EXPLANATORY MEMORANDUM

1. THE PESTICIDES (MAXIMUM RESIDUE LEVELS IN CROPS, FOOD AND FEEDING STUFFS) (ENGLAND AND WALES) (AMENDMENT) (No.2) REGULATIONS 2004 No. 1393

This explanatory memorandum is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments

Submitted by the Department for Environment, Food and Rural Affairs

2. Description:

This Statutory Instrument establishes maximum residue levels (MRLs) for ten different pesticides in a wide range of foodstuffs.

3. Matters of special interest to the Joint Committee on Statutory Instruments:

The Committee will wish to know why the Department has again amended the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs) (England and Wales) Regulations 1999 (S.I. 1999/3483) rather than consolidate them.

The latest amendments to the 1999 Regulations are necessary to implement new or replacement maximum residue levels which are set down by the three Community Directives (Council Directives 86/362/EEC, 86/363/EEC and 90/642/EEC). These Directives are each amended on a regular basis and accordingly frequent changes to the domestic legislation are required.

There is, however, a proposal for a new EC Regulation that will consolidate and repeal these Directives. We had thought that negotiations for the new Regulation were nearing a conclusion and if they were successful it was expected that the new Regulation would come into force early in 2005. Because of this it was thought appropriate to draft amending Regulations. Since the Regulations were drafted, however, the Community timetable has slipped. It would not have been possible to produce a consolidation of the Regulations in time to meet the implementation dates

of the Directives amending 86/362/EEC, 86/363/EEC and 90/642/EEC so it was decided to proceed with these amending Regulations.

Members of the public are most likely to need to use Part 2 of Schedule 2 to the 1999 Regulations. This Part of the Schedule was consolidated in March 2003 and the current SI will be the third amendment of that Part of the Schedule since it was consolidated.

Schedule 1 to the 1999 Regulations lists for each pesticide the specific compound(s) which comprise(s) the pesticide residue. While it is acknowledged by the Department that this Schedule would benefit from legislative consolidation, it is the case that the Pesticide Safety Directorate (an executive agency of the Department) posts this information in an easy to read format, together with a consolidated version of Schedule 2, on its website.

4. Legislative Background:

This Instrument transposes two EC Directives, which were developed as part of an on-going Community program to establish MRLs for all pesticides in a wide range of foodstuffs.

This instrument transposes these Directives by amending the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs)(England and Wales) Regulations 1999. These Regulations establish a legislative framework, enabling MRLs to be set monitored and enforced.

A transposition note is attached.

5. Extent:

This Instrument applies to England and Wales only. Similar legislation is being prepared by the Scottish Executive, Environment and Rural Affairs Department and Department of Agriculture and Rural Development, Northern Ireland.

This Instrument transposes Commission Directives which are not subject to Parliamentary Scrutiny. The Directives do, however, amend three similar Council Directives 86/362/EEC (fixing MRLs for cereals), 86/363/EEC (fixing MRLs for foodstuffs of animal origin) and 90/642/EEC (fixing MRLs for fruit and vegetables and

other foodstuffs of plant origin). Details of the scrutiny history of 90/642 are detailed below.

Legislation	Council Directive 90/642/EEC
Adopted	27 November 1990
Official Journal	L350 of 14 December 1990, page 71
Explanatory Memorandum	4092/89 of 1 February 1989 9271/90 of 8 November 1990

EXPLANATORY MEMORANDUM 4092/89

SCRUTINY COMMITTEES' RECOMMENDATIONS

Commons		Lords	
Politically important for debate	Date: 8 March 1989 Report ref: 10920 HC 15- xiii and xiv; HC 220- iii (Session 1988-89) Paragraph 7	Referred to Sub Committee (List B)	Date: 13 February 1989 Sub – Committee D
Debated by Standing Committee on European Community Documents	Date: 10 May 1989	Cleared without report (List C)	Date: 21 March 1989

EXPLANATORY MEMORANDUM 9271/90

SCRUTINY COMMITTEES' RECOMMENDATIONS

Commons		Lords	
Not legally or politically important	Date: 14 November 1990	Cleared without report (List A)	Date: 13 November 1990

6. European Convention on Human Rights:

Not required

7. Policy background

MRLs reflect levels of pesticides that are expected to be found in produce that has been treated in accordance with good agricultural practice. Thus, they provide a mechanism for statutory controls on pesticides in produce moving in trade and for monitoring correct use of pesticides. MRLs are not safety limits and are always set below safety limits.

MRLs applicable to trade to or within the UK are now almost exclusively determined at EC level. The EC programme is expected to establish MRLs for approximately 450 pesticides. This Instrument will introduce MRLs for a further ten pesticides. This will bring the total number of pesticides with MRLs to approximately 230.

There is not a great deal of public interest in this policy. Consultations held prior to issue of the 1999 Regulations and in 2004 (in relation to an EC proposal to amend the Community's procedures for setting MRLs) attracted approximately 20 responses in total. The only substantive comments were received from farming, growing and crop protection industries and focussed on technical details, not the overall policy of setting MRLs.

This Instrument is not politically or legally important. This is a long established and well understood piece of legislation which is being amended in an uncontroversial and relatively minor fashion.

8. Impact:

A Regulatory Impact Assessment (RIA) is attached. The RIA was prepared in 1999 when the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs) (England and Wales) Regulations were last consolidated and provides a basis for establishing the impact of amendments to the Regulations.

8. Contact:

Grant Stark
Consumer Safety and European Policy Branch
Pesticides Safety Directorate
Room 308 Mallard House
1-2 Peasholme Green
Kings Pool
York YO1 7PX
Tel: 01904 455780
Fax: 01904 455733
Email: grant.stark@psd.defra.gsi.gov.uk

Transposition Note

Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs)(England and Wales) (Amendment) (No. 2) Regulations 2004

Commission Directive 2003/113/EC

Article	Purpose	Implementation	Comment
1-4	Amends Directives 76/895/EEC, 86/362/EEC, 86/363/EEC and 90/642/EEC in relation to the MRLS for 2,4-DB, linuron, pendimethalin, imazamox, oxasulfuron, foramsulfuron, oxadiargyl and cyazofamid.	Regulation 2(3) and 2(4)(c) and the Schedule.	Regulation 2(3) amends Schedule 1 to the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs)(England and Wales) Regulations 1999 to add the residues for the substances covered by the Directive. Regulation 2(4)(c) and the Schedule amend the 1999 Regulations to set out a new set of residues for the substances covered by the Directive.
5	Member States to implement Directive by 3 June 2004 at the latest.		Regulation 1. Regulations to come into force on 11 June.

Commission Directive 2004/2/EC

Article	Purpose	Implementation	Comment
1-3	Amends Directives 76/895/EEC, 86/362/EEC, 86/363/EEC and 90/642/EEC in relation to the MRLS for fenamiphos.	Regulation 2(3) and 2(4)(b) and the Schedule.	Regulation 2(3) amends Schedule 1 to the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs)(England and Wales) Regulations 1999 to add the residues for fenamiphos. Regulation 2(4)(b) and the Schedule amend the 1999 Regulations to set out a new set of residues for fenamiphos.
5	Member States to implement Directive by 31 July 2004 at the latest.		Regulation 1. Regulations to come into force on 11 June.

RIA 99/67

REGULATORY IMPACT ASSESSMENT

The Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs) (England and Wales) Regulations 2000

Purpose and Intended Effect of the Measure

1. These regulations consolidate the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs) Regulations 1994 and 5 subsequent amendments to those regulations. They establish maximum residue levels (MRLs) for pesticide residues in and on fruit and vegetables, cereals, foodstuffs of animal origin and processed and composite foodstuffs.

2. The regulations also introduce new maximum residue levels in relation to the active ingredient, azoxystrobin, which are set out in Directive 1999/71/EC.

Risk Assessment

3. Directive 1999/71 is due to be implemented by 31 January 2000. Failure to do so would represent a breach of the UK's treaty obligations.

Options

4. There is no option but to implement Directive 1999/71/EC into UK law.

Benefits

5. Statutory MRLs benefit the consumer by providing a mechanism to ensure that pesticide residues are at safe levels and that the rules on pesticide approvals can be effectively enforced. This is not quantifiable in monetary terms. MRLs also harmonise the rules on pesticide residues in food thus facilitating international trade. Consolidation of earlier regulations will improve the clarity of the regulations

Compliance Cost for Businesses, Charities and Voluntary Organisations

6. Only a small number of new MRLs will be introduced through this proposal and the costs associated with their introduction are small. Additionally as explained in paragraph 20 below these costs should be viewed as falling to the approvals regime rather than the MRLs programme. However, the opportunity of consolidation of the regulations has been taken to re-visit previous assessments on the financial impact of MRLs and, as far as possible, to put a cost on the EC's MRLs programme as a whole. This should also provide a firmer basis for the estimation of costs in relation to future EC MRLs Directives.

7. The Community's MRL programme began in 1976 although the first main Directives on cereals and animal products were not adopted until 1986. These were followed in 1990 by a Directive on fruit and vegetables. Since then a succession of Directives has extended the MRLs regime which now includes approaching 10,000