

## UK MINISTERS ACTING IN DEVOLVED AREAS

### **63 - The Pesticides and Fertilisers (Miscellaneous Amendments) (EU Exit) Regulations 2019**

*Laid in the UK Parliament: 13 December 2018*

#### **Sifting**

Subject to sifting in UK Parliament?	Yes
Procedure:	Proposed negative
Date of consideration by the House of Commons European Statutory Instruments Committee	8 January 2019
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	w/c 7 January 2019
Date sifting period ends in UK Parliament	15 January 2019
Written statement under SO 30C:	Paper 46
SICM under SO 30A (because amends primary legislation)	Not required

#### **Scrutiny procedure**

Outcome of sifting	Not known
Procedure	Negative or Affirmative
Date of consideration by the Joint Committee on Statutory Instruments	Not known
Date of consideration by the House of Commons Statutory Instruments Committee	Not known
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	Not known

#### **Commentary**

These Regulations are proposed to be made by the UK Government pursuant to section 8(1) and paragraph 21 of Schedule 7 of the European Union (Withdrawal) Act 2018.

To ensure plant protection products will continue to be effectively managed after EU Exit and also to enable the UK to have an operable regulatory framework after EU exit, these Regulations amend by making minor corrections, the following:

The Ammonium Nitrate Materials (High Nitrogen Content) Safety Regulations 2003

The Pesticides (Maximum Residue Levels) (England and Wales) Regulations 2008

The Plant Protection Products Regulations 2011

Plant Protection Products (Fees and Charges) Regulations 2011

The Plant Protection Products (Sustainable Use) Regulations 2012

This instrument also transfers functions under EU pesticides legislation to the Welsh Ministers.

Legal Advisers make the following comments in relation to the Welsh Government's statement dated 18 December 2018 regarding the effect of these Regulations:

The Welsh Government statement at paragraph 4 says, *"These Regulations contain provisions which enable the Welsh ministers to exercise functions jointly with parties including the Secretary of State."* However, as a result of the amendments made by this instrument, Welsh Ministers themselves will be able to exercise functions in relation to pesticides. Para 7:10 of the UKG Explanatory Memorandum says, *"Currently, the Secretary of State is the competent authority in respect of both England and Wales for Regulation (EC) No 1107/2009 and Directive 2009/128/EC, and the designated national authority for Regulation (EC) No 396/2005. Pesticides is a devolved matter under the Government of Wales Act 2006. Therefore in preparation for exit day, the instrument makes amendments to domestic legislation to designate Welsh Ministers as the competent authority in relation to Wales for the purposes of Regulation (EC) No 1107/2009 and Directive 2009/128/EC, and as designated national authority for the purposes of Regulation (EC) No 396/2005. It also amends the Plant Protection Products (Fees and Charges) Regulations 2011 to allow the Welsh Ministers to charge fees in respect of their functions as competent authority and designated national authority. This is in line with the government's approach to EU exit and devolution, and in order to facilitate both UK-wide decision making with consent and independent exercise of powers as necessary."*

The above summary and the content of the Explanatory Memorandum to these Regulations confirm their effect.

Legal Advisers do not consider that any significant issues arise under paragraph 8 of the Memorandum on the European Union (Withdrawal) Bill and the Establishment of Common Frameworks in relation to these Regulations.

Legal Advisers have not identified any legal reason to seek a consent motion under Standing Order 30A.10 in relation to these Regulations.