



WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE	The Reach etc. (Amendment etc.) (EU Exit) (No. 3) Regulations 2019
DATE	24 June 2019
BY	Rebecca Evans AM, Minister for Finance and Trefnydd

The Reach etc. (Amendment etc.) (EU Exit) (No. 3) Regulations 2019

The Law which is being amended

- The REACH etc. (Amendment etc.) (EU Exit) Regulations 2019

The purpose of the amendments

The 2019 Regulations is needed to make adjustments in order to resolve a developing issue concerning applications for authorisation under EU REACH, which are still awaiting decision. The need arises from the effects of the extension of Article 50 to the end of October, and a recent European Court of Justice judgement against the Commission which overturned some existing authorisations.

There is an increasing backlog of undecided authorisation applications to use Substances of Very High Concern (SVHCs) under the EU REACH regime. UK downstream users and applicants for authorisation would not be able to manufacture, place on the market or use the chemicals concerned from exit day. The proposed resolution is to amend the REACH Statutory Instruments to give UK companies a window of opportunity to apply for authorisations after exit day to ensure the chemicals industry and supply chain is not disrupted.

The immediate cause for concern is a number of pending authorisation decisions on a range of chromate compounds, including, chromium trioxide and sodium dichromate. These substances are used mostly for specialist engineering and aerospace uses such as: chrome plating, various coating processes and polyurethane castings. Given the size of the aerospace and automotive industries in the UK and the associated supply chains, it is likely that a substantial number of companies (100s) would be affected. Defra's assessment is that the impact of the loss of these substances to the supply chain has heightened and continues to grow.

A further issue has arisen due to the extension of Article 50 to 31 October, in that further SVHC latest application and sunset dates are passing during this period. As a result, UK applicants would need to have submitted applications to the European Chemicals Agency (ECHA) (rather than the UK authorities) to be able to continue to use those substances. After exit, they will need to redirect their applications to the UK authorities but they will not be covered by the provision that enables continued use after the sunset date where a decision is still pending, because they will not have been able to make their UK applications before the Latest Application Date. This instrument amends the REACH SI by setting new sunset and Latest Application Dates for these SVHCs as listed in Annex XIV of UK REACH. The instrument moves the latest application and sunset dates to 18 months after exit day.

The REACH SI applies some provisions by means of fixed dates or in other cases through “floating” timings tied to exit day. The extensions to Article 50 have implications for these dates of timings, which in some cases will affect the regulator’s duties or stop some businesses from benefitting from a provision. In these cases, the dates or timings should be amended to preserve the original intent.

The REACH SI has also been corrected to reflect recent technical amendments to the EU REACH Regulation and changes being made to the REACH SI through a DHSC exit SI.

This instrument will avoid the risk of disruption to chemical supply chains and provide industry with greater business certainty that the substances for which they have applied for authorisation will be attended to.

The 2019 Regulations and accompanying Explanatory Memorandum, setting out the effect of amendments are available here: <https://beta.parliament.uk/work-packages/TJQnGhoN>

Any impact the SI may have on the legislative competence of the National Assembly for Wales

The 2019 Regulations have no impact on the National Assembly for Wales’ legislative competence.

Any impact the SI may have on the Welsh Ministers’ executive competence

The 2019 Regulations do not impact on the Welsh Ministers ability to exercise functions in relation to Wales.

Why consent was given

As set out above, the 2019 Regulations makes adjustments in order to resolve a developing issue concerning applications for authorisation under EU REACH, which are still awaiting decision. The need arises from the effects of the extension of Article 50 to the end of October, and a recent European Court of Justice judgement against the Commission which overturned some existing authorisations