Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs) (Scotland) Regulations 2000. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

SCOTTISH STATUTORY INSTRUMENTS

2000 No. 22

AGRICULTURE

PESTICIDES

The Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs) (Scotland) Regulations 2000

Made - - - -	*31st January 2000*
Coming into force - -	*1st February 2000*

The Scottish Ministers, in exercise of the powers conferred on them by section 2(2) of the European Communities Act 1972[F1] and by section 16(2) of the Food and Environment Protection Act 1985[F2], and of all other powers enabling them in that behalf, after consultation in accordance with section 16(9) of the said Act of 1985 with the Advisory Committee on Pesticides established under section 16(7) of that Act[F3], hereby make the following Regulations, a draft of which has been laid before and approved by resolution of the Scottish Parliament:

F1 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46), **Schedule 8**, paragraph 15(3). The function conferred upon the Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, was transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

F2 1985 c.48; see **section 24(1)** for a definition of "the Ministers" and section 24(3) on the exercise of the power conferred by section 16. Section 16 was amended by the Pesticides (Fees and Enforcement) Act 1989 (c.27), **section 1(2)** and by the Pesticides Act 1998 (c.26), **section 1**. The functions of "the Ministers" were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

F3 Established by S.I. 1985/1516.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs) (Scotland) Regulations 2000 and shall come into force on 1st February 2000.

(2) These Regulations extend to Scotland only.

Interpretation

2.—(1) In these Regulations–

"EEA State" means a State which is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 [F4] as adjusted by the Protocol signed at Brussels on 17 March 1993 [F5];

"product" means any crop, food or feeding stuff specified in Schedules 2 or 3;

"putting into circulation" means any handing over, whether or not for a consideration of any product–

(a) in the case of fruit and vegetables, after they have been harvested, and

(b) in any other case, at any time; and

"the Residues Directives" means Council Directive 86/362/EEC[F6] (as amended by Council Directives 88/298/EEC[F7], 90/654/EEC[F8], 93/57/EEC[F9], 94/29/EC[F10], 95/39/EC[F11], 96/33/EC[F12], 97/41/EC[F13] and Commission Directives 97/71/EC[F14], 98/82/EC[F15], 1999/65/EC[F16] and 1999/71/EC[F17], together with Council Directive 86/363/EEC[F18] (as amended by Council Directives 93/57/EEC, 94/29/EC, 95/39/EC, 96/33/EC, 97/41/EC and Commission Directives 97/71/EC, 98/82/EC and 1999/71/EC) and Council Directive 90/642/EEC[F19] (as amended by Council Directives 93/58/EEC[F20], 94/30/EC[F21], 95/38/EC[F22], 95/61/EC[F23], 96/32/EC[F24], 97/41/EC and Commission Directives 97/71/EC, 98/82/EC, 1999/65/EC and 1999/71/EC).

(2) The words and expressions "dried", "processed", "composite food", "drying" and "processing", when used either in regulation 4 or in paragraphs (d) and (e) of regulation 6 shall have the same meaning as when used in the Residues Directives and any related expressions shall be construed accordingly.

(3) Any reference in these Regulations to a pesticide residue is a reference to the substance named in column 2 of Schedule 1 opposite the pesticide named in column 1 of that Schedule from which, or from the metabolites and breakdown or reaction products of which, it can be derived.

(4) Any reference in these Regulations to a numbered Schedule or regulation shall be construed as a reference to the Schedule or, as the case may be, regulation so numbered in these Regulations.

(5) Any reference in any Schedule to these Regulations to any product, figure or pesticide includes any qualifying words relating to that product, figure or pesticide in that Schedule.

F4 O.J. No. L1, 3.1.94, p.3.
F5 O.J. No. L1, 3.1.94, p.572.
F6 O.J. No. L221, 7.8.86, p.37.
F7 O.J. No. L126, 20.5.88, p.53.
F8 O.J. No. L353, 17.12.90, p.48.
F9 O.J. No. L211, 23.8.93, p.1.
F10 O.J. No. L189, 23.7.94, p.67.
F11 O.J. No. L197, 22.8.95, p.29.
F12 O.J. No. L144, 18.6.96, p.35.
F13 O.J. No. L184, 12.7.97, p.33.
F14 O.J. No. L347, 18.12.97, p.42.
F15 O.J. No. L290, 29.10.98, p.25.
F16 O.J. No. L172, 8.7.99, p.40.
F17 O.J. No. L194, 27.7.99, p.36.
F18 O.J. No. L221, 7.8.86, p.43.
F19 O.J. No. L350, 14.12.90, p.71.
F20 O.J. No. L211, 23.8.93, p.6.
F21 O.J. No. L189, 23.7.94, p.70.
F22 O.J. No. L197, 22.8.95, p.14.
F23 O.J. No. L292, 7.12.95, p.27.

F24 O.J. No. L144, 18.6.96, p.12.

Maximum residue levels

3. The maximum level of any pesticide residue which may be left in any product named in Part I of Schedule 2 shall be the number of milligrams of the pesticide residue per kilogram of the product (if any) specified opposite the name of that product under the name of the pesticide concerned.

4.—(1) No person shall put into circulation any product named in Part 2 of Schedule 2 which contains a level of pesticide residue greater than the number of milligrams of that pesticide residue per kilogram of the product (if any) specified opposite the name of that product under the name of the pesticide concerned.

(2) Subject to the provisions of regulation 6, the provisions of this regulation shall apply–

(a) to any products which after drying or processing are obtained from any of the products named in Part 2 of Schedule 2; and

(b) to any composite foods which include any of the products named in that Part of that Schedule,

notwithstanding that no maximum permitted level has been expressly specified therein for the amount of pesticide residue which may be contained in that dried or processed product or composite food.

(3) Any person who, without reasonable excuse, contravenes or causes or permits any other person to contravene any provision of this regulation shall be guilty of an offence, and shall be liable–

(a) on summary conviction, to a fine not exceeding the statutory maximum; and

(b) on conviction on indictment, to a fine.

(4) In any proceedings for an offence under this regulation, it is a defence for the person charged to prove that when the product in question was put into circulation–

(a) it was so put with the intention of its being exported to a country which is not an EEA State and the offence was caused by a treatment applied to that product being a treatment–

(i) required by the country of destination in order to prevent the introduction of harmful organisms into its territory; or

(ii) necessary to protect the product from harmful organisms during transport to the country of destination and storage there, or

(b) it was so put with the intention that–

(i) it be used in the manufacture of things other than foodstuffs and animal feed; or

(ii) it be used for sowing or planting.

(5) Sections 19 and 22 of, and Schedule 2 to, the Food and Environment Protection Act 1985 shall apply for the purposes of this regulation as they apply for the purposes of that Act taking references therein to that Act or any Part of it to be references to this regulation.

(6) In paragraph (4)(a) “country which is not an EEA state" does not include any part of the United Kingdom.

Seizure or disposal of crops, food or feeding stuffs

5. If any product contains a level of pesticide residue above that permitted under either regulations 3 or 4(1), the Scottish Ministers shall have the power–

(a) to seize or dispose of the consignment containing that product, or any part of it, or to require that some other person shall dispose of it, or

(b) to direct some other person to take such remedial action as appears to the Scottish Ministers to be necessary.

Sampling and analysis

6. In determining for the purposes of regulations 3 or 4(1) whether the level of pesticide residue left or contained in any product exceeds the maximum permitted–

(a) the whole or such part only of that product shall, so far as is practicable, be taken into account as specified in column 3 of Schedule 3 opposite the name of that product in column 2 of that Schedule;

(b) the procedure laid down in the Codex Recommended Method of Sampling for the Determination of Pesticide Residues [F25] shall so far as is practicable be followed;

(c) in the case of any product named in paragraphs 3, 4, or 5 of Part 1 of Schedule 2 which has been dried, that Part of that Schedule shall have effect as if for the number of milligrams of each pesticide residue specified opposite the name of that product there were substituted that number of milligrams divided by the fraction of 1 kilogram to which 1 kilogram of the product is reduced by the drying process;

(d) in the case of any product named in Part 2 of Schedule 2 which has been dried or processed, that Part of that Schedule shall have effect where no such maximum permitted level of pesticide residue is specified therein for the product in its dried or processed form as if the maximum permitted level of pesticide residue specified opposite the name of the product in that Part of that Schedule has been modified to take account of the concentration of the product caused by the drying process or, as the case may be, the dilution or concentration of the product caused by the processing; and

(e) in a case where two or more products have been mixed to form a single composite food in relation to which no such maximum permitted levels are specified in Part 2 of Schedule 2, that Part of that Schedule shall have effect as if such maximum permitted levels had been specified in relation to that composite food for each of the pesticide residues which are specified therein opposite the names of each of the products which have been mixed to form the composite food, taking into account–

(i) the relative concentrations of each of the constituent products in the mixture; and

(ii) the provisions of paragraph (d) above.

F25 Food and Agriculture Organisation of the United Nations and World Health Organisation Joint Food Standards Programme Codex Alimentarius Commission, Recommended Method of Sampling for the Determination of Pesticides Residues,*Volume 2 Section 3 Codex Alimentarius*, 1993

Revocations

7. The Regulations specified in Schedule 4 are hereby revoked.

St Andrew's House, Edinburgh
31st January 2000

ROSS FINNIE
A member of the Scottish Executive

SCHEDULE 1 Regulation 2

Column 1 **Pesticide**	***Column 2*** **Residues**
Acephate	Acephate
Aldrin & Dieldrin	singly or combined, expressed as dieldrin (HEOD)
2-Aminobutane	2-aminobutane
Aminotriazole	Aminotriazole
Atrazine	Atrazine
Azinphos-methyl	azinphos-methyl
Benalaxyl	Benalaxyl
Benfuracarb	Benfuracarb
Binapacryl	Binapacryl
Biphenthrin	Biphenthrin
Bitertanol	Bitertanol
Bromophos-ethyl	bromophos-ethyl
Camphechlor (Toxaphene)	camphechlor (toxaphene)
Captafol	Captafol
Captan	Captan
Carbaryl	Carbaryl
Carbendazim, Benomyl and Thiophanate-methyl	carbendazim, benomyl and thiophanate-methyl (expressed as carbendazim)
Carbon disulphide	carbon disulphide
Carbon Tetrachloride	carbon tetrachloride
Carbofuran	sum of carbofuran and 3-hydroxy-carbofuran, expressed as carbofuran
Carbophenothion	sum of carbophenothion, its sulphoxide and its sulphone, expressed as carbophenothion
Carbosulfan	Carbosulfan
Cartap	Cartap
Chlordane	(1)for products of animal origin: sum of*cis*-and*trans*-isomers and oxychlordane expressed as chlordane; (2)for cereals, fruit and vegetables: sum of*cis*-and*trans*- isomers expressed as chlordane
Chlorfenvinphos	sum of E-and Z-isomers of chlorfenvinphos
Chlormequat	Chlormequat