EXPLANATORY MEMORANDUM TO

THE CHEMICALS (HEALTH AND SAFETY) (AMENDMENT, CONSEQUENTIAL AND TRANSITIONAL PROVISION) REGULATIONS 2026

2026 No. [XXXX]

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Health and Safety Executive (HSE) on behalf of the Department for Work and Pensions and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Sir Stephen Timms, Minister of State for Social Security and Disability at the Department for Work and Pensions, confirms that this Explanatory Memorandum meets the required standard.

2.2 Kate Haire, Deputy Director (SCS1) for Engagement and Policy Division at the Health and Safety Executive, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Egle Gabalyte at the HSE can be contacted by email egle.gabalyte@hse.gov.uk with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument makes changes to three EU regulations that were assimilated into domestic law by the Retained EU Law (Revocation and Reform) Act 2023[1] ('the REUL Act') following EU Exit. It rectifies a number of issues that could not be addressed at EU Exit due to the nature of the legal powers in the European Union (Withdrawal) Act 2018[2]. The changes made by this instrument are outlined below:

- The making available on the market and use of biocidal products - resolves critical issues in the GB biocides regime which could otherwise lead to a large group of biocidal products being removed from the GB market. Paragraphs 5.1 - 5.2 provide further information on the changes.
- The classification, labelling and packaging of chemical substances and mixtures - introduces simplification and greater flexibility to prioritise hazard classification evaluations that are most relevant to the GB market and ensures that other legislative requirements and processes are more relevant to the needs of the GB market. Paragraphs 5.3 - 5.5 provide further information on the changes.
- The export and import of hazardous chemicals - removes redundant administrative requirements to reduce burdens on business and the HSE as the regulator. Paragraphs 5.6 - 5.8 provide further information on the changes.

[1] Retained EU Law (Revocation and Reform) Act 2023 - https://www.legislation.gov.uk/ukpga/2023/28/contents/enacted
[2] European Union (Withdrawal) Act 2018 - https://www.legislation.gov.uk/ukpga/2018/16/contents

Where does the legislation extend to, and apply?

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

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

4.4 EU legislation continues to apply in Northern Ireland under Annex 2 of the Windsor Framework[3]. Therefore, this instrument does not extend or apply to Northern Ireland.

5. Policy Context

What is being done and why?

<u>The Great Britain Biocidal Products Regulation (GB BPR)</u>

5.1 GB biocides legislation is based on EU Regulation (EU) No 528/2012[4] of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products ('EU BPR') and is known commonly as the Great Britain Biocidal Products Regulation[5] ('GB BPR'). GB BPR regulates the placing on the market and use of biocidal products, which are a diverse range of products that control harmful organisms, such as insecticides, rodenticides and disinfectants. It also makes provision for the assessment of active substances that are used in biocidal products, which are the chemicals that have the controlling effect on the harmful organism. This instrument:

- ensures that a group of up to 173 approved active substance/product type combinations[6] remain on the GB market until 31 July 2031, subject to a renewal of approval application being received, where their approvals would otherwise have lapsed through no fault of the applicants because they had reached their expiry dates (which fall on different dates between 23 June 2026 and 30 July 2031 inclusive). This extension to expiry dates will enable wider reforms to the biocides regime to be developed and undertaken during this period by the HSE, with the aim of changing how approved active substances are managed to avoid the need for further similar extensions in future.
- updates provisions which allow essential biocidal products to remain on the GB market where they are necessary to deal with a danger to public health, animal health or the environment which cannot be contained by other means. This will allow for the biocidal product to be kept on the GB market either for up to 550 days (as at present) or until the biocidal product is authorised, in a case where the continued need to use it is unlikely to be temporary.
- amends data protection rules in GB BPR to clarify how the EU-derived legislation is intended to be applied as the original legislation was ambiguous. The changes ensure that all approved active substances will benefit from the applicable data protection periods and recent changes to data protection end dates[7] will be applied to all relevant active substances.

[3] Annex 2 of the Windsor Framework - https://www.gov.uk/government/publications/decision-no-22025-of-the-joint-committee-established-by-the-agreement-on-the-withdrawal-of-the-uk-from-the-eu-adding-a-newly-adopted-union-act-to-an
[4] EU BPR - https://eur-lex.europa.eu/eli/reg/2012/528/oj/eng
[5] GB BPR - https://www.legislation.gov.uk/eur/2012/528/contents
[6] The term 'active substance(s)' will be used to refer to active substance/product type combination(s) for the remainder of this explanatory memorandum and numbers of active substances cited should be understood accordingly. Each active substance/product type combination requires a separate evaluation and approval under GB BPR.
[7] The Biocidal Products (Data Protection Periods) (Amendment) Regulations 2025 - https://www.legislation.gov.uk/uksi/2025/1221/contents/made

5.2 The societal benefits of maintaining these active substances on the market include preventing the spread of disease (including through international air travel); preventing damage to businesses and homes; averting business disruption and loss of stock; and maintaining the integrity and efficiency of ships on the sea.

The Great Britain Classification, Labelling and Packaging Regulation (GB CLP)

5.3 Regulation (EC) No 1272/2008[8] of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures ('EU CLP'), is known commonly as the Great Britain Classification, Labelling and Packaging Regulation[9] ('GB CLP'). GB CLP aims to ensure the effective identification and communication of chemical hazards and the safe and secure packaging of chemicals in order to protect human health and the environment. It also provides the legislative means through which the UK continues to adopt and give legal effect to the United Nations Globally Harmonized System of classification and labelling of chemicals[10], an internationally agreed voluntary system of hazard identification and communication.

5.4 EU CLP was designed with the needs of the EU and the combined resources of all EU member states in mind. As a result, GB CLP contains some procedures and requirements which HSE's experience of operating the regime has found to be time consuming and costly to comply with. This instrument:

- simplifies and consolidates the existing procedures (see 5.24) used to reflect scientific and technical changes to the legally binding 'Mandatory Classification and Labelling List'[11] ('the MCL List') produced by HSE and establishes a faster evaluation pathway to determine the hazards of chemical substances.
- removes the obligation on HSE to automatically consider EU classification and labelling proposals to enable greater flexibility to prioritise hazard classification evaluations that are most relevant to the GB market.
- amends the mechanism by which the Devolved Governments of Scotland and Wales are informed of proposed changes to the GB MCL List to remove duplication.
- removes technical notes pertaining to entries on the MCL List from GB CLP to facilitate the relocation of those notes to HSE's website (where the MCL List itself is located). In conjunction with the amendments to the Mandatory Classification and Labelling (MCL) procedures described above, these changes will enable more efficient delivery of MCL updates to quicker timescales using requirements and processes that are more appropriate for the GB market. This will reduce uncertainty for chemical suppliers who are legally required to apply those mandatory classifications and labelling elements.
- removes burdensome chemicals notification requirements placed on suppliers to reduce the cost of compliance and facilitate business growth. It also removes associated requirements for HSE to establish and manage a publicly accessible database of the notifications it receives. The requirements are considered unnecessary as the notifications are not used by HSE for the immediate enforcement or delivery of GB CLP. Instead, HSE will achieve the aims of

[8] EU CLP - https://eur-lex.europa.eu/eli/reg/2008/1272/oj
[9] GB CLP - https://www.legislation.gov.uk/eur/2008/1272/contents
[10] About the GHS | UNECE - https://unece.org/about-ghs
[11] GB Mandatory Classification and Labelling List (GB MCL List) - https://www.hse.gov.uk/chemical-classification/classification/mcl-list.htm

providing oversight of chemicals placed on the GB market and encouraging industry cooperation to agree self-classifications through alternative means already set out in GB CLP. For example, under Article 49[12] of GB CLP, HSE is able to request from suppliers information they use to classify and label the chemicals they place on the GB market and part 1.1.0 of Annex I[13] to GB CLP encourages suppliers to cooperate to meet requirements.

5.5 Greater oversight of the chemical substances supplied in GB is also provided under other regulations governing the supply of chemicals. This includes the assimilated Regulation (EC) No 1907/2006[14] on the Registration, Evaluation, Authorisation and Restriction of Chemicals (UK REACH) and sector-specific chemicals legislation such as the Great Britain Biocidal Products Regulation[15] (GB BPR). Therefore, the benefits of the existing notification requirements are outweighed by their impacts on business burden.

The Great Britain Prior Informed Consent Regulation (GB PIC)

5.6 GB PIC is based on Regulation (EU) No 649/2012[16] of the European Parliament and of the Council of 4 July 2012 concerning the export and import of hazardous chemicals ('EU PIC'), known commonly as the Great Britain Prior Informed Consent Regulation[17] ('GB PIC'). GB PIC requires exporters of certain hazardous chemicals from GB that are specified in the GB PIC list[18] to notify the importing country and for some chemicals the consent of the importing country is required before export can proceed.

5.7 It also implements the UK's obligations as a party to the international Rotterdam Convention on the prior informed consent procedure for certain hazardous chemicals and pesticides in international trade[19]. GB PIC is administered by HSE as the Designated National Authority (DNA). This instrument:

- removes excessive additional conditions that were applicable only to certain chemicals, so that the same conditions apply to all chemicals that require explicit/prior informed consent to import. Additionally, it updates references to assimilated EU law so that the references are current.
- removes a redundant and burdensome requirement for exporters in certain cases to obtain a special reference identification number ('SRIN') to be included in their export declaration.
- amends some other procedures to reduce administrative burdens on businesses and HSE. The changes are in line with the intentions of the REUL Act and the Regulation Action Plan (RAP)[20] to ensure regulators and regulation support growth.

[12] Article 49 of GB CLP - https://www.legislation.gov.uk/eur/2008/1272/article/49
[13] Annex 1, Part 1.1.0 of GB CLP - https://www.legislation.gov.uk/eur/2008/1272/annex/I/division/1/division/1.1/division/1.1.0
[14] UK REACH - https://www.legislation.gov.uk/eur/2006/1907
[15] GB BPR - https://www.legislation.gov.uk/eur/2012/528/contents
[16] EU PIC - https://eur-lex.europa.eu/eli/reg/2012/649/oj/eng
[17] GB PIC - https://www.legislation.gov.uk/eur/2012/649/contents
[18] GB PIC list - https://www.hse.gov.uk/pic/pic-list.htm
[19] Rotterdam Convention - https://www.pic.int/TheConvention/Overview/TextoftheConvention/tabid/1048/language/en-US/Default.aspx
[20] New approach to ensure regulators and regulation support growth - https://www.gov.uk/government/publications/a-new-approach-to-ensure-regulators-and-regulation-support-growth/new-approach-to-ensure-regulators-and-regulation-support-growth-html

5.8 The changes this instrument makes are to provisions of GB PIC that do not directly implement the Convention requirements.

What was the previous policy, how is this different?

<u>The Great Britain Biocidal Products Regulation (GB BPR)</u>

Postponements of active substance approval expiry dates

5.9 Active substances are subject to a thorough scientific risk assessment to ensure that their risk profile is acceptable and that they have the intended biocidal effect against the target organism. Where an active substance meets the regulatory criteria for use in a particular product type (such as an insecticide, a disinfectant or a wood preservative), it is granted an approval. Approvals are usually given for 10 years.

5.10 At the end of the approval period, a renewal assessment is required to determine whether the criteria for granting the approval are still met, based on current scientific knowledge. Where the criteria are still met, the Secretary of State takes a renewal decision to extend the expiry date. HSE's priority is to assess first-time approvals as opposed to renewals of active substances.

5.11 Under the previous policy, the approvals of up to 173 active substances would have lapsed if action was not taken. This is comprised of 88 active substances for which a renewal application had been received and whose approvals were due to lapse imminently. The approvals of up to a further 85 active substances could have lapsed before the new proposed expiry date of 31 July 2031.

5.12 Additionally, HSE has a backlog of approximately 330 evaluations of existing active substances which had not undergone their first evaluation within the EU Review Programme[21] at the point of leaving the EU and are therefore included in the GB Review Programme[22]. This overall workload is not operationally sustainable if GB BPR is left in its current form. Reforms are currently being developed and are expected to take several years to deliver. Had the expiry dates of the up to 173 active substances in scope not been postponed, this could have caused severe market disruption which would have undermined the delivery of the reforms.

5.13 Article 14(5)[23] of GB BPR allows the Secretary of State (with consent from Scottish and Welsh Ministers) to postpone the expiry dates of active substance approvals where it appears that their evaluation will not be complete before the expiry date has expired. These powers have been used three times since GB BPR took effect at the end of 2020.

5.14 If this instrument is not introduced, HSE would have to seek further postponements to ensure that up to 173 active substances can continue to be legally supplied in biocidal products. The changes made by this instrument reduces the need to use Article 14(5) in this way in the future.

5.15 To resolve this issue in the short term, while longer-term proposals are developed, this instrument extends the expiry date of any active substance approval which currently falls between 23 June 2026 and 30 July 2031 inclusive, so that it will expire on 31 July 2031 instead. Active substances which have their expiry dates extended will still

[21] Existing EU active substance Review Programme - https://echa.europa.eu/regulations/biocidal-products-regulation/approval-of-active-substances/existing-active-substance
[22] GB Review Programme for existing biocidal active substances - https://www.hse.gov.uk/biocides/active-substances/review-regulation.htm
[23] Article 14 of GB BPR - https://www.legislation.gov.uk/eur/2012/528/article/14

be subject to evaluation if evidence arises which raises doubt as to whether the approval conditions are still met.

Powers to permit biocidal products for limited and controlled use, where they have not been authorised under the Great Britain Biocidal Products Regulation (GB BPR)

5.16 Article 55(1) of GB BPR[24] allows HSE as the Competent Authority (CA) to permit supply and use of an unauthorised biocidal product on the GB market by issuing a permit for 180 days. The Secretary of State can extend the permit for England for up to 550 days on devolved matters (ministers in Scotland and Wales can make parallel decisions), or for the whole of Great Britain for reserved matters. This provision is used in cases where there is a danger to public health, animal health or the environment which cannot be contained by other means.

5.17 Following EU Exit, it has been necessary to issue such exemptions for critical biocidal products such as a widely-used drinking water disinfectant. However, such products are needed on a long-term basis and will eventually require active substance approval and product authorisation. It can take companies up to several years to develop the required applications. Once HSE receives and prioritises the application, it can take up to three further years to carry out the necessary evaluations. The total potential time required is far beyond the periods foreseen in Article 55(1).

5.18 Previously, to ensure that critical biocides remain on the GB market, HSE issued further administrative exemptions for the same biocidal products after the previous 550-day extensions lapsed.

5.19 This instrument amends Article 55(1) so that where the need for continued use of a critical biocidal product is unlikely to be temporary, an exemption can be extended by the Secretary of State or a Devolved Authority until a decision is taken on the product authorisation, to avoid the need for further successive extensions. This power will exist alongside the current power to extend for up to 550 days and will provide certainty that critical biocidal products will be available on the GB market until authorisation decisions can be made.

Protection of data submitted by a business for approvals or authorisations

5.20 Under GB BPR a company must submit a dossier of scientific data to support an application for a biocide active substance approval or biocidal product authorisation. This data is then protected for a defined period following its submission. This means that the company that generated the data can recover a share of its costs from other businesses who wish to use the data in support of their own applications. This provides an important incentive for businesses to invest in data that can cost millions of pounds.

5.21 Article 60[25] of GB BPR sets out the data protection periods for active substances and biocidal products. Previously, this article only applied to active substances which were approved as the result of a decision taken by the Secretary of State under Article 9 of GB BPR. Article 9 gives powers to the Secretary of State to approve new active substances.

5.22 This situation was inherited from EU BPR[26]. HSE's understanding of the intention of the legislation is that data protection should apply to all situations where applicants

[24] GB BPR - https://www.legislation.gov.uk/eur/2012/528/contents
[25] Article 60 of GB BPR - https://www.legislation.gov.uk/eur/2012/528/article/60
[26] EU BPR - https://eur-lex.europa.eu/eli/reg/2012/528/oj/eng

have generated data to support active substance approval. The provisions indicating data protection periods should therefore be clarified so they apply to active substance approvals granted under several other articles of GB BPR[27], as well as to active substances for which an amendment or cancellation decision is taken under Article 15(3) following a review by the Secretary of State. The data protection periods also apply to some active substances that were approved under Articles 89(1) and 90(2) of EU BPR prior to the end of the EU Exit implementation period (31 December 2020). This is because data protection periods applied by EU BPR may still be applicable in GB post-EU Exit.

5.23 This instrument extends the scope of Article 60 to cover all relevant active substance approval decisions[28]. It also extends the scope of Article 60(2), subparagraph 3, which specifies data protection periods following renewal or review of an active substance, to include decisions taken under Article 15(3) (concerning amendment or cancellation of an active substance approval following review by the Secretary of State).

The Great Britain Classification, Labelling and Packaging Regulation (GB CLP)

GB mandatory classification and labelling (GB MCL)

5.24 The GB MCL List[29] sets out the chemical substances with the most severe hazards. Updates were made using procedures described in Articles 37 and 37A[30] of GB CLP. Both procedures contained similar actions but offered differing timelines for substance evaluation, creating confusion.

5.25 To provide clarity, this instrument establishes a single procedure through which all changes to the GB MCL List will be made based on a GB based mandatory classification work programme setting out GB chemicals substance and classification priorities.

Fast-track system for GB MCL evaluation

5.26 The principles of the fast-track system previously contained in Article 37 of GB CLP through which classification proposals were considered without necessarily having a formal public consultation in all circumstances, will be preserved with a focus on recognition of classifications derived from the EU. It could include proposals from non-EU countries or jurisdictions with transparent hazard classification systems similar to GB CLP and who adopt the United Nations Globally Harmonized System of classification and labelling of chemicals[31] but at present only the EU classification system would meet specified criteria in this instrument.

5.27 This will enable classification proposals from the EU to be evaluated along quicker timescales, reducing regulatory uncertainty for businesses supplying chemicals to international markets.

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[27] GB BPR - https://www.legislation.gov.uk/eur/2012/528/contents

[28] The scope of Article 60 is extended to cover decisions taken under Articles 28(1) and 89(5) of GB BPR and Articles 9(1), 28(1), 89(1) and 90(2) of EU BPR. These Articles concern active substances added to the GB Simplified List of Active Substances or, its EU equivalent, Annex I of EU BPR (Article 28(1) of GB and EU BPR); new active substances approved under EU BPR before the end of the EU Exit implementation period (Article 9(1) of EU BPR); active substances approved under the GB or EU Review Programmes (Articles 89(5) of GB BPR and 89(1) of EU BPR); and active substances evaluated under the previous Biocidal Products Directive 98/8/EC (https://www.legislation.gov.uk/eudr/1998/8/contents) (Article 90(2) of EU BPR).

[29] GB Mandatory Classification and Labelling List - https://www.hse.gov.uk/chemical-classification/classification/mcl-list.htm

[30] GB CLP - https://www.legislation.gov.uk/eur/2008/1272/contents

[31] About the GHS | UNECE - https://unece.org/about-ghs

5.28 To further accelerate the delivery of GB MCLs, the requirement for HSE to produce an 'Agency Opinion' (which considers the policy and socioeconomic impacts of changes) is no longer required when fast-track evaluations are conducted.

Removal of the statutory requirement to consider all Committee for Risk Assessment (RAC) opinions published under Article 37(4)[32] of EU CLP

5.29 The consideration of changes to the GB MCL List[33] was driven by the corresponding EU classification and labelling system[34] (EU CLH) owing to a requirement in Article 37 to automatically consider technical assessments on EU CLH proposals produced by the European Chemicals Agency Committee for Risk Assessment[35] (known as ECHA RAC opinions). This requirement applied even in cases where the chemical substances under scrutiny were not used in GB, i.e. active substances not approved or authorised for use in biocides or pesticides in GB or not registered under the Registration, Evaluation, Authorisation and Restriction of Chemicals Regulation (UK REACH) [36]. Such additional evaluation activity prevented the prioritisation of classification proposals relevant to GB.

5.30 To reduce unnecessary delays in the production of GB MCLs of importance to the domestic market, this instrument revokes the requirement to consider all RAC opinions published under Article 37(4) of EU CLP. The intention is to replace it with the publication of a GB mandatory classification workplan setting out the priorities for GB mandatory classification. The work plan would be agreed following consultation, especially with the Devolved Governments (DGs), on a draft produced by HSE as the Agency. It will set out priorities as defined in Article 36 of GB CLP, including identifying those potentially earmarked for fast-track evaluation. It would cover a period of 3 years and be subject to annual review. HSE will seek to produce the first draft within 6 months of the SI coming into force.

Mechanism for obtaining consent from the Devolved Governments for updates to the GB MCL List

5.31 The previous system for obtaining consent for making updates to the GB MCL List was duplicative and burdensome. HSE as the Agency was required to send a copy of its recommendations on changes to GB MCLs and the GB MCL List for Ministerial Decision to the DGs of Scotland and Wales at the same time as it was sent to Ministers. DGs were provided with another copy of HSE's recommendations at a later stage of the procedure when consent for the proposed changes was sought by the Secretary of State.

5.32 To ensure resource is used proportionately, this instrument removes the requirement for the Agency to send a recommendation to DGs. Instead, the DGs will only receive the Agency's recommendation once by the Secretary of State when seeking DG consent. This would reduce the administrative burdens arising from this aspect of delivery of the GB MCL system and ensure that resource is used proportionately.

[32] Article 37 of EU CLP - https://www.legislation.gov.uk/eur/2008/1272/article/37/adopted
[33] GB MCL List - https://www.hse.gov.uk/chemical-classification/classification/mcl-list.htm
[34] EU classification and labelling system (EU CLH) - https://echa.europa.eu/regulations/clp/harmonised-classification-and-labelling
[35] ECHA Committee for Risk Assessment - https://echa.europa.eu/about-us/who-we-are/committee-for-risk-assessment
[36] UK REACH - https://www.legislation.gov.uk/eur/2006/1907

Relocation of technical guidance notes

5.33 Some entries on the GB mandatory classification and labelling (GB MCL) List have explanatory technical guidance known as 'notes' that relate to the identification, classification and labelling of substances and mixtures. Suppliers must consider the technical guidance in the notes when applying GB MCLs to substances and mixtures. Previously, the GB MCL notes were listed in Part 1 of Annex VI[37] and therefore, could only be updated through legislative amendment of GB CLP via a statutory instrument.

5.34 The list of GB MCL notes has been removed by this instrument from GB CLP, enabling its relocation to the GB MCL List hosted on HSE's website[38]. This change enables revisions to the list of GB MCL notes to be implemented using a more efficient, simpler administrative process and removes a requirement to legislatively amend GB CLP for the purpose of revising notes.

Chemical Substance Notification

5.35 Previously, GB CLP contained a notification requirement whereby GB-based manufacturers and importers and NI-based manufacturers, downstream users and distributors directly supplying the GB market, had to provide HSE with information about the new chemical substances they placed on the GB market. They then had to make additional classifications following any changes in the classification or labelling requirements for those chemicals.

5.36 As the designated GB CLP Agency, HSE had statutory responsibilities to establish and maintain a database of the notifications it received and to make the notified classification and labelling information publicly available and accessible.

5.37 These notification requirements were inherited from the EU but are deemed unnecessary in a GB context. In practice, the information gap presented by the lack of notifications is minimal. This is because the notified substances supplied in higher volumes (volumes exceeding 1 tonne per annum) are registered under the Registration, Evaluation, Authorisation and Restriction of Chemicals Regulation (UK REACH)[39] and the potentially more hazardous notified active substances fall in scope of other regulations such as GB BPR or the assimilated Regulation (EC) No 1107/2009[40] concerning the placing of plant protection products on the market (the GB Plant Protection Products Regulation) and are subject to mandatory classification and labelling as set out in the GB MCL List.

5.38 The outstanding notified information pertains more to less hazardous substances supplied in small quantities that are self-classified. These notified substances represent a small proportion of chemicals placed on the GB market. Finally, notified information was not validated and to begin doing so would not be an efficient use of resource.

5.39 This instrument removes the previous notification requirements; the duty to self-classify remains in place. Given this, the minimal information gap and the fact that the notified information on substances does not inform any regulatory activity, maintaining a legal requirement to notify to HSE as the Agency and for HSE to

[37] Part 1 of Annex VI of GB CLP (MCL notes) - https://www.legislation.gov.uk/eur/2008/1272/annex/VI/division/1/division/1.1/division/1.1.3
[38] GB MCL List - HSE - https://www.hse.gov.uk/chemical-classification/classification/mcl-list.htm
[39] UK REACH - https://www.legislation.gov.uk/eur/2006/1907
[40] Regulation (EC) No 1107/2009 (The GB Plant Protection Products Regulation) - https://www.legislation.gov.uk/eur/2009/1107

provide a publicly-accessible database is not considered to be in line with good regulatory practice.

The Great Britain Prior Informed Consent Regulation (GB PIC)

Export of small quantities of chemicals for the purpose of research or analysis

5.40 GB PIC does not apply to small quantities of chemicals being exported for the purpose of research or analysis that are unlikely to affect human health or the environment. However, businesses exporting these chemicals were previously obliged to obtain a Special Reference Identification Number (SRIN) from HSE (the Designated National Authority) to include in their customs documentation. A SRIN was also required where the export of a chemical related to an emergency situation. The SRIN procedure was introduced for the electronic system that is used for submitting export notifications under EU PIC: it is not used under GB PIC. It is not a requirement of the Rotterdam Convention and was never used by customs authorities in GB.

5.41 This instrument revokes the SRIN procedure so as to remove a redundant regulatory requirement. This will reduce administrative burdens on business and the regulator.

Waiver from explicit consent to import

5.42 GB PIC provides for HSE to grant a one-year waiver from the requirement to have the explicit consent of the importing country in place before export can proceed on a case-by-case basis, where no response has been received from the authorities in the importing country to repeated requests for consent. Certain conditions must be met before a waiver can be granted.

5.43 This instrument harmonises those conditions by removing a restriction that prevented one of the waiver conditions being used for some chemicals that meet certain hazard criteria such as being classified as carcinogenic (chemical substances that can cause cancer). This restriction could create a barrier to the export of a chemical that fell within those hazard criteria when the importing country failed to respond to repeated requests for consent.

5.44 By removing the restriction on using the same conditions for all chemicals for which a waiver may be granted, this instrument removes a potential barrier to trade, facilitates decision-making by HSE, and provides greater regulatory clarity for businesses.

Reviewing and updating the GB PIC list

5.45 The GB PIC list[41] provides a list of chemicals that are subject to GB PIC. The list is established in GB PIC and is updated using an administrative procedure. GB PIC prohibits the export of chemicals in Parts 4 and 5 of the list. Chemicals in Part 4 of the list are 'persistent organic pollutants' (POPs) that are subject to the assimilated Regulation (EU) 2019/1021[42] UK Persistent Organic Pollutants Regulation (the POPs Regulation). Part 5 chemicals are chemicals other than persistent organic pollutants that are already prohibited for export.

5.46 As these decisions are taken at Convention level or under the other regulations, there is no discretion over GB PIC list entries for POPs and chemicals already subject to an export prohibition. The GB PIC list has to be reviewed annually and updated on the

[41] GB PIC list of chemicals - https://www.hse.gov.uk/pic/pic-list.htm
[42] Regulation (EU) 2019/1021 of the European Parliament and of the Council of 20 June 2019 on persistent organic pollutants (recast) - https://www.legislation.gov.uk/eur/2019/1021

basis of developments in other relevant assimilated law and the Rotterdam Convention. This previously included reviewing and updating Parts 4 and 5 of the list.

5.47 This instrument amends GB PIC so that the annual review and updating of the GB PIC list requirement applies only to Parts 1, 2 and 3 of the list, which are chemicals subject to GB PIC's export notification and prior informed consent requirements, and not to Parts 4 and 5. This means that POPs can be added to Part 4 of the list at the same time as the statutory instrument amending the POPs Regulation to implement listings agreed under the Stockholm Convention on persistent organic pollutants[43] enters into force, enabling the alignment of export prohibitions and domestic restrictions on POPs.

5.48 Changes to Part 5 of the list can be made to align with the entry into force of export prohibitions under other regulations giving greater clarity to businesses as to which chemicals cannot be exported.

Making updating the GB PIC list the responsibility of HSE as the Designated National Authority

5.49 When EU PIC was assimilated as GB PIC, reviewing and updating the GB PIC list was made a function of the Secretary of State. In practice, reviewing the list requires a technical assessment by HSE against criteria set out in GB PIC taking into consideration regulatory action under relevant assimilated chemicals legislation or international agreements to determine whether a chemical should be added to the GB PIC list and, if so, which part or parts it should be included in. This determines what obligations apply to the future export of that chemical.

5.50 This instrument amends GB PIC to make reviewing and updating the GB PIC list the responsibility of the HSE rather than the Secretary of State. This means that the review of the list can be completed in a shorter timeframe and changes can be implemented more quickly, including changes that implement decisions taken under the Rotterdam Convention.

6. Legislative and Legal Context

How has the law changed?

The Great Britain Biocidal Products Regulation (GB BPR)

6.1 Where the expiry date of any active substance approval falls between 23 June 2026 and 30 July 2031 inclusive, the expiry date will be deemed to be 31 July 2031, provided that a renewal application has been received by the relevant deadline.

6.2 Article 55(1)[44] is expanded so that where the need to use a biocidal product is not likely to be temporary, an exemption (referred to as a derogation in the legislation) can apply until a decision is taken on the product authorisation.

6.3 Where the exemption is issued until the biocidal product is authorised, the conditions may state a deadline when applications either to approve the active substances in the biocidal product or to authorise the biocidal product, are required and the exemption be cancelled for any of the following reasons:

- If no applications are received for the active substance(s) or the biocidal product by relevant deadlines.

[43] Stockholm Convention on Persistent Organic Pollutants - https://chm.pops.int/portals/0/repository/convention_text/unep-pops-cop-convtext-full.english.pdf
[44] Article 55(1) of GB BPR - https://www.legislation.gov.uk/eur/2012/528/article/55

- If any application is rejected by the Competent Authority (CA) i.e. HSE.
- If a non-approval decision is taken on the active substance(s) which is being used in the biocidal product.
- If a decision is taken not to authorise the biocidal product.
- If the conditions for issuing derogations in Article 55(1) are no longer fulfilled.
- There is any other reason which appears to the CA to make cancellation necessary or appropriate.

6.4 If the exemption is cancelled, a period of grace may be granted by the CA for continued supply and use of the biocidal product following the date of cancellation. The period of grace granted by the CA should not exceed 180 days for the making available on the market and an additional maximum period of 180 days for the use of existing stocks of the biocidal products concerned.

6.5 The Secretary of State can take a decision to cancel the exemption at any time where there are substantial reasons.

6.6 As a transitional measure, any exemption under a ministerial extension on the 23 June 2026 can be amended prior to expiry by the Secretary of State or devolved authority so that it applies until the biocidal product is authorised, subject to the conditions outlined in paragraph 6.3. The conditions can be amended in order to reflect the current circumstances.

6.7 The scope of Article 60(2) of GB BPR[45] is extended to confirm data protection periods for active substances where the approval decision was made under Articles 28(1) or 89(5) of GB BPR, or Articles 9(1), 28(1), 89(5) or 90(2) EU BPR[46] prior to the end of the EU Exit implementation period. Furthermore, it also extends the scope of Article 60(2), subparagraph 3, which specifies the applicable data protection periods following renewal or review of an active substance, to include decisions taken under Article 15(3) by the Secretary of State following a review.

The Great Britain Classification, Labelling and Packaging Regulation (GB CLP)

6.8 Article 37 and 37A are merged, removing the link with the Committee for Risk Assessment (RAC) opinions in Article 37(4) of GB CLP[47]. This enables HSE to better prioritise classification evaluation work and allows proposals from the EU and non-EU countries to be evaluated along quicker timescales, reducing regulatory uncertainty for businesses supplying chemicals to international markets.

6.9 Procedures in Articles 36 and 37 are amended to remove the previous duplicative system for obtaining Devolved Government consent for making updates to the 'Mandatory Classifications and Labelling List'[48] ('the GB MCL List') under Article 53B of GB CLP.

6.10 Explanatory technical guidance notes are removed from Annex VI for some entries on the GB MCL List. This will remove the need to update those notes only through legislative amendment of GB CLP, and enable relocation of the list of GB MCL notes to the GB MCL List hosted on HSE's website. This change enables revisions to the list of GB MCL notes to be implemented using a more efficient, simpler administrative process.

[45] GB BPR - https://www.legislation.gov.uk/eur/2012/528/contents
[46] EU BPR - https://eur-lex.europa.eu/eli/reg/2012/528/oj/eng
[47] GB CLP - https://www.legislation.gov.uk/eur/2008/1272/contents
[48] GB Mandatory Classification and Labelling List (GB MCL List) - https://www.hse.gov.uk/chemical-classification/classification/mcl-list.htm

6.11 Notification requirements in Chapter 2, Title V of GB CLP are removed to ease administrative burdens on chemical suppliers and HSE. See paragraphs 5.37 to 5.39 for further detail.

The Great Britain Prior Informed Consent Regulation (GB PIC)

6.12 Article 2(3) and Article 19(2) are revoked so that there is no longer the requirement for exporters to obtain a Special Reference Identification Number for exports of small quantities of chemicals being exported for research or analysis or in an emergency situation in GB PIC[49].

6.13 Article 14(7) is partly revoked so that the same conditions for the granting of a waiver from the requirement for the explicit consent of the importing country can be applied to the export of any chemical that requires consent. The provision that prevented one of the conditions being used for a waiver for chemicals that have certain hazard classifications and have been listed under the Rotterdam Convention no longer applies.

6.14 References to the Secretary of State in Articles 7(1), 7(2), 23(1), 23(3) and 23(5) have been revoked and replaced with references to the Designated National Authority (DNA) i.e. HSE so that reviewing and updating the GB PIC list has become the responsibility of the DNA.

6.15 References to the Persistent Organic Pollutants Regulation[50] have been updated to refer to the current version of that Regulation that applies in Great Britain as assimilated law.

Why was this approach taken to change the law?

6.16 This is the only possible approach to make the necessary changes as the powers under the REUL Act are the only ones available at this time.

7. Consultation

Summary of consultation outcome and methodology

7.1 A public consultation[51] ran for 8 weeks from 23 June to 18 August 2025. The consultation included more ambitious proposals for future reform of GB BPR, GB CLP and GB PIC that would require primary legislation to be taken forward.

7.2 HSE received 289 responses and the 'HSE Response to Consultation on Chemicals Legislative Reform Proposals'[52] is published on the HSE Consultation Hub. Respondents included manufacturers, wholesalers, retailers, trade associations, consultants, Non-Governmental Organisations (NGOs), and members of the public.

7.3 Respondents from the chemicals industry were largely supportive of the proposed changes, recognising reduced complexity and economic benefits. NGOs and members of the public raised concerns about the potential decrease in protection for human health and environment.

7.4 The consultation findings indicated that there is a preference across all chemicals sector stakeholders to continue to align with EU regulatory decisions, both to

[49] GB PIC - https://www.legislation.gov.uk/eur/2012/649/contents
[50] The Persistent Organic Pollutants Regulation - https://www.legislation.gov.uk/eur/2019/1021
[51] HSE Chemicals Legislative Reform Proposals consultation - https://consultations.hse.gov.uk/hse/chemicals-legislative-reform-proposals/
[52] HSE response to consultation on Chemicals Legislative Reform Proposals - https://consultations.hse.gov.uk/hse/chemicals-legislative-reform-proposals/results/responsereport-chemicalslegislativereformproposals.pdf

minimise barriers to trade and protect the UK internal market and to ensure GB continues to have high standards of protection. While the instrument makes changes to the GB regulatory framework, the framework will continue to allow for alignment in regulatory decisions where those decisions are consistent with health, environmental and socio-economic priorities in GB.

7.5 Consent for this instrument has been granted by Scottish Ministers and Welsh Ministers. As EU legislation will continue to apply in Northern Ireland (NI) under Annex 2 of the Windsor Framework, formal consent is not required.

8. Applicable Guidance

8.1 Existing guidance for GB BPR[53], GB CLP[54] and GB PIC[55] on HSE's website will be updated to reflect the changes made by this instrument prior to measures coming into force.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because the annual impact on business is below the de minimis threshold of +/- £10 million equivalent annual net direct cost to business[56]. A de minimis assessment of costs and benefits was undertaken and the impacts are outlined below.

Impact on businesses, charities and voluntary bodies

The Great Britain Biocidal Products Regulation (GB BPR)

9.2 The impact on business, charities or voluntary bodies is minimal. The costs to business are £0m per annum. The impact of amending approval expiry dates until 31 July 2031 and expanding the use Article 55(1) exemptions until product authorisation, is a reduction in the already small risk that failing to amend the legislation could result in the loss of market access for key biocides in GB.

9.3 Had this instrument not been introduced, it could have led to affected biocidal active substances being removed from the market (see paragraph 5.1), and generated costs to manufacturers from lost profits of around £25m per annum in relation to the delaying of the expiry dates of active substances. It could also have generated wider costs to society, for example it could have led to removal from the market of rodenticide active substances (one group whose expiry dates are being postponed by this instrument).

9.4 The cost of damage caused by rodents is currently estimated to reach up to around £84m[57] per annum; if the active substances used to control rodents were no longer available this would be expected to have become much greater. This instrument eliminates the risk of these costs occurring, thereby providing a potential benefit to businesses who supply, and use affected biocides.

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[53] HSE GB BPR Guidance **-** www.hse.gov.uk/biocides/index.htm
[54] HSE GB CLP Guidance - www.hse.gov.uk/chemical-classification/index.htm
[55] HSE GB PIC Guidance - www.hse.gov.uk/pic/index.htm
[56] Better regulation framework guidance 2023 paragraphs 6.9 – 6.11: https://assets.publishing.service.gov.uk/media/67587ba55a2e4d4b993bfa83/better-regulation-framework-guidance-2023.pdf#page=21
[57] Eschen, R. et al (2023), An updated assessment of the direct costs of invasive non-native species to the United Kingdom (Table 5, page 3272) - https://link.springer.com/article/10.1007/s10530-023-03107-2

9.5 The changes do impact small and micro businesses. They are not exempt from this legislation; they are estimated to produce around 21% of active substances, although this is a rough estimate. More generally, GB BPR applies to all sizes of business because its objective is to control risks posed to people and the environment by potentially hazardous biocides and those risks do not depend on the size of the business supplying or using them.

9.6 There is no impact on the public sector. The changes prevent potential crises and major costs for other public sector bodies.

The Great Britain Classification, Labelling and Packaging (GB CLP)

9.7 The impact on business, charities or voluntary bodies is minimal. The cost to business is £0m per annum. Businesses will see direct administrative savings of approximately £34,000 arising from the revocation of the notification database which will eliminate a 36-minute-per-notification burden.

9.8 The changes do impact small and micro businesses. They are not exempt from the legislation as the hazards posed by chemicals regulated under GB CLP are not dependent on the size of the businesses handling them. As such, small and micro businesses are in scope of the administrative savings detailed in paragraph 9.7.

9.9 The impact on the public sector is that HSE will make savings from the changes; these are expected to be minimal. The changes made by this instrument will enable HSE to make regulatory changes with greater efficiency and ensure that its resource is focused on activity of significant value to GB. Additionally, cost savings will be generated for HSE by the removal of the CLP obligation to build and maintain a notification database of around £800,000 for initial build costs, plus ongoing running costs.

The Great Britain Prior Informed Consent (GB PIC)

9.10 The impact on business charities or voluntary bodies is minimal. The costs to business are £0m per annum. Businesses will accrue some minimal savings which have not been monetised. This instrument will streamline export processes for hazardous chemicals. This will yield administrative savings lowering compliance costs for businesses that export PIC-listed chemicals.

9.11 The changes do impact small and micro businesses. They are not exempt from the legislation; they are in scope of the minimal savings which have not been monetised but apply to all businesses in scope of GB PIC.

9.12 The impact on the public sector is that HSE will make minimal savings from the changes. The changes made by this instrument cumulatively reduce operational burdens on HSE, freeing up resources to focus on higher-risk activities and enabling a more efficient and proportionate regulatory delivery.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is to gather feedback from the chemicals sector stakeholders and internal HSE data over a five-year period for GB BPR and a ten-year period for GB CLP and GB PIC.

10.2 As this instrument is made under the REUL Act, no review clause is required in line with the requirements of the Small Business, Enterprise and Employment Act 2015[58].

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 Sir Stephen Timms, Minister of State for Social Security and Disability at the Department for Work and Pensions, has made the following statement regarding Human Rights:

"In my view the provisions of the Chemicals (Health and Safety) (Amendment, Consequential and Transitional Provision) Regulations 2026 are compatible with the Convention rights.".

13. The Relevant European Union Acts

13.1 This instrument is made under sections 14(1) to (3) and 20(1) of the Retained EU Law (Revocation and Reform) Act 2023 and therefore relates to the reform of assimilated law. These powers give the UK Government and the Devolved Governments the ability to revoke any secondary assimilated law and to replace it.

13.2 This instrument is subject to affirmative procedure and therefore no Ministerial Statement relating to sifting is required.

[58] Retained EU Law (Revocation and Reform) Act 2023, section 20 - https://www.legislation.gov.uk/ukpga/2023/28/section/20