

## **EXECUTIVE NOTE**

### **THE PLANT PROTECTION PRODUCTS (SCOTLAND) AMENDMENT (No. 2) REGULATIONS 2007 SSI/2007/410**

1. The above instrument is made in exercise of the powers conferred by section 2(2) of the European Communities Act 1972. The instrument is subject to negative resolution procedure.

#### **Background**

2. The instrument amends the Plant Protection Products (Scotland) Regulations 2005 (the principal Regulations) which govern the placing of plant protection products (pesticide products: for example, agricultural/horticultural fungicides and herbicides) onto the market.

3. The principal Regulations implement in Scotland, Council Directive 91/414/EEC (the Directive). The Directive aims to harmonise the registration of plant protection products across the EC. All existing and new active substances (the main ingredients in pesticides) used in Europe are reviewed (evaluated) according to standards set out in relevant EC Directives.

4. The EC system is based upon a two-tier registration system. Active substances are assessed at Community level for inclusion on a positive list i.e. Annex 1 of the Directive. Products containing active substances listed on Annex 1 must then be assessed and registered by Member States. These assessments need only consider areas relevant to the products that were not covered in the assessment for Annex 1 inclusion.

5. When active substances have been assessed at Community level and added to Annex 1 of the Directive (by amending Directives), it is then necessary to amend the principal Regulations. This has been a frequent requirement.

#### **Policy Objective**

6. This instrument makes use of the provisions of paragraph 1A of Schedule 2 to the European Communities Act 1972, inserted by section 28 of the Legislative and Regulatory Reform Act 2006. Those provisions allow the use of ambulatory references to Community instruments when making regulations which implement Community obligations. The result is that a reference to a Community instrument (or part of one) means a reference to the Community instrument as amended from time to time, thus capturing future amendments.

7. The effect of this amendment to the principal Regulations is to implement the latest Community instruments:

- Commission Directive 2007/21/EC which extends the expiry dates for inclusion in Annex 1 of the Directive of 7 active substances;
- Commission Directives 2007/25/EC, 2007/50/EC and 2007/52/EC which add a further 11 active substances to Annex 1 of the Directive;

- Commission Directive 2007/31/EC which extends the use of the active substance *fosthiazate* to include insecticide use and Commission Decision 2007/452/EC which corrects an error in Directive 2006/132/EC concerning application rates per hectare of the active substance *procymidone*,

and will enable the routine addition of active substances to Annex 1 of the Directive to be captured automatically in Scottish law without the need for additional domestic legislation.

8. Similar legislation has been introduced in England and Wales.

### **Administrative Arrangements**

9. The day to day administration of the plant protection products approval system pre and post devolution is undertaken by the Pesticides Safety Directorate, an Executive Agency of Defra operating on behalf of the Scottish Ministers under an Agency Arrangement. The arrangement rests on regulation 26 of the principal Regulations which provides that the Scottish Ministers may arrange for any of their functions under or for the purposes of the principal Regulations or the Directive to be exercised on their behalf by a Minister of the Crown.

### **Financial Effects**

10. No Regulatory Impact Assessment has been carried out in relation to the Regulations. The instrument has no financial effects on the Scottish Government, local government or Scottish business.

The Scottish Government – Rural Directorate  
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