

In relation to the proposals, we would also welcome further information on any discussions or efforts in the Joint Consultative Working Group structures and its sub-groups to assess, avoid or mitigate the impact of divergence on the market competitiveness of Northern Ireland producers.

In the meantime, we retain an active interest in these documents.

14 September 2023

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON DETERGENTS AND SURFACTANTS, AMENDING REGULATION (EU) 2019/1020 AND REPEALING REGULATION (EC) NO 648/2004 – COM (2023) 217

Letter from the Chair to Rebecca Pow MP, Minister for Environmental Quality and Resilience, Department for Environment, Food and Rural Affairs

Thank you for your Explanatory Memorandum, dated 9 June 2023, on the above Regulation applying to Northern Ireland within the scope of the Windsor Framework. The House of Lords Sub-Committee on the Protocol on Ireland/Northern Ireland considered this document at its meeting on 11 July 2023.

We note your statement that the above Regulation “will lead to some regulatory divergence between detergents placed on the GB market and those placed on the EU & NI markets which may impact on the movement of goods between NI and GB and impact on businesses.” We further note in this context that the “Government is not intending an in-depth review of the main Detergents regulations in the near term” but that “any review in due course will take into account these changes, the benefits they may bring to GB businesses and their impact on trade within the UK and with the EU.” Is the Government intending to provide a more in-depth analysis of the proposals, including the impact of regulatory divergence? If so, on what timescale? How will the views of stakeholders be considered? In light of the regulatory divergence inherent in these proposals, why is the Government not proposing a more in-depth review of the main Detergents regulations in order to manage the implications of divergence?

We also note the EM’s statement that the implications of the proposal to remove “the requirement for accredited laboratories” is “unclear”. We further note the Government’s assumption that provisions in the Annex “for the recognition of equivalent standards mean that “this will have limited or no impact on operation of UK businesses as testing practicalities will be unchanged.” Will the Government confirm with the EU its assumption that “test reports issued by a laboratory approved by an EU Member State remain valid in Northern Ireland; test reports issued by a laboratory in Great Britain approved by the United Kingdom will likely be valid in Northern Ireland and in some EU Member States and an approved laboratory in Northern Ireland may continue to issue test reports in some circumstances”?

Finally, we note that the EM states that the “market surveillance requirements associated with the divergence may result in increased costs and regulatory burden on local authorities to enforce.” Is the Government planning to assess this burden? As part of this, will local authorities be consulted?

We would be grateful for a response to these questions by 26 July 2023. In the meantime, we retain an active interest in this document.

12 July 2023

Letter to the Chair from Rebecca Pow MP, Minister for Environmental Quality and Resilience, Department for Environment, Food and Rural Affairs

Thank you for your letter of 12th July 2023. I welcome the opportunity to respond on behalf of the Government, which is set out below.

Is the Government intending to provide a more in-depth analysis of the proposals, including the impact of regulatory divergence? If so, on what timescale? How will the views of stakeholders be considered?

Our initial analysis of the EU's proposals indicate that the impact of divergence is likely to be minimal. The proposed Regulation is unlikely to have a significant impact on trade, investment or competition, for example where existing products already happen to be compliant with a new requirement, or where the adjustment costs are negligible. We will continue to monitor these proposals, including through engagement with stakeholders, and consider whether further action is required.

In Northern Ireland, DAERA has a Chemicals and Pesticides Regulators Forum twice a year, and Detergents sub-groups meetings quarterly in order to engage with affected stakeholders. Defra officials liaise with DAERA in relation to matters arising from these meetings. In addition, updates on matters relating to the operation of the Detergents regulations in the UK are provided to stakeholders through the UK Chemicals Stakeholder Forum which enables discussion between stakeholders, government and regulators in support of effective chemicals and waste management.

Under the Windsor Framework we have established a number of joint UK-EU fora aimed at managing issues as they may affect Northern Ireland and can raise any specific concerns through these fora.

In light of the regulatory divergence inherent in these proposals, why is the Government not proposing a more in-depth review of the main Detergents regulations in order to manage the implications of divergence?

Our analysis indicates that the nature of the divergence does not have significant impact on the product standards (biodegradability or chemical e.g., phosphate composition) but is associated with labelling, provision of information or new (microbial) products within the detergents market. We are therefore undertaking an internal scoping review and a statutory post-implementation review of the Enforcement Regulations (the Detergents Regulations 2010). We will use the conclusions of those exercises to decide whether there would be benefit in initiating a programme of regulatory reform for Detergents in the longer term, including use of powers in the Retained EU Law (Revocation and Reform) Act 2023.

Any reform of Detergents regulation will be informed by the Chemicals Strategy currently in development, which will take into account these EU proposals. This strategy will set out our approach to chemicals regulation and our priorities for addressing the risks from chemicals, how we will use our regulation and how we can encourage a move to more sustainable use of chemicals.

Will the Government confirm with the EU its assumption that “test reports issued by a laboratory approved by an EU Member State remain valid in Northern Ireland; test reports issued by a laboratory in Great Britain approved by the United Kingdom will likely be valid in Northern Ireland and in some EU Member States and an approved laboratory in Northern Ireland may continue to issue test reports in some circumstances”?

The conditions for laboratory tests are set out within the technical annexes I-IV of the Proposed Regulation. These state that the tests shall be conducted by laboratories meeting any of the following conditions:

(a) the laboratories are complying with the principles of good laboratory practice provided for in Directive 2004/10/EC of the European Parliament and of the Council or international standards recognised as being equivalent.

(b) the laboratories are accredited in accordance with the standard for laboratories referred to in Regulation (EC) No 765/2008.

Directive 2004/10/EC applies in NI and tests undertaken in GB that are compliant with GB regulations would be considered “international standards recognised as being equivalent”. As per the provisions of the Windsor Framework, and Article 7, tests undertaken in GB in accordance with the law that applies in Northern Ireland / the Directive, will be valid for the Northern Ireland market.

Is the Government planning to assess this [market surveillance] burden? As part of this, will local authorities be consulted?

The EU’s proposed changes to regulation do not fundamentally change our approach to market surveillance or the Detergents Compliance Programme. The main costs for those involved in market surveillance and enforcement activities associated is assessed as familiarisation with any new regulations. As set out in the EU’s impact assessment for the proposed regulation, this is assumed to be of a similar scale to business familiarisation of approximately £87 as a one-off cost per company. We will engage with local authorities through DAERA’s Chemicals and Pesticides Regulators Forum and the Detergents sub-groups meetings to communicate changes and the timelines for these coming into force.

8 August 2023

Letter from the Chair to Rebecca Pow MP, Minister for Environmental Quality and Resilience, Department for Environment, Food and Rural Affairs

Thank you for your letter, dated 8 August 2023, on the above proposed Regulation with implications for Northern Ireland under the Windsor Framework. The House of Lords Sub-Committee on the Protocol on Ireland/Northern Ireland considered this document at its meeting on 13 September 2023.

We have now completed our detailed scrutiny of this matter and do not require a response to this letter.

14 September 2023

EXPLANATORY MEMORANDUM FOR EU PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON COMPULSORY LICENSING FOR CRISIS MANAGEMENT AND AMENDING REGULATION (EC) 816/2006 - COM (2023) 224

Letter from the Chair to Viscount Camrose, Parliamentary Under Secretary of State, Minister for AI and Intellectual Property, Department for Science, Innovation and Technology

Thank you for your Explanatory Memorandum, dated 22 May 2023, on the above proposed Regulation applying to Northern Ireland under the Windsor Framework. The House of Lords Sub-Committee on the Protocol on Ireland/Northern Ireland considered this document at its meeting on 11 July 2023.