EXPLANATORY MEMORANDUM TO

THE REACH FEES AND CHARGES (AMENDMENT OF COMMISSION REGULATION (EC) NO 340/2008) REGULATIONS 2025

2025 No. 299

1. Introduction

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

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 Simon Johnson at the Department for Environment, Food and Rural Affairs Telephone: 020 8026 4092 or email: simon.johnson@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 Amends the current Commission Regulation (EC) No 340/2008 on the fees and charges payable to the European Chemicals Agency pursuant to Regulation (EC) No 1907/2006 of the European Parliament and of the Council on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) ("the Fees and Charges Regulation"). The amendment requires those fees and charges to be paid to the Health and Safety Executive (HSE) from 1st April 2025 for any application to register any substance or application for an authorisation to manufacture, import or use any substance that is subject to Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) (EUR 2006/1907) ("UK REACH").

4.2 UK REACH is the retained version of "Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) (EUR 2006/1907) ("EU REACH"). It regulates the use of chemicals in Great Britain as EU REACH continues to apply in Northern Ireland under the Windsor Framework.

Where does the legislation extend to, and apply?

4.3 The territorial extent of this instrument is the United Kingdom.

4.4 The territorial application of this instrument is England, Scotland and Wales.

5. Policy Context

What is being done and why?

5.1 UK REACH fees should aim to recover from chemical businesses the costs of providing the regulatory services that they receive from HSE, without under-charging or over-charging. The current fees and charges, inherited from EU REACH, do not correlate closely to the actual costs of carrying out the activities for which those fees are charged. They also differ significantly from the fees and charges that apply under HMT rules on Managing Public Money (MPM). The main imbalances being over-recovery of fees for the registration of substances and under-recovery of fees for processing UK REACH Authorisations. To date, the costs of running the UK REACH IT service ("Comply with UK REACH") and for the work on authorisations carried out by the Environment Agency (EA) have not been recovered and should be under MPM.

Summary of the changes we plan to make

5.2 In all cases the proposed new fee levels are modelled in line with MPM and take account of the full economic costs (including inflation) of staff carrying out the regulatory activities for which the fees are charged; and the 3.5% cost of capital. In line with MPM the proposed fees are modelled over a 6-year period, commencing from 1 April 2025 and ending on 31 March 2031. The fee levels will be reviewed during that period to ensure the fees structure remains sustainable.

5.3 Discounts for SMEs are mandated in the REACH legislation. Therefore, these will continue to be applied although we can decide on the level of discount. The approach we are taking is as follows.

- For all fee types **except applications for authorisations**.
  - In the first instance, retain the fee they currently pay where that fee is lower than the new proposed standard fee.
  - Where the current SME fee is higher than the new standard fee, a 10, 20 and 30 percent discount will be applied for medium, small and micro enterprises respectively to maintain a difference in what they pay whilst ensuring that the fee charged is worth collecting.
  - In the relatively few cases where a fee increase may still occur under that scenario, we propose that the current lowest fee an SME pays will apply to all enterprises within that company size.
- **For authorisations** we are retaining the current SME discounts of standard fees (for medium, small and micro businesses, respectively 25%, 55% and 90%) to avoid placing disproportionate burdens on smaller companies or discriminating against them.

5.4 **The changes to the current fee levels are as follows** (more information can be seen in the tables at the Annex to this document which show the previous fee and the one that applies from 1 April 2025.

- **Registration fee:** to apply a flat standard fee of £2,222 to large companies (for both full and intermediate registrations, whether those are transitional[1] or new registrations[2]). This fee covers both the costs of work done by HSE to process registrations and those relating to the asset value and life of the REACH IT system including depreciation and maintenance costs as required under MPM. Those IT costs, which relate most directly to the registration activity, have not been recovered to date.
- **Authorisation fee:** to increase the current authorisation fees to make sure they not only take account of the work done by HSE in processing these applications but that done by EA whose costs are also recoverable under MPM. There are currently three types of charges relating to applications for authorisations:
  - Base authorisation fee (to increase by £10,460 in the case of the standard fee, from £47,229 to £57,689).
  - Additional fee per substance (currently calculated at 20% of the base authorisation fee. The same 20% calculation will apply to the new standard base fee of £57,689).
  - Additional fee per use (currently calculated at 90% of the base authorisation fee. The same 90% calculation will apply to the new standard base fee of £57,689).
- **PPORD (Product and Process Oriented Research and Development) fee:** to increase fees by £276 from £475 to £751 for the standard fee in the case of a PPORD notification to take account of the fact that the EA do some work on PPORD applications, the costs for which have not been recovered to date.
- **Other current UK REACH fee types that we are changing:**
  - **Tonnage band updates:** to apply a flat standard fee of £2,222 for large companies in line with the actual full costs for the work being done by HSE and those relating to the asset value and life of the REACH IT system including depreciation and maintenance costs as required under MPM.
  - **Change of identity/legal personality (update):** to reduce charges for processing these requests to reflect the actual full costs for the work being done by HSE. This would mean the current standard would reduce from £1,424 to £290.
- **UK REACH fee types that stay the same.** No changes are being proposed for the following current fee types. This is because, to date, there have been no applications for such requests. This means there is no evidence on which to make a meaningful assessment of what the new fee level should be. This will be kept under review.
  - **For submitting an update other than for a change in identity/legal personality** regarding a change in access to information in the submission; and

[1] These registrations relate to substances that are imported directly from the EEA by GB companies. These users operated as downstream users under EU REACH and had not previously submitted dossiers because they were sourcing their substances from within the EEA (meaning they were neither importers nor manufacturers). They were provided with continuity of supply following exit but were required to submit nominal 'notification' data upon exit (sometimes referred to as DUINs – downstream user import notifications). However, in order to continue to place the substance on the GB market they must submit further information to UK REACH by the required registration deadline.

[2] Any GB-based legal entity intending to place a new chemical substance on the GB market (England, Scotland and Wales) at or above 1 tonne per year is required to submit a registration to HSE for that substance.

- **Applications for confidentiality requests** under point (xi) of Article 10(a) of UK REACH.

What was the previous policy, how is this different?

5.5 When we left the EU, the EU REACH fees and charges structure and the fees and charges, which applied at the time, were carried across to UK REACH. Those fees, inherited from the EU, do not relate closely to the actual costs of carrying out the activities for which those fees are charged were not in line with MPM. The new fees and charge levels address this issue.

6. Legislative and Legal Context

How has the law changed?

6.1 The Retained EU Law - Commission Regulation (EC) No 340/2008 on the fees and charges (The Fees and Charges Regulation) is being amended to adjust the fee levels.

Why was this approach taken to change the law?

6.2 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 Although there is not a legal obligation to consult on the changes to these fees and charges an informal consultation was carried out from 14 August to 16 September 2024. This involved sending an Explanatory Note and fee tables to key industry Trade Associations (TAs) and NGO stakeholders as well as four briefing sessions to provide more detail, answer questions and receive comments direct from attendees. We had nine written responses from the TAs and one from a group of NGOs.

7.2 Industry broadly welcomed the changes and acknowledged that, overall, the changes would mean reduced costs for most businesses and welcomed the proposed continuation of SME discounts. Their main concern was on the proposed increase in registration fees paid by large companies submitting a joint registration for substance in the range of 1-10 tonnes given the additional costs this would place on businesses and the impact this could have on supply chains meaning that certain substances of importance to downstream users of chemicals might not be available on the GB market.

7.3 Consideration was given to not charging the new standard fee amount of £2,222 to those affected companies but doing that would not be in line with HMT rules on MPM.

7.4 NGOs are keen to ensure that the UK REACH regime is properly resourced, and confirmation has been provided that there are no negative implications as a result of the changes we are making to the current fee levels.

8. Applicable Guidance

8.1 Information and guidance about the current UK REACH fees is published on the HSE website. This will be amended, including the current fee tables using the figures as set out in Annex A to this Explanatory Memorandum. This will be published from 1 April 2025 which is the date from when the new fee charges will apply. Ahead of that date we will be engaging with stakeholders to make them aware of the changes.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 An Impact Assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

9.2 Furthermore, no Impact Assessment is required in accordance with paragraph 2.3 of the Better Regulation Framework which sets out the definition of regulatory provisions and states that the impacts of such provisions are out of scope where they are in connection with imposing, abolishing, varying or in connection with any tax, duty, levy or other charge which, in this case, are fees.

9.3 Although no formal assessment is required we have internally considered the impacts of the fee changes as part of agreeing our policy approach to adjust the fees in line with the MPM guidance.

9.4 Although some large companies (those submitting an individual or joint registration for substances in the range of 1 to 10 tonnes) will be negatively affected as a result of paying a higher standard registration fee than previously, the overall expected impact is still beneficial to industry, with an expected total reduction of costs in fee income across the 6-year cost recovery period (25/26 – 30/31). In addition, the cost of registration is expected to reduce for 92% of firms, with all SMEs receiving discounted fees and no fees being charged for grandfathered registrations. This will support the industry and help ensure that low tonnage and innovative substances remain on the UK market, reducing the concern that supply chains may be disrupted due to product withdrawal.

9.5 We will continue to engage with industry and monitor the impacts on chemical businesses and supply chains after the new charges come into effect. This, in turn, will help inform a future review of UK REACH fees and charges.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

The instrument does not include a statutory review clause. However, in line with good practice under MPM there will be a future review of the new fees and charges in order to make an assessment of the extent to which the new fees and charges achieve full cost recovery.

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

"In my view the provisions of The REACH Fees and Charges (amendment of Commission Regulation (EC) No 340/2008) Regulations 2025 are compatible with the Convention rights."

13. Legislative Context

13.1 The Secretary of State makes these Regulations in exercise of the power conferred by Article 22(1) of Commission Regulation (EC) No 340/2008 on the fees and charges payable to the European Chemicals Agency pursuant to Regulation (EC) No 1907/2006 of the European Parliament and of the Council on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH).