EXPLANATORY MEMORANDUM TO

THE PESTICIDES (MAXIMUM RESIDUE LEVELS IN CROPS, FOOD AND FEEDING STUFFS) (ENGLAND AND WALES) (AMENDMENT) (No. 3) REGULATIONS 2006

2006 No. 2922

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) and sets new residue definitions 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 amended the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs) (England and Wales) Regulations 2005 (S.I. 2005/3286) rather than consolidate them.

3.2 The latest amendments to the 2005 Regulations are necessary to replace maximum residue levels which are set down by Council Directives 86/362/EEC, 86/363/EEC and 90/642/EEC. These Directives are 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 than amended. However, the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs) (England and Wales) Regulations 2005 have recently been consolidated (December 2005).

3.4 Directives 2006/53/EC, 2006/59/EC, 2006/60/EC and 2006/61/EC need to be transposed by 9 December 2006. The Pesticides Safety Directorate does not think it is an appropriate use of Departmental resources to consolidate the Regulations at this time. It is, on balance, preferable to amend the Regulations and bring in the revised MRLs as close to the transposition date as practicable.

3.5 Members of the public are most likely to need to use Schedule 2 to the 2005 Regulations. A consolidated version of this Schedule and Schedule 1 (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 four EC Directives (2006/53/EC, 2006/59/EC, 2006/60/EC and 2006/61/EC) 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 these Directives by amending the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs) (England and Wales) Regulations 2005. 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 four similar Council Directives 76/895/EEC (for fruit and vegetables), 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).

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 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

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 set new MRLs and 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 (RIA) was prepared in 2005 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.

8.2 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:

Karen Trott at the Department of Environment, Food and Rural Affairs, (Tel: 01904 455750 or email: karen.trott@psd.defra.gsi.gov.uk), can answer any queries regarding the instrument.

Transposition Note

Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs) (England and Wales) (Amendment) (No. 3) Regulations 2006

"The principal Regulations" means the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs) (England and Wales) Regulations 2005.

Commission Directive 2006/53/EC

Article	Purpose	Implementation	Comment
1-2	Amends Council Directive 90/642/EEC in relation to the MRLS for cyazofamid, fenbutatin-oxide, fenhexamid, linuron, pymetrozine, pyraclostrobin and triadimefon / triadimenol.	Regulations 2 & 6 and Schedules 1 & 2 (pyraclostrobin). Regulations 2 & 3 and Schedule 1 (all other active substances).	Regulation 6(a) and Schedule 2 amend Schedule 1 to the principal Regulations to add pyraclostrobin residue definition. Regulation 3(2)(i) and 6(b) amend Schedule 2 to the principal Regulations to substitute new MRLs for the substances covered by the Directive. Regulation 3(3) adds "leaves and stems of brassicas" and "ruccola" to Schedule 3 to the principal Regulations.
3	Member States to implement Directive by 8 December 2006 at the latest, and to apply the new MRLs from 9 December 2006 (excluding pyraclostrobin) and 21 April 2007 (for pyraclostrobin).		Regulation 3 to come into force on 9 December 2006 and Regulation 6 to come into force on 21 April 2007.

Commission Directive 2006/59/EC

Article	Purpose	Implementation	Comment
1-4	Amends Council Directives 76/895/EEC, 86/362/EEC, 86/363/EEC and 90/642/EEC in relation to the MRLs for carbaryl, deltamethrin,	Regulations 2 & 7 and Schedules 1 & 2 (oxamyl). Regulations 2 & 4 and Schedules 1 & 2 (for deltamethrin). Regulations 2 & 4 and	Regulations 4(a) & 7(a) and Schedule 2 amend Schedule 1 to the principal Regulations to amend the residue definition for deltamethrin and

	endosulfan, fenitrothion, methidathion and oxamyl.	Schedule 1 (all other active substances)	add one for oxamyl. Regulations 4(b) and 7(b) amend Schedule 2 to the principal Regulations to substitute and add new MRLs for the substances covered by the Directive.
5	Member States to implement Directive by 29 December 2006 and to apply the new MRLs from 30 December 2006 (except oxamyl). Member States to implement Directive by 29 December 2007 and to apply the new MRLs from 30 December 2007 (oxamyl).		Regulation 4 to come into force on 30 December 2006 and Regulation 7 to come into force on 30 December 2007.

Commission Directive 2006/60/EC

Article	**Purpose**	**Implementation**	**Comment**
1	Amends Council Directive 90/642/EEC in relation to the MRLS for abamectin, benomyl, carbendazim, chlormequat, fenpropimorph, glyphosate, myclobutanil, thiabendazole, thiophanate-methyl, trifloxystrobin and trimethylsulfonium.	Regulations 2 & 3 and Schedule 1 (benomyl, carbendazim, chlormequat and thiophanate-methyl). Regulation 6 and Schedule 1 (for glyphosate and trimethylsulfonium). Regulation 5 and Schedule 1 (for the remaining active substances).	Regulations 3, 5 and 6 and Schedule 1 amend Schedule 2 to the principal Regulations to substitute new MRLs for the substances covered by the Directive. Regulation 5(c) adds lupins to Schedule 3 to the principal Regulations.
2	Member States to implement Directive by 31 July 2006 (for chlormequat), 14 September 2006 (for benomyl,		Regulation 3 to come into force on 9 December 2006, Regulation 5 to come into force on 21 January 2007, and Regulation 6 to come into force on 21 April 2007.

	carbendazim and thiophanate-methyl), and 20 January 2007 (for the remaining substances), and to apply the new MRLs from 1 August 2006 (for chlormequat), 15 September 2006 (for benomyl, carbendazim and thiophanate-methyl), and 21 January 2007 (for the remaining substances).		

Commission Directive 2006/61/EC

Article	**Purpose**	**Implementation**	**Comment**
1-3	Amends Council Directives 86/362/EEC, 86/363/EEC and 90/642/EEC in relation to the MRLS for regarding atrazine, azinphos-ethyl, cyfluthrin, ethephon, fenthion, methamidophos, methomyl, paraquat, and triazophos.	Regulations 2 & 5. Schedules 1 & 2.	Regulation 5 and Schedule 2 amend Schedule 1 to the principal Regulations to substitute the residue definition for cyfluthrin and add onr for fenthion. Regulation 5 and Schedule 1 amend Schedule 2 to the principal Regulations to substitute and add new MRLs covered by the Directive.
4	Member States to implement Directive by 20 January 2007 at the latest, and to apply the new MRLs from 21 January 2007 at the latest.		Regulation 5 to come into force on 21 January 2007.