

To: Business Committee

From: Carwyn Jones AM
Minister for Environment, Planning and Countryside

EXPLANATORY MEMORANDUM

PESTICIDES, ENGLAND AND WALES

THE PLANT PROTECTION PRODUCTS (AMENDMENT) REGULATIONS 2006

These joint Regulations will amend the Plant Protection Products Regulations 2005 (as amended), which implement in England and Wales Council Directive 91/414/EEC concerning the placing of plant protection products on the market.

1. This Memorandum is submitted to the Assembly's Business Committee in relation to The Plant Protection Products (Amendment) Regulations 2006, in accordance with Standing Order 25 (section 3).
2. A copy of the Instrument is submitted with this Memorandum.

Enabling Power

3. The power enabling these Regulations to be made is contained in section 2(2) of the European Communities Act 1972. These powers are exercisable jointly by the Secretary of State for Environment, Food and Rural Affairs. The National Assembly for Wales has been designated, under section 2(2) of the 1972 Act to make Regulations in relation to the Common Agricultural Policy of the European Community, by virtue of the European Communities (Designation) (No. 3) Order 2005 (SI 2005/2766). Assembly functions in relation to this designation have been delegated to my portfolio as Minister for Environment, Planning and Countryside.
4. These Regulations must be made jointly by the Secretary of State for Environment, Food and Rural Affairs and the National Assembly for Wales as this designation is a joint designation. It, therefore, does not allow the Assembly to make these Regulations on a Wales only basis.

Effect

5. The 1991 Directive establishes an authorisation system whereby plant protection products (defined as active substances and preparations containing one or more active substances intended *inter alia* to protect plants against harmful organisms) may not be placed on the market and used in the territory of Member State unless they have been authorised under the 1991 Directive by that Member State (or, subject to qualifications, by another Member State). The 1991 Directive establishes uniform rules on the conditions and procedures for authorisation, including rules on the mutual recognition of authorisations between Member States. The purpose of the

system is to ensure that wherever they are placed on the market and used within the Community, plant protection products are effective without causing harm to human or animal health and without adversely affecting plants and ground water or the environment in general.

6. These Regulations amend the Plant Protection Products Regulations 2005 (S.I. 2005/1435), which implement in England and Wales Council Directive 91/414/EEC concerning the placing of plant protection products on the market.
7. These Regulations implement ten Directives, which amend Directive 91/414/EEC, by adding a further twenty-one active substances (a list of these substances is attached at Annex A) to Annex I of Directive 91/414/EC. Annex I is a positive list of active substances that have been shown to be without unacceptable risk to people or the environment. In consequence, the list of active substances, which can be used in products capable of being approved under the Plant Protection Products Regulations 2005 for placing on the market and use, is extended accordingly.

Target Implementation

8. It is intended that the proposed Instrument will be made on 2 May 2006 and then laid in Parliament on 5 May 2006, in order to come into force on 1 June 2006, except for regulations 4-9. Regulation 4 shall come into force on 1 September 2006; Regulation 5 shall come into force on 1 October 2006; Regulation 6 shall come into force on 1 November 2006; Regulation 7 shall come into force on 1 January 2007; Regulation 8 shall come into force on 1 February 2007 and Regulation 9 shall come into force on 1 April 2007. If these dates are not met pesticide users in Wales could be placed at a disadvantage in comparison to their competitors elsewhere in the UK and EU.
9. Similar legislation will be introduced in Scotland and Northern Ireland before the summer recess.

Financial Implications

10. There are no financial implications for the Assembly, for business, or for others, as a result of implementing these Regulations.

Regulatory Appraisal

11. As these Regulations, fall outside the definition of Assembly subordinate legislation in section 58(6) of the Government of Wales Act 1998, a Regulatory Appraisal is not required to be undertaken.

Consultation

With Stakeholders

12. No formal consultation has been conducted on these Regulations, as they reflect a technical change to the framework Directive rather than a policy change. The Regulations amend the lists of active substances available for use in plant protection products. No change has been made to the procedural requirements.

With Subject Committee

13. The proposed Regulations were notified to the Environment, Planning and Countryside Committee, via the list of forthcoming legislation, on 1 February 2006 (EPC(2)02-06, Paper 3, item no: 6 (CFA141)). At that time the title of the Regulations was the Plant Protection Products Regulations 2006. The Regulations were not identified for detailed scrutiny.

Recommended Procedure

14. Subject to the views of the Business Committee, I recommend that these Regulations proceed to plenary under the Standard procedure to give Members an opportunity to debate these Regulations.

Compliance

15. The proposed legislation will (as far as applicable):

- have due regard to the principle of equality of opportunity for all people (Government of Wales Act 1998, section 120);
- be compatible with the Assembly's scheme for sustainable development (section 121);
- be compatible with Community law (section 106);
- be compatible with the Assembly's human rights legislation (section 107); and
- be compatible with any international obligations binding the UK Government and the Assembly (section 108).

16. The Information in this Memorandum has been cleared with the Directorate of Legal Services and the Assembly Compliance Officer.

17. Drafting Lawyer: Chrishan Kamalan (Ext 1246)

18. Head of Division: Norma Barry (Ext 3544)

19. Policy Division Contact: Angela Forster (Ext 5773)

CARWYN JONES AM

MINISTER FOR ENVIRONMENT, PLANNING AND COUNTRYSIDE

MARCH 2006

TABLE OF NEW/REVISED ACTIVE SUBSTANCES

Directive	Active Substance	Definition
2005/053/EC to be implemented by 31/05/06	Chlorothalonil	Fungicide
	Chlorotoluron	Herbicide
	Cypermethrin	Insecticide
	Daminozide	Plant Growth Regulator
	Thiophanate-methyl	Fungicide
2005/054/EC to be implemented by 31/05/06	Tribenuron	Herbicide
2005/057/EC to be implemented by 31/05/06	MCPA	Herbicide
	MCPB	Herbicide
2005/058/EC to be implemented by 31/05/06	Bifenazate	Acaricide
	Milbemectin	Acaricide / Insecticide
2005/072/EC to be implemented by 31/05/06	Chlorpyrifos	Acaricide / Insecticide / Nematicide
	Chlorpyrifos-methyl	Insecticide
	Mancozeb	Fungicide
	Maneb	Fungicide
	Metiram	Fungicide
2006/005/EC to be implemented by 31/05/06	Warfarin	Rodenticide
2006/006/EC to be implemented by 31/05/06	Tolyfluanid	Fungicide
2006/010/EC to be implemented by 31/05/06	Forchlorfenuron	Plant Growth Regulator
	Indoxacarb	Insecticide
2006/016/EC to be implemented by 31/05/06	Oxamyl	Acaricide / Insecticide / Nematicide
2006/019/EC to be implemented by 31/05/06	1-Methylcyclopropene	Plant Growth Regulator

Acaricide is defined as a chemical treatment applied to animals to kill ticks and prevent transmission of tick-borne pathogen.

Fungicide is defined as a substance which prevents/kills fungi.

Herbicide is defined as a substance which prevents/kills unwanted plants/weeds.

Insecticide is defined as a substance which prevents/kills unwanted insects.

Nematicides is defined as a substance or preparation used to kill nematodes (worm-shape animals).

Rodenticide is defined as a substance used to kill rodents.