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Dear Edward

**REGULATING PESTICIDES
MANUFACTURING AND MARKETING FERTILISERS
EU EXIT – PROTOCOL WITH SCOTTISH PARLIAMENT**

I am writing in relation to the protocol on obtaining the approval of the Scottish Parliament to the exercise of powers by UK Ministers under the European Union (Withdrawal) Act 2018 in relation to proposals within the legislative competence of the Scottish Parliament.

As you know, the Cabinet Secretary for Government Business and Constitutional Relations, Michael Russell wrote to the Convenors of the Finance & Constitution and Delegated Powers and Legislative Reform Committees on 11 September setting out the Scottish Government's views on EU withdrawal. That letter also said that we must respond to the UK Government's preparations for a No-Deal scenario as best we can, despite the inevitable widespread damage and disruption that would cause. It is our unwelcome responsibility to ensure that devolved law continues to function on and after EU withdrawal.

I attach a Notification of Intention to Consent which sets out the details of four UK SIs which the UK Government propose to make and the reasons why I am content that Scottish devolved matters are to be included in these UK SIs. Please note, we are yet to have sight of the final SIs and they are not available in the public domain at this stage. We will, in accordance with the protocol, advise you when the final SIs are laid and advise you as to whether the final SI is in keeping with the terms of this notification.

I am copying this letter to the Convenor of the Environment, Climate Change & Land reform Committee and the Delegated Powers and Law Reform Committee.

I look forward to hearing from you within 28 days from the date of this letter



MAIRI GOUGEON

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

REGULATING PESTICIDES
MANUFACTURING AND MARKETING FERTILISERS

Name of the SIs

- The Plant Protection Products (Miscellaneous Amendments) (EU Exit) Regulations 2019
[subject to affirmative procedure]
- The Pesticides (Maximum Residue Levels) etc. (Amendment) (EU Exit) Regulations 2019
[subject to affirmative procedure]
- The Pesticides (Miscellaneous Amendments) (EU Exit) Regulations 2019
[subject to negative procedure]
- The Fertilisers and Ammonium Nitrate Material (Amendment) (EU Exit) Regulations 2018
[subject to negative procedure]

A brief explanation of law that the proposals amend

The Plant Protection Products (Miscellaneous Amendments) (EU Exit) Regulations 2019

This instrument is one of a set of three statutory instruments that will make corrections to the EU plant protection product (PPPs) (“pesticides”) regulatory regime becoming retained EU law so that it can continue to operate effectively in the UK following a ‘no deal’ UK exit from the EU on 29 March 2019.

It makes the necessary amendments to the directly applicable Regulation (EC) No 1107/2009, concerning the placing of plant protection products (PPPs) on the market, and other associated EU legislation to ensure that effective arrangements and robust controls currently in place which govern the authorisation of, marketing and use of plant protection products continue to operate in the UK after EU Exit.

It also amends the following EU legislation becoming retained EU law–

Commission Regulation (EU) No 1141/2010
Commission Regulation (EU) No 544/2011
Commission Regulation (EU) No 545/2011
Commission Regulation (EU) No 546/2011
Commission Regulation (EU) No 547/2011
Commission Implementing Regulation (EU) No 844/2012
Commission Regulation (EU) No 283/2013
Commission Regulation (EU) No 284/2013

It also transfers legislating powers from Directive 2009/128/EC, on sustainable use of pesticides, allowing the future amendment of the annexes to that Directive as they have been transposed into domestic law.

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

This instrument is another in the set of three amending the EU PPP regulatory regime. It makes appropriate corrections to directly application Regulation (EC) No 396/2005, on maximum residue levels (MRLs) of pesticides in or on food and feed of plant and animal origin, to ensure that after EU Exit effective arrangements and robust controls governing the level of residues permitted in food will continue to operate in the UK.

The instrument also makes certain corrections (which relate to functions to make secondary legislation) to the following domestic and EU legislation regarding *fertilisers* -

Agriculture Act 1970

Regulation (EC) No 2003/2003 which lays down rules on the designation, definition, composition, identification and packaging of 'EC fertilisers' which can be freely traded throughout Europe

The Pesticides (Miscellaneous Amendments) (EU Exit) Regulations 2019

This instrument is the last in the set amending the EU PPP regulatory regime. It will make the necessary consequential amendments to related domestic enforcement legislation, that already extend to include Scotland, specifically the Plant Protection Products Regulations 2011 and the Plant Protection Products (Sustainable Use) Regulations 2012 (the last of which transposes Directive 2009/128/EC, establishing a framework for Community action to achieve sustainable use of pesticides, into UK law). This will ensure that these domestic regulations link correctly to the underlying retained EU law regimes.

This UK SI also amends the Pesticides (Maximum Residue Levels) (England and Wales) Regulations 2008, which currently enforce the Regulation (EC) No 396/2005, on MRLs for England and Wales. There is an equivalent Scottish SI, the Pesticides (Maximum Residue Levels) (Scotland) Regulations 2008, which will be amended separately by a SSI to be made and laid prior to 29 March 2019.

The Fertilisers and Ammonium Nitrate Material (Amendment) (EU Exit) Regulations 2018

This instrument makes appropriate corrections to legislation relating to fertilisers becoming retained EU law. It addresses failures of retained EU law to operate effectively and other deficiencies arising from EU Exit, primarily Regulation EC No 2003/2003 which lays down rules on the designation, definition, composition, identification and packaging of 'EC fertilisers' which can be freely traded throughout Europe.

It also amends the Fertilisers Regulations 1991 and the Ammonium Nitrate (High Nitrogen Content) Safety Regulations 2003 to correct out of date references before EU Exit (in exercise of powers including section 2(2) of the European Communities Act 1972) and to correct deficiencies relying as in all cases where deficiencies are being corrected for EU Exit on powers in the European Union (Withdrawal) Act 2018.

The UK SI also amends The EC Fertilisers (England and Wales) Regulations 2006, which currently enforce Regulation (EC) 2003/2003 for England and Wales. There is an equivalent Scottish SI, The EC Fertilisers (Scotland) Regulations 2006, which will be amended separately by a SSI, to be made and laid prior to 29 March 2019.

Summary of the proposals and how these correct deficiencies

Pesticide and fertiliser products play a fundamental role in UK farming and the provision of food however they can have the potential to have negative impacts on human health and the environment, therefore it is necessary to ensure that effective arrangements remain in place to regulate these products after the UK leaves the EU. The above amending SIs are necessary to ensure that retained EU law is practically workable in a UK context as the terms of the European Union (Withdrawal) Act 2018 alone are not sufficient to adapt the EU regime to make it work.

The policy objective is to stay as closely aligned to the EU regimes as possible to provide continuity and stability for businesses and users of the products, however some changes are required to ensure a national regime is practicable and realistic, particularly in areas where current EU arrangements means workload is shared across all Member States. Where amendments are proposed, it is considered that they are the minimum possible and do not pose significant policy changes.

We have long experience of working collaboratively with the UK Government in these areas. Maintaining the longstanding UK wide approach is preferable for stakeholders and beneficial for all four governments as there is little policy divergence.

Pesticides

In relation to the placing of PPPs on the market:–

At present, the marketing and use of PPPs is subject to EU regulations in particular Regulation (EC) No 1107/2009, however the EU regime is designed to work in the context of EU membership with a reliance on EU decision making processes; the sharing of workloads among member states; performance of functions by EU institutions, and EU regulatory powers that give effect to decisions.

Using the European Union (Withdrawal) Act 2018 powers, the UK SIs correct retained EU law, to ensure a working national regulatory regime after exit from the EU. They create a UK stand-alone regime with minimal modifications and no significant policy changes. Transitional arrangements in relation to active substance approvals, product authorisations and the marketing and use of seeds treated with PPPs have been established to enable continuity and ensure a smooth changeover to a UK regime.

The Plant Protection Products (Miscellaneous Amendments) (EU Exit) Regulations 2019 enables the UK to be able to take decisions on the approval and renewal of active substances (which are currently taken at EU-level) and authorisation of plant protection products that are considered justified on the basis of scientific assessment and evidence using the same criteria that are currently applied throughout the EU.

This will ensure that the UK is able to properly safeguard human health and the environment, whilst permitting appropriate use of PPPs.

Currently, decisions on active substances are given effect through EU tertiary legislation. There is an ongoing flow of regulatory decisions which need to be put into effect. To achieve this, the EU currently produces in the order of 50 additional Regulations per year. EU mechanisms to give effect to decisions will no longer be operable after exit. The amending instrument replaces the EU arrangements by establishing an administrative mechanism to give effect to national decisions on active substances in an efficient and timely way, by means of a new statutory register which will be published online. It will be established and maintained jointly by UK competent authorities.

Failure to make these corrections would see the EU regulatory regime for PPPs retained in UK law as it stands, but large parts of it would be completely inoperable, for example, the UK would be unable to take action to address environmental or human health impacts on the basis of new evidence. If provision was not made to correct deficiencies in retained EU law there would be risk of adverse economic impacts on the domestic market with UK farmers being put at a competitive disadvantage if they lost access to existing plant protection products (when they expire and cannot be renewed) or were unable to access new plant protection products entering the market.

In relation to Maximum Residue Levels:–

A key part of the process by which PPPs are approved/authorised is an assessment of the risks to consumers. There are robust controls which govern the level of residues that are permitted in food. MRLs reflect the highest amount of residues expected in food when PPPs are applied correctly and in accordance with authorised conditions of use. It is important to note that MRLs are not safety limits and are always set below, often far below, levels that would present a risk to consumers.

MRLs apply to all foods placed on the EU market, irrespective of whether they have been produced inside or outside of the EU. They facilitate trade in treated produce by providing assurance to the regulator that PPPs have been used properly. As there is a high level of public interest in food safety, annual control and monitoring programmes provide additional reassurance to consumers to enable them to buy food stuffs with confidence. Official monitoring is important to enable the regulator to check that food meets the required standards, that unauthorised pesticides have not been used and that consumer safety is assured.

As with the assessment of active substances used in the formulation of PPPs, decisions on setting MRLs are currently taken at EU level following Member State assessments. A rigorous assessment is made of the risks, which includes a full assessment of data on the level of residues resulting from their use and on the toxicology of the pesticide.

The Pesticides (Maximum Residue Levels) etc. (Amendment) (EU Exit) Regulations 2019 makes the existing provision, including in particular existing EU Regulation (EC) No 396/2005 becoming retained EU law, operable in the UK national context including: measures applying to the evaluation and setting of MRLs; rules governing the marketing of goods to ensure compliance of MRLs; measures governing the

review of MRLs; and measures governing national programmes for monitoring residues in foods placed on the market.

Similarly to decisions on active substances, decisions on MRLs are given effect through EU tertiary legislation. The amending instrument replaces the EU arrangements by establishing an administrative mechanism to give effect to national decisions on MRLs in an efficient and timely way, by means of a new statutory register which will be published online. It will be established and maintained jointly by UK competent authorities.

Combined these measures ensure that MRLs set for foods take account of the residues expected to arise from appropriate pesticides use practices ensuring the protection of the consumer, whilst also ensuring the control regime provides for consistency of control, continuity and stability in food production and supply. Transitional arrangements ensure that all MRLs in place at the time of the UK's exit from the EU will remain valid after exit to enable continuity and ensure a smooth changeover to a UK regime.

In converting the EU provisions into national requirements, it is necessary to ensure it is practicable and realistic for the UK, acting alone, to deliver. In order to make the overall timeline for this work more realistic in a UK context and aligned to actual EU practice, the deadline for MRL reviews following an active substance approval has been set at 36 months. Reviews will be prioritised to maintain effective consumer protection; reducing timelines where public health concerns exist.

In relation to the Sustainable Use Directive (Directive 2009/128/EC):-

The transfer (by the Plant Protection Products (Miscellaneous Amendments) (EU Exit) Regulations 2019) of legislation making powers from the Directive 2009/128/EC on sustainable use of pesticides is required to allow amendment of the annexes to that Directive as they have been transposed into domestic legislation.

In relation to existing domestic enforcement regulations:-

Minor corrections are needed to the existing domestic legislation. For example, there are a number of references within the current regulations which assume EU membership and/or assume elements that are reliant on EU processes or institutions. Some provisions have therefore been corrected or omitted because they are no longer relevant outside of the EU context, or have been incorporated within the replacement instruments for EU Regulations. Some obsolete references to other EU legislation have also been updated.

The Pesticides (Miscellaneous Amendments) (EU Exit) Regulations 2019 also ensures that the enforcement regulations – including the Plant Protection Products Regulations 2011 and the Plant Protection Products (Sustainable Use) Regulations 2012, which already extend to Scotland – continue to operate sensibly in a national context. This UK SI also amends the Pesticides (Maximum Residue Levels) (England and Wales) Regulations 2008, which currently enforce the Regulation (EC) No 396/2005, on MRLs for England and Wales. There is an equivalent Scottish SI, the Pesticides (Maximum Residue Levels) (Scotland) Regulations 2008, which will be amended separately by a SSI to be made and laid prior to 29 March 2019. These amendments are very minor in nature.

In summary:–

A summary of the most significant modifications made by the various amendments to the EU pesticides regime to ensure that the retained EU law UK regime is practicably workable are noted below.

- Repatriation of decision-making functions and powers under the EU regime (e.g. active substances) from the EU to UK level.
- Establish a new national mechanism to give effect to UK national decisions in an efficient and timely way by the listing of approved active substances on a statutory register, which will be published online. It will be established and maintained jointly by UK competent authorities.
- Repatriate other EU tertiary legislative powers to UK level to convert them in to a power to make regulations by Statutory Instrument, therefore keeping them on a statutory footing, with minor exceptions.
- Replace the EU components of the decision-making processes which remain relevant in a UK context with new UK processes.
- Replace the EU regime's existing power to establish a rolling EU active substance renewals programme (which is done through EU tertiary legislation) with a UK power to establish a UK wide renewals programme. Convert the provisions for the renewals programme in a way which maintains effective protection but enables the UK to ensure it has a manageable and proportionate workload for one country alone.
- Extend the deadline for MRL reviews following active substance approval from 12 to 36 months in order to make the overall timeline for this work more realistic, proportionate and feasible for the UK operating alone.
- Replace the arrangements for EU shared decision making and mutual recognition provisions with provision for UK competent authorities to be able to recognise decisions made in other parts of the UK, and to take account of relevant assessments by other regulators in their national assessments.
- Remove provision for parallel trade permits as they will be inoperable in a UK context after exit from the EU and so are not proposed to be retained in the UK regime. Parallel trade permits in force at the point of exit would remain valid. In future, UK authorisations for plant protection products will be required.
- Minor corrections will be made to text to address any references which assume EU membership and remove any elements which are reliant on EU membership.
- Put in place transitional measures needed to ensure that the changeover from the EU regime to the UK regime is smooth, e.g. retaining the current approvals, authorisations (including for treated seeds), MRLs, data formats and technical requirements over the period spanning the UK's exit from the EU.

Fertilisers

Rules and requirements around the manufacturing and marketing of fertilisers in the UK are currently partially harmonised with the EU in that it is permissible for member States to have domestic regimes in addition to EU rules.

The UK SIs make amendments to the relevant pieces of domestic and EU law to allow them to operate properly after exit, for example references to Member States and the European Commission are amended to refer instead to UK bodies, and a requirement as to the language to be used on labels is amended.

The Fertilisers and Ammonium Nitrate Material (Amendment) (EU Exit) Regulations 2018 replaces the 'EC fertilisers' regime in EU law with a new domestic regime, providing for a 'UK fertiliser' label which will function in the same way. It will allow a two year transitional period during which EC fertilisers can still be sold in the UK without a requirement to be relabelled. This will ensure business continuity and predictability for manufacturers and distributors and continued supply for farmers.

The instrument also amends the Ammonium Nitrate Materials (High Nitrogen Content) Safety Regulations 2003. These regulate fertilisers with high nitrogen content since they can be adapted for use as an improvised explosive and are potentially fatal if mishandled in manufacture, transport or storage. The instrument ensures that all ammonium nitrate fertilisers are subject to these rules, in particular, all imports will require production run detonation resistance tests.

An explanation of why the change is considered necessary

Pesticides

The UK SIs are necessary to ensure that there is an operable pesticides regime in UK context after EU Exit, to ensure that plant protection products continue to pose no unacceptable risks to humans or the environment, whilst facilitating production of affordable food and trade in food produce to operate effectively after the UK has left the EU.

Fertilisers

The UK SIs are necessary to ensure that the legislation governing the manufacturing and marketing of fertilisers is operable after EU Exit and to ensure there is no disruption to trade of fertilisers currently authorised under EU law. Changes must be made to maintain fertilisers standards in UK law and provide continuity to the sector and security of supply for farmers.

Scottish Government categorisation of significance of proposals

The Scottish Government considers that in general the provision in the proposed SIs falls within Category A, for the reasons given below. As noted elsewhere two of the proposed SIs contain provision creating or amending powers for Ministers to make regulations, including transferring current EU legislative powers to Ministers and to that extent the proposed SIs contain provision considered to fall within category B.

Scottish Ministers agree that the changes constitute a pragmatic approach to addressing deficiencies in the pesticides and fertilisers regulatory regimes arising from EU Exit, and ensure continued effective operation of those regimes, including continued high levels of protection for human health and the environment.

Where the UK SIs make provision for exercise of functions – including functions of making regulations - they do so in a manner consistent with the devolution settlement as discussed below, in particular conferring functions either on the Secretary of State acting with the consent of the Scottish Ministers or on the Scottish Ministers directly.

Impact on devolved areas

Pesticides

Pesticides are a devolved matter in Scotland. So far as the UK SIs make provision for exercise of regulation making and other functions they allow for all Governments in the UK to make regulations or exercise functions for their own territories (and so the Scottish Ministers for Scotland) and also allows the Secretary of State to make regulations for the whole of the UK (or any combination of territories in the UK) with the consent of the devolved administrations (DAs).

This option allows for divergence however, in this area, there is broad agreement that continuation of a common UK approach and a single UK-wide evidence based decision-making process would be beneficial, where possible and appropriate in each individual case. In terms of active substance and MRL decisions, it is considered likely that in the vast majority of cases it will be relatively straightforward to reach agreement, based on past experience and also because decisions are taken on the advice of a single expert regulatory body; the Health and Safety Executive. It is considered this will bring benefits. For example a single regulatory decision around MRLs will be of benefit for the operation of the UK market for food.

The default approach is to convert repatriated legislative powers into national powers to make regulations by statutory instruments. One exception is giving effect to decision making on active substances which will take effect through a new statutory register to be established and maintained jointly by UK competent authorities (ie UK, Scottish and other devolved administration Ministers). There are also some other exceptions where existing legislative powers are very minor in scope and it is considered disproportionately inefficient to use statutory instruments to implement or revise these non-essential elements due to time and administrative effort involved (for example setting the format of documents) and instead provision is made for these functions to be exercised administratively.

All functions which already allow for decisions to be made independently of other territories, such as authorisation of pesticide products and emergency authorisations, are not affected.

New governance arrangements are needed to underpin the effective operation of UK-wide decision making. It is anticipated that at a minimum this would require an MoU setting out agreed working practices and updated Agency Agreements between DEFRA, the devolved administrations and HSE (as the regulator).

Fertilisers

Fertilisers are a devolved matter in Scotland, however functions regarding ammonium nitrate fertilisers of high nitrogen content (which can be adapted for use as an improvised explosive and are potentially fatal if mishandled in manufacture, transport or storage) may relate to reserved matters, for example, health and safety.

The corrections being made by the UK SI to fertilisers legislation provide for a common UK approach. This ensures a consistent and clear policy. In particular it has been agreed that the Secretary of State will be empowered to make regulations and exercise other functions with regard to fertilisers for the UK with the consent of the Devolved Administrations. Further, DA Ministers can request that the Secretary of State exercise a regulation making function in a given case and the Secretary of State must give due consideration to that request. The exception is the exercise of regulation making functions by the Secretary of State in relation to ammonium nitrate fertilisers of high nitrogen content where the regulations are outside devolved competence, in which case the Secretary of State does not require the consent of the DAs/is not required to have regard to that request.

In other cases the UK SI makes provision for functions to be exercised by the “appropriate authority”. The “appropriate authority” in relation to a decision in respect of ammonium nitrate fertilisers of high nitrogen content where the decision is outside devolved competence is the Secretary of State. In relation to a decision in respect of other fertilisers, the appropriate authority is, in relation to Scotland, the Scottish Ministers (and in relation to England, the Secretary of State; in relation to Wales, the Welsh Ministers; and in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs). An MoU could be used to set out details of the working arrangements between the four Governments.

This option in particular allows the Secretary of State to make regulations for the UK with the consent of the other authorities. The regulations must apply to the whole of the UK, otherwise they cannot be made. There can be no divergence in recognition of benefits in this context of having a uniform approach, for example in relation to the UK mark (‘UK fertiliser’) to be put on product labels confirming that the product complies with the Regulation for the purposes of marketing in the UK.

Summary of stakeholder engagement/consultation

As these instruments are being made to avoid deficiencies arising as a result of the UK’s withdrawal from the EU, no formal public consultation is required.

On pesticides, informal stakeholder engagement is achieved through the regular UK-wide Pesticides Forum meetings. DEFRA also undertook a series of stakeholder workshops on the no deal legislative proposals in July 2018, which Scottish Government Officials attended. Representatives from a number of UK bodies from all sectors with an interest in the PPP regime attended. A number of questions were posed, but there were no strong objections to the proposals, with an acceptance that the approach would be necessary in the overall context of a no deal scenario. There is general acceptance that the proposed approach is sensible and proportionate.

On fertilisers, an industry meeting was hosted by DEFRA for the UK which informally sought stakeholders' views in the area of manufacturing and marketing of fertilisers. Stakeholders' views focused on the longer term arrangements rather than no-deal scenario arrangements. Main concerns were that there should be uninterrupted fertiliser supply and no added cost burdens to manufacturers and importers. This has been addressed through allowing for a time limited adjustment period for labelling.

The UK Government have published a series of technical notices which provide detail on how UK businesses and individuals should prepare in the event of a no deal Brexit scenario, including notices on [regulating pesticides](#) and [manufacturing & marketing fertilisers](#). The Scottish Government has not received any enquiries from stakeholders on these to date.

A note of other impact assessments

An impact assessment has not been carried out in relation to these regulations as they are aimed at preserving the effect of the current regulatory regimes.

Summary of reasons for Scottish Ministers' proposing to consent to UK Ministers legislation

The Scottish Ministers propose to consent to UK SIs to fix deficiencies in the related domestic and EU legislation. The approach set out in the UK SIs is realistic, achievable and minimises immediate disruption. It ensures continuity of current arrangements for stakeholders, Governments and regulators and ensures continued protection of human health and the environment.

We have long experience of working collaboratively with the UK Government in these areas. Maintaining the longstanding UK wide approach is preferable for stakeholders and beneficial for all four governments as there is little policy divergence.

The Scottish Ministers believe that the changes proposed in these regulations are necessary insofar as falling within devolved competence to secure continuation of effective regulatory regimes. The approach respects the devolution settlement and in the current circumstances where there is existing UK-wide legislation and there is a need to prepare for a no deal exit from the EU, the Scottish Ministers consider that it is appropriate for the fixing legislation to be made on a UK-wide basis by the UK Government.

Detail how Scottish Ministers' have had regard to the guiding principles on animal welfare and the environment.

The directly applicable legislation which will be rolled over post-exit and the related implementation/enforcement legislation have already been made with the guiding principles on animal welfare and the environment in mind. The proposed fixes in the UK SIs adhere to the spirit of the underlying EU regime – no significant policy changes are proposed.

Intended laying date of instruments

The Plant Protection Products (Miscellaneous Amendments) (EU Exit) Regulations 2019 and the Pesticides (Maximum Residue Levels) etc. (Amendment) (EU Exit) Regulations 2019 are both affirmative instruments and it is understood will be laid in draft on 11 December 2018.

The Fertilisers and Ammonium Nitrate Material (Amendment) (EU Exit) 2018 will it is understood be laid for sifting on 1 November 2018. The Pesticides (Miscellaneous Amendments) (EU Exit) 2019 will it is understood be laid for sifting on 11 December 2018. These SIs are negative and sifting is a Westminster process which negative SIs go through to determine whether it is appropriate for the negative procedure to apply.

DEFRA have undertaken that all UK Exit SIs which require the consent of Scottish Ministers will not be made until after the consent of the Scottish Parliament is obtained.

Does the Scottish Parliament have 28 days to scrutinise?

Yes.

Information about any time dependency associated with the proposal

It is essential that the Regulations are in force on the day we exit the EU in the event of a no deal scenario to ensure that legislation is operable to allow continued high levels of protection for human health and the environment, continued facilitation of trade and continued supply of pesticides and fertilisers for farmers.

It is worth noting that there is likely also a need for amendments to fix deficiencies in the Pesticides (Maximum Residue Levels) (Scotland) Regulations 2008 and the EC Fertilisers (Scotland) Regulations 2006. These will likely be combined in a single EU Exit Scottish SI.

Are there any broader governance issues in relation to this proposal and how will these be regulated and monitored post-withdrawal?

Following finalisation of the draft SIs, the Scottish Government will work with UK Government and other devolved administrations to put in place sound governance arrangements to ensure transparency and accountability for decision making. This work will be designed within the context of the principles, agreed by the UK Government, the Scottish Government and the Welsh Government on 16 October 2017, to apply to common frameworks. In the areas of pesticides and fertilisers discussions with DEFRA and the other devolved administrations are already underway.

Any significant financial implications

These Regulations are not expected to have any financial implications for stakeholders in Scotland.

In the area of pesticides, there will be additional costs incurred by the UK Government and HSE, as the regulator, in building national capacity to run decision making bodies, review legislation, create guidance and manage the process around the increased applications for approval of active substances and their maximum residue levels since these costs are currently shared between Member States. This is currently a function centrally funded by the UK on behalf of all of its constituent parts.