



Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE Fertilisers and Ammonium Nitrate Material (Amendment) (EU Exit) Regulations 2018

DATE 2 November 2018

BY Julie James AM, Leader of the House and Chief Whip

Fertilisers and Ammonium Nitrate Material (Amendment) (EU Exit) Regulations 2018

The 2018 Regulations amend:

EU Legislation:

- Regulation (EC) No 2003/2003 of the European Parliament and of the Council relating to fertilisers; and
- European Economic Area (EEA) Agreement

Domestic Legislation

- The Fertilisers Regulations 1991 (S.I. 1991/2197) (for Great Britain);
- The Ammonium Nitrate Materials (High Nitrogen Content) Safety Regulations 2003(S.I. 2003/1082);
- The EC Fertilisers (England and Wales) Regulations 2006 (S.I. 2006/2486).

Any impact the SI may have on the Assembly's legislative competence and/or the Welsh Ministers' executive competence

Fertilisers are a devolved matter. However, ammonium nitrate is reserved to the UK Government in relation to Wales insofar as it relates to health and safety under Government of Wales Act 2006 (Schedule 7A).

This SI contains transfer functions in the EU Regulation to the Welsh Ministers in respect of Wales within areas of devolved competence.

The purpose of the amendments

This negative procedure SI addresses the failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the UK from the EU.

They also in part amend out of date references in domestic legislation, which are needed to ensure clarity for the users of the legislation.

After exit, without amendment the relevant EU law would not operate properly and it would disrupt the trade in fertilisers currently authorised under EU law. The changes must be made to maintain fertiliser standards in UK law and provide continuity to the sector and security of supply for farmers. These amendments are to ensure that the statute book remains functional following the UK's exit from the EU.

This instrument will replace the 'EC fertiliser' regime in EU law with a new domestic regime, providing for a 'UK fertiliser' label, which will function in the same way. It will also allow a two-year transitional period during which 'EC fertilisers' can still be sold in the UK without a requirement to be relabelled, to ensure continued supply and reduce burdens on businesses.

There will be no material change for users of fertilisers, this approach will continue to allow all fertilisers currently marketed in the UK to continue to be imported and marketed in the UK after exiting the EU. This approach also ensures that the same high-quality product standards continue to apply to fertiliser products.

The SI and accompanying Explanatory Memorandum, setting out the effect of this amendment is available here:

<https://www.gov.uk/eu-withdrawal-act-2018-statutory-instruments>

Why consent was given

In these exceptional circumstances when we are required to consider and correct an unprecedented volume of legislation within a tight timeframe and with finite resources, the Welsh Government considers it appropriate that we ask the UK Government to legislate on our behalf in a large number of statutory instruments. This ensures that there is a coherent approach wherever possible, to clarify the law across the UK. As there is no divergence between the Welsh Government and the UK Government on the policy for the correction, it is appropriate for the SI to be made by the UK Government in this instance.

Failing to implement the textual amendments needed to preserve the application of EU Regulations, in this case EU Regulation (EC) 2003/2003 could have potential impacts trade implications. Trade in EU fertilisers is essential as ammonium nitrate supply is considered to be limited and any disruption to supply could amount to a significant shortfall in the UK.