STATUTORY INSTRUMENTS

2019 No. 1410

EXITING THE EUROPEAN UNION
PESTICIDES

The Pesticides (Amendment) (EU Exit) Regulations 2019

Made - - - - 28th October 2019

Coming into force in accordance with regulation 1

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018(**1**).

In accordance with paragraph 1(1) of Schedule 7 to the European Union (Withdrawal) Act 2018, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

PART 1

Introductory

Citation and commencement

1.—(1) These Regulations may be cited as the Pesticides (Amendment) (EU Exit) Regulations 2019.

(2) This Part and Part 3 comes into force immediately before exit day.

(3) Part 2 comes into force on exit day.

(**1**) 2018 c. 16.

PART 2

Amendment and revocation of retained direct EU legislation

Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market

2.—(1) Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market is amended as follows.

(2) In Article 12(3)(c) (as renumbered by regulation 4(14)(d) of the Plant Protection Products (Miscellaneous Amendments) (EU Exit) Regulations 2019(**2**)), for "Regulation (EC) No 882/2004" substitute "Regulation (EU) 2017/625".

Commission Implementing Regulation (EU) No 844/2012 setting out the provisions necessary for the implementation of the renewal procedure for active substances, as provided for in Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market

3.—(1) Commission Implementing Regulation (EU) No 844/2012 setting out the provisions necessary for the implementation of the renewal procedure for active substances, as provided for in Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market is amended as follows.

(2) In Article 13(4), for "Regulation (EC) No 882/2004 of the European Parliament and of the Council" substitute "Regulation (EU) 2017/625 of the European Parliament and of the Council".

(3) Omit Article 13a.

Revocations and savings: retained direct EU legislation

4.—(1) The retained direct EU legislation listed in the Schedule is revoked.

(2) A grace period contained within a Regulation listed in the Schedule which expires after exit day continues to have effect, and is to be treated as if it has been set by each competent authority in relation to its constituent territory in accordance with Article 21(6)(b) of Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market(**3**).

(3) In paragraph (2), "competent authority" and "constituent territory" are to be interpreted in accordance with Article 3A of Regulation (EC) No 1107/2009(**4**).

(4) Sub-paragraph (5) applies where, immediately before exit day, a Regulation listed in the Schedule includes provision which continues to apply Regulation (EC) No 396/2005 as it had effect before that Regulation applied in respect of the pesticide residue of an active substance in or on one or more products lawfully produced before a specified date (a "transitional measure").

(5) In respect of the pesticide residue and the product or products to which the transitional measure applies, paragraphs 3 to 6 of Part 2 of Schedule 1 to the Pesticides (Maximum Residue Levels) (Amendment etc.) (EU Exit) Regulations 2019(**5**) apply as if a reference in those paragraphs to Regulation (EC) No 396/2005 as it had effect immediately before exit day were a reference to Regulation (EC) No 396/2005 as it had effect before the specified date.

(**2**) S.I. 2019/556, to which there are amendments not relevant to these Regulations.
(**3**) Article 21 is substituted by S.I. 2019/556.
(**4**) Article 3A is inserted by S.I. 2019/556.
(**5**) S.I. 2019/557, to which there are amendments not relevant to these Regulations.

(6) For the purposes of sub-paragraphs (4) and (5), a date is "specified" if it is specified in the transitional measure.

Revocation: EEA Agreement

5. In Annex 2 to the EEA Agreement—

(a) in Chapter 12 (foodstuffs), omit the adaptations in point 150 (Commission Implementing Regulation (EU) 2018/555);

(b) in Chapter 15 (dangerous substances), omit points 13zzzzzzzzo (Commission Implementing Regulation (EU) 2018/296) to 13zzzzzzzzzn (Commission Implementing Regulation (EU) 2018/1865).

PART 3

Amendment of secondary legislation

Amendment of the Plant Protection Products (Miscellaneous Amendments) (EU Exit) Regulations 2019

6.—(1) The Plant Protection Products (Miscellaneous Amendments) (EU Exit) Regulations 2019 are amended as follows.

(2) In regulation 5—

(a) for paragraph (7) substitute—

"(7) After paragraph 4 insert—

"**5.** For the purposes of paragraph 4(c), Directive 2009/128/EC(**6**) is to be read as if—

(a) Article 3(10)(b) were omitted;

(b) in Article 14—

(i) obligations on Member States were obligations on the competent authorities;

(ii) paragraph 3 were omitted.".";

(b) in paragraph (30)(d), in the text of new paragraph 6, for point (b) substitute—

"(b) the date two years after the day after the day on which exit day falls.";

(c) in paragraph (31)(a)(ii)(bb), omit "other".

(3) In regulation 11(2), in the substituted text of Article 69(10), after "paragraphs 3" insert ", 4".

(4) In regulation 14(3)—

(a) in sub-paragraph (l), for paragraph (i) substitute—

"(i) in the first paragraph—

(aa) for "Community" substitute "nationally";

(bb) for "Authority" substitute "competent authority";

(ia) omit the third and fourth paragraphs;";

(b) in sub-paragraph (n), for paragraph (i) substitute—

"(i) in the first paragraph, for "Community" substitute "nationally;"".

(**6**) OJ No L 309, 24.11.2009, p. 71, as last amended by Commission Directive (EU) 2019/782 (OJ No L 127, 16.5.2019, p. 4).

(5) In regulation 19(7)(c), in the substituted text of point 2.4, in the final indent, for "bags" substitute "bins".

(6) For regulation 20(2)(a) substitute—

"(a) in paragraph 1—

(i) for the first subparagraph substitute—

"An application for the renewal of an approval of an active substance must be submitted by a producer of the active substance to a competent authority for a constituent territory in relation to which the active substance is approved (in this Regulation, the "assessing competent authority") no later than three years before the expiry of the approval.";

(ii) omit the fourth to sixth subparagraphs;".

(7) Schedule 1 is amended in accordance with paragraph (8) to (9).

(8) In Part 2—

(a) in paragraph 2—

(i) for sub-paragraph (2) substitute—

"(2) Sub-paragraph (1) does not apply to an entry in a table in the Annex for an approval which expired before exit day.";

(ii) in sub-paragraph (4), for "31st March 2022 or earlier" substitute "on or before the date three years after the day after the day on which exit day falls";

(b) in paragraph 3—

(i) in sub-paragraph (3)(n), in the substituted text of the sixth paragraph, for "febuconazole" substitute "fenbuconazole";

(ii) in sub-paragraph (4)—

(aa) in paragraph (z)(ii)(bb), for "Silithiofam" substitute "Silthiofam";

(bb) after paragraph (ee) insert—

"(ff) in entry 132 (Mefentrifluconazole), the seventh column is to be read as if—

(i) in the fourth paragraph, in the words before point 1, for "the Commission, the Member States and the Authority" there were substituted "each competent authority";

(ii) in the fifth paragraph, ", by the Commission," were omitted;

(gg) in entry 133 (flutianil), the seventh column is to be read as if—

(i) in the fourth paragraph, in the words before point 1, for "the Commission, the Member States and the Authority" there were substituted "each competent authority";

(ii) in the fifth paragraph, ", from the Commission," were omitted;

(hh) in entry 134 (Isoxaflutole), in the seventh column, the fourth paragraph is to be read as if—

(i) in the first sentence, for "the Commission, the Member States and the Authority" there were substituted "each competent authority";

(ii) in the second sentence, ", by the Commission," were omitted;

(ii) in entry 135 (carvone), the seventh column is to be read as if—

(i) in the fourth paragraph, for "the Commission, the Member States and the Authority" there were substituted "each competent authority";

(ii) in the fifth paragraph, ", by the Commission," were omitted.";

(iii) in sub-paragraph (5)—

(aa) for paragraph (c)(ii) substitute—

"(ii) for the sixth paragraph there were substituted—

"The applicant must submit to each competent authority the information set out in point (3) within two years after the issuing of a guidance document on evaluation of the effect of water treatment processes on the nature of residues present in surface and groundwater.".";

(bb) after paragraph (c) insert—

"(d) in entry 11 (Methoxyfenozide), the seventh column is to be read as if, in the fifth paragraph, in the words before point 1, for "the Commission, the Member States and the Authority" there were substituted "each competent authority".".

(9) In Part 3, in paragraph 10(2)—

(a) after "level" insert "as referred to";

(b) after "including" insert "an obligation to provide".

(10) In Part 4, for paragraph 14(4)(b) substitute—

"(b) the date three years after the day after the day on which exit day falls.".

(11) In Schedule 2—

(a) in Part 1, in paragraph 151, for "1,4-dimethylnapthalene" substitute "1,4-dimethylnaphthalene";

(b) in Part 2, in paragraph 391, for "in view of" substitute "with a view to".

Amendment of the Pesticides (Maximum Residue Levels) (Amendment etc.) (EU Exit) Regulations 2019

7.—(1) The Pesticides (Maximum Residue Levels) (Amendment etc.) (EU Exit) Regulations 2019 are amended as follows.

(2) For regulation 3(4)(c)(ii)(bb) substitute—

"(bb) at the end, insert—

", and for these purposes Directive 2009/128/EC is to be read as if—

(i) Article 3(10)(b) were omitted;

(ii) in Article 14—

— obligations on Member States were obligations on the competent authorities;

— paragraph 3 were omitted.";".

(3) In Schedule 1—

(a) in Part 2—

(i) in paragraph 3(6)(b)(i), for "1st January 2020" substitute "the date eight months after the day on which exit day falls";

(ii) omit paragraph 4(2)(e) and (3)(a)(v);

(iii) in paragraph 6(3)(b)(i), for "1st January 2020" substitute "the date eight months after the day on which exit day falls";

(b) in Part 4, in paragraph 11(2), for "1st April 2019" substitute "the day after the day on which exit day falls".

George Eustice
Minister of State
Department for Environment, Food and Rural Affairs

28th October 2019

SCHEDULE

Regulation 4(1)

Revocations

1. Commission Implementing Regulation (EU) No 380/2013 amending Regulation (EU) No 1141/2010 as regards the submission of the supplementary complete dossier to the Authority, the other Member States and the Commission.

2. Council Regulation (EU) No 518/2013 adapting Regulation (EC) No 1107/2009 of the European Parliament and of the Council, by reason of the accession of the Republic of Croatia.

3. Commission Regulation (EU) No 1136/2014 amending Regulation (EU) No 283/2013 as regards the transitional measures applying to procedures concerning plant protection products.

4. Commission Regulation (EU) 2015/1475 amending Regulation (EU) No 284/2013 as regards the transitional measures applying to procedures concerning plant protection products.

5. Commission Implementing Regulation (EU) 2018/155 amending Implementing Regulation (EU) No 686/2012 allocating to Member States, for the purposes of the renewal procedure, the evaluation of active substances.

6. Commission Regulation (EU) 2018/1515 amending Annexes III and V to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for diphenylamine and oxadixyl in or on certain products.

7. Commission Regulation (EU) 2018/1516 amending Annexes II and III to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for penoxsulam, triflumizole and triflumuron in or on certain products.

8. Commission Regulation (EU) 2019/38 amending Annexes II and V to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for iprodione in or on certain products.

9. Commission Regulation (EU) 2019/58 amending Annexes II, III and V to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for linuron in or on certain products.

10. Commission Regulation (EU) 2019/89 amending Annexes II, III and V to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for bromadiolone, etofenprox, paclobutrazol and penconazole in or on certain products.

11. Commission Regulation (EU) 2019/90 amending Annexes II, III and V to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for bromuconazole, carboxin, fenbutatin oxide, fenpyrazamine and pyridaben in or on certain products.

12. Commission Regulation (EU) 2019/91 amending Annexes II, III and V to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for buprofezin, diflubenzuron, ethoxysulfuron, ioxynil, molinate, picoxystrobin and tepraloxydim in or on certain products.

13. Commission Implementing Regulation (EU) 2019/149 amending Implementing Regulations (EU) 2015/1108 and (EU) No 540/2011 as regards the conditions of use of vinegar as a basic substance.

14. Commission Implementing Regulation (EU) 2019/150 amending Implementing Regulation (EU) No 686/2012 as regards the rapporteur Member State for the evaluation of the following active substances contained in plant protection products: deltamethrin, diflufenican, epoxiconazole, fluoxastrobin, prothioconazole and tebuconazole.

15. Commission Implementing Regulation (EU) 2019/151 renewing the approval of the active substance *Clonostachys rosea* strain J1446 as a low-risk active substance in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) No 540/2011.

16. Commission Implementing Regulation (EU) 2019/158 renewing the approval of the active substance methoxyfenozide, as a candidate for substitution, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) No 540/2011.

17. Commission Implementing Regulation (EU) 2019/168 amending Implementing Regulation (EU) No 540/2011 as regards the extension of the approval periods of the active substances abamectin, *Bacillus subtilis* (Cohn 1872) Strain QST 713, *Bacillus thuringiensis* subsp. Aizawai, *Bacillus thuringiensis* subsp. israeliensis, *Bacillus thuringiensis* subsp. kurstaki, *Beauveria bassiana*, benfluralin, clodinafop, clopyralid, *Cydia pomonella Granulovirus* (CpGV), cyprodinil, dichlorprop-P, epoxiconazole, fenpyroximate, fluazinam, flutolanil, fosetyl, *Lecanicillium muscarium*, mepanipyrim, mepiquat, *Metarhizium anisopliae* var. Anisopliae, metconazole, metrafenone, *Phlebiopsis gigantea*, pirimicarb, *Pseudomonas chlororaphis* strain: MA 342, pyrimethanil, *Pythium oligandrum*, rimsulfuron, spinosad, *Streptomyces* K61, thiacloprid, tolclofos-methyl, *Trichoderma asperellum*, *Trichoderma atroviride*, *Trichoderma gamsii*, *Trichoderma harzianum*, triclopyr, trinexapac, triticonazole, *Verticillium albo-atrum* and ziram.

18. Commission Implementing Regulation (EU) 2019/291 amending Implementing Regulation (EU) No 540/2011 as regards the extension of the approval periods of the active substances 1-naphthylacetamide, 1-naphthylacetic acid, acrinathrin, azoxystrobin, fluazifop p, fluroxypyr, imazalil, kresoxim-methyl, oxyfluorfen, prochloraz, prohexadione, spiroxamine, tefluthrin and terbuthylazine.

19. Commission Implementing Regulation (EU) 2019/324 amending Implementing Regulation (EU) No 540/2011 as regards the approval periods of the active substances bifenthrin, carboxin, FEN 560 (also called fenugreek or fenugreek seed powder), pepper dust extraction residue and sodium aluminium silicate.

20. Commission Implementing Regulation (EU) 2019/337 approving the active substance mefentrifluconazole in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) No 540/2011.

21. Commission Implementing Regulation (EU) 2019/344 concerning the non-renewal of approval of the active substance ethoprophos, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) No 540/2011.

22. Commission Implementing Regulation (EU) 2019/481 approving the active substance flutianil, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) No 540/2011.

23. Commission Implementing Regulation (EU) 2019/530 designating European Union reference laboratories for pests of plants on insects and mites, nematodes, bacteria, fungi and oomycetes, viruses, viroids, and phytoplasmas.

24. Commission Regulation (EU) 2019/552 amending Annexes II and III to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for azoxystrobin, bicyclopyrone, chlormequat, cyprodinil, difenoconazole, fenpropimorph,

fenpyroximate, fluopyram, fosetyl, isoprothiolane, isopyrazam, oxamyl, prothioconazole, spinetoram, trifloxystrobin and triflumezopyrim in or on certain products.

25. Commission Implementing Regulation (EU) 2019/676 approving the low-risk active substance ABE-IT 56 (components of lysate of Saccharomyces cerevisiae strain DDSF623), in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) No 540/2011.

26. Commission Implementing Regulation (EU) 2019/677 concerning the non-renewal of the approval of the active substance chlorothalonil, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending Commission Implementing Regulation (EU) No 540/2011.

27. Commission Implementing Regulation (EU) 2019/706 renewing the approval of the active substance carvone in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) No 540/2011.

28. Commission Implementing Regulation (EU) 2019/707 amending Implementing Regulation (EU) No 540/2011 as regards the extension of the approval periods of the active substances alpha-cypermethrin, beflubutamid, benalaxyl, benthiavalicarb, bifenazate, boscalid, bromoxynil, captan, cyazofamid, desmedipham, dimethoate, dimethomorph, diuron, ethephon, etoxazole, famoxadone, fenamiphos, flumioxazine, fluoxastrobin, folpet, foramsulfuron, formetanate, metalaxyl-m, methiocarb, metribuzin, milbemectin, *Paecilomyces lilacinus* strain 251, phenmedipham, phosmet, pirimiphos-methyl, propamocarb, prothioconazole, s-metolachlor and tebuconazole.

29. Commission Implementing Regulation (EU) 2019/716 amending Implementing Regulations (EU) No 22/2013 and (EU) No 540/2011 as regards the conditions of approval of the active substance cyflumetofen.

30. Commission Implementing Regulation (EU) 2019/717 renewing the approval of the active substance isoxaflutole in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) No 540/2011.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by section 8(1) of the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under section 8(2)(a), (d) and (g)) arising from the withdrawal of the UK from the European Union.

These Regulations make amendments to legislation in the field of pesticides, and in particular amend legislation relating to plant protection products and maximum residue levels in food and feed. Part 2 makes amendments to and revokes retained direct EU legislation, with savings. Part 3 makes amendments to the Plant Protection Products (Miscellaneous Amendments) (EU Exit) Regulations

2019 (S.I. 2019/556) and the Pesticides (Maximum Residue Levels) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/557).

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen.