EXPLANATORY MEMORANDUM TO

THE PERSISTENT ORGANIC POLLUTANTS (AMENDMENT) (NO. 2) REGULATIONS 2025

2025 No. 297

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs (Defra) and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments and the Select Committee on Statutory Instruments.

2. Declaration

2.1 Emma Hardy, Parliamentary Under Secretary of State at the Department for Environment, Food and Rural Affairs confirms that this Explanatory Memorandum meets the required standard.

2.2 Marc Casale, Deputy Director for Chemicals, Pesticides, and Hazardous Waste at the Department for Environment, Food, and Rural Affairs confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Lyndon Ashmore at the Department for Environment, Food and Rural Affairs, email: pops@defra.gov.uk can be contacted 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 These Regulations make amendments to Annex 1 of Regulation (EU) 2019/1021 of the European Parliament and of the Council on persistent organic pollutants ("POPs") (recast) ("the POPs Regulation"). They introduce additional specific exemptions from the prohibitions of two substances (Dechlorane Plus and UV-328) inserted by the Persistent Organic Pollutants (Amendment) Regulations 2025 ("the first amending Regulations").

4.2 Some of these changes are being made in order to bring the POPs Regulation in line with amendments to the Stockholm Convention, to which the UK is a Party. Other changes are in response to scientific and technical progress.

Where does the legislation extend to, and apply?

4.3 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is Great Britain.

4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) is Great Britain.

5. Policy Context

What is being done and why?

5.1 This instrument makes a series of changes to the listings of the POPs Dechlorane Plus and UV-328 in Annex 1 of the POPs Regulation. POPs are substances which meet four criteria: they are persistent, toxic, bio-accumulative, and subject to long-range environmental transport. The UK is a Party to the Stockholm Convention, which aims to eliminate or restrict the production and use of POPs.

5.2 The Conference of the Parties (COP) to the Stockholm Convention, at its eleventh meeting, in May 2023, adopted amendments to Annex A of the Convention, to list the substances UV-328 and Dechlorane Plus with certain time-limited exemptions for continued use, and the substance methoxychlor without exemptions. Parties to the Convention are required to prohibit and/or take the legal and administrative measures necessary to eliminate production and use of the chemicals listed in Annex A, subject to the provisions of that Annex. The first amending Regulations, which come into force on the same day as this instrument, amend the POPs Regulation to implement (among other things) these prohibitions, and the accompanying Explanatory Memorandum to those Regulations should be read alongside this Explanatory Memorandum.

5.3 In implementing the prohibitions of UV-328 and Dechlorane Plus under the Convention, Parties can introduce exemptions for the continued use of these substances where these have been included in Annex A of the Convention. The first amending Regulations introduce a small number of specific exemptions allowing the continued use of UV-328 and Dechlorane Plus in certain applications. This instrument introduces further exemptions which are permitted under the Stockholm Convention, allowing the continued use of UV-328 and Dechlorane Plus in certain additional applications, as set out in paragraph 5.7.

5.4 This instrument also introduces exemptions for the continued use of UV-328 in aerospace and defence applications that are not currently available under the Stockholm Convention, but are based upon a proposal that has been submitted to the Convention by another Party and which is due to be discussed at the COP in April-May 2025.

5.5 These amendments are made either in order to adapt the POPs Regulation to changes to the list of substances set out in the Annexes to the Stockholm Convention or in order to adapt the Regulation to scientific and technical progress.

What was the previous policy, how is this different?

5.6 Following the laying in draft of the first amending Regulations, Defra received information from industry manufacturers and retailers indicating a need for certain further exemptions not included in those Regulations, where they have not yet successfully transitioned away from the use of the substances.

5.7 This instrument accordingly introduces exemptions in addition to those introduced by the first amending Regulations. Specifically, these time-limited exemptions relate to uses of Dechlorane Plus in aerospace, space and defence applications, certain uses of medical technology, motor vehicles, certain machinery, and analytical instrument applications. The time-limited exemptions for UV-328 relate to uses in motor vehicles, industrial coating applications, certain medical applications, triacetyl cellulose film, photographic paper, certain machinery, and liquid crystal displays in certain uses of medical technology and analytical instrument applications. A further

set of exemptions being introduced by this instrument for the use of UV-328 in aerospace and defence applications is not currently available under the Stockholm Convention entry for UV-328. However, another Party has submitted a proposed amendment to the Stockholm Convention for exemptions for the use of UV-328 in certain aerospace and defence applications for discussion and potential agreement at the next COP in April-May 2025. In anticipation of this proposal being discussed at the COP, and also in recognition of its relevance to UK industry following their engagement with the UK government, this instrument introduces a similar set of exemptions prior to the COP discussions taking place.

5.8 This instrument comes into force immediately after the first amending Regulations. The sequencing of the two instruments means there is no gap between the prohibitions and the additional exemptions coming into force. Given that the instruments will not come into force until after 26 February 2025, and the fact that this instrument includes exemptions for the continued use of UV-328 in aerospace and defence applications which are not currently included under the Stockholm Convention, the UK has submitted a notification of non-acceptance of the amendments to the Convention to list UV-328, Dechlorane Plus and methoxychlor, which were otherwise due to enter into force for the UK on 26 February 2025. The Government intends to withdraw this notification when appropriate.

6. Legislative and Legal Context

How has the law changed?

6.1 The POPs Regulation implements international obligations under the Stockholm Convention on POPs and the Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution on Persistent Organic Pollutants, in relation to England, Scotland and Wales. Under the Windsor Framework, the EU POPs Regulation (Regulation (EU) No 2019/1021 of the European Parliament and of the Council of 20 June 2019 on persistent organic pollutants) applies in Northern Ireland.

6.2 This instrument makes amendments to the table in Part A of Annex 1 (substances subject to the prohibition on manufacturing, placing on the market and use) of the POPs Regulation, as amended by the first amending Regulations. In particular, in the entries relating to Dechlorane Plus and UV-328, it replaces the specific exemptions set out in the first amending Regulations with a more comprehensive list of specific exemptions. Details of the exemptions are set out in section 5 above.

Why was this approach taken to change the law?

6.3 An amendment to the POPs Regulation is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 An eight-week public consultation on proposed amendments to the POPs Regulation was hosted by Defra on Citizen Space and GOV.UK from 2 March 2023 to 27 April 2023. A total of 58 responses to the consultation were received. The largest group of respondents identified as industry associations (24%), while we also received a number of responses from large businesses (16%) and local authorities (16%). Other respondent groups included charities and non-governmental organisations and small and medium-sized businesses.

7.2 Some of the proposals consulted on are implemented through the first amending Regulations and are detailed in the Explanatory Memorandum for that instrument. A full summary of responses and the Government response has been published on GOV.UK and is available here: www.gov.uk/government/consultations/amendments-to-the-persistent-organic-pollutants-pops-regulation.

7.3 This consultation stated Defra's intention to add UV-328 and Dechlorane Plus to Annex 1 of the POPs Regulation should they be agreed to be listed under the Stockholm Convention. There have been opportunities for UK stakeholders to engage with earlier public engagement – both UK- and Convention-led – at various stages before these three substances were adopted for elimination under the Convention, following the initial 2019 and 2020 nominations to list them as POPs. This included public calls for information and opportunities to comment on draft risk profiles and risk management evaluation documents made publicly available by the Convention's POPs Review Committee.

7.4 There is no statutory obligation to consult on the amendments in this instrument. Due to its proximity and relation to the first amending Regulations, and in order to reduce the duration for which the notification to the Stockholm Convention described in paragraph 5.8 is in place, a further public consultation on the amendments in this instrument has not been undertaken.

7.5 Defra consulted with the Devolved Governments in the drafting of this instrument. The Scottish Ministers and the Welsh Ministers have consented to the Secretary of State making these Regulations, in accordance with Article 2A of the POPs Regulation.

8. Applicable Guidance

8.1 Guidance around the management of POPs is already publicly available and is owned and updated by the Environment Agency in England, the Scottish Environment Protection Agency (SEPA) in Scotland, and Natural Resources Wales in Wales. The amendments outlined in this instrument will be reflected in this guidance as necessary.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment for this instrument and the first amending Regulations together is submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation.gov.uk website.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on charities or voluntary bodies because evidence collected on the amendments to the POPs Regulation indicates that these organisations will not have to make changes to their activity to comply with the policy intervention. The proposed changes to the POPs Regulation are expected to result in low monetised impacts on businesses. Impacts will include one-off familiarisation costs, some reformulation costs, and ongoing benefits associated with the use of more cost-effective alternatives. Impacts are mitigated by the exemptions introduced by this instrument. These exemptions are outlined in paragraph 5.7.

9.3 The legislation does impact small or micro businesses.

9.4 To minimise the impact of the requirements on small or micro businesses (employing up to 50 people), this instrument introduces all exemptions available or proposed

under the Stockholm Convention to allow the continued use of UV-328 and Dechlorane Plus. This provides businesses with time to identify and implement alternatives to these prohibited substances.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015 Minister Emma Hardy has made the following statement:

"I consider a review provision would be an unnecessary and disproportionate addition to the existing engagement and monitoring carried out by the Department and Regulators. Defra will continue to work with stakeholders and regulators to assess the impact of the regulations, including the ongoing need for UV-328 and Dechlorane Plus in specific applications, and the efforts made to transition away from their use".

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 This instrument amends provisions in Annex 1 of the POPs Regulation that were inserted by the first amending Regulations. This instrument comes into force immediately after those Regulations come into force. Whereas those Regulations were subject to the affirmative procedure, this instrument is subject to the negative procedure because it does not create a new offence or widen the scope of an offence.

12. European Convention on Human Rights

12.1 Minister Emma Hardy, Parliamentary Under Secretary of State at the Department for Environment, Food and Rural Affairs has made the following statement regarding Human Rights:

"In my view the provisions of the Persistent Organic Pollutants (Amendment) (No. 2) Regulations 2025 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").