EXECUTIVE NOTE

THE PESTICIDES (MAXIMUM RESIDUE LEVELS IN CROPS, FOOD AND FEEDING STUFFS) (SCOTLAND) AMENDMENT (No. 2) REGULATIONS 2007 SSI/2007/306

1. The above instrument is made in exercise of the powers conferred by section 2(2) of the European Communities Act 1972. The instrument is subject to negative resolution procedure.

Policy Objective

2. The Regulations amend the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs) (Scotland) Regulations 2005 (SSI 2005/599) ("the principal Regulations") which establish a legislative framework for the control of pesticide residues in food, enabling maximum residue levels ("MRLs") to be set, monitored and enforced. The principal Regulations are amended on a regular basis as new MRLs are set under an ongoing EC programme to establish MRLs for all pesticides in a wide range of foodstuffs.

3. The Regulations implement in part Commission Directive 2007/7/EC (revised MRLs for the active *atrazine* on cereals were implemented by an earlier SSI i.e. the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs) (Scotland) Amendment Regulations 2007 (SSI 2007/142)), and implement Commission Directives 2007/8/EC, 2007/9/EC, 2007/11/EC and 2007/12/EC by amending 2 Schedules to the principal Regulations:

- they specify new residue definitions in Schedule 1, which lists all the pesticides covered by this legislation and defines the residues that are controlled;

- they also specify new or revised residue levels for 19 active substances in Schedule 2, which lists MRLs agreed under the EC programme;

Background

4. When a crop is treated with a pesticide, a very small amount of the pesticide, or what it changes to in the plant can remain in the crop until after it is harvested. This is known as the 'residue'. Pesticide residues may be present in fresh or tinned fruit and vegetables, processed food and drink made from the crop (e.g. juice, bread or any other manufactured food or drink), or fresh or processed animal products (if the animals have been fed on crop treated with pesticide).

5. The levels or amounts of residues present are expressed in milligrams of the chemical in a kilogram of crop/food/commodity (mg/kg). These are very small amounts, 1 mg/kg is the same as 1 part per million (ppm) or the equivalent of 1cm in 10km.

6. Pesticide residues in food are set at EC level under an ongoing programme to establish MRLs for all pesticides in a wide range of foodstuffs throughout the EU. MRLs are controlled in the UK through Regulations which lay down MRLs for over 30,000 pesticide/commodity combinations covering the more important components of the UK diet. MRLs are intended primarily as a check that Good Agricultural Practice is being followed

and to assist trade in treated produce. MRLs are not safety limits, and exposure to residues in excess of an MRL does not necessarily imply a risk to health.

7. MRLs are generally set at a value determined from field trials, where the crop has been treated with the pesticide at the proposed maximum rate and samples of the crop have been analysed to determine residue levels. Prior to market approval each pesticide is assessed for possible human health and environmental effects before safety factors are applied. Pesticide products are subsequently approved by the Scottish Ministers and Ministers from the Department of Environment, Food and Rural Affairs, the Department of Health, the National Assembly for Wales and the Minister for Agriculture and Rural Development for Northern Ireland, on the basis that normal use, following Good Agricultural Practice, would not leave residues which would erode these safety factors.

8. The aforementioned Regulatory Departments run a major annual surveillance programme to check for pesticide residues in food. This involves collecting approximately 4000 samples of food per year mainly from retail outlets throughout the United Kingdom and testing each sample for a variety of pesticides, thus generating over 223,000 analytical results a year. The programme currently costs £2.2 million per year. The results of this programme are used in 3 main practical ways:

1. to confirm that regulatory decisions on pesticide approval have been soundly based and that the scientific assessment reflects what is actually happening in the field;

2. to confirm that farmers are using approved pesticides in accordance with those approvals and that there is no misuse; and

3. to provide a standard against which to judge imported produce where we clearly cannot control directly how pesticides are used.

9. MRLs are a key element in the Regulatory Departments' pesticide controls, and an important component in wider food safety arrangements.

Administration

10. The day to day administration of the pesticides approval system (which includes MRLs) is undertaken by the Pesticides Safety Directorate, an Executive Agency of Defra operating on behalf of the Scottish Ministers under an Agency Arrangement.

Consultation and financial effects

11. In 2003, the Pesticides Safety Directorate undertook a consultation on a GB basis in relation to an EC proposal to amend the Community's procedures for setting MRLs. Responses indicated that compliance costs were virtually unchanged since the previous assessment made in 1999.

12. A Regulatory Impact Assessment was prepared in 2005 when the principal Regulations were laid before the Scottish Parliament. The overall cost of the MRL programme across the whole EC was estimated at that time as approximately £110,000,000. The UK share, and therefore the Scottish share, could not be reliably estimated.

Rural Directorate
June 2007