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Dear Mrs Kennedy

**RE CONSULTATION ON IMPLEMENTING EU PESTICIDES LEGISLATION**

The above consultation paper has been circulated amongst the Farmer' Union of Wales' twelve County Branches, and their views have been taken into full account in drafting the below response.

Yours sincerely

Nicholas Fenwick  
**Director of Agricultural Policy**

# **FARMERS' UNION OF WALES RESPONSE TO A DEFRA CONSULTATION ON IMPLEMENTING EU PESTICIDES LEGISLATION**

## **General Comments**

The Farmers' Union of Wales (FUW) believes that much of the EU pesticides legislation contained in Regulation (EC) 1107/2009 and Directive 2009/128/EC represent an unnecessary, overzealous and disproportionate approach to pesticide use. In particular, the union believes that the Regulations do not take sufficient account of the nature of individual pesticides, and the volumes of such pesticides used by individuals.

The Regulations will therefore result in costs for individual businesses which are wholly disproportionate to the level of use of, and types of pesticides used by those businesses. This is particularly pertinent for the vast majority of farm businesses in Wales, where pesticide use is low, but nevertheless constitutes an important part of land management. It should also be noted that pesticides are widely used to bring about environmental benefits, including via publicly funded schemes to reduce the encroachment of invasive species such as bracken.

The overwhelming majority of members therefore believed that changes to current arrangements should only take place where such changes are necessary to avoid infraction proceedings, and that failure to implement the Regulations at the lowest possible level will adversely affect both agriculture and the environment.

The Union therefore believes that Option 1 should be implemented wherever possible.

## **Article 4: National Action Plans**

### *1. What is your preferred approach for a National Action Plan and why?*

The FUW favours maintaining the current Strategy and Action Plans with minimal change, since this would minimise the cost burdens for industry and government.

### *2. How can NAPs best be used to reduce the risks associated with pesticide use to human health and the environment?*

The answer to this question is given in the existing Strategy and Action Plans.

### *3. What are your views on introducing a pesticide reduction target in the UK?*

Such a target should only be set following detailed consideration and consultation with all stakeholders. Moreover, as is highlighted in the consultation document, the government itself recognises that policies to cut the use of particular pesticides will not deliver any meaningful reduction in risk.

## **Article 5: Training and Certification requirements**

The FUW believes that the requirement for individuals to undertake training and be certified, irrespective of the nature of the pesticide used and the level of use, is wholly disproportionate, and therefore represents an unnecessary bureaucratic burden for the vast majority of Welsh farm businesses.

4. and 5. *What is your preferred approach and why? What type of training and assessment requirement would be appropriate for those spray operators with “grandfather rights”?*

The FUW believes that any changes to training and certification requirements should be at the very lowest level, and that grandfather rights should be phased out over as long a period as possible.

Moreover, training and assessment requirements should be proportionate to the experience of individuals, and the nature and volumes of pesticides used by those individuals.

Given that many of those currently participating in CPD schemes have to travel to England for training, due to a limited number of courses, the FUW also believes that efforts should be made to maximise the number of training providers in order to ensure access for businesses, particularly for those in more rural areas.

6. *Do you support the extension of the training and certification requirements (both initial and additional) for professional users and distributors to advisors?*

The FUW believes that training and certification should only be made a requirement where this is explicitly required by EU rules, and where failure to do so would result in infraction proceedings against the UK.

7. *Are there particular offences that you think should automatically incur the withdrawal of a certificate?*

The FUW believes that offences should be dealt with on a case by case basis, with individual circumstances being taken into full account before the withdrawal of a certificate.

#### **Article 6: Sales Requirements**

8. *What is your preferred approach and why?*

The FUW favours an approach which is as similar to current arrangements as possible without contravening EU rules.

9. *Do you think that micro-distributors meeting the requirements described in Article 6(1) should be exempted from the requirement to have sufficient certificated staff present at the time of sale?*

Yes; the FUW is not convinced that the implementation of the new EU requirements in a manner which does not distinguish between normal and micro-distributors will not result in a significant increase in the regulatory burden for micro-distributors. The Union therefore supports implementation in a manner which favours the aims of the Government’s Better Regulation policy.

10. *Do you have any comments on the system proposed for restricting the sales of pesticides for professional use to qualified users?*

No.

## **Article 8: Equipment Testing**

13. *What is your preferred approach and why?*

The FUW believes that the requirement to test equipment should be implemented at the lowest possible level.

14. *Do you think a derogation from inspection should be allowed for handheld equipment and knapsacks, or, if not, should a different timetable for inspection be applied to these equipment types?*

The FUW believes that derogations from inspection requirements should be allowed for handheld equipment and knapsacks, on the grounds that:

- i. The volumes of pesticides administered by such equipment are significantly lower than for larger equipment
- ii. Problems relating to the use of such equipment are significantly more likely to be the result of bad practice rather than equipment failure
- iii. Requiring such equipment to be routinely inspected is likely to reduce the control of invasive and dangerous plants, resulting in their propagation in a manner that could ultimately lead to more pesticide use
- iv. Allowing such a derogation would favour implementation in a manner which meets Government's Better Regulation policy
- v. Training requirements are likely to include equipment maintenance

15. *Are there any specific types of pesticide application equipment that you think should be exempted from inspection requirements? These could include: pesticide application equipment not used for spraying pesticides (such as granular applicators or equipment for treating seeds) or equipment that represents a very low scale of use.*

The FUW believes that equipment used for low scale use, such as quad-bike mounted sprayers, should also be subject to a derogation under Article 8. Moreover, the implementation of such a derogation is supported by the facts that the new requirements will allow levels of usage to be monitored, and compulsory training is likely to include elements relating to the maintenance of such equipment.

16. *Who do you think should deliver the inspection scheme and why?*

As many bodies as possible should be allowed to deliver the inspection scheme in order to maximise access for those living in remote areas, and to encourage competition between those bodies and avoid situations where such bodies effectively hold local monopolies over inspections.

## **Article 9: Aerial Applications**

### **17. *What is your preferred approach and why?***

The aerial application of Asulox represents a long established and safe method of bracken control in areas that are otherwise inaccessible to vehicles. Such control is essential in terms of both agriculture and the environment, and it should also be noted that bracken can represent significant health risks to both humans and animals.

Aerial application is currently subject to strict controls, and the FUW therefore believes that the derogation should be introduced to allow such spraying to continue with as few changes to current practice as possible.

## **Article 11: Water Protection**

### **18. *What is your preferred approach and why?***

The FUW believes that the Regulation should be introduced at the lowest possible level in a manner which complies with the EU requirements.

### **19. *Do you think that government should create a power to establish safeguard zones as envisaged in this Directive, to restrict/prohibit pesticide applications? or do you think it would be preferable to impose no-spray zones as a restriction on all pesticide products? (except those specifically approved for use on river banks or in water)***

The FUW believes that temporary safeguard zones/no-spray zones should only be created where problems have been identified.

## **Article 12: Protection of specific areas**

### **21. *What is your preferred approach and why?***

The FUW believes that the current regime should continue with minimum changes.

### **22. *Do you think it is appropriate to prohibit the use of pesticides in public spaces or conservation areas? If yes, what alternative approaches to disease and weed management would you propose in those areas?***

No. pesticide use is important in maintaining public areas in a manner which allows public access, recreation, and physical exercise. Pesticides are also important in terms of controlling invasive and non-native species in public areas in order to encourage biodiversity. The appropriate control of certain plant species is also a legal requirement, and it would therefore not be appropriate to limit weed management options in such areas, particularly as this could in some cases have adverse impacts on human and animal welfare.

### **Article 13: Storage, handling and waste**

23. *What is your preferred approach and why?*

Option 1 represents the most proportionate approach, and represents implementation in a manner which is in line with the Government's Better Regulation policy.

24. *Do you think that take-back schemes or amnesties are an effective way of addressing the risks associated with old pesticide products/packaging that may remain in stores? Can you suggest any other suitable schemes?*

Yes

25. *Do you think that storekeepers should have a legal obligation to comply with standards for store design, or is it preferable to set guidelines?*

The FUW does not believe there are sufficient grounds to warrant compelling storekeepers to comply with store design standards, and therefore supports the provision of guidelines.

### **Article 14: Integrated Pest Management**

26. *In which areas do you think pesticide users would benefit from more information/advice, to help them adopt integrated approaches?*

Types of pesticide use vary so widely that any needs for more information and advice should be assessed on a case-by-case basis.

27. *Do you have any thoughts on what type of written evidence/record could be provided by pesticide users (of any sector) to demonstrate compliance with IPM principles?*

The provision of information regarding IPM principles to all those who require certification under the new regime should be interpreted as knowledge and compliance with those principles, unless evidence exists suggesting otherwise.

### **Article 15: Indicators**

28. *What is your preferred approach and why?*

The FUW believes that the existing UK approach and suite of indicators should be continued, on the grounds that this represents minimal costs for all concerned.

## Chapter Six: Information Provisions in the PPP Regulation

*Questions for spray notification and records disclosure:*

29. *What is your preferred approach and why?*

The FUW believes that the current best practice approach can effectively influence the behaviours of spray operators, and is therefore adequate.

30. *Do you have any information (additional to that presented in our impact assessment) on the potential benefits of spray notification and access to spray records that you can provide us with?*

No

31. *Do you think that it would be appropriate for some or all of the costs to government to be offset by charging enquirers a reasonable fee for handling requests for spray records?*

Yes, as this would minimise the likelihood of large volumes of spurious and groundless enquiries being made by individuals and organisations.

32. *Do you consider that organisations publishing advance spray schedules would be an effective way of increasing public information? Would your organisation be prepared to do this as a matter of routine*

No

33. *Do you have any comments on the usefulness of public information signs where the public may have access to sprayed areas?*

No

34. *Since there is limited information available to assess the impacts of an obligation to provide spraying notification on the agricultural/horticultural sector we are seeking the views of those affected groups, in order to prepare a more complete assessment. Therefore we would welcome case studies to demonstrate how such businesses would be affected by the possible approaches in terms of business, financial, administrative and other costs. Can you provide such evidence?*

Not at present

## **Penalties**

35. and 36. *Do you have any comments on the appropriateness of different types of penalty for non compliance – criminal or administrative? Which approach do you think would be more effective in dealing with non-compliance?*

The FUW believes that non-compliance should be dealt with on a case-by-case basis, and that criminal prosecution should be reserved for breaches of legislation which have serious consequences. The FUW also believes that, where non-compliance constitutes a breach of cross-compliance which results in a financial penalty being applied to a Single Payment, the authorities should recognise this in a manner that prevents more than one penalty being applied under different legislation for a single action.

## **Funding arrangements and the impact assessments**

Funding the EC pesticides regime

37. *What approach do you prefer and why?*

The FUW believes that much of the new EU requirements are unnecessary and disproportionate, and therefore that all costs associated with the new regime, including the cost of training, certification, and equipment testing, should be borne by central Government and the EU.