EXPLANATORY MEMORANDUM TO

THE PESTICIDES (REVOCATION) (EU EXIT) REGULATIONS 2022

2022 No. 144

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs ("Defra") and is laid before Parliament by Command of Her Majesty.

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

2. Purpose of the instrument

2.1 This instrument revokes redundant retained direct EU legislation which forms part of the plant protection product ("PPP") and maximum residue level ("MRL") regulatory regimes, so that these regimes can continue to operate effectively following the end of the implementation period. The revocations concern direct EU legislation which came into force towards the end of the implementation period (and so was not addressed by the earlier EU Exit SIs described in paragraph 7.4) and which is given effect in Great Britain through transitional provisions in the earlier EU Exit SIs and the national statutory registers. As a result, the retained direct EU legislation to be revoked is no longer required.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 On 3rd February 2022 the Sifting Committees agreed with the Government that this instrument does not have to have a debate in parliament though one may still occur. The instrument will therefore remain subject to the negative resolution procedure.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales, and Scotland.

4.2 The territorial application of this instrument is England and Wales, and Scotland.

5. European Convention on Human Rights

5.1 Minister of State, Victoria Prentis MP has made the following statement regarding Human Rights:

"In my view the provisions of the Pesticides (Revocation) (EU Exit) Regulations 2022 are compatible with the Convention rights."

6. Legislative Context

6.1 This instrument is made in exercise of powers conferred by section 8(1) of the European Union (Withdrawal) Act 2018. Section 8(1) of the Withdrawal Act provides that a Minister of the Crown may by regulations make such provisions as the Minister considers appropriate to prevent, remedy or mitigate any failure of retained EU law to

operate effectively or any other deficiency in retained EU law arising from the withdrawal of the UK from the EU.

7. Policy background

What is being done and why?

7.1 This instrument is being made in order to maintain the effectiveness and continuity of retained EU law that relates to PPPs and maximum residue levels (MRLs) by revoking retained direct EU legislation that is redundant following the end of the implementation period. These revocations are required as a number of EU regulations came into force prior to the end of the implementation period, but after the earlier EU Exit SIs (referred to in paragraph 7.4 below) were finalised.

Explanations

What did any law do before the changes to be made by this instrument?

7.2 Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009, and all its underpinning implementing Regulations, regulate the placing of PPPs on the market, including the approval of active substances, authorisation of PPPs, and management of associated risks.

7.3 Regulation (EC) No 396/2005 of the European Parliament and of the Council of 23 February 2005 sets MRLs for pesticides in food and feed and measures to ensure their compliance. This provides a high level of protection that pesticide residues on food will not pose risks to health.

7.4 Decisions on pesticide regulation taken under the EU pesticide regime are given effect through Commission Implementing Regulations ("CIRs"), which underpin Regulations (EC) No 1107/2009 and (EC) No 396/2005. Such decisions are frequent and there is a regular flow of pesticide CIRs published by the European Commission. This instrument revokes a series of CIRs that came into force prior to the end of the implementation period but after the earlier EU Exit SIs, and which are therefore now redundant. These CIRs are concerned with, for example, the approval, extension of approval or non-renewal of active substances, and the amendment of pesticide MRLs.

Why is it being changed?

7.5 The main corrections required to the regulatory regime for pesticides as a result of EU Exit have already been put in place through a series of earlier EU Exit SIs, primarily the Plant Protection Products (Miscellaneous Amendments) (EU Exit) Regulations 2019 (SI No 2019/556) ("the PPP EU Exit SI"), the Pesticides and Fertilisers (Miscellaneous Amendments) (EU Exit) Regulations 2019 (SI No 2019/306), the Pesticides (Maximum Residue Levels) (Amendment etc.) (EU Exit) Regulations 2019 (SI No 2019/557) ("the MRL EU Exit SI"), the Pesticides (Amendment) (EU Exit) Regulations 2019 (SI No 2019/1410) and the Pesticides (Amendment) (EU Exit) Regulations 2020 (SI No 2020/1376).

7.6 These SIs established a regulatory regime for pesticides in Great Britain. The approach taken in these earlier SIs was to deem active substance approvals and various decisions on MRLs made in the EU prior to the end of the implementation period to have been made by the relevant Great Britain competent authorities, and to establish new statutory registers to record decisions on approval of active substances and give effect to decisions on setting of pesticide MRLs. This ensured that all

relevant extant EU decisions were retained in Great Britain after the end of the implementation period. The EU implementing regulations which had previously given effect to those decisions were therefore redundant and so were repealed.

7.7 This SI is now required in order to follow this established approach in relation to further EU implementing regulations which came into force in the latter part of the implementation period, hence too late to have been addressed in the earlier EU Exit SIs. The effect of these further EU implementing regulations has already been retained through the transitional provisions in the earlier EU Exit SIs, and the new statutory registers, so the implementing regulations themselves are no longer required. It is now necessary to remove them so that they do not remain on the statute book.

What will it now do?

7.8 The changes made by this instrument will revoke redundant provisions (specifically revoking EU implementing regulations which had previously given effect to active substance and MRL decisions, which are now given effect through the transitional provisions in previous EU Exit SIs and the statutory registers) so that PPPs, and MRLs for pesticides in food and feed, continue to be effectively managed.

8. European Union Withdrawal and Future Relationship

8.1 This instrument is being made using the power in section 8 of the European Union (Withdrawal) Act 2018 in order to address failures of retained EU law to operate effectively or other deficiencies arising from the withdrawal of the United Kingdom from the European Union. In accordance with the requirements of that Act the Minister has made the relevant statements as detailed in Part 2 of the Annex to this Explanatory Memorandum.

9. Consolidation

9.1 Not applicable.

10. Consultation outcome

10.1 We have not consulted specifically on this instrument, because it contains only minor technical amendments and represents no change of policy and has no impact of itself on businesses or the public.

10.2 We have liaised with Devolved Administrations as the instrument is Great Britain-wide.

11. Guidance

11.1 Guidance is not being provided in relation to this instrument.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 A full Impact Assessment has not been prepared for this instrument because there is expected to be no or no significant impact on business as a direct result of this legislation. This is because it relates to the maintenance of existing legislation.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 This instrument revokes retained direct EU legislation that is considered redundant, maintaining existing regulatory standards. No mitigating actions for small businesses were deemed necessary for this instrument.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is no specific monitoring arrangements are needed.

14.2 As this instrument is made under the European Union (Withdrawal) Act 2018, no review clause is required.

15. Contact

15.1 Duncan Williams at the Department for Environment, Food and Rural Affairs, Telephone: 020 826 6659 or email: duncan.williams@defra.gov.uk can be contacted with any queries regarding this instrument.

15.2 Rachel Irving, Deputy Director for Chemicals, Pesticides and Hazardous Waste, at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.

15.3 Minister of State, Victoria Prentis MP, at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.

Annex

Statements under the European Union (Withdrawal) Act 2018 and the European Union (Future Relationship) Act 2020

Part 1A

Table of Statements under the 2018 Act

This table sets out the statements that may be required under the 2018 Act.

Statement	Where the requirement sits	To whom it applies	What it requires
Sifting	Paragraphs 3(3), 3(7) and 17(3) and 17(7) of Schedule 7	Ministers of the Crown exercising sections 8(1) or 23(1) to make a Negative SI	Explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation(s) of the SLSC/Sifting Committees
Appropriate-ness	Sub-paragraph (2) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1) or 23(1) or jointly exercising powers in Schedule 2	A statement that the SI does no more than is appropriate.
Good Reasons	Sub-paragraph (3) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1) or 23(1) or jointly exercising powers in Schedule 2	Explain the good reasons for making the instrument and that what is being done is a reasonable course of action.
Equalities	Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1) or 23(1) or jointly exercising powers in Schedule 2	Explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them. State that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.
Explanations	Sub-paragraph (6) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1) or 23(1) or jointly exercising powers in Schedule 2 In addition to the statutory obligation the Government has made a political commitment to include these statements alongside all EUWA SIs	Explain the instrument, identify the relevant law before IP completion day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g., whether minor or technical changes only are intended to the EU retained law.
Criminal	Sub-paragraphs (3) and (7)	Ministers of the Crown	Set out the 'good reasons' for creating a

offences	of paragraph 28, Schedule 7	exercising sections 8(1) or 23(1) or jointly exercising powers in Schedule 2 to create a criminal offence	criminal offence, and the penalty attached.
Sub-delegation	Paragraph 30, Schedule 7	Ministers of the Crown exercising section 8 or part 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority by Statutory Instrument.	State why it is appropriate to create such a sub-delegated power.
Urgency	Paragraph 34, Schedule 7	Ministers of the Crown using the urgent procedure in paragraphs 5 or 19, Schedule 7.	Statement of the reasons for the Minister's opinion that the SI is urgent.
Scrutiny statement where amending regulations under 2(2) ECA 1972	Paragraph 14, Schedule 8	Anybody making an SI after IP completion day under powers conferred before the start of the 2017-19 session of Parliament which modifies subordinate legislation made under s. 2(2) ECA	Statement setting out: a) the steps which the relevant authority has taken to make the draft instrument published in accordance with paragraph 16(2), Schedule 8 available to each House of Parliament, b) containing information about the relevant authority's response to— (i) any recommendations made by a committee of either House of Parliament about the published draft instrument, and (ii) any other representations made to the relevant authority about the published draft instrument, and, c) containing any other information that the relevant authority considers appropriate in relation to the scrutiny of the instrument or draft instrument which is to be laid.
Explanations where amending regulations under 2(2) ECA 1972	Paragraph 15, Schedule 8	Anybody making an SI after IP completion day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA	Statement explaining the good reasons for modifying the instrument made under s. 2(2) ECA, identifying the relevant law before IP completion day, and explaining the instrument's effect on retained EU law.

Part 1B

Table of Statements under the 2020 Act

This table sets out the statements that may be required under the 2020 Act.

Statement	Where the requirement sits	To whom it applies	What it requires
Sifting	Paragraph 8 Schedule 5	Ministers of the Crown exercising section 31 to make a Negative SI	Explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation(s) of the SLSC/Sifting Committees

Part 2

Statements required under the European Union (Withdrawal) 2018 Act or the European Union (Future Relationship) Act 2020

1. Sifting statement(s)

1.1 The Minister of State, Victoria Prentis MP has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

"In my view the Pesticides (Revocation) (EU Exit) Regulations 2022 should be subject to annulment in pursuance of a resolution of either House of Parliament (i.e. the negative procedure)".

1.2 This is the case because it contains only minor technical amendments and represents no change of policy.

2. Appropriateness statement

2.1 The Minister of State, Victoria Prentis MP has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

"In my view the Pesticides (Revocation) (EU Exit) Regulations 2022 does no more than is appropriate".

2.2 This is the case because of the reasons explained in sections 2 and 7 in the main body of this Explanatory Memorandum.

3. Good reasons

3.1 The Minister of State, Victoria Prentis MP has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

"In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action".

3.2 These are explained in sections 2 and 7 in the main body of this Explanatory Memorandum.

4. Equalities

4.1 Minister of State, Victoria Prentis MP has made the following statement:

"The Pesticides (Revocation) (EU Exit) Regulations 2022 does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts".

4.2 Minister of State, Victoria Prentis MP has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

"In relation to the instrument, I, Victoria Prentis MP have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.".

5. Explanations

5.1 The explanations statement has been made in section 7 of the main body of this explanatory memorandum.