EXPLANATORY MEMORANDUM TO THE

PESTICIDES (MAXIMUM RESIDUE LEVELS IN CROPS, FOOD AND FEEDING STUFFS) (ENGLAND AND WALES) (AMENDMENT) REGULATIONS 2005

2005 No. 1725

1. This explanatory memorandum has been prepared by the Department for Environment Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Description

2.1 This Statutory Instrument revises maximum residue levels (MRLs) for a number of different pesticides in a wide range of foodstuffs.

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

3.1 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.

3.2 The latest amendments to the 1999 Regulations are necessary to replace maximum residue levels which are set down by Council Directives 90/642/EEC. This Directive is amended on a regular basis and accordingly frequent rapid changes to the domestic legislation are required.

3.3 The House of Lords Committee on the Merits of Statutory instruments has made clear its preference for instruments to be revoked and re-made rather then amended. In the case of the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs) (England and Wales) Regulations 2005 this will require an affirmative resolution instrument. In the circumstances, the Department undertook in correspondence reported in the 24th Report of the 2003–04 session of the Committee on Merits of Statutory instruments to consolidate the SI this summer.

3.4 The Department had intended to consolidate these Regulations to coincide with the latest revision, required to transpose a number of maximum residue levels (MRLs) detailed in Commission Directive 2004/115/EC. This Directive should be transposed by 23 June 2005. However, a lack of available Parliamentary time means that the legislation cannot made until October 2005 at the earliest. It is, on balance, therefore preferable to amend the Regulations one last time and bring in the revised MRLs as close to the

transposition date as practicable. We have prepared consolidated Regulations and intend laying these ready for Parliaments return from the summer recess.

3.5 Members of the public are most likely to need to use Part 2 of Schedule 2 to the 1999 Regulations. A consolidated version of this Part of the Schedule and Schedule 1 to the 1999 Regulations (which lists for each pesticide the specific compound(s) which comprise(s) the pesticide residue) are posted by the Pesticides Safety Directorate (an executive agency of the Department) in an easy to read format, on its website.

4. Legislative Background

4.1 This Instrument transposes an EC Directive developed as part of an on-going Community program to establish MRLs for all pesticides in a wide range of foodstuffs.

4.2 This instrument transposes this Directive 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.

4.3 A transposition note is attached.

4.4 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	Date: 10 May 1989	Cleared without report (List C)	Date: 21 March 1989

Community Documents			

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

5. Extent

5.1 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.

6. European Convention on Human Rights

6.1 Not applicable

7. Policy background

7.1 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.

7.2 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 revise MRLs for a number of pesticides.

7.3 There is not a great deal of public interest in this policy. Consultations held prior to issue of the 1999 Regulations and in 2003 (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.

7.4 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

8.1 A Regulatory Impact Assessment 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. A copy of which is available as part of the Explanatory Memorandum 2004/2559 on the HMSO website http://www.opsi.gov.uk/si/em2004/uksiem_20042559_en.pdf.

8.2 In 2003 the Pesticides Safety Directorate undertook a consultation in relation to an EC proposal to amend the Community's procedures for setting MRLs. Responses to the consultation indicated that compliance costs were virtually unchanged from those quoted in the 1999 RIA. We are, therefore, content that the cost information quoted in the RIA remains relevant but will continue to keep under review.

9. Contact

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Transposition Note

Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs)(England and Wales) (Amendment) (No. 2) Regulations 2005

Commission Directive 2004/115/EC

Article	Purpose	Implementation	Comment
1	Amends Directive 90/642/EEC in relation to the MRLS for Methomyl, Thiodicarb, Myclobutanil, Maneb group, Fenpropimorph, Metalaxyl, Metalaxyl – M, Penconazole, Iprovalicarb Azoxystrobin and Fexhexamid.	Regulation 2(4) and the Schedule.	Regulation 2(4) amends Part 2 of Schedule 2 to the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs)(England and Wales) Regulations 1999 to substitute new MRLs for Methomyl, Thiodicarb, Myclobutanil, Maneb group, Fenpropimorph, Metalaxyl, Metalaxyl – M, Penconazole, Iprovalicarb Azoxystrobin and Fexhexamid.
2	Member States to implement Directive by 22 June at latest and to apply new MRLs from 23 June at the latest.		Regulation 1. Regulations to come into force on 22 July.