Northern Ireland Assembly

Windsor Framework Democratic Scrutiny Committee

OFFICIAL REPORT (Hansard)

Regulation (EU) 2024/2865 amending Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures

28 November 2024

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:
Mr Philip McGuigan (Chairperson)
Mr David Brooks (Deputy Chairperson)
Dr Steve Aiken
Mr Jonathan Buckley
Ms Joanne Bunting
Mr Declan Kearney
Ms Emma Sheerin
Mr Eóin Tennyson

Witnesses:

Mr Gareth Lyons	Department for the Economy
Mr Mark McGregor	Department for the Economy
Mr Aaron McKendry	Department of Health
Ms Jennifer Stewart	Department of Justice

The Chairperson (Mr McGuigan): I welcome, once again, Mark McGregor, principal in the legislation, goods regulation and chemicals branch in the Department for the Economy; Gareth Lyons, deputy principal in the same branch; Jennifer Stewart, head of the firearms and explosives branch in the Department of Justice; and Aaron McKendry, principal scientific officer in the Department of Health. I will hand over to you to present your evidence.

Mr Mark McGregor (Department for the Economy): Thank you, Chair. We were here a few weeks ago, when we gave you quite a substantive update on the classification, labelling and packaging (CLP) revision. I propose to give you a briefer introduction and update today to allow time for questions at the end.

I will begin with a brief overview of the regulation, which we will refer to as CLP throughout. It sets uniform requirements for suppliers to classify, label and package hazardous chemicals appropriately before placing them on the market. Its purpose is to ensure a high level of protection of health, the environment and the free movement of substances and mixtures in the EU market. In 2022, the European Commission determined that CLP required an update to take account of scientific and technological progress and market developments such as online marketplaces.

The amended CLP regulation, which you are considering, was published on 20 November, with the amendments applying from 1 July 2026. Changes from 2026 include the requirement for a supplier established in the EU or Northern Ireland to be responsible for ensuring that substances or mixtures meet CLP requirements; new requirements for selling chemicals in refillable containers; labelling

exemptions for chemicals sold in bulk or in small packaging; new allowances for the use of digital labels or fold-out labels; new rules for distance or online sales that require advertisements to clearly display hazard information, typically printed on a physical label; and requirements to update labels within six months where a new or more severe hazard classification is applied to a substance or mixture.

These further amendments will be applied from 1 January 2027: the introduction of new label-formatting rules, including minimum font sizes, line spacing and requirements for all warning text to be printed in black on white background; and the requirement to submit relevant information to poison centres for emergency health responses will now apply to distributors that relabel or rebrand substances.

I will briefly cover the initial assessment of impact. For much of that, we rely on our colleagues in the Health and Safety Executive (HSE) of Great Britain, which provides scientific and technical advice to the Department. The Health and Safety Executive has highlighted a number of areas where the amendments to CLP may lead to additional costs for businesses that trade in Northern Ireland, including the need to redesign labels and relabel products; updating advertisements and product listings in online marketplaces; training and implementation of risk management measures to comply with new rules at refill stations; and the requirement for certain distributors to submit emergency health response information to poison centres.

The HSE noted that trade between Great Britain and Northern Ireland may be impacted by the requirement for businesses in the rest of the UK to comply with the amended CLP regulation in order to supply the Northern Irish market. The scale of that impact will depend on whether those businesses also supply the EU market and whether equivalent amendments are made to the CLP regime in Great Britain. Costs may be mitigated if businesses can align relabelling with scheduled rebranding or marketing activities through new derogations for chemicals sold in bulk, chemicals sold in small packaging or the use of digital or fold-out labelling. The benefits of the amended regulations extend mainly from the protection of human health and the environment.

Assessment of impact is ongoing. The HSE has held discussions with UK-wide representatives on the possible impacts of the amended CLP regulation on Northern Irish trade. The HSE continues to finalise a note of that meeting and has invited industry to provide further feedback before Christmas. Early feedback is that the revised CLP regulation poses no cliff-edge risk but that businesses will incur longer-term compliance costs. A full report on that survey will be provided to DFE early next year.

The HSE has also drafted a revised explanatory memorandum (EM), which will set out the UK Government's position on the updated EU CLP regulation. The EM is awaiting clearance from the relevant UK Government Ministers, and will be provided in due course. Data collected by the HSE from September's CLP consultation requires further validation work before it can be shared publicly. However, data from the consultation has been shared with HMRC to support the work on trade requested by the Committee.

The Committee requested that HMRC provides trade data on GB to NI movements of chemicals and products containing chemicals. HMRC has advised us that it will address that via the UK Government's EM, so the updated explanatory memorandum will also contain updated trade data.

I hope I have presented the briefing in a manner that helps the Committee in its decision-making. We are happy to take questions.

The Chairperson (Mr McGuigan): Thank you. You are taking the cost of labelling the relevant packaging as potentially £80,000 per annum. That figure is from the British Government. Has the Department conducted its own assessment of the costs associated with the regulations for businesses and consumers here? Further to that, does the Department agree with the methodology that the HSE used to assess the costs?

Mr McGregor: The Department has not carried out any work on that. As I said, we receive expert scientific and technical advice from the Health and Safety Executive of Great Britain. It also delivers the majority of our statutory obligations and departmental functions under an agency agreement. The HSE is the subject matter expert, and it is via the HSE that we get that kind of information. We have asked the HSE to review that figure and consider it in the explanatory memorandum. The Department still has some concerns about the methodology that the HSE applied, and we have asked it to be clearer in the explanatory memorandum.

The Chairperson (Mr McGuigan): OK. As I asked in relation to the other EU regs that we have considered, have you any idea when the updated explanatory memorandum is likely to be with us?

Mr Gareth Lyons (Department for the Economy): It is due next week to be cleared with the Minister, so it depends how long that process takes. As far as we are aware, it has been drafted, but it is up for clearance.

The Chairperson (Mr McGuigan): OK. Thank you.

Dr Aiken: Thanks very much indeed for the evidence, team. Help me through this: the hazard classes that we have in the UK are based on the UN convention; right?

Mr McGregor: Yes.

Dr Aiken: The UK will not change its hazard classes unless the UN convention changes, but the EU is changing its classes and will have changed them by 2027. Does that mean that, at that stage, chemicals or other things that come from GB, which will be on the UN convention scale, will not be able to be used in Northern Ireland?

Mr McGregor: No. The two regimes are separate and currently operate separately. If someone wishes to access the Northern Ireland market or the EU market, they already have to comply with the separate CLP regulations. People making future applications would have to make sure that the hazard classes that the EU use were covered. There would be two separate, parallel processes, but that would not prevent a GB company from trading, as long as it complies with the updated EU revision.

Dr Aiken: If a GB company wanted to supply to Northern Ireland, it would have to follow the EU labelling rules and regulations —

Mr McGregor: Yes.

Dr Aiken: — whereas, now, it just has to follow the UK rules and regulations.

Mr Lyons: No. It currently has to follow the EU regulations, but, obviously, they are going to change.

Dr Aiken: They are the same at the moment, because there is no divergence, but there will be divergence by 2027. I think that the explanation from the House of Lords was that the UK will not move its hazard classes because it wants to achieve consensus with the UN. The EU has decided to move ahead, sideways or whatever, outwith the UN convention.

Mr Lyons: That is correct.

Dr Aiken: I just want to get this right. Northern Ireland, being part of the EU convention, would then be at variance with the UK and the UN convention.

Mr Lyons: Yes. The one caveat to that is that the regulation on the six hazard classes was passed last year. That is already in the legislation, so it will not be changed by the amendments that we are discussing. I want to make that clear. Your analysis is correct, however.

Dr Aiken: Divergence will be key. We are not talking about that being years away; we are talking about it happening in the next two years.

Mr Lyons: It depends on whether the product is a substance or a mixture. There are different derogations in the revision, but it will happen from 2026 onwards, depending on the circumstance.

Dr Aiken: Thanks very much indeed.

Mr Brooks: Aaron, the Department of Health will have oversight of some of these issues. The Department's impact assessment has had relatively sparse detail so far. Would you like to give an overview of the impact that the revision will have on the Department's work and on your stakeholders?

Mr Aaron McKendry (Department of Health): The Department of Health's responsibilities in relation to the CLP regulation are relatively minor. We have surveillance, enforcement and monitoring responsibilities for registered premises, which can be read as pharmacy premises. Generally, the sales of chemicals and poisons from such premises tend to be lesser. They tend to be household goods. That being said, there is the potential that pharmacies can order chemicals to manufacture medicines, although, again, that tends to happen less frequently now as specialist manufacturers will undertake that activity. The role of the Department, in that sense, is quite small. The changes to the CLP regulation that this amendment introduces would likely impact higher up the chain, at manufacturer and wholesale level, before they would reach end suppliers at pharmacy level.

Mr Brooks: Thank you. I turn to the Department for the Economy. This follows on from the Chair's question on costs. I have a list of costs that I continue to have concerns about, although my question is not so much about that. You said that the Department had not done any assessment work. This goes back to the question of what is within remits and what is not. It is the Department for the Economy that has the important relationships on these things within the Northern Ireland economy. Do you not think that it would be worthwhile for the Department to do some work to look at what the cost impact of this may for Northern Ireland businesses, particularly as you are not happy with the methodology that others have used.

Mr McGregor: Yes. As we discussed at the previous meeting, we made an effort to contact Northern Ireland businesses. That was an effort at quite focused targeted engagement; it was not a public consultation or anything at that level. We identified a number of key businesses in the sector via Invest NI and trade bodies. We wrote to them and asked them for their input. We were trying to drill down on not just the costs to them but any other impacts such as compliance or supply-chain impacts that we needed to be aware of. We just did not have the engagement on that, unfortunately, so we have not got any information back to be able to explore that with business.

Mr Brooks: This is probably a slightly more general point, rather than one specific to this issue. It is a theme, sometimes, that businesses do not necessarily respond. Do you think that that is an ongoing issue? I have no idea about the scope or size of the businesses that you approached, but I am concerned that Northern Ireland is so dominated by SMEs and those businesses will not always have the relevant staff to provide public affairs analysis and feedback. Do you feel that the fact that you have not got a response is not necessarily a reflection that there will not be an impact?

Mr McGregor: Yes. We agree that there is a risk in it. We would prefer to have engagement, and that is why we are, with other Departments, scoping the formation of a kind of chemical stakeholder forum; that is a provisional title. Chemicals cut across a range of Departments. We are looking at how we would bring that together and what its terms of reference might be. We would then go out and try to get feedback from a range of businesses, from big manufacturers right down to single-person outfits dealing in scented candles or something along those lines. That is an aim. It was exposed, when we tried to get information at short notice in this instance, that, in future, we would benefit from having something in place that we could consult very quickly.

Mr Brooks: Absolutely. It is work that the Executive need to look at: how we support our small businesses and make sure that, where there are risks to them from this sort of regulation coming from the EU, they are able to be more proactive. Once you go beyond this process, they find out down the line, in a number of years, that it is an issue, and it is hard to backpedal then. That is a more general point. Thank you very much.

Mr Buckley: I agree largely with what David said, particularly about alarm surrounding stakeholder engagement. I do not put that at the door of anybody who is before the Committee today. Evidently, you can only really go out to ask, and it is up to a business whether it contributes. It is probably getting the right platform that is difficult.

On that point, a fuel industry rep responded saying that the industry still had to analyse the impact of changes to the labelling of pumps at filling stations. What is the Department's take on that potential impact?

Mr Lyons: The guidance that we have been given does not cover that in detail. Fuel is one of the things that will be easier under the CLP regulation. There are derogations for the sale of bulk products, which include fuel. We do not expect fuel to be a massive issue. Where it mentions "refill stations", that is about going into a supermarket with an empty canister to buy detergent or washing-up liquid. That is what the mention of "refill stations" covers; it is not about petrol pumps. That caused us some

confusion at the start too. More work needs to be done on that. The UK Government are reviewing the fuel changes in the amendments, so we will, hopefully, know more about that soon. I do not anticipate that the fuel changes will cause any massive issues at fuel pumps.

Mr Buckley: OK, thank you.

The Chairperson (Mr McGuigan): I have one last question. Is there any more information about engagement on this regulation between the British Government and the EU through the Windsor framework structures?

Mr McGregor: There has not been that engagement for a while. It would have been discussed at the Joint Consultative Working Group structured subgroup on manufactured goods, which is where the EU and the UK have operational-level exchanges on stuff that is progressing. The last time that those conversations took place, I think, was nine months or a year ago.

The Chairperson (Mr McGuigan): OK, thank you. Nobody else has indicated that they want to speak. Thank you very much, Mark, Gareth, Jennifer and Aaron for coming before us today to present your evidence.