



Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE **The REACH etc. (Amendment etc.) (EU Exit) Regulations 2019**

DATE **11 January 2019**

BY **Rebecca Evans AM, Minister for Finance and Trefnydd**

The REACH etc. (Amendment etc.) (EU Exit) Regulations 2019 (“2019 Regulations”)

The law which is being amended

European Directly Applicable Instruments

- “the REACH Regulation,” meaning Regulation (EC) 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC, and 2000/21/EC
- “the Test Methods Regulation,” meaning Commission Regulation (EC) No 440/2008 of 30 May 2008 laying down test methods pursuant to Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning REACH;
- “the Data Regulation,” meaning Commission Implementing Regulation (EU) 2016/9 of 5 January 2016 on joint submission of data and data-sharing in accordance with Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning REACH;
- “the Fees Regulation,” meaning 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 concerning REACH;
- Commission Implementing Decision C(2017) 3439 of 24.5.2017 granting an authorisation for a use of chromium trioxide under REACH, and
- the EEA agreement;

Summary of secondary legislation to be corrected

- the REACH Enforcement Regulations 2008;
- the Environmental Protection (Disposal of Polychlorinated Biphenyls and other Dangerous Substances) (England and Wales) Regulations 2000; and
- the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009

The following retained direct EU law is repealed—

- Commission Regulation (EC) No 506/2007 of 8 May 2007 imposing testing and information requirements on the importers or manufacturers of certain priority substances in accordance with Council Regulation (EEC) No 793/93 on the evaluation and control of the risks of existing substances;
- Commission Regulation (EC) No 1238/2007 of 23 October 2007 on laying down rules on the qualifications of the members of the Board of Appeal of the European Chemicals Agency.
- Commission Regulation (EC) No 465/2008 of 28 May 2008 imposing, pursuant to Council Regulation (EEC) No 793/93, testing and information requirements on importers and manufacturers of certain substances that may be persistent, bioaccumulating and toxic and are listed in the European Inventory of Existing Commercial Chemical Substances;
- Commission Regulation (EC) No 466/2008 of 28 May 2008 imposing testing and information requirements on the importers and manufacturers of certain priority substances in accordance with Council Regulation (EEC) No 793/93 on the evaluation and control of the risks of existing substances;
- Commission Regulation (EC) No 771/2008 of 1 August 2008 laying down the rules of organisation and procedure of the Board of Appeal of the European Chemicals Agency;
- Commission Decision 2010/226/EU of 20 April 2010 on the re-examination of the restriction concerning short-chain chlorinated paraffins (SCCPs) listed in Annex XVII to Regulation (EC) No 1907/2006 of the European Parliament and of the Council.

Revocation of Secondary legislation

- The REACH (Appointment of Competent Authorities) Regulations 2007

Any impact the SI may have on the Assembly's legislative competence and/or the Welsh Ministers' executive competence

The REACH regime covers both devolved and reserved matters, as it has been designed to protect the health and safety of workers (a reserved matter in Wales and Scotland) as well as public health and the environment (which are devolved).

Schedule 1 of the 2019 Regulations amends Regulation (EC) No 1907/2006. The Regulations provide for functions of the Commission relating to the Registration, Evaluation, Authorisation and Restriction of Chemicals ("the REACH Regulation), to be carried out by the Secretary of State, with the consent of the Welsh Ministers if, or to the extent that, the exercise of those functions is within devolved competence (within the meaning of section 58A(7) and (8) of the Government of Wales Act 2006) whether or not the exercise of the functions also relates to a part of the UK other than Wales.

The devolved administrations have worked with the UK Government and the HSE to conceive, through these regulations, a functional standalone UK REACH regime that maintains the harmonised approaches of EU REACH while at the same time respecting the devolution settlement, by providing for UK-wide decisions in devolved areas made with the consent of the devolved administrations, underpinned by articles allowing each administration to act unilaterally where necessary for the protection of human health and the environment.

The purpose of the amendments

The 2019 Regulations make the modifications necessary to continue to apply the current rules set out in law post-EU Exit. They are particularly important to facilitating the operation of chemical supply chains, which are critical to manufacturing and other chemical-using industries, because they set out the conditions that must be met before importing chemical substances and mixtures into the UK, manufacturing them or placing them on the market

The Regulations and accompanying Explanatory Memorandum, setting out the effect of amendments is available here: <https://beta.parliament.uk/work-packages/1VgjAPt3>

Why consent was given

Consent has been given for the UK Government to make these corrections in relation to, and on behalf of, Wales for reasons of efficiency, expediency and due to the technical nature of the amendments. The amendments have been considered fully; and there is no divergence in policy. These amendments are to ensure that the statute book remains functional following the UK's exit from the EU.