UK MINISTERS ACTING IN DEVOLVED AREAS

012 - The Biocidal Products (Health and Safety) (Amendment) Regulations 2022

Laid in the UK Parliament: 18 October 2022

Sifting	
Subject to sifting in UK Parliament?	N/A
Procedure:	Draft affirmative
Date of consideration by the House of Commons European Statutory Instruments Committee	N/A
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	N/A
Date sifting period ends in UK Parliament	N/A
SICM under SO 30A (because amends primary legislation)	Not required
Scrutiny procedure	
Outcome of sifting	N/A
Procedure	Draft affirmative
Date of consideration by the Joint Committee on Statutory Instruments	Not known
Date of consideration by the House of Commons Statutory Instruments Committee	Not known
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	Not known

Background

These Regulations are proposed to be made by the UK Government under section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018.

Summary

Biocidal products are used to protect people and animals, preserve goods, stop pests and control viruses, bacteria and fungi through a chemical or biological action. As a result of EU Exit, and as part of a GB-wide common framework, biocidal products are now required to be authorised by the Health and Safety Executive (HSE) under the new Great Britain Biocidal Product Regulations (GB BPR) regime. In particular, pre-Exit authorisations are required to be resubmitted to the HSE for the HSE to authorise under the new GB BPR regime.

Under the GB BPR regime, the HSE is required to process authorisation applications within 3 years. Without such authorisation, the biocidal product cannot be sold in Great Britain. According to the UK Government's Explanatory Memorandum to these Regulations, two issues arising from EU Exit have caused temporary delays to processing such applications:

1. Great Britain no longer has access to the EU database containing information about biocidal active substances.
2. The transition from a EU regime to a GB regime has resulted in a one-off influx of applications to HSE, seeking authorisation under the new GB BPR regime.

This means the HSE will not be able to meet the legal deadlines for processing applications under the GB BPR regime. Therefore, these Regulations extend the deadline for processing applications by a period of 5 years (i.e. until 31 December 2027). This means that biocidal products that received pre-Exit authorisation can remain on the market during this extension.

Statement by Welsh Government

Senedd Legal Advisers agree with the statement laid by the Welsh Government dated 19 October 2022 regarding the effect of these Regulations.

Intergovernmental Agreement on the European Union (Withdrawal) Bill

The above summary and the content of the Explanatory Memorandum to these Regulations confirm their effect and the extent to which these Regulations would enact new policy in devolved areas.

Senedd Legal Advisers do not consider that any significant issues arise under paragraph 8 of the Memorandum on the European Union (Withdrawal) Bill and the Establishment of Common Frameworks in relation to these Regulations.