

UK MINISTERS ACTING IN DEVOLVED AREAS

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

Laid in the UK Parliament: 18 December 2018

Sifting

Subject to sifting in UK Parliament?	No
Procedure:	Affirmative
Date of consideration by the House of Commons European Statutory Instruments Committee	N/A
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	Not known
Date sifting period ends in UK Parliament	N/A
Written statement under SO 30C:	Paper 46
SICM under SO 30A (because amends primary legislation)	Not required

Scrutiny procedure

Outcome of sifting	N/A
Procedure	Affirmative
Date of consideration by the Joint Committee on Statutory Instruments	Not known
Date of consideration by the House of Commons Statutory Instruments Committee	Not known
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	Not known

Commentary

These Regulations are proposed to be made by the UK Government pursuant to section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018.

This instrument is one of three that will make corrections to the converted EU plant protection product regulatory regime, so that it continues to operate effectively after the United Kingdom leaves the European Union. The instrument makes corrections to Regulation (EC) No 396/2005 to ensure that after EU exit, effective arrangements and robust controls governing the level of residues permitted in food will continue to operate in the UK.

The instrument makes amendments to legislation in the field of pesticides, and in particular, amends legislation relating to the maximum residue levels of pesticides. Part 2 amends Regulation (EC) No 396/2005 of

the European Parliament and of the Council on maximum levels of pesticides in or on food and feed on plant and animal origin, and other supporting retained direct EU legislation. Part 3 revokes retained direct EU legislation that will no longer be relevant after exit day.

Legal Advisers agree with the statement laid by the Welsh Government dated 18 December 2018 regarding the effect of these Regulations but would draw the Committee's attention to the following statement: "Pesticides are a matter in which the National Assembly has legislative competence but in which the Welsh Ministers do not have functions.

These Regulations contain provisions which enable the Welsh Ministers to exercise functions in relation to Wales without encumbrance and for the Welsh Ministers to provide consent to the Secretary of State to exercise functions in relation to Wales. They also contain provisions which enable the Secretary of State to exercise functions alone but only with the consent of the Devolved Authorities in relation to devolved territories. Functions transferred to the Secretary of State with consent would constitute functions of a Ministers of the Crown for the purposes Schedule 7B [sic] to GoWA 2006. This therefore may be a relevant consideration in the context of the Assembly's competence to legislate in the future in these areas. Functions transferred to the Secretary of State alone but which can only be exercised with the consent of the Devolved Authorities in relation to devolved territories constitute functions of a Minister of the Crown for the purposes of Schedule 7B to GoWA 2006. A future Assembly Bill seeking to remove or modify these functions could trigger a requirement to consult the UKG."

The above summary and the content of the Explanatory Memorandum to these Regulations confirm their effect.

Legal Advisers do not consider that any significant issues arise under paragraph 8 of the Memorandum on the European Union (Withdrawal) Bill and the Establishment of Common Frameworks in relation to these Regulations.

Legal Advisers have not identified any legal reason to seek a consent motion under Standing Order 30A.10 in relation to these Regulations.