

STATUTORY INSTRUMENT CONSENT MEMORANDUM

The Pesticides (Amendment) Regulations 2019

1. This Statutory Instrument Consent Memorandum is laid under Standing Order 30A.2. Standing Order 30A prescribes that a Statutory Instrument Consent Memorandum must be laid and a Statutory Instrument Consent Motion may be tabled before the National Assembly for Wales (“the Assembly”) if a UK statutory instrument makes provision, in relation to Wales, amending primary legislation which is within the legislative competence of the Assembly.
2. The Pesticides (Amendment) Regulations 2019 (“the Regulations”) were laid before Parliament on 1 October. The Regulations can be found at: <http://www.legislation.gov.uk/uksi/2019/1290/contents/made>

Summary of the Regulations and their objective

3. The primary objective of the Regulations is to correct out-of-date references to Regulation (EC) No 1107/2009 on the placing of plant protection products on the market, following amendment of that Regulation by Regulation (EU) 2019/1009 laying down rules on the making available on the market of EU fertilising products. Regulation (EU) 2019/1009 provides that products referred to as plant biostimulants should be excluded from the scope of Regulation (EC) No 1107/2009. The requirements to register a plant protection product under Regulation (EC) No 1107/2009 are necessarily strict to ensure that people and the environment are protected. Consequently they carry costs and place a fairly high regulatory burden on businesses. The recognition that biostimulant products do not need to be authorised under the plant protection products regulations will be welcomed by stakeholders developing and seeking to market such products. It is therefore necessary to ensure that all references to Regulation (EC) No 1107/2019 in primary and secondary legislation are updated.
4. The Regulations also amend the definition of “a regulator in the United Kingdom” in regulation 5(12) of the Plant Protection Products (Sustainable Use) Regulations 2012, to reflect the fact that bodies nominated to regulate the delivery of training in relation to England and Wales have changed their names.
5. The amendments cover legislation in the fields of pesticides, water and the environment.
6. The amendments will ensure the accuracy of the statute book ahead of the UK’s exit from the European Union. This is because out-of date references to legislation are not necessarily interpreted as references to the correct

(updated) legislation; and there is therefore a risk that the statute book would not work as intended as a result.

7. The Regulations to which this Statutory Instrument Consent Memorandum relates have been laid in the UK Parliament under the negative procedure and will automatically become law unless there is an objection from a member of either House of Parliament. If there is no such objection, the provision that amends the primary legislation referenced below in this Memorandum will come into force on 31 October 2019.

Provisions to be made by the Regulations for which consent is sought

8. Regulation 2 of the Regulations updates the reference to Regulation (EC) No 1107/2009 in section 43(3) (d) of the Natural Environment and Rural Communities Act 2006, as it applies in England and Wales.
9. It is the view of the Welsh Government that the provision that amends the Natural Environment and Rural Communities Act 2006 falls within the legislative competence of the National Assembly for Wales in so far as it relates to agriculture and fertilising products. These subjects are not listed as reservations under Schedule 7A to the Government of Wales Act 2006.

Why is it appropriate for the Regulations to make this provision?

10. As set out above, there is a need to make a number of amendments to correct out of date references to Regulation (EC) No 1107/2009 within domestic legislation, prior to the UK's exit from the EU, to ensure the statute book operates as intended.
11. It is the view of the Welsh Government that it is appropriate and proportionate that the amendments in these Regulations are made and are made by statutory instrument, due to the technicality of their nature and the extent and application of the enactments being amended. Making these amendments separately could result in the law not operating as intended, being uncertain and inaccessible.

Financial implications

12. There are no anticipated financial implications for the Welsh Government associated with these Regulations.

Lesley Griffiths AM
Minister for Environment, Energy and Rural Affairs

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