

processes this year. Until such time, it will not be possible to quantify the full impact of Commission Regulation (EU) 2022/1616 given that many of the legislative requirements are specifically for authorised processes.

Industry views on production of recycling plastic to differing standards

7. Whilst it is currently not possible to quantify, initial feedback has confirmed that UKbased recycled plastic operators are willing to adhere to the updated requirements introduced by Commission Regulation (EU) 2022/1616, irrespective of whether they currently are, or are intending to, place recycled plastic material onto the EU market or not. Any recycled plastic operator that intends to place recycled plastic material onto the market in Great Britain and, provided their process lays within the scope of retained Regulation (EU) 282/2008, will need to make an application to the joint-GB wide Regulated Product Application Service. Those recycled plastic operators will need to demonstrate that the recycled plastic material they are generating is safe for food contact, meeting the requirements that have been in place since the original Regulation came into force. Any legislative proposals to update Great Britain requirements on recycled plastic food contact materials will be subject to public consultation.

30 January 2023

Letter from the Chair to Neil O'Brien, Parliamentary Under Secretary of State for Primary Care and Public Health, Department of Health and Social Care

Thank you for your letter, dated 30 January 2023, on the above Regulation with implications for Northern Ireland under the Protocol on Ireland/Northern Ireland. The House of Lords Sub-Committee on the Protocol on Ireland/Northern Ireland considered this document at its meeting on 8 February 2023.

We thank you for your helpful and informative reply. We welcome the further information provided on the FSA's processes for monitoring the views of industry on the impact of the Regulation and the implications of divergence and the industry's initial views on the Regulation, and confirmation that updates to the domestic regulations will fall within the Retained EU Law (Revocation and Reform) Bill work programme.

We would be grateful if you could update the Committee on the future progress of the legislative changes to the domestic requirements under the wider Retained EU Law (Revocation and Reform) Bill work programme and if the FSA make any further assessments of the impacts of the Regulation or of any divergence to Northern Ireland. In the meantime, we draw our detailed scrutiny of this Regulation to a close.

9 February 2023

PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON LIABILITY FOR DEFECTIVE PRODUCTS (13134/22)

Letter from the Chair to the Rt Hon Grant Shapps MP, Secretary of State, Department for Business, Energy and Industrial Strategy

We note the Explanatory Memorandum from your predecessor, dated 25 October 2022, on the above Regulation, potentially applying to Northern Ireland within the scope of the Protocol on Ireland/Northern Ireland. The House of Lords Sub-Committee on the Protocol on Ireland/Northern Ireland considered this document at its meeting on 23 November 2022.

We regret the poor quality of the EM. For instance, we note that the EM mentions that devolved administrations were consulted in the preparation of the EM. However, there is no information provided on the views of the Northern Ireland Executive on the Directive. Could you provide further detail on the Northern Ireland Executive's views on the Directive?

We note that no impact assessment has been provided. However, the EM states that: "The current PLD is listed in Annex 2 to the Northern Ireland Protocol and therefore under the terms of the Protocol, since this new Directive replaces the existing one, it would apply in Northern Ireland, were it to be ratified." When will the Government assess the impact of the Directive on Northern Ireland? How will it take into account the views of the Northern Ireland Executive and stakeholders in making this assessment?

We note that the EM does not mention the issue of potential regulatory divergence between Northern Ireland and Great Britain as a consequence of this Directive being transposed. Is the Government planning to implement an equivalent or similar measure and, if so, on what timetable? If not, how is the Government planning to assess and mitigate the impact of any regulation divergence between Northern Ireland and Great Britain? What is the position of the other Devolved Administrations on this matter?

Finally, we note your statement that "if this proposal is ratified, the proposal is that Member States would need to bring forward the necessary legislation to transpose and comply with this Directive within twelve months of it coming into force." In view of the provisions of the Northern Ireland Protocol Bill, does the Government intend to transpose the Directive into domestic law in relation to Northern Ireland? What are the practical and legal implications if it chooses not to do so?

We would be grateful for a response to these questions by 8 December 2022. In the meantime we retain an active interest in this document.

24 November 2022

Letter to the Chair from The Rt Hon Grant Shapps MP, Secretary of State, Department for Business, Energy and Industrial Strategy

Thank you for your letter dated 24 November 2022 in relation to the Explanatory Memorandum (EM) on the above Directive signed by my predecessor.

You properly requested further detail on the views of the Northern Ireland Executive, when the Government will assess the impact of the Directive on Northern Ireland, and how it will take into account the views of the Northern Ireland Executive and stakeholders in making this assessment.

My officials have engaged with Northern Ireland Executive officials on the proposal and the EM, and we will continue to seek more detailed views from them as the proposal progresses through the EU legislative process.

Whilst I am unable to provide further detail at this stage regarding the impact of this proposal on Northern Ireland, I can assure the committee that we will continue to engage with all devolved administrations, including the Northern Ireland Executive, and with other relevant stakeholders, to understand the potential impacts of any future implementation of the Directive in Northern Ireland.

You also asked if the Government intends to transpose the Directive into domestic law in relation to Northern Ireland and what the practical and legal implications are of not doing so. As noted in the EM, under the current terms of the Northern Ireland Protocol, the Directive, if ratified, would apply in Northern Ireland, as the current Directive that the proposed Directive would replace is included in Annex II to the Protocol. Legislation would then be needed to implement the Directive in Northern Ireland, but it is not yet clear when this would be as the proposal is still progressing through the EU legislative process.

Your letter also asked if the Government was planning to implement an equivalent or similar measure, or if the Government is planning to assess and mitigate the impact of any regulatory divergence between Northern Ireland and Great Britain. The Government is aware that there is potential for future divergence, though at this stage we are not able to state what the impact of the divergence may be. In terms of any measures the UK Government might implement, we are currently considering future product liability policy as one element of an ongoing review of the product safety framework. We ran a Call for Evidence last year and the Government response was published in November 2021⁶. Further to the Call for Evidence, a Product Safety Review consultation is being finalised for publication and responses to this will help inform the Government's consideration of policy on product liability going forward.

Alongside the Product Safety Review, we will continue to monitor the progression of the Directive to consider how best to ensure there is a product liability regime that works for all UK consumers and businesses.

I will of course keep the committee informed of developments on this proposal.

12 December 2022

Letter from the Chair to The Rt Hon Grant Shapps MP, Secretary of State, Department for Business, Energy and Industrial Strategy

We note your letter, dated 12 December 2022, on the above Directive applying to Northern Ireland under the Protocol on Ireland/Northern Ireland. The House of Lords Sub-Committee on the Protocol on Ireland/Northern Ireland considered this document at its meeting on 11 January 2023.

We are disappointed at the lack of detail in your reply, particularly in light of the poor quality of the original Explanatory Memorandum. We remind you that the Government has an obligation to set out the full implications of EU legislation applying to Northern Ireland under the Protocol as it currently operates.

We are disappointed, too, in your failure to provide further information on the Northern Ireland Executive's views on the proposed Directive and of the possible impacts of the proposed Directive on Northern Ireland, including the impact of any potential regulatory divergence between Northern Ireland and Great Britain. While we understand that the Directive has not yet been ratified, this should not prevent you from undertaking and sharing with the Committee the Government's initial analysis of the proposed Directive. Will you share the results of any engagement to date with the Northern Ireland Executive on the proposed Directive? When will the Government make an assessment of the impact of the proposed Directive on Northern Ireland, including the impact of regulatory divergence between Northern Ireland and Great Britain?

In light of the prospect of regulatory divergence between Northern Ireland and Great Britain, can you confirm if the Government intends to introduce equivalent measures in respect of Great Britain and, if so, on what timetable? If not, what steps are being considered to mitigate the impact of potential regulatory divergence?

We invite you to write again with an update on these matters by 26 January 2023. In the meantime we retain an active interest in the document.

12 January 2023

Letter to the Chair from Kevin Hollinrake MP, Parliamentary Under Secretary of State, Department for Business, Energy & Industrial Strategy

Thank you for your letter dated 12 January 2023 in relation to the Explanatory Memorandum (EM) on the above Directive. The Secretary of State has asked me to respond.

⁶ <https://www.gov.uk/government/consultations/uk-product-safety-review-call-for-evidence>

You asked if we could share the results of any engagement with the Northern Ireland Executive and when the Government will make an assessment of the impact of the proposed Directive on Northern Ireland, including the impact of regulatory divergence between Northern Ireland and Great Britain. You also asked if the Government intends to introduce equivalent measures in respect of Great Britain.

My officials have engaged with Northern Ireland officials on this proposal and continue to do so as the proposal progresses. I can assure the Committee that we will continue to seek detailed views on any potential impacts, and we will keep the Committee informed once we are in a position to say more.

As I set out in my previous letter, the Government is conducting a review of the product safety framework, which includes considering the product liability regime. A consultation is being finalised for publication. Engagement with stakeholders and their written responses to the consultation will help inform the Government's approach going forward. We have engaged the Devolved Administrations on the Review and will continue to do so as it progresses including on product liability.

I will write to the Committee when more detail can be provided and ensure the Committee is kept up to date.

26 January 2023

Letter from the Chair to the Rt Hon Kemi Badenoch MP, Secretary of State for Business and Trade, Department for Business and Trade

I am writing in response to the letter, dated 25 January 2023, from Kevin Hollinrake MP, then Parliamentary Under Secretary at the Department for Business, Energy and Industrial Strategy, on the above Directive with implications for Northern Ireland under the Protocol on Ireland/Northern Ireland. The House of Lords Sub-Committee on the Protocol on Ireland/Northern Ireland considered this document at its meeting on 8 February 2023. I am writing to you as Secretary of State in light of the recent machinery of government changes and ministerial reshuffle, and pending confirmation of ministerial responsibilities in your new Department.

We note once again the poor quality of the correspondence from the Department on the above Directive. We once again remind you of the Government's obligations to support proper parliamentary scrutiny of EU legislation as it applies to Northern Ireland and record our disappointment that the Government has not done so in this case. This is particularly so given the practical implications of this Directive for domestic consumers in Northern Ireland.

We note your reply that your "officials have engaged with Northern Ireland officials on this proposal and continue to do so as the proposal progresses" and your assurance that you "will continue to seek detailed views on any potential impacts" and "will keep the Committee informed once we are in a position to say more." Can you outline the nature and format of this engagement with Northern Ireland officials to date, including detail on which Northern Ireland departments the Government has engaged with and what views were expressed by Northern Ireland officials? Can you provide detail on the outcomes, if any, of this engagement?

We note your reply that "the Government is conducting a review of the product safety framework", is preparing a consultation for stakeholders and has "engaged the Devolved Administrations on the Review." In this context, we underline your commitment to write "to the Committee when more detail can be provided and ensure the Committee is kept up to date."

However, it is not sufficient to cite only the domestic review of product liability when you have an obligation to explain the implications of this Directive for Northern Ireland as presently drafted under the terms of the Protocol as it currently applies. We repeat our question: until such time as the new domestic regime comes into force, what steps are being considered to assess and mitigate the impact of potential regulatory divergence on Northern Ireland?

We would be grateful for a response to these questions by 23 February 2023. In the meantime we retain an active interest in the proposed Directive.

9 February 2023

**Letter to the Chair from Kevin Hollinrake MP, Parliamentary Under Secretary of State,
Department for Business and Trade**

Thank you for your letter dated 9 February 2023, to the Secretary of State for Business and Trade. I am replying as the Minister responsible for the Explanatory Memorandum (EM) on the above Directive. I am sorry for the delay in replying.

You asked about the steps that are being taken to assess and mitigate any impact of potential regulatory divergence between Northern Ireland and Great Britain in relation to the Product Liability Directive (PLD).

As the Prime Minister announced on 27 February, the Windsor Framework restores the balance of the Belfast (Good Friday) Agreement by fundamentally recasting arrangements in three key areas: restoring the smooth flow of trade within the UK internal market by removing the burdens that have disrupted East-West trade; safeguarding Northern Ireland's place in the Union by addressing practical problems affecting the availability of goods from Great Britain, and the ability of Northern Ireland to benefit from UK-wide tax and spend policies; and addressing the democratic deficit that was otherwise at the heart of the old Protocol.

Through the new Special Goods Body, there is also the opportunity for early engagement on new rules, with the ability to find appropriate solutions through the Joint Committee. This will be an important mechanism for considering future UK and EU rule changes to ensure that their interaction does not inadvertently lead to any new unnecessary regulatory barriers.

We will also be making new commitments that we will respond to any divergence issues in instances where Stormont has asked the Office for the Internal Market to review new rule changes.

Following this historic agreement, it is right that we give Parliament time to examine these proposals. The Windsor Framework will be taken to the Joint Committee, chaired by the Foreign Secretary and Vice-President Maroš Šefčovič, and which is expected to meet this month.

The Government remains committed to supporting proper Parliamentary scrutiny of EU legislation as it applies to Northern Ireland. While I note the Committee's comments, I would like to assure you that we continue to monitor changes to EU legislation and listen to issues raised by any interested parties. With regard to the PLD, we are reassured by the EU's stated objectives, including ensuring liability rules reflect the nature and risks of products in the digital age and in the circular economy, alongside measures that aim to reduce disproportionate obstacles to consumers seeking compensation. Furthermore, the proposal to ensure that there is an economic operator, against whom an individual could pursue a claim for damages, broadly builds on the existing concepts set out in recent EU updates to the Regulation on Market Surveillance and Compliance of Products.

Nevertheless, as you have noted, the proposed PLD potentially raises some complex issues and we will give careful consideration to these in parallel with wider consideration of the UK framework (including product liability) through the Product Safety Review. While you are correct to identify that the Review is focused on our domestic regime, any final decisions on our future approach will need to consider any impact on our internal market, including consideration of the impact of potentially differing consumer rights to compensation for defective products.

We are also aware that while the Commission has published its proposal, it is still to go through the EU legislative process and may be subject to change. Our initial review is underway, but we also want to ensure that the UK response reflects the final EU position. Given the variety of factors in play, a detailed assessment, taking account of the wider context, will require due time and consideration.

In your letter you also asked if we could outline the nature and format of our engagement with Northern Ireland officials, and any outcomes of our engagement with them. I am afraid I have no significant additional details on engagement to provide since I wrote to you on 25 January. As I set out, officials

have engaged with Northern Ireland officials on this proposal, including in the Northern Ireland Executive Office and the Department for the Economy. While no immediate issues have been raised, officials will continue to engage as they assess the proposal and we will update the Committee should concerns or issues be raised by officials or stakeholders in Northern Ireland.

I can assure the Committee that I will provide more details when we have them, to ensure the Committee is kept up to date.

15 March 2023

**Letter from the Chair to Kevin Hollinrake MP, Parliamentary Under Secretary of State,
Department for Business and Trade**

We note your letter, dated 15 March 2023, on the above proposed Directive applying to Northern Ireland within the scope of the Protocol on Ireland/Northern Ireland. The House of Lords Sub-Committee on the Protocol on Ireland/Northern Ireland considered this document at its meeting on 29 March 2023.

We note the information provided about the Government's own position on the Directive and your commitment to "give careful consideration" to issues flowing from possible regulatory divergence within your "wider consideration of the UK framework (including product liability) through the Product Safety Review."

In our view, the level of detail provided on engagement with Northern Ireland officials and stakeholders remains disappointing, especially in terms of stakeholders in light of the potential impact of the Directive on businesses in Northern Ireland. In particular, we wish to underline your commitment to "update the Committee should concerns or issues be raised by officials or stakeholders in Northern Ireland."

We would be grateful for an update in due course once the implications of the Directive for Northern Ireland, including in the context of the Windsor Framework, become clear, and as the Government's own review of the domestic product safety framework develops. In the meantime we retain an active interest in this document.

30 March 2023

**PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL AMENDING REGULATION (EU) 2017/625 AS REGARDS OFFICIAL
CONTROLS ON ANIMALS AND PRODUCTS OF ANIMAL ORIGIN EXPORTED FROM
THIRD COUNTRIES TO THE UNION TO ENSURE COMPLIANCE WITH THE
PROHIBITION OF CERTAIN USES OF ANTIMICROBIALS (6916/21)**

**Letter to the Chair from the Rt Hon Lord Benyon, Minister of State, Minister for
Biosecurity, Marine and Rural Affairs, Department for Environment, Food and Rural
Affairs**

Thank you for your letter dated 29 November 2021, in which you requested my response once I had received relevant information on the EU's list of antimicrobials reserved for treatment of certain infections in humans, and on the detailed rules on the application of Article 118 of Regulation (EU) 2019/6 regarding animals or products of animal origin.

With regards to the latter, the European Commission is yet to publish the detailed rules on the application of Article 118 of Regulation (EU) 2019/6.

The EU's list of reserved antimicrobials has been adopted by the European Commission and is published in Commission Implementing Regulation (EU) 2022/1255 of 19 July 2022 designating antimicrobials or