Submission from Fidra on the Chemicals (Health and Safety) (Amendment, Consequential and Transitional Provision) Regulations 2026

Key Concerns

The Chemicals (Health and Safety) (Amendment, Consequential and Transitional Provision) Regulations 2026 draft SI covers Classification, Labelling and Packaging of Substances and Mixtures Regulation (GB CLP) and Biocidal Products Regulation (GB BPR) and Prior Informed Consent Regulation (PIC) which are assimilated laws based on EU regulations designed to protect people and the environment from some of the most harmful chemicals on the market. The draft SI **increases ambiguity** on which states and territories the HSE considers in forming its recommendations on chemicals, it **increases complexity** by adding extra regulatory stages and it **removes statutory time limits**, resulting in **inefficiencies and delays to critical decisions on chemicals.** In particular, Fidra have concerns about GB CLP amendments in the draft SI as GB CLP impacts other regulations and areas of policy including workers' health, product safety regulations, health and environmental protections and trade both within the internal market (as Northern Ireland EU's CLP regulations) and with the EU, our largest trading partner. We are also concerned that the GB CLP proposals do not address adopting the new classifications in the EU that apply in Northern Ireland. The GB BPR changes focus on extending emergency authorisations but without time limits. **The draft SI is not fit for purpose due to lack of specificity and lack of statutory timelines** which could result in inaction or slow progress on critical chemical regulatory controls.

Fundamental regulation with wide ranging impacts on trade, worker safety, health and environment

Biocides are used by many different industry sectors and consumers to kill target organisms, such as pests and bacteria, but can also impact health and environment, they are found in rivers and are a risk to soil health. Deciding which chemicals are hazardous and what constitutes hazardous, through CLP, is critical to managing chemicals and underpins other health, safety and environmental regulations such as UK REACH and products controls. For example, to protect children from growth and developmental issues caused by endocrine disrupting chemicals such as bisphenol A (BPA), there is a new EU regulation to prohibit these chemicals in toys. This product regulation relies on chemicals being recognized and classified as endocrine disruptors in EU CLP.

But because the UK has not adopted this hazard classification these hormone disrupting chemicals can still appear in toys in Great Britain but not those in Northern Ireland. Due to the regulation's central functions in protecting health and environment the draft SI risks undermining product safety, trade, worker health and our health and environment.

Ineffective delivery of policy

The draft SI will not achieve the policy objectives set out in the Explanatory Memorandum (EM) and in the HSE's consultation response. These documents claim the goal is to efficiently regulate and incorporate chemical regulatory decisions based on the EU as this is the only territory with regulatory processes similar to our own. However, the draft SI removes the requirement in GB CLP to consider all of European Chemical Agency's Risk Assessment Committee (RAC) opinions on classifying chemicals and removes a 6-month time limit for HSE to prepare Technical Reports on these opinions (see Figure 1), which often initiate a classification recommendation. Instead, the draft SI:

- requires HSE to evaluate proposals, that could come from different states and territories, to identify those that in the HSE's opinion meet their criteria for 'fast track' or normal procedure.
- introduces a work plan that sets out what proposals to 'fast track', when these 'fast tracks' proposal will start, and which proposals are funnelled down the normal procedure. There are no statutory requirements on the contents of the work plan (currently there is a statutory requirement for the HSE prepare a technical report on *all* RAC opinions).
- has no statutory time limits on when the work plan is to be published or the period it covers.
- has no statutory time limits for publishing Technical Reports (currently there is a 6-month statutory time limit to publish a Technical Report following a RAC opinion).
- has no guarantees to ensure classifications processes are progressing i.e. there is nothing in the draft SI that says HSE will make a classification recommendation that algin's with EU's unless there are exceptional reasons not to and any divergence will have the rationale outlined. Nor are their mechanisms to track and report on divergence so the policy objective of adopting decisions from the EU more quickly is not monitored or guaranteed.

There is no evidence to show that by enabling HSE to evaluate proposals from more states and territories, by adding a work plan and removing the time limit for Technical Reports will deliver efficiency. There are no mechanisms that will ensure decisions from EU will be adopted more quickly than the current process. The HSE told NGOs on 26th February 2026 the current 6-month statutory time limit for Technical Report publication following a RAC opinion is challenging for them to comply with and no timelines for Technical Reports could be given in the draft SI.

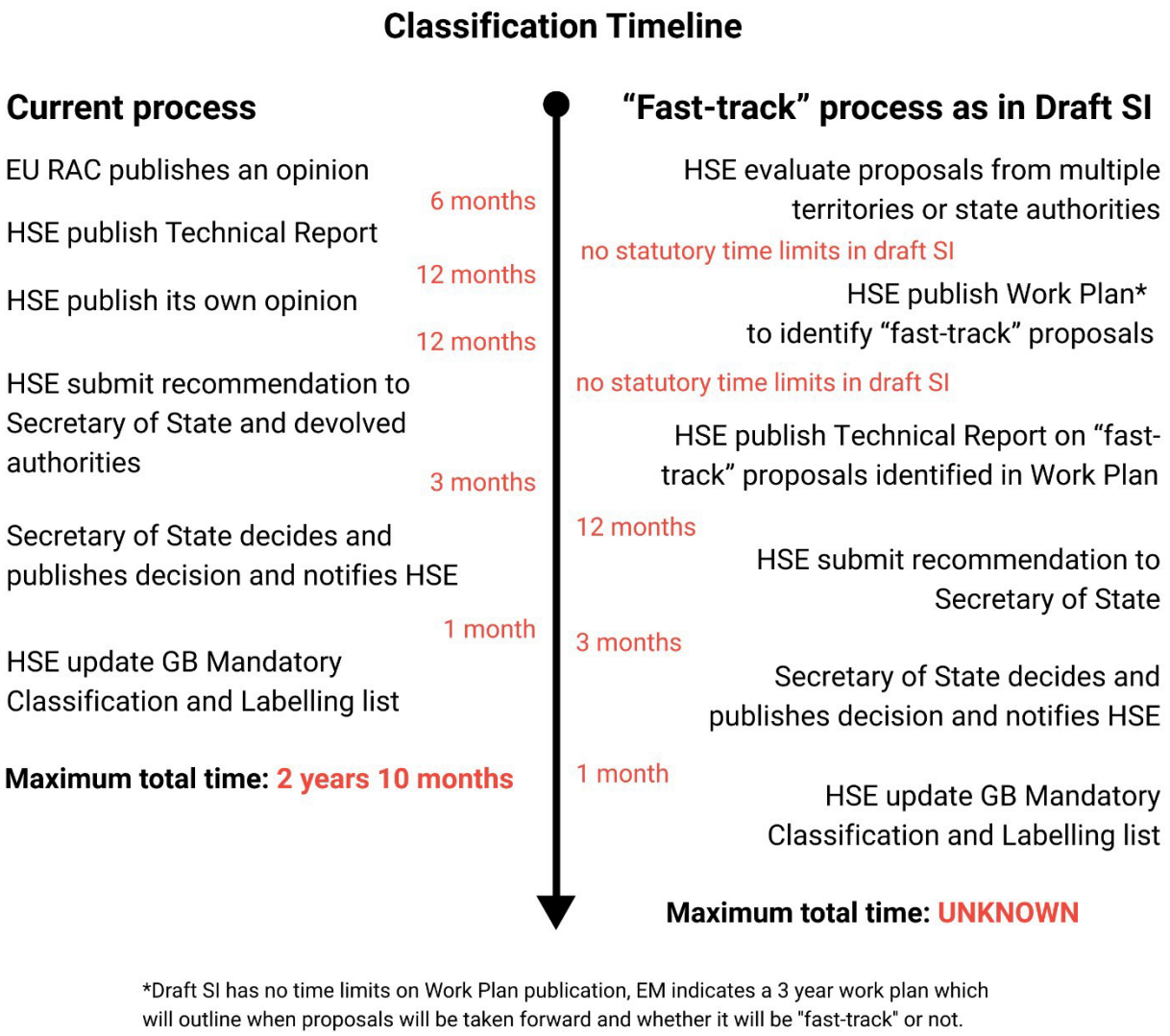

Figure 1. Comparison of timelines for CB CLP classification initiation process under current GB CLP regulations (on the left) and in draft SI (on the right)

REUL overreach and extension of HSE powers

The draft SI pertains to three separate and complex pieces of regulations each with their own areas of technical expertise. The draft SI retains and entrenches existing poor governance structures and powers given to HSE post Brexit that mean the HSE is acting as both the policy lead and the regulator for these three regulations, this governance structure combined with the use of Retained EU Law (Revocation and Reform) Act 2023 diminishes oversight[1]. In addition, by requiring a work plan but not stipulating what will be in it or when it comes out, in this draft SI HSE have given themselves the power to decide which proposals to take forward and which to disregard by simply not including it in the work plan. It can also decide which proposals from all over the world to 'fast track' and which to send down an even slower process. **Overall, there is no specificity**

[1] The post Brexit chemical regulation responsibilities are set out in the Chemicals and Pesticides Common Framework which has been widely criticised. The Royal Society if Chemistry has said post Brexit ''chemical regulation in the UK is broken'' calling for an independent separate UK chemical agency.

on timelines nor on jurisdictions in the SI, giving HSE powers to progress classifications as and when it wants from where it wants.

Consultation, information and oversight concerns

The consultation and policy development process has been flawed as there is a failure to evidence how the proposals will maintain or increase environmental protection and no impact assessments have been prepared. The consultation lacked critical details such as regulatory processes and costings. The draft SI and consultation response published 19 February 2026 was not available to the devolved administrations' ministers or elected representatives on scrutiny committees when they met in early February, with Scottish Parliament's NZET committee raising concerns including how the draft SI will *'support, rather than undermine, alignment with EU chemicals standards*' and '*how "fast track" proposals will be identified'.*

Lack of evidence to support efficiency and cost saving claims

The regulatory processes needed to implement the SI and costs estimates for these processes have not been sufficiently outlined in the consultation, during the policy development process or in the draft SI. With insufficient details and a lack of evidence provided, the business case for the draft SI is unclear. **Efficiency can only be judged if there is evidence that more (or the same) can be done with less resource.** It is conceivable that these proposals, which add complexity through selecting proposals from around the world and adopting some of them into GB regulation, could increase regulatory resources, time and costs, and as a result the fees HSE charge to businesses under full cost recovery.

Problems with HSE work plans: Adding complexity and building in bottlenecks

The draft SI requires HSE to produce a work plan for CLP, but it does not specify when this work plan will be published or mechanism for populating this work plan. The EM indicates a 3-year work plan. If the EU classifies a chemical is hazardous based on the comprehensive data they hold, but this proposal is not already on the HSE work plan, HSE may take no further action. Only proposals already in the work plan can progress down a so called 'fast-track' and even this 'fast track' gives unlimited time to produce a Technical Report before progressing to the next stage. Or the HSE could funnel proposals down an even slower more laborious process. **This allows HSE to pick only a few classifications to progress and bakes in potential delays of over 3 years before the process even starts and no time limits on when it ends**. HSE's track record with the UK REACH Work Programme raises concerns about the work plan approach proposed for CLP. The UK REACH Work Programmes have been delayed repeatedly (sometimes by as much as 11 months for an annual plan) and contain very few chemicals, leading to just two restriction decisions in over four years compared to 13 in the EU.

The work plan and publication of technical reports is a classification bottleneck, particularly as no statutory time limits have been given for these processes.

It is conceivable that the CLP work plan will contain very few chemicals and chemical classifications will be deferred. This will leave hazardous chemicals in use with no knowledge of them in the supply chain. The work plan approach in the draft SI is not an effective mechanism for chemical management.

Conclusion

Our key concerns are the draft SI's **lack of statutory timelines** for HSE regulatory processes such as publishing work plans and technical reports, **lack of specificity on territories and states** the HSE will consider in developing proposals for their work plan, **lack of clarity on how and when a classification process will be initiated and completed**. The draft SI is not fit for purpose as it could result in slow progress and inaction on classification of hazardous chemicals. Fidra recognise the challenges faced in delivering chemical regulation following EU Exit. Regulatory efficiency could instead have been better achieved by harmonising GB chemical regulations with EU decisions including adopting the new hazard classes**.** The draft SI will likely result in slow, cumbersome regulations based on unknown evidence leading to fewer and poorer decisions that diverge further from the EU and put health, worker safety, environmental protection the internal market and trade at risk.

4 March 2026

Submission from CHEM Trust on the draft Chemicals (Health and Safety) (Amendment, Consequential and Transitional Provision) Regulations 2026

Introduction

1. CHEM Trust is a UK registered human health and environment charity with expertise in chemical regulation. We sit on the science policy interface and advocate for harmful chemicals to be replaced with safer alternatives.

2. CHEM Trust wishes to draw attention to the following concerns regarding the Chemicals (Health and Safety) (Amendment, Consequential and Transitional Provision) Regulations 2026. These relate specifically to changes proposed to the Classification, Labelling and Packaging Regulation (CLP) under this statutory instrument. They are summarised as follows:

3. **It is unclear whether these changes will result in the UK maintaining or increasing alignment on CLP**. This lack of certainty has broader ramifications not only for EU alignment on chemicals more widely, but across a number of other policy areas.

4. **It is unclear how the proposals achieve their policy objectives.** The purpose of HSE's reforms is to maintain existing levels of protection for human health and the environment whilst reducing the regulatory burden. However, we question the extent to which these reforms will achieve these goals.

What is the Classification, Labelling and Packaging Regulation and why is it significant?

5. The Classification, Labelling & Packaging of chemical substances and mixtures (GB CLP) sits at the heart of chemical regulation. Classification of a substance as hazardous to health, the environment, or both is often the initial trigger for managing its risks and is connected to an estimated 19 other pieces of legislation. Changes to CLP are therefore significant to policy areas held by a number of different government departments.

6. For example, toy safety and cosmetic product regulations contain links to CLP. Substances classified under CLP as carcinogenic, toxic to reproduction or damaging to DNA are automatically banned from these products without the need for extra assessments to assess their safety for these uses.

7. Classification and communication about chemical hazards is also crucial for worker safety. For example, substances that meet the criteria for any health hazard class under CLP trigger obligations under the Control of

Substances Hazardous to Health for employers to reduce their workers' exposure to these substances.

8. There are two routes for substances to be classified under CLP. Selfclassification is a process whereby industry determines the classification of the substance or mixture they place on the market, and package and label their products accordingly.

9. Mandatory classification (called harmonised classification in the EU), is reserved for the substances of highest concern such as carcinogens, mutagens (substances that damage DNA) and substances toxic to reproduction. This regulatory process establishes a legally binding classification to ensure these highly harmful substances are consistently classified and labelled by all manufacturers, importers and downstream users of this substance.

10. HSE are proposing to change the current mandatory classification procedure, introducing new 'fast track' and 'full process' procedures. The 'fast-track' proposal is designed to reduce the overall time to provide mandatory classifications (MCLs) by skipping repeat evaluations of classification proposals produced by other countries. The production of a technical report is still required. The 'full process' requires HSE to produce a technical report on the proposal, an opinion as well as provide time for parties to comment.

11. We are principally concerned about the changes proposed to the mandatory classification process.

Jeopardising closer UK-EU alignment

12. **Despite stating very clear intentions in the consultation response about these changes resulting in close UK-EU alignment (177), this section outlines inconsistencies in the statutory instrument over the direction of travel on alignment. It also highlights the potential for increased divergence as a result of these changes.**

Uncoupling GB and EU CLP:

13. Enabling faster EU alignment is highlighted as a key intention behind the changes to the mandatory classification process. However, proposal 1 removes the statutory requirement for HSE to respond to EU hazard classifications within a specific timeframe. We are concerned about the potential for increased divergence due to the fact this connection has resulted in far higher UK-EU alignment than the rest of the chemicals management system. The UK has only diverged in 11% of cases (113) whereas under UK REACH, for example, the UK has not added a single substance to the Substances of Very High Concern List in the time it took the EU to add 44 substances.

14. HSE's intentions on EU alignment are further confused by the motive given for uncoupling GB and EU CLP. HSE state that the requirement to consider RAC opinions 'that are not relevant to GB inhibits HSE being an effective GB regulator' (105). HSE do not explain which EU opinions they consider irrelevant to GB and how this motive is compatible with an intention to maintain or increase EU alignment.

15. It seems likely that the removal of this statutory obligation to respond to EU hazard classifications will result in increased UK-EU divergence at the very least in the short term. This summer, the EU is expected to have a significant number of substances going through its classification process. This is because it plans to speed through its system a number of substances already identified under Biocidal Products Regulation, Plant Protection Products Regulation and EU REACH to new hazard classes in EU CLP. Although HSE claim they can still consider fast tracking these substances on a case-by-case basis (110), we think the removal of this statutory link to review EU opinions, combined with the significant number of new EU classifications on the horizon, mean the UK is likely to fall behind.

The fast-track process is open to countries beyond the EU:

16. Despite stating in the response to the consultation that HSE will only fasttrack evaluations from the EU through our system (106), the definition in the statutory instrument is far broader than this. 'Fast-track' is defined as 'a proposal from a territory (including the European Union) or state authority which in the opinion of the Agency (a) has adopted the GHS in a similar way to the United Kingdom; and (b) has a transparent classification proposal system based on public consultation'.

17. The SI therefore gives the regulator a huge amount of flexibility to fasttrack classifications from a large number of countries through GB CLP. UN GHS is an international, non-legally binding framework to standardise how chemical hazards are identified and communicated. Roughly 80 countries around the world adopt UN GHS, however, they all adopt different versions of GHS and are at different stages in their implementation. Even when countries follow the same version of UN GHS, there can still be differences in how regulatory scientists interpret data, meaning the same harmful substance can be classified differently between countries. Providing this amount of flexibility into our fast-track system provides no certainty on the standards of the classifications that could be put through GB CLP.

Why is UK-EU alignment on classifications important?

18. Divergence between EU and UK classifications of harmful substances has ramifications across policy areas. For example, the EU has just finalised an update to its toy safety regulation, banning new hazard classes as defined under CLP from use in toys. Hazard classification is the first step

towards managing the risks posed by chemicals. Therefore UK-EU alignment on CLP is also important to achieving Defra's intentions as set out in the EIP, to align our protections on chemicals more closely with the EU.

Unclear how it achieves its policy objectives

19. It is unclear how these changes will achieve their dual objectives of maintaining existing levels of protection whilst reducing the regulatory burden. The stated objectives for the changes to the mandatory classification procedure are to make GB CLP evaluation more 'agile' and 'predictable'.

20. These changes to chemical regulation were initiated following the government's publication of the Regulation Action Plan (RAP) (8,9). These include the principles of reducing 'uncertainty across our regulatory system' and tackling 'complexity and the burden of regulation'.

21. Until now there has been a high level of certainty on which substances will receive mandatory classifications in GB due to the statutory requirement for HSE to review RAC opinions. However, we think that opening up the fast-track classification process beyond the EU logically increases the complexity and burden for the regulator, and reduces the level of certainty on GB classification outcomes.

22. We are unconvinced that the replacement of the statutory link to RAC opinions with a work plan will provide sufficient regulatory certainty. The requirement under UK REACH for HSE and the EA to publish annual work programmes and reports has been poorly complied with. The 2023-2024 and 2024-2025 UK REACH work programmes were published very late into the periods they had left to cover, leaving stakeholders in the dark about what activities were underway to manage and regulate chemicals under UK REACH.

23. We are also concerned about how existing levels of alignment and therefore levels of protection will be maintained when we are lacking key information about the proposals. For example, there is no definition in the statutory instrument or consultation response of what count as 'compelling reasons' to diverge from the EU.

24. Finally, it is unclear how the fast-track proposals will result in a sped-up system when statutory timelines have been removed from the current process. As it stands, HSE have to produce a technical report within 6 months following the publication of a RAC opinion, however, this obligation is removed under these proposals.

Conclusion

In sum, we are concerned that the changes made under this SI have the potential to increase divergence between UK and EU mandatory and harmonised

classifications, with ramifications across a number of policy areas. The fast-track classification process needs to be better defined to provide certainty that only proposals from the EU can be put through this process. We would also like to see key definitions clarified, such as what counts as compelling reasons to diverge from the EU, and the maintenance of statutory timeframes for HSE to produce technical opinions. We are unconvinced that the removal of the statutory obligations to consider RAC opinions will result in the same or increased levels of alignment. Overall, we are very concerned about the number of inconsistencies between the intentions of these reforms as set out in the initial consultation, the consultation response and the statutory instrument.

4 March 2026

Submission from the Wildlife and Countryside Link on the Chemicals (Health and Safety) (Amendment, Consequential and Transitional) Regulations 2026

Executive Summary

Last summer, the Health & Safety Executive (HSE) held on a public consultation on changes to (a) the regulation of biocides, (b) the classification of hazardous chemicals and (c) their export to low- and middle-income countries. NGOs and others raised significant concerns about these changes to vital chemical safety laws, for which links are supplied at the end. We have the following key concerns about the Chemicals (Health and Safety) (Amendment, Consequential and Transitional) Regulations:

1. Limited democratic oversight of these proposals:

- Changes outlined in the consultation and taken forward by this Statutory Instrument (SI) lack crucial safeguards and details about how they will work in practice

2. Risks increased divergence from EU regulatory protections, despite reassurances to the contrary

- The changes remove the current statutory link with the EU, which requires HSE to respond to all substances given hazard classifications in the EU within a legal timeframe, and give HSE delegated powers to choose which substances receive classifications and to adopt classifications from other jurisdictions.
- Specifically, the SI does not incorporate 6 new EU hazard classification (such as for hormone disrupting chemicals) – only saying HSE will consider incorporating them in future. This will result in significant divergence from the EU and with wide-ranging protections linked to the new classes, e.g. EU legislation automatically banning substances classified as endocrine disruptors from toys and in food packaging. This is not consistent with the interest of the Department for Business and Trade to match EU product regulation that protects consumers from health risks or the commitment of the Northern Ireland Secretary to establish a consistent chemicals regime between Northern Ireland and the rest of the UK.

3. **Changes regress from environmental and public health protections retained in GB law post-Brexit.** For example, they:

- Provide unlimited derogations for unauthorised biocides, in emergency circumstances.
- Make it easier for UK exporters of the most harmful chemicals to override the requirement that low- and middle-income countries should give their explicit consent to imports, in cases where the importing country has not responded to repeated requests for their consent.

Introduction

Pollution from harmful chemicals poses a growing, long-term threat to our environment and health. Many thousands of known and suspected harmful chemicals are used in a wide variety of applications and products every day, including most manufactured goods, but many can cause long term damage to wildlife or human health, or both.

Since January 2021, the UK has operated its own chemicals regulation system. This involved retaining EU legislation, from EU CLP (Classifying, Labelling and Packaging of chemicals) to laws relating to pesticides, and modifying these for the UK using secondary legislation. The system applies to Great Britain (ie England, Scotland and Wales), with EU laws continuing to apply to Northern Ireland under the Windsor Framework.

The Health and Safety Executive (HSE) was assigned as the regulator for many of these regimes, with responsibilities including approving pesticide active substances to evaluating UK REACH restrictions. Unusually for an arm's length body, as well as its regulatory functions, HSE makes policy on significant chemicals regulation (eg GB CLP and GB Biocidal Products Regulation) and represents the UK in some international agreements and systems on chemicals, including the Globally Harmonized System of Classification and Labelling of Chemicals and UK Free Trade Agreements.

Lack of democratic oversight

1. The proposed policy changes set out for **public consultation last year lacked crucial detail about safeguards or how they would work in practice**. Link and others raised this in our consultation responses, as well as the lack of costings to evidence claims supporting the proposals, i.e. that proposals would reduce costs for regulators and industry. Rather than bring forward detailed proposals for a second consultation, the SI provides HSE with broad delegated powers for making regulatory decisions without an impact assessment and deferring crucial details about how processes will work in practice to guidance and to the discretion of HSE.
2. The formal response to the consultation provided welcome reassurances that HSE would align with EU standards, "with divergence occurring only in exceptional circumstances". The Explanatory Memorandum said the 'fast-track' classification "will be preserved with a focus on recognition of classifications derived from the EU". There is, however, **a significant difference between the changes taken forward in the SI and what has been promised about how they will be exercised in documents separate from them**. A devolved committee has noted concerns over the "level of informed democratic oversight" involved in these changes, and asked for clarity over how the changes will "support, rather than undermine, alignment with EU chemicals standards".

3. Some of the changes consulted on will be taken forward via primary legislation. For example, the deadline for the approval of biocidal active substances has been extended to 31 July 2031 "to enable wider reforms to the biocides regime to be developed". **It has not been made clear why such substantial changes to the process for classifying hazardous substance**s is needed urgently and **cannot wait for more considered evaluation via primary legislation**. These changes were not strongly supported in the consultation, which said: "There were mixed responses to this proposal (GB MCL evaluation fast-track) with about a quarter of respondents agreeing, four in ten respondents disagreeing and a final third of respondents either answering 'don't know' or 'do not agree nor disagree'. Those identifying as NGOs and members of the public strongly disagreed. Agreement was marginal for micro, small and large businesses, but more substantial for medium sized businesses".

Risk of increased divergence from EU environmental and health protections

4. **What is GB CLP:** The Classification, Labelling & Packaging of chemical substances and mixtures (GB CLP) sits at the heart of chemical regulation, cutting across different government departments. Classification of a substance as hazardous to health, the environment, or both is often the initial trigger for managing its risks and is connected to an estimated 19 other pieces of legislation. For example, classification as carcinogenic, mutagenic or reprotoxic (CMR) almost automatically restricts a substance in consumer products and in toys and cosmetics. Classified substances are more likely to be prioritised for further risk management at workplaces than nonclassified ones, e.g. via the development of occupational exposure limit values (OELs) or specific restrictions. The EU has the most comprehensive, transparent and publicly accessible database of chemical hazards and uses in the world.
5. **The SI will severe the formal link between GB and EU chemical classifications**. The SI removes the current statutory obligation on the HSE to consider and respond to all substances classified as hazardous in the EU within a tight legal timeframe, and to provide a scientific assessment as to whether to align or diverge from it. It instead requires HSE to set up a work plan to evaluate classification proposals from jurisdictions (including the EU) that the HSE deems to have similarly adopted the UN GHS classification system and have similarly transparent procedures, as well as other proposals which are not "fast track proposals" (made by the HSE itself or a GB-based third party).
6. **In its recent response to its consultation, HSE says that powers to selectively adopt regulatory decisions from 'foreign jurisdictions', will be restricted to the EU** and that regulatory decisions will diverge from those made in the EU "only in exceptional circumstances". This is very welcome as non-EU countries and jurisdictions generally have weaker chemical safety standards than the UK. However, **this is not made explicit in the legislation**, it's an understanding of how these powers will be used in practice, and we have the following concerns about the wording in the SI:

7. **It will be difficult to monitor whether this assurance has been delivered**, as HSE does not publish a list of all new EU hazard classifications and those which have received (a) no mandatory classification and (b) a different mandatory classification in GB Classification, Labelling and Packaging. It would be very helpful if Peers were able to seek processes by which the commitment to aligning with the EU can be independently verified and scrutinised in future.
8. **It is unclear if the slower-track decisions are similarly restricted to the EU**, or if HSE can adopt classifications adopted by non-EU jurisdictions for substances considered by this route.

9. **The definition for territories that can be considered in future** does not provide a sufficiently high enough bar and could include countries with lower standards. These are defined as territories that have "adopted the GHS in a similar way to the United Kingdom and have a transparent classification proposal system based on public consultation". It is the 'opinion' of the Agency whether a territory meets this definition. There needs to be consideration of how these powers will be used not only now but also in the future and a requirement on HSE to transparently set out how a territory meets this definition that should be open to challenge. As CHEM Trust has set out, "around 80 countries implement UN GHS globally and according to UN GHS analysis from 2023, countries around the world implement different versions of UN GHS and are at different stages in their implementation".
10. **The 'fast-track' process still seems quite slow**. There are no statutory deadlines that currently exists for responding to newly classified EU substances, leaving considerable scope for delays and divergence. The Explanatory Memorandum (EM) says that the work plan will cover a period of 3 years and be subject to annual review. The EU updates its list of mandatory classifications in batches and throughout the year. If the EU classifies a chemical as hazardous based on full scientific data, but the substance is not included in the HSE's current work plan, the HSE is not obliged to pursue any additional action. It is worth noting that the EU has the most extensive data on chemical hazards in the world and makes public mandatory hazard classifications and data on which its conclusions are based. As Defra acknowledged in a 2024 consultation: "in general, hazard information concerning the intrinsic properties of a substance would not lead to different hazard conclusions in UK REACH compared to EU REACH".
11. **HSE will no longer be required to respond to every substance classified in the EU** and to provide its own opinion. The EM says this will enable it to prioritise hazard classification evaluations that are "most relevant to the GB market". This is defined as substances registered under the Registration, Evaluation, Authorisation and Restriction of Chemicals Regulation (UK REACH). However, substances only require registration if they are placed on the GB market in quantities of 1 Tonne or above (the same threshold which applies in the EU, even though its market is many times larger than GB's). This would exclude many harmful substances that are placed on the market in low quantities that nonetheless pose longterm risks for the environment or health of future generations, e.g. excluding many individual PFAS.

12. The SI says that HSE must have "particular regard" to **Article 36 of GB CLP**, which the EM says will mean that that "HSE will consider the majority, if not all, proposals from the EU". However, Article 36 does not include those classified using new EU hazard classes. The EM says that HSE can consider substances classified using the new EU hazard classes on a 'case by case basis' but it is not its policy to use these classes unless adopted internationally and it also seems that legislation would be needed to get them formally adopted into GB law (point 137). However, failure to adopt these will result in very significant divergence, see 14 below.
13. **If the intention of these changes is to make alignment easier and quicker, it would have been better to design them differently**. For example, either by introducing a system like that in Switzerland which entirely harmonises with EU CLP or by shortening and streamlining the current process for responding to newly classified substances.
    a. The current system has resulted in far higher alignment with EU decisions than other areas of chemicals regulation, diverging for approx. 12% of chemicals, although Enhesa analysis from 2023 found those differences were generally less strict than the EU). By comparison, the UK has made decisions on just two restrictions in the time it has taken the EU to enact 13.
    b. Powers which enable adoption of classifications from around the world might suggest a different ideological goal, for example, more of a 'mid-Atlantic' position.
    c. How these powers will be exercised will depend on the person exercising them, and could, for example, lead to very different outcomes.
    d. It is taken on trust that these powers will be exercised in a way that fulfils government priorities, such as dynamic alignment with EU pesticide standards as part of a future UK-EU SPS agreement. Better oversight and transparency are needed to ensure this.
14. Critically, **the SI excludes 6 new EU hazard classes it introduced in 2023 into CLP**, including for endocrine (or hormone) disruption for health or the environment (EDCs) and for substances that are persistent, mobile and toxic (PMT).
    a. **Failure to adopt these will result in increased divergence from the EU**. CHEM Trust predicts quite a few substances (approx. 80) will automatically be transferred to these new classes by June 2026. And in this EU impact assessment, the Commission estimated that the new hazard classes may allow the identification of 2,320 substances on the market, affecting 25,520 chemical products.
    b. This will have **very real impacts** on people and the environment in Great Britain that will have less protection from these harmful substances than in the EU. For example, it makes it **very difficult to match EU legislation automatically banning substances classified as endocrine disruptors from toys or in food packaging**, to protect people from health risks linked to exposure. Endocrine Disrupting Chemicals (or EDCs) are associated with the development of ADHD, certain cancers, obesity and infertility among many other health impacts. Children are more vulnerable than adults to health impacts, and even small exposures can cause irreversible damage at this sensitive period of development.

c. The PMT class is also very important for urgent regulatory action those characteristics in substances like PFAS which present particular risks to the environment and health: for example, that they barely degrade in the environment and are very mobile in water, and are associated with irreversible, long-term contamination of the environment.

15. The formal response to the consultation says that **HSE will consider how to incorporate the six EU CLP hazard classes into GB CLP**, and then gives a number of reasons against incorporation (point 111). It would be very valuable if the Committee was able to get a process and timelines for this commitment and to also ensure that this critical policy decision is taken by the government – for example by the Northern Ireland Office. It is also noted that the majority of responses to the consultation supported replicating recent changes to EU CLP in GB CLP "including businesses of all sizes across all sectors".
16. The new processes by which classification proposals will be considered seem messy, inefficient and incoherent. They would **not appear to provide the certainty and predictability which is an objective of government** to provide the foundations needed by businesses to plan and invest.

3. Regression from levels of protection for our health and rivers, seas and wider environment

17. **Biocides** are designed to control or destroy harmful organisms and are used in products such as disinfectants, wood preservatives and insect repellents. They can also be harmful to organisms they aren't meant to control such as wildlife and people. Research by Link and Rivers Trust show that 95% of rivers are already polluted by harmful biocides, which risks antibiotic resistance, and the James Hutton Institute found that biocides in UK sewage sludge applied to land present at significant risk to soil health. Currently, a biocidal product cannot be placed on the market unless it contains approved active substances (that scientifically assesses risks to health and environment) and has been authorised. Changes to GB Biocidal Product Regulation (GB BPR) include:
18. **Postponing expiry dates to 31 July 2031** for all biocidal "active substance/product type combinations", unless a decision on an approval is taken before 31 July 2031. These mandatory expiry dates have been pushed back a couple of times since the GB system started operating in January 2021. This risks free circulation of products on the GB market that are not approved in the EU due to their harmfulness or whose active ingredient is significantly higher than those considered safe and permitted in the EU. It would be helpful if the Committee could check that HSE will match EU non-approvals or bans and other restrictions on active substances during this period, to maintain high levels of protection for human and environmental health.
19. **Unlimited derogations for unauthorised biocidal products** until the biocidal product is authorised, **where they are "necessary to deal with a danger to public health, animal health or the environment**".
    a. There are **limited safeguards or conditions** placed on the granting of these derogations. In 1B of Part 2 of the SI, the

competent authority can cancel the derogation if, for example, no applications for authorisation are received or the criteria for exercising the derogation is no longer met. But this is not the same as requiring the derogation to be cancelled in these circumstances. It is unclear if there are similar obligations that exist in the EU to hold a consultation on applications for derogations which provide an opportunity to determine whether there are potential alternatives.

b. There will be cases where the use of some biocides is needed, but there is the potential for this mechanism to be used routinely as an alternative route. For example, the Court of Justice of the European Union recently ruled that Member States cannot repeatedly authorise the emergency use of substances explicitly banned in the EU, such as issuing emergency authorisations for banned neonicotinoids year after year for the same crops and pests.
c. It would be helpful if the Committee could press for transparency around applications for derogations, including the reasons set out for them against the criteria, which are open to challenge.

20. **GB Prior Informed Consent (PIC) Regulation.** The proposals also regress from EU standards transposed on EU exit in relation to Prior Informed Consent of chemicals legislation. It seems that the SI would make it easier for UK exporters of the most harmful chemicals to override the requirement that low- and middle-income countries should give their explicit consent to imports, in cases where the importing country has not responded to repeated requests for their consent. It is difficult to assess this SI (due to the lack of a consolidated version of GB PIC), but it seems that this 'waiver from explicit consent' will apply to pesticides and industrial chemicals listed in Part III of the PIC Regulation (and Annex III of the Rotterdam Convention). The EU (and up until this SI, the UK) includes this layer of protection under EU PIC (in addition to requirements under the Rotterdam Convention) to protect countries that may not have the infrastructure to safely accept and handle hazardous chemicals.

It would be helpful if the Committee could ask the Department for Work & Pensions the following questions:

GB CLP

- Will they provide diagram setting out the process by which HSE will consider 'fast-track' proposals and those proposals not fast-tracked, and timeframes?

- Are slower-track decisions also restricted to the EU, or can HSE consider classifications from non-EU jurisdictions for this pathway?

- How will Parliament be able to track whether HSE is delivering on the policy objective of aligning with EU classifications? Can HSE provide a regularly updated list of all EU hazard classifications adopted since 1 January 2021 and those which have received (a) no mandatory

classification and (b) a different mandatory classification in GB Classification, Labelling and Packaging?

- How will HSE consider substances classified with new EU hazard classes on a 'case by case' basis, can they classify these substances using the new hazard classes?

- HSE represents the UK in Globally Harmonized System of Classification and Labelling of Chemicals. What is its negotiating position at the next GHS meeting? Will it (a) oppose or (b) support EU proposals to get global agreement for its new hazard classes, or (c) will it be neutral in these discussions?
- When will the HSE consider how to incorporate the six EU CLP hazard classes into GB CLP, and what will be the process for this? How does this relate to the commitment by the Northern Ireland Secretary of State to have a consistent chemicals regime and how will the NIO be involved in this decision?

BPR

- What safeguards are in place to prevent unlimited derogations of unauthorised biocides being used as an alternative route for getting biocides to market?

PIC

- What assessment has been made about the compatibility of this SI with UK commitments to dynamically align with EU pesticide standards as part of the future UK-EU Sanitary and Phytosanitary (SPS) agreement?

4 March 2026

Submission from the Friends of the Earth on the draft Chemicals (Health and Safety) (Amendment, Consequential and Transitional Provision) Regulations 2026

Summary

The draft Chemicals (Health and Safety) (Amendment, Consequential and Transitional Provision) Regulations 2026 amend existing EU assimilated regulations 1272/2008 on the classification, labelling and packaging of substances and mixtures (GB CLP), 528/2012 on biocidal products (GB BPR); and 649/2012 on the import and export of hazardous chemicals (GB PIC). These are laws designed to protect people and the environment from some of the most harmful chemicals on the market.

The goals of this SI are set out in the draft Explanatory Memorandum and in the Health and Safety Executive's (HSE) recent response to their 2025 consultation. These documents suggest the Instrument aims to prevent the removal of biocides from the market where delays may otherwise impact authorisation renewals, increase regulatory efficiency, and simplify and add flexibility to classification processes. However, Friends of the Earth feels that the text as currently drafted:

- Lacks clarity and presents unnecessary ambiguities which may hinder interpretation and implementation.
- Risks unintended consequences in the form of undermining regulatory alignment increased potential for inefficiency and delay.
- Is based on a flawed consultation and policy development process which has not adequately accounted for cross-governmental duties, adequate impact assessment and good practice in scrutiny. **Ambiguity and interpretation**

At a number of points, the drafting lacks clarity and specificity. There is a lack of detail on which states and territories the HSE will consider in forming its recommendations on chemicals, how and when a classification process will be initiated and completed, and what HSE work plans should contain. This drafting appears to accord HSE a huge amount of latitude to determine the speed at which specific applications may proceed through the system at the expense of certainty and transparency.

Specifically, it is unclear how (in the new article 37(2) as inserted into 1272/2008 as inserted by article 1(8) of the Schedule to this Instrument) it is envisaged that the Agency will judge the 'similarity' of GHS adoption between the UK and another state authority, and what evidence the Agency might be expected to consider or record to come to and evidence this opinion. The Scottish Parliament's Net Zero, Energy and Transport committee has also raised concerns on this point, asking 'how "fast track" proposals will be identified'.

The committee may wish to consider whether additional definitions and technical amendments might aid in future understanding of those proposed changes, and particularly whether further detail might be required to fully set out the requirements of the fast-track process.

Potential for unintended introduction of inefficiencies, delay, and regulatory divergence

The draft SI appears to omit statutory timelines relating to regulatory processes throughout, thus potentially undermining the stated aim of this legislation in supporting

efficient decision-making. For example, there is currently a 6-month time limit for publication of a Technical Report following an ECA risk assessment committee opinion (see article 37(2) of 1272/2008). This does not appear in the new article 37(5)a as inserted by article 1(8) of the Schedule to this Instrument. Similarly, there appear to be no requirements for the HSE to produce a workplan by a specified date. The committee may wish to consider whether clearer time limits might support more effective implementation of this legislation and recommend that the SI be amended to include these details.

Additionally, while wider government policy explores further alignment with EU SPS standards, and the recent HSE consultation response set out a preferred approach of clear and unique recognition of EU standards within the chemical context, the draft SI does not explicitly set out that alignment should be recommended in all nonexceptional circumstances. Neither does it set out a process for recording the rationale for, or degree and scale of, divergence over time. The committee may wish to consider whether this approach risks diverging from the intent of regulatory reform in support of aligned decisions, and additionally how the department and HSE have determined and mitigated against the risk of introducing delays rather than flexibility.

The regulatory processes needed to implement the SI and cost estimates for these processes have not been sufficiently outlined in the consultation, during the policy development process nor in the Explanatory Memorandum. A full impact assessment has also not been produced. It is therefore conceivable that these changes could increase regulatory resources, time and costs, and as a result the fees HSE charge to businesses under full cost recovery. The committee may wish to consider whether further consideration is required of the potential cost and resource impacts of this Instrument in a situation of possible high divergence from ECA judgments and high numbers of proposals under the fast-track route.

Consultation, consideration and scrutiny

The consultation and policy development process which culminated in this SI was flawed in several key ways – notably in the omission of critical detail on proposed regulatory processes and associated costs from the initial consultation. It is also unclear how the precautionary principle has been considered during the development of this policy or the drafting of this Statutory Instrument, and to what extent the Environmental Principles and Policy Statement (EPPS) has been taken into account in considering the potential environmental risks of these changes. All of these issues were raised in the submission made by Friends of the Earth to the HSE consultation.

Parliamentary scrutiny has also been lacking. The draft SI and consultation response published 19 February 2026 was not available to the devolved administrations' ministers or elected representatives on scrutiny committees when they met in early February.

The Committee may wish to raise these concerns with the department and the HSE, and consider whether further assessment of potential impacts and costs is necessary before this Instrument is passed. Members may also wish to enquire as to how the EPPS was considered during the development of this policy, and what impact that consideration had on this draft regulation.

4 March 2026

Submission from Mr Jim Allister KC MP on the draft Chemicals (Health and Safety) (Amendment, Consequential and Transitional Provision) Regulations 2026

I write regarding the 'The Chemicals (Health and Safety) (Amendment, Consequential and Transitional Provision) Regulations 2026', mindful of your terms of reference

'3 (a): That the regulations are politically or legally important, or raise issues of public policy likely to interest the House.'

3 (d) that the explanatory material laid in support provides insufficient information to gain a clear understanding about the instrument's policy objective and intended implementation;

The explanatory memorandum states that the territorial application of the legislation is England, Wales and Scotland but not Northern Ireland.

'Para 4.4 of the EM states:

'EU legislation continues to apply in Northern Ireland under Annex 2 of the Windsor Framework. Therefore, this instrument does not extend or apply to Northern Ireland.'

If it was not for the fact that the Windsor Framework creates a legislative border subjecting part of the United Kingdom of Great Britain and Northern Ireland, Northern Ireland, to EU law, leaving the determination of the legislation of the rest of the UK to Parliament, it would seem likely that the legislation in question would apply to the whole UK.

Indeed, the only reason given by the EM for the non-application of the regulations to NI is the Windsor Framework and the fact that NI is subject to EU law.

This is politically and legally important because of the fact that having different laws on chemicals in different parts of the UK undermines the ability of the UK Internal Market for Goods to operate in the normal way because of divergence.

On this, however, the explanatory memorandum sends mixed messages.

On the one hand, para 7.4 states:

'The consultation findings indicated that there is a preference across all chemicals sector stakeholders to continue to align with EU regulatory decisions, both to minimise barriers

to trade and protect the UK internal market and to ensure GB continues to have high standards of protection.'

This implies that the Chemicals (Health and Safety) (Amendment, Consequential and Transitional Provision) Regulations 2026 comply with the EU legislation and thereby avoid divergence.
However, para 7.4 then immediately goes on to talk in terms that create uncertainty about to what extant this will be the case.

'While the instrument makes changes to the GB regulatory framework, the framework will continue to allow for alignment in regulatory decisions where those decisions are consistent with health, environmental and socio-economic priorities in GB.'

Is the Government stating that to some degree the requirements of the relevant EU legislation are 'not consistent with health, environmental and socio-economic priorities in GB' and to this extent these regulations diverge from the law imposed on Northern Ireland?

In this context it is important that the Explanatory Memorandum is clear about:

i) What provisions in the Chemicals (Health and Safety) (Amendment, Consequential and Transitional Provision) Regulations 2026' introduce changes to make the law in GB the same as that in NI?

ii) What provisions in the Chemicals (Health and Safety) (Amendment, Consequential and Transitional Provision) Regulations 2026', if any, keep the law in GB different from that in NI.

iii) To what extent, if any, will the relevant law in Northern Ireland be different from that in GB on account of the fact that it contains provisions that the Chemicals (Health and Safety) (Amendment, Consequential and Transitional Provision) Regulations 2026' do not attempt to apply to GB.

The Government should provide clarity on these points.

Yours sincerely

Jim Allister KC MP

3 March 2026

Response from the Health and Safety Executive (HSE)

Classification, Labelling and Packaging Regulation in Great Britain (GB CLP) – Procedures for consideration of classification proposals

Q: Can you please set out the expected timeframes for each stage in the new "fast-track" and "full process" procedures for consideration of classification proposals?

1. A: The expected timeframes to which "fast-track" and "normal-track" evaluation must adhere are set out in the table below which starts after the work plan stage, including the intended Technical Report publication date. The SI [statutory instrument] provides for changes to the GB MCL [Mandatory Classification and Labelling] List via the fast-track process to be made within 16 months following publication of the Technical Report.

2. GB MCL List updates administered under the normal-track process must be made within 22 months of the Technical Report's publication. The timeframe for delivery of the normal-track process may be extended to 28 months in exceptionally complex cases to provide additional time to produce an Agency Opinion and conduct further stakeholder engagement. For example, where new and significant information as to the impacts of a proposed GB MCL change is brought forward at a later stage of the Agency Opinion's production or where there are relevant external developments that HSE must account for in its Agency Opinion (such as issues raised by World Trade Organization Technical Barriers to Trade Committee (WTO TBT) members or a legal challenge or annulment of an EU classification).

Action	**Fast-track**	**Normal-track**
Technical Report publication	In accordance with the work plan entry	Within 12 months of receiving or producing a proposal
Agency Opinion publication	N/A	Within 6 months of the Technical Report publication (may be extended to 12 months in exceptional circumstances)
Agency recommendation to the Secretary of State	Within 12 months of the Technical Report publication	Within 12 months of the Agency Opinion publication
Secretary of State's decision with the consent of Scottish and Welsh Ministers	Within 3 months of receiving the Agency's recommendation	Within 3 months of receiving the Agency's recommendation
GB MCL List update	Within 1 month of the Secretary of State notifying the Agency of their decision	Within 1 month of the Secretary of State notifying the Agency of their decision

Q: Will the fast-track procedure be quicker than the current process?

3. A: Yes, following the publication of the Technical Report, the process will be up to 12-months shorter (depending on the complexity of the dossier under consideration) than the current Article 37 procedure owing to the omission of the Agency Opinion requirement.

Q: Why are there no statutory timeframes for the fast-track procedure to adhere to? Does this risk the process taking longer than intended?

4. A: The SI includes statutory timeframes governing the delivery of actions under the fast-track process in Article 37(5). HSE as the regulator is placed under a statutory duty to meet the timeframes set out in paragraphs 1 and 2 to deliver the fast-track process within 16 months of its publication of the Technical Report.

Q: How do you respond to the overall argument of the submissions that the draft instrument proposes to give HSE broad latitude to determine which classification proposal evaluations to pursue, from where and to what timeframes?

5. A: The inclusion of mandatory classification and labelling proposals (including those from the ECHA [European Chemicals Agency] Committee for Risk Assessment (RAC) Opinions) in the GB MCL work plan will remain governed by HSE's statutory duties that already exist under Article 36 of GB CLP (and are unamended by this SI), in which substances with the most severe priority hazard classes are subject to GB Mandatory Classification and Labelling. This includes carcinogenic, mutagenic, reproductive toxic and respiratory sensitising substances placed on the GB market. Furthermore, stakeholders and dutyholders are still able to bring forward proposals for consideration on a case-by-case basis under the "normal-track" evaluation procedure.

6. As set out in the table in paragraph 2, the statutory timeframes broadly reflect the current system. Under the fast-track procedure, the removal of the timeframe currently associated with the publication of the Technical Report following the publication of the RAC Opinion allows for better prioritisation by the Agency, and the omission of the Agency Opinion removes duplication of the requirement for HSE's impact and policy considerations for proposed GB MCL changes which are also discussed in its recommendation to the Secretary of State.

<u>GB CLP – Work plan</u>

Q: On what basis will classification proposals be considered for inclusion in the workplan?

7. A: The priority substances for mandatory classification that will be included in the work plan are those that meet the GB CLP priority hazard classification criteria set out in Article 36 of the assimilated GB CLP Regulation (which is unamended by this SI) – respiratory sensitisation, germ cell mutagenicity, carcinogenicity and reproductive toxicity. We would also expect to include

substances which meet the criteria for other hazard classes on a case by case basis where justification for the need for such action is provided to HSE.

Q: Why are the timeframes for producing and reviewing the workplan not set out in legislation?

8. A: The development and production of a work plan is a new way of planning mandatory classification evaluation work and so there is no hard evidence to draw on of the exact timeframe for producing such a work plan. As set out in the Explanatory Memorandum [EM], HSE believes that a period of three years with regular annual reviews would be the best fit. HSE will evaluate whether this approach is correct in the course of the first cycle of the work plan and come to a better informed view of whether the three year timeframe and regular annual review is the correct approach and amend it if required in consultation with Devolved Governments and stakeholders. If the intended approach and timeframe was fixed in law and experience proved that this approach was not correct and needed to change, it would need an amending piece of secondary legislation. Such a change would be a disproportionate use of Parliamentary time.

Q: Given the example of UK REACH where workplans have been subject to delay, is there a risk that the GB MCL workplan is not produced and reviewed within the intended timeframes?

9. A: No, Article 37(3) states that the Agency must publish, keep under review and in the event of change publish an updated version of a work plan for its evaluation of proposals, and must identify any fast-track proposals for inclusion in the work plan, having particular regard to the provisions of Article 36. Ministers and the Devolved Governments will expect HSE to produce the GB MCL work plan as envisaged in the Explanatory Memorandum subject to annual review, as GB's ability to have a relevant and up to date GB MCL List depends on HSE's production of the GB MCL work plan.

Q: If a hazardous chemical is identified in the EU but a proposal for its classification is not on the workplan at that time, how long will it typically take for HSE to review the proposal?

10. A: HSE will continue to routinely monitor all sources of possible EU proposals for classification to be taken forward in the work plan. The break from only considering published RAC Opinions under Article 37(4) will allow it to consider wider potential EU sources for classification proposals such as the ECHA Registry of CLH (Harmonised Classification and Labelling) intentions until outcome, ECHA public consultations on CLH proposals, ECHA Executive Director Requests, consultations and related RAC Opinions or EU Adaptations to Technical Progress (ATPs) to the EU CLP Regulation. On that basis, potential EU classification proposals for hazardous chemicals will be considered for inclusion in the work plan with an agreed date of when HSE will produce its Technical Report on the EU proposals, if they are included in the work plan. The annual review will then pick up whether those work plan entries are on track or whether new information on the classification proposal has come to light and the work plan entry for that proposal needs to be amended.

GB CLP – Consideration of proposals from other jurisdictions

Q: You state that the workplan could include proposals from other jurisdictions with transparent hazard classification systems similar to GB CLP and who adopt the United Nations Globally Harmonized System of classification and labelling of chemicals (UN GHS) but at present only the EU classification system would meet specified criteria in this instrument. What are the specified criteria? How will HSE judge whether other jurisdictions meet these criteria?

11. A: For consideration of a classification and labelling proposal by fast-track evaluation, the proposal must:

    - Originate from a territory or state authority that has adopted the UN GHS in a similar way to the UK; and
    - Have a transparent classification proposal system based on public consultation.

12. These aforementioned criteria are specified in Paragraph 1(8), Part 1 of the SI's Schedule (new Article 37 of GB CLP which replaces the current Article 37 and Article 37A).

13. In deciding whether the fast-track criteria has been satisfied, HSE will consider factors such as whether the territory or state authority has:

    - Adopted the same editions and building blocks (hazard classes and categories) of the UN GHS as the UK;
    - Subjected their classification proposal to public consultation; and
    - Made the results of that consultation publicly available in English (or Welsh).

14. HSE considers the EU the only territory to satisfy these consideration factors and the criteria listed above. It should be noted that the criteria and consideration factors only apply to fast-track evaluation. At present, HSE can consider proposals from territories other than the EU under Article 37A which includes a public consultation and submit its own mandatory classification proposal. This SI preserves HSE's ability to evaluate proposals from non-EU countries in a similar fashion. Where HSE deems it necessary to consider proposals from non-EU countries, it will do so using the lengthier, non-fasttrack "normal-track" process detailed in paragraph 9 of the new Article 37 procedure in the SI.

Q: Will HSE publish an opinion and evidence when it considers that other jurisdictions meet these criteria?

15. A: Other than the EU, HSE is not aware of any territories which satisfy the fasttrack evaluation criteria set out in Paragraph 1(8), Part 1 of the SI's Schedule. Should this change in future, HSE will include the issue in any consultation on material changes to the relevant publicly available work plan and Technical Reports. This would set out HSE's justification for its opinion that a proposal meets the criteria for fast-track procedures. This would be consistent

with the current approach where the basis for evaluation is included in the introduction of HSE's Technical Reports.

Q: Will proposals for classifications from other jurisdictions only be considered by the fast-track procedure, or also the full-process procedure?

16. A: At present, classification and labelling proposals from territories other than the EU do not satisfy the fast-track evaluation criteria specified in the SI (and restated in paragraph 11). Consequently, where HSE deems it necessary to consider non-EU proposals, it can only do so through the lengthier "normaltrack" evaluation process which will involve a public consultation and publication of an Agency Opinion.

<u>GB CLP – Potential for Divergence</u>

Q: The consultation response document states that "it is HSE's policy to maintain high levels of protection analogous to those in the EU and HSE will continue to align with these standards, with divergence occurring only in exceptional circumstances". How do you define exceptional circumstances?

17. A: Examples of exceptional circumstances in which divergence from EU Harmonised Classification and Labelling (CLH) decisions would be considered include the following criteria:

- Where HSE disagrees with the European Chemicals Agency Committee for Risk Assessment (RAC) assessment or with the final harmonised classification on the basis of the scientific or technical methodology for how the EU arrived at its decision.

And

- Where new information or studies have become available after RAC has adopted its Opinion or the harmonised classification that has been adopted in the EU. This includes new toxicology results, new mechanistic evidence, new robust studies, or updates that the RAC Opinion did not include or which were only made available to the Commission and the EU or to HSE at a later stage.

And

- Where the action is absolutely necessary to address a specific social, economic or public health interest that might be severely impacted by a decision to continue to align with EU standards. An EU proposal might be in conflict with the UK Government's growth agenda, the Industrial Strategy, Critical Minerals Strategy or other priorities, such as the functioning of UK Internal Market, specific use patterns or specific exposure scenarios for the substance in GB. The new GB MCL system will provide scope, in such specific exceptional circumstances, for Ministers to decide to act in the wider interests of GB, even where this differs from the EU.

Q: How will Parliament/the public be able to track whether HSE is delivering on the intention to continue to align with standards in the EU except in exceptional circumstances? Will information be published where

chemical classifications in the EU have received no or different classification in GB?

18. A: Under the revised GB MCL system, HSE will continue to be required to publish a Technical Report for all the chemical substance evaluations it conducts. HSE's Technical Reports currently begin with a statement as to whether the Agency's conclusions align with the EU's classification proposal. These Technical Reports will remain publicly available via HSE's website and can be used by Parliament and the public to track GB-EU alignment on mandatory classification and labelling. The work plan will also set out HSE's intentions, including target dates for Technical Reports over a three-year period and those intentions would be subject to an annual review, so the process will be transparent.

Q: With the removal of the requirement for HSE to consider RAC opinions unless they are relevant to GB, how will HSE determine what is relevant to GB?

19. A: The inclusion of GB mandatory classification and labelling proposals (including those that arise from RAC Opinions) in the GB MCL work plan will be governed by HSE's statutory duties under Article 36 of GB CLP to subject substances with the most severe priority hazard classes to GB Mandatory Classification and Labelling. This includes carcinogenic, mutagenic, reproductive toxic and respiratory sensitising substances placed on the GB market. Other mandatory classification and labelling proposals of relevance to GB that will be included in the GB MCL work plan will be proposals brought forward by stakeholders under Article 36(3) or the competent authorities such as the Scottish and Welsh Governments or dutyholders under paragraph 6 of the revised Article 37 procedure for consideration on a case-by-case basis under the "normal-track" evaluation procedure where the justification for the need for such action is provided to HSE and included in the work plan.

Q: How will HSE consider substances classified in the EU using the new hazard classes when it has not yet adopted these for GB?

20. A: HSE will undertake a project seeking to legislate in 2027 for a consistent CLP regime between GB and NI. Part of this work will involve examining the adoption of the new EU hazard classes into GB CLP. In the meantime, HSE would also expect to include substances which meet the criteria for other hazard classes not specifically mentioned in Article 36 of GB CLP on a case-bycase basis where justification for the need for such action is provided to HSE prior to 2027.

<u>Biocidal Products Regulation in Great Britain (GB BPR)</u>

Q: For substances that have had their expiry date extended, will EU decisions to non-approve or ban the substance count as evidence which raises doubt as to whether the approval conditions are still met in GB?

21. A: A non-approval decision can be taken for a variety of reasons, which may include safety and efficacy issues, but could also include procedural issues such as failure to meet data submission requirements or withdrawal of support from

the applicant to proceed with approval. Where an EU non-approval decision is taken on a safety and/or efficacy basis, HSE may consider this decision to inform whether the conditions of approval are still met in GB under Article 15 of the GB Biocidal Products Regulation.

Prior Informed Consent Regulation in Great Britain (GB PIC)

Q: What assessment has been made about the compatibility of this SI with UK commitments to dynamically align with EU pesticide standards as part of the future UK-EU Sanitary and Phytosanitary (SPS) agreement?

22.A: The GB PIC Regulation applies to hazardous chemicals that have been subject to regulatory action under other relevant assimilated chemicals legislation, including the Plant Protection Products Regulation and the Biocidal Products Regulation. If these regulations dynamically align with their EU counterparts, this will be reflected in the entries in the GB PIC List.

Efficiency Savings

Q: What evidence do you have that the changes proposed in the instrument would make the HSE a more efficient regulator, particularly with regards to the GB MCL? For example, what other resource and cost savings will it generate for HSE (aside from the £800,000 and ongoing running cost saving from the removal of the requirement to establish a notification database as identified in the EM)?

23.A: The measures in the instrument will support HSE to be a more efficient regulator primarily by allowing it to target its existing resources to work that is most relevant to Great Britain (GB). For example, a statutory requirement to consider ECHA Committee for Risk Assessment (RAC) Opinions published on substances not supplied or used in GB represents an obligation to carry out a scientific and technical evaluation that would result in no meaningful regulatory outcome. Removing that obligation ensures scientific and technical expertise can be prioritised towards evaluations that do result in decisions that meaningfully inform regulatory requirements in GB. This also ensures that HSE as an independent regulator can continue to plan its work transparently and in consultation with the Devolved Governments and other stakeholders.

Devolved Government Consent

Q: Were the draft SI, draft EM and consultation response document shared with the devolved administrations to inform their processes to seek consent to the instrument? Were any concerns raised in the process of their seeking consent?

24.A: The draft SI and draft EM were shared with officials in the Devolved Governments. Officials were also provided with an overview of commitments made in HSE's consultation response and a summary of responses to the consultation prior to its publication.

25. HSE officials and officials in the Devolved Governments worked together to ensure the provisions in the SI supported the objectives of Ministers in Scotland and Wales. This included ensuring that the development of the GB MCL work plan is subject to consultation with the Devolved Governments.

Broad Arguments

Q: How do you respond to the suggestion that therefore, this instrument will introduce delay, uncertainty and complexity into the regulation of chemicals in GB, and risks divergence with the EU?

26. A: One of the underlying drivers for HSE's chemical reform work, including this SI, is to address fundamental structural problems with the system inherited from the EU and to optimise it for GB. The principles that govern this reform project naturally lean towards aligning to European Union decisions.

27. None of the proposed reform measures preclude closer alignment with the EU. Alignment with the EU is the default position, divergence will only happen in exceptional circumstances (as noted in paragraph 17) and only where there is compelling scientific, technical or evidential justification.

Northern Ireland (NI)

Q: Is the Government stating that to some degree the requirements of the relevant EU legislation are 'not consistent with health, environmental and socio-economic priorities in GB' and to this extent these regulations diverge from the law imposed on Northern Ireland?

28. A: The Government acknowledges the importance of applying a consistent regime across the United Kingdom (UK). The assimilated chemicals legislative framework inherited from the EU includes some requirements that are unnecessary, burdensome, disproportionate and inefficient when considered within the context of the UK as a single country with a unique economic and regulatory environment. For example, a statutory requirement to consider RAC Opinions published on substances not supplied in GB represents an obligation to carry out a scientific and technical evaluation that would result in no meaningful regulatory outcome. As set out in the consultation and the consultation response, this change supports the obligations of the Government's Regulation Action Plan.

29. It remains that HSE will continue to maintain the current high levels of health and environmental protections across its chemicals regulatory framework.

Q: What provisions in the Chemicals (Health and Safety) (Amendment, Consequential and Transitional Provision) Regulations 2026 introduce changes to make the law in GB the same as that in NI?

30. A: EU chemicals legislation will continue to apply in Northern Ireland under Annex 2 of the Windsor Framework. These changes are proposed to GB assimilated law only – in this case GB CLP, GB BPR and GB PIC. One of the underlying drivers for HSE's chemical legislative reform work, including this SI, is to address fundamental structural problems with the system inherited from

the EU and to optimise it for GB. The principles that govern this reform project naturally lean towards aligning to European Union regulatory outcomes. In line with the Government's commitment to protect NI's place in the UK Internal Market, HSE is working to establish a consistent CLP regime across the UK. This work is distinct from the amendments in this SI and will be enacted through separate legislation where changes to the GB CLP Regulation are deemed necessary. The intention is for this legislation to be enacted in June 2027 – six months before major changes in EU CLP take effect.

Q: What provisions in the Chemicals (Health and Safety) (Amendment, Consequential and Transitional Provision) Regulations 2026, if any, keep the law in GB different from that in NI?

31. A: As set out in paragraph 28, this SI will not exacerbate divergence between GB and NI as the measures within the SI seek to minimise divergence with the EU unless there are exceptional circumstances by which GB would wish to take a different decision. Instead, changes to the hazard evaluation procedures of the GB Classification, Labelling and Packaging (GB CLP) Regulation may reduce divergence by delay by reducing the time taken to reflect instances of GB-NI alignment on legally binding mandatory classifications and labelling requirements.

32. Other changes will positively impact NI suppliers through the removal of disproportionately burdensome notification requirements which apply to NIbased businesses directly supplying chemical substances to the GB market as Northern Ireland Qualifying Goods.

Q: To what extent, if any, will the relevant law in Northern Ireland be different from that in GB on account of the fact that it contains provisions that the Chemicals (Health and Safety) (Amendment, Consequential and Transitional Provision) Regulations 2026 do not attempt to apply to GB?

33. A: EU chemicals legislation will continue to apply in Northern Ireland under Annex 2 of the Windsor Framework.

34. In line with the Government's commitment to protect NI's place in the UK Internal Market, HSE is working to establish a consistent CLP regime across the UK. This work is distinct to the amendments in this SI and will be enacted through separate legislation where changes to the GB CLP Regulation are deemed necessary. The intention is for this legislation to be enacted in June 2027 – six months before major changes in EU CLP take effect.

10 March 2026