EXPLANATORY MEMORANDUM TO

THE CLASSIFICATION, LABELLING AND PACKAGING OF SUBSTANCES AND MIXTURES (AMENDMENT AND CONSEQUENTIAL PROVISION) REGULATIONS 2023

2023 No. 1344

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department of Health and Social Care ("DHSC") and is laid before Parliament by Command of His Majesty.

2. Purpose of the instrument

2.1 This instrument makes consequential amendments to Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures ("the GB CLP Regulation"), to remove mention of Annex VIII following the revocation of Annex VIII of the GB CLP Regulation by the Retained EU Law (Revocation and Reform) Act 2023 ("the 2023 Act"). This instrument also revokes certain retained EU legislation which are made redundant due to the revocation of Annex VIII of the GB CLP Regulation by the 2023 Act.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales, and Scotland.

4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales, and Scotland.

5. European Convention on Human Rights

5.1 As the instrument is subject to the negative resolution procedure, and does not amend primary legislation, no statement is required.

6. Legislative Context

6.1 This instrument is being made under sections 19(1) and 20(1)(b) of the 2023 Act. Pursuant to Part 2 of Schedule 1 to the 2023 Act, Annex VIII of the GB CLP is revoked and is due to expire on 31st December 2023 due to a "sunset" clause of the 2023 Act. This instrument makes minor and technical amendments to the GB CLP Regulation as a consequence of that revocation and revokes certain other retained EU legislation which is redundant as a consequence of that revocation.

7. Policy background

What is being done and why?

7.1 DHSC are introducing this instrument as a consequence of the 2023 Act, which revoked Annex VIII to the GB CLP Regulation, to remove outstanding references to Annex VIII throughout the GB CLP Regulation. The removal of references is intended to minimise confusion amongst importers (those responsible for the physical introduction of chemicals into GB) and downstream users (those who use chemicals in the course of their industrial or professional activities, excluding manufacturers and importers) on whom Annex VIII placed obligations to submit certain harmonised information on hazardous mixtures placed on the GB market.

7.2 The GB CLP Regulation adopts the United Nations' Globally Harmonised System (UN GHS) of classification and labelling of chemicals, an internationally agreed system for evaluating and communicating the hazardous properties of chemicals. The requirements of the GB CLP Regulation allow users throughout the supply chain to access hazard information about chemicals to enable them to take suitable precautions to protect people and the environment.

7.3 Following engagement with the UK Health Security Agency, Department for Business, Energy, and Industrial Strategy (now Department for Business and Trade), and industry, DHSC found that the costs to industry of implementing the mandatory reporting requirement as set out in Annex VIII outweighed the public health benefits when compared to the existing voluntary reporting approach. Therefore, this instrument removes references to Annex VIII throughout the GB CLP Regulation and replaces the mention of 'mandatory' reporting with 'voluntary' reporting for greater clarity. This aligns with the intentions of the 2023 Act and will help ensure that the UK statute book is clear and comprehensive to minimise burden on importers and downstream users.

7.4 The instrument also revokes several secondary retained EU laws which amended Annex VIII and so which are now redundant.

8. European Union Withdrawal, Future Relationship, and REUL Reform

8.1 This instrument does not relate to withdrawal from the European Union or trigger the statement requirements under the European Union (Withdrawal) Act 2018.

8.2 This instrument does, however, relate to the reform of retained EU legislation, since it is made under sections 19(1) and 20(1)(b) of the 2023 Act, and makes amendments which are consequential upon the revocation of retained EU law (namely, Annex VIII to the GB CLP Regulation) by that Act.

9. Consolidation

9.1 There are no plans to consolidate the legislation amended by this instrument.

10. Consultation outcome

10.1 No consultation was carried out on account of the consequential nature of the amendment.

11. Guidance

11.1 Not applicable as the amendment contained in this instrument is consequential and does not impose any new obligations.

12. Impact

12.1 There is no, or no significant, impact on business, charities, or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 A full Impact Assessment has not been prepared for this instrument because the amendments introduced do not themselves make material changes to the GB CLP regulations. Therefore no, or no significant, impact on the private, voluntary, or public sector is foreseen.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 The approach to monitoring of this instrument is that monitoring will not be necessary as these are consequential amendments only.

14.2 As this instrument is made under the 2023 Act, no review clause is required.

15. Contact

15.1 Priya Iype at the Department of Health and Social Care email: environmental.hazards@dhsc.gov.uk can be contacted with any queries regarding the instrument.

15.2 Will Jones, Deputy Director for Health Protection Policy and Sponsorship at the Department of Health and Social Care can confirm that this Explanatory Memorandum meets the required standard.

15.3 Maria Caulfield, Parliamentary Under Secretary of State for Mental Health and Women's Health Strategy, at the Department of Health and Social Care can confirm that this Explanatory Memorandum meets the required standard.