017/625 of the Parliament and of the Council (“the new EU Regulation”) on official controls for plant protection products (agricultural pesticides). The new EU Regulation regulates official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products. It has applied from 14 December 2019. This instrument will implement the new EU Regulation and will enable the UK to strengthen and develop the efficiency and effectiveness of its control system.

**3. Matters of special interest to Parliament**

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

- 3.1 None.

*Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)*

- 3.2 As this instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

**4. Extent and Territorial Application**

- 4.1 The territorial extent of this instrument is England, Wales and Scotland.  
4.2 The territorial application of this instrument is England, Wales and Scotland.

**5. European Convention on Human Rights**

- 5.1 As this instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

**6. Legislative Context**

- 6.1 This instrument is being made to implement the new EU Regulation on official controls and other official activities for plant protection products. The new EU Regulation aims to create a more comprehensive and consistent risk-based approach to official controls by simplifying and extending the scope of current control requirements to the entire agri-food chain. The new EU Regulation has been directly

applicable in the United Kingdom since 14 December 2019. The Official Controls (Animals, Feed and Food, Plant Health Fees etc.) Regulations 2019 (S.I. 2019/1488) and The Official Controls (Plant Health and Genetically Modified Organisms) (England) Regulations 2019 (S.I. 2019/1517) are already in place to implement the new EU Regulation for animals, feed and food, plant health and genetically modified organisms in England. Equivalent regulations are in place in Scotland (The Official Feed and Food Controls (Miscellaneous Amendments) (Scotland) Regulations 2019 (S.S.I. 2019/407), The Official Controls (Agriculture etc.) (Scotland) Regulations 2019 (S.S.I. 2019/412), and The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations (S.S.I. 2019/421). Equivalent regulations are also in place in Wales (The Official Controls (Animals, Feed and Food, Plant Health Fees etc.) (Wales) Regulations 2020 (S.I. 2020/44) and (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020 (S.I. 2020/48). This instrument will ensure enforcement powers are also in place to implement the new EU Regulation in Great Britain for plant protection products.

- 6.2 The new EU Regulation sets out a framework of requirements for competent authorities in Member States which have responsibilities for organising and performing official controls and other official activities to verify compliance with agri-food chain legislation. The new EU Regulation broadens the scope of the original official food and feed controls set out in Regulation (EC) No 882/2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules on official controls. The new EU regulation broadens the scope of Regulation (EC) No 882/2004 so that it additionally covers plant health and animal by-products legislation, and other agricultural areas such as genetically modified organisms, organic production and plant protection products.
- 6.3 The new EU Regulation introduces a proactive, risk-based approach to official controls. This will complement the existing reactive, intelligence-led approach taken to compliance and enforcement for plant protection products in Great Britain.

## **7. Policy background**

### *What is being done and why?*

- 7.1 Pesticides policy is aimed at providing a high level of protection for people and the environment whilst recognising that pesticides are economically important. Under the current system of regulation there are three main instruments. The Plant Protection Products Regulations 2011 and The Plant Protection Products (Sustainable Use) Regulations 2012 create a strict regulatory framework for the placing on the market and responsible use of plant protection products. The Pesticides (Maximum Residue Levels) (England and Wales) Regulations 2008 and The Pesticides (Maximum Residue Levels) (Scotland) Regulations 2008 put in place a requirement to monitor food and feeding stuffs for the presence of plant protection products to ensure they do not exceed the maximum permitted level. These three instruments collectively establish a framework to ensure that individual pesticides are only permitted for use if scientific risk assessments find no harmful effect on people and no unacceptable effects on the environment, and that authorised products are used in a sustainable manner.
- 7.2 While a strong regulatory framework is in place for the authorisation and sustainable use of plant protection products, enforcement arrangements are currently light touch and are based on monitoring and reactive intelligence. The objective of the new EU

Regulation is to create a more harmonised and consistent risk-based approach to official controls. It does so by simplifying current control rules and by extending those rules to the entire agri-food chain.

- 7.3 This instrument will provide the powers to enable Great Britain to operate more effective, proactive controls across the plant protection products supply chain, targeting enforcement to where it is most needed and adding strength to the regulatory regime under pesticides legislation. In doing so, it will provide additional assurance that adequate official controls are in place across the plant protection products supply chain to ensure the safety of British food and feed. This will further strengthen the official controls that have already been put in place in England, Scotland and Wales to implement the new EU Regulation.
- 7.4 This instrument designates the Secretary of State as the competent authority in England (with Welsh Ministers and Scottish Ministers being designated as the competent authorities for Wales and Scotland respectively) and it is anticipated that they will transfer specific responsibilities for official controls to other public authorities. This instrument provides for the sharing of information between designated competent authorities and EU Member States for the purpose of applying this instrument and the new EU Regulation.
- 7.5 This instrument establishes a new legal requirement for operators to register with the competent authority and to provide a minimum amount of information to the competent authority. This instrument provides powers of entry for authorised persons to carry out inspections and audits, and to take action as necessary where non-compliance is identified, including the issuing of enforcement notices.
- 7.6 This instrument makes provision for recovery of costs incurred by the competent authority in performing official controls on business operators, and costs incurred in carrying out enforcement activities.

## **8. European Union (Withdrawal) Act 2018/Withdrawal of the United Kingdom from the European Union**

- 8.1 This instrument does not relate to withdrawal from the European Union or trigger the statement requirements under the European Union (Withdrawal) Act 2018.

## **9. Consolidation**

- 9.1 This is a new requirement for plant protection products. Defra is not consolidating this legislation.

## **10. Consultation outcome**

- 10.1 No consultation has been undertaken as there are no significant impacts. This instrument introduces a new requirement for plant protection products but is not anticipated to have a significant impact on operators in the plant protection supply chain as it is already a highly regulated field from the top of the supply chain through to the use of plant protection products.

## **11. Guidance**

- 11.1 Guidance and information material will be published on the GOV.UK website to help businesses.

## **12. Impact**

- 12.1 The estimated impacts on businesses, charities or voluntary bodies of this instrument are total costs of £4.3m over 10 years, with an annual net direct cost to business (the equivalent annual net direct cost to business or 'EANDCB') of £0.5m. These are a combination of one-off transition costs to stakeholders of familiarising themselves with the new regulation and registering with the list of operators, as well as an ongoing cost for new businesses to register with the list of operators. The Government will mitigate these impacts by providing clear advice on GOV.UK, running stakeholder workshops and making a telephone helpline available to support businesses.
- 12.2 The impact of this instrument on the public sector is a one-off transition cost of £0.1m which is the costs of familiarisation to enforcement authorities involved in enforcing the new EU Regulation.
- 12.3 A full Impact Assessment has not been prepared, as this is only required if the estimated annual net direct cost to business (EANDCB) above +/-£5m per year.

## **13. Regulating small business**

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 No specific action is proposed to minimise regulatory burdens on small businesses.

## **14. Monitoring & review**

- 14.1 A statutory review clause is included in this instrument in line with the requirements of the Small Business, Enterprise and Employment Act 2015.

## **15. Contact**

- 15.1 Sarah Hugo at the Department for Environment, Food and Rural Affairs: Telephone 0208 026 9385 or email: [sarah.hugo@defra.gov.uk](mailto:sarah.hugo@defra.gov.uk) can be contacted with any queries regarding the instrument.
- 15.2 Gabrielle Edwards, Deputy Director for Chemicals, Pesticides and Hazardous Waste, at the Department for Environment, Food and Rural Affairs can confirm that this explanatory memorandum meets the required standard.
- 15.3 Victoria Prentis MP, the Parliamentary Under Secretary of State at the Department for Environment, Food and Rural Affairs can confirm that this explanatory memorandum meets the required standard.