

To: Business Committee

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

EXPLANATORY MEMORANDUM

PESTICIDES, ENGLAND AND WALES

THE PLANT PROTECTION PRODUCTS (AMENDMENT) (NO.2) REGULATIONS 2006

These joint Regulations will amend the Plant Protection Products Regulations 2005, 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) (No.2) 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. Under the post-2007 arrangements, we foresee that this legislation would follow the Negative procedure.
4. This designation does not allow the Assembly to make these Regulations on a Wales only basis.

Effect

5. The 1991 Directive, which concerns the placing of plant protection products on the market, establishes an authorisation system whereby plant protection products (defined as active substances and preparations containing one or more active substances intended, amongst other things, to protect plants against harmful organisms) may not be placed on the market and used in the territory of Member States 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, 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 three Directives, which amend Directive 91/414/EEC by adding a further eight active substances to Annex I of Directive 91/414/EC (a list of these substances is attached at Annex A). 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 8 November 2006 and laid in parliament on 10 November 2006, in order to come into force, apart from regulation 2(3) on 6 December 2006. Regulation 2(3) will come into force on 1 February 2007. If these dates are not met pesticide users in Wales and England could be placed at a disadvantage in comparison to their competitors elsewhere in the UK and EU.
9. Scotland made their equivalent legislation on 30 August 2006 and came into force on 26 September 2006. In Northern Ireland Directives 2006/39 and 2006/45 were transposed on 23 June 2006 and came into operation on 31 July 2006. Directive 2006/41/EC will be transposed early 2007.

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. The businesses who have sought approval for the use or production of the active substances at Annex A will already be aware that they have been approved at EC level. 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.88 CFA118) and have remained on the list ever since. 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 them.

Compliance

15. The proposed legislation will (as far as is 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 (LS).
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

OCTOBER 2006

MINISTER FOR ENVIRONMENT, PLANNING AND COUNTRYSIDE

Annex A

TABLE OF NEW/REVISED ACTIVE SUBSTANCES

Directive	Active Substance	Definition
2006/039/EC to be implemented by 09/12/06	Clodinafop	Herbicide
	Pirimicarb	Insecticide
	Rimsulfuron	Herbicide
	Tolclofos-methyl	Fungicide
	Triticonazole	Fungicide
2006/041/EC to be implemented by 09/12/06	Clothianidin	Insecticide
	Pethoxamid	Herbicide
2006/045/EC to be implemented by 09/12/06	Propoxycarbazone	Herbicide

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

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

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