

# **EXPLANATORY MEMORANDUM FOR EUROPEAN UNION LEGISLATION WITHIN THE SCOPE OF THE UK/EU WITHDRAWAL AGREEMENT AND WINDSOR FRAMEWORK**

## **REGULATION (EU) 2026/405 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 11 FEBRUARY 2026 ON DETERGENTS AND SURFACTANTS, AND REPEALING REGULATION (EC) NO 648/2004**

Submitted by the Department for Environment, Food and Rural Affairs on 2 March 2026

### **SUBJECT MATTER**

1. The EU's Regulatory Fitness and Performance (REFIT) program aims to simplify and improve existing European Union (EU) laws, including those related to chemicals. As part of this, the European Commission have finalised their new Detergents Regulation (the "New Detergents Regulation") following their proposed repeal and replacement of Regulation (EC) No 648/2004 in 2023.
2. The New Detergents Regulation maintains the main functions of the Detergents Regulation (EC 648/2004) (the "2004 Detergents Regulation") but addresses a number of identified areas for improvement and provides updates in response to market developments.
3. The terms of the Withdrawal Agreement and Windsor Framework provides that limited areas of EU law will continue to apply to, and in, the UK in respect of Northern Ireland (NI), subject to the relevant democratic scrutiny processes. This includes regulations regarding detergents, which are part of a list of EU product regulations which continue to apply to facilitate dual access to both the United Kingdom (UK) Internal Market and EU Single Market.

### *Background to the Detergents Regulations*

4. Detergents are substances or mixtures containing soaps and/or surfactants (any organic substance/mixture) intended for washing and cleaning processes. This includes cleaning and washing mixtures, for example, domestic all-purpose cleaners or products for washing and cleaning surfaces, materials, products, machinery, mechanical appliances, instruments, and apparatus.
5. The 2004 and New Detergents regulation covers the manufacturing, placing and making available on the market and use of detergents. The objectives of both the 2004 and New Detergents Regulation are to achieve the free movement of detergent goods while, at the same time, ensuring a high degree of protection for human health and the environment.

6. The 2004 Detergents Regulation established technical standards and requirements in relation to detergents and surfactants for detergents including:
  - a. establishing rules on the biodegradability of surfactants in detergents
  - b. imposing restrictions or bans on surfactants on grounds of biodegradability
  - c. making provision for the additional labelling of detergents including fragrance allergens
  - d. setting out the information that manufacturers must hold at the disposal of the competent authority and medical personnel.
7. Enforcement provisions are not included in the 2004 Detergents Regulation and The New Detergents Regulation as this is a matter for the national authorities to determine their own approach. For the UK this is via the Detergents Regulations 2010 (as amended) (SI 2010/740)<sup>1</sup>.

#### *Changes to the Detergents Regulations*

8. The New Detergents Regulation maintains the main overall aims and objectives of the 2004 Detergents Regulation. However, regulatory changes have been made to simplify the placement and free movement of detergent products, forbid animal testing, make more labelling information available digitally facilitating sustainable consumer practices, place additional requirements on non-EU manufacturers in certain circumstances, and increase testing in response to product innovation in the market.
9. The New Detergents Regulation remains complementary to the general provisions applicable to chemicals, including detergents, notably the EU Classification, Labelling and Packaging (CLP) Regulation<sup>2</sup>, EU Biocidal Products Regulation<sup>3</sup> and the EU REACH Regulation<sup>4</sup>.
10. The main differences between the 2004 Detergents Regulation and The New Detergents Regulation are set out below.
11. **Simplifying placement and free movement on the market by** streamlining labelling and information requirements. These provisions reduce legislative overlap with other labelling regulations such as the EU Classification Labelling and Packaging Regulation (CLP), avoiding the need in some cases for the same substances to appear more than once on the same label. The New Detergents Regulation increases the amount of information that can be communicated digitally

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<sup>1</sup> [The Detergents Regulations 2010](#)

<sup>2</sup> [Regulation - 1272/2008 - EN - clp regulation - EUR-Lex](#)

<sup>3</sup> [Regulation - 528/2012 - EN - EUR-Lex](#)

<sup>4</sup> [Regulation - 1907/2006 - EN - REACH - EUR-Lex](#)

which is consistent with wider EU policies concerned with digitalisation of chemical labelling.

12. **More streamlined regulation** is also achieved by abolishing the duplicated requirement under CLP and in the 2004 Detergents Regulations to provide an ingredient data sheet for hazardous detergents. The provision in the New Detergents Regulation for non-hazardous detergents is retained.
13. While the 2004 Detergents Regulation required that non-EU manufacturers appoint an importer within the EU for the purposes of compliance with those regulations, the new Regulation **requires that non-EU manufacturers appoint an authorised representative established in the EU**. While this is in principle a new role, the role of the authorised representative in holding technical information, engaging with market surveillance authorities and being accountable for products placed on the EU market, is very similar to the role previously undertaken by an importer. The non-EU manufacturer could appoint their importer to undertake the authorised representative role, for example, and as noted below our industry engagement has found that over 90% of UK industry already trades into the EU.
14. Introducing new provisions for market surveillance of detergents to strengthen enforcement. **This includes introducing a requirement to have a Digital Product Passport (DPP) that would be used for market surveillance and for customs controls for goods entering the EU market.**
15. Only products developed using **non-animal testing** methods will be allowed in the EU internal market, aside from exceptional cases.
16. To account for changes to consumer practices, the proposals look to account for the growth in **refill sales**. Refill sales will be permitted to provide almost all labelling information digitally.
17. To account for technological advances in detergents the proposal adds requirements for risk management measures to be taken and testing requirements for **microbial cleaners** within the regulations.
18. The New Detergents Regulation introduces stricter standards of **biodegradability** of surfactants in detergents (in particular in films covering capsules).
19. The regulations leave open the **possibility to limit further the phosphorus content** or add limitations of phosphorus content on other products categories. To assess this, the regulations set an obligation for the European Commission to report on this within 7 years. Other aspects of the New Detergents Regulations are also included within this review and reporting requirement.

## SCRUTINY HISTORY

20. Regulation 2019/1020 which lays down rules and procedures for compliance with and enforcement of Union harmonisation legislation on products was scrutinised as proposal 15950/17, COM(17)1795 with the then Department for Business, Energy and Industrial Strategy submitting an EM dated 12 January 2018.
21. A 2019 EM on a European Commission report evaluating Regulation 648/2004: Regulation 648/2004 on detergents was evaluated by the European Committee in a 2019 report (EU documents 11330/19 & 11331/19) on which DEFRA submitted an EM dated 7 August 2019.
22. More recently, Regulation COM(2023) 217, the initial amendments to Regulation 2019/1020, were submitted by the EU, on which DEFRA submitted an EM dated 13 June 2023.

## **MINISTERIAL RESPONSIBILITY**

23. The Secretary of State for the Department of the Environment, Food and Rural Affairs is the competent authority for the 2004 Detergents Regulation (as amended)<sup>5</sup> in Great Britain (GB). The Department of Agriculture, Environment and Rural Affairs (DAERA) is the competent authority in NI with enforcement of the regulations undertaken by the local councils as set out in the 2010 Detergents Regulations.
24. The Health and Safety Executive (HSE) acts as the competent authority in GB for the purposes of the 2004 Detergents Regulation (as amended) under an Agency Agreement with the Secretary of State. HSE also has lead responsibility across Government for classification and labelling of chemicals, including the implementation of the United Nations Globally Harmonized System of classification and labelling of chemicals (UN GHS) and the retained GB CLP Regulation (as amended). This responsibility is exercised in consultation with other interested departments, agencies, and the Devolved Governments.

## **INTEREST OF THE DEVOLVED GOVERNMENTS (DGs)**

25. The regulation of Detergents is a reserved matter. It is covered by the Chemicals and Pesticides Provisional Common Framework.
26. The NI Executive and its Ministers have a particular interest in this delegated act because it will impact on NI directly by virtue of the UK/EU Withdrawal Agreement and the Windsor Framework. Officials in the Department of Agriculture, Environment and Rural Affairs (DAERA) have been consulted in the preparation of this EM.

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<sup>5</sup> [Regulation \(EC\) No 648/2004 of the European Parliament and of the Council of 31 March 2004 on detergents \(Text with EEA relevance\)](#)

27. Scottish Ministers and Welsh Ministers also have an interest in the delegated act and officials have been consulted in the preparation of this Explanatory Memorandum (EM).

## LEGAL AND PROCEDURAL ISSUES

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### I. **EU Legal Base**

The New Detergents Regulation has the same legal basis as the existing 2004 Detergents Regulation, i.e. Article 114 of the Treaty on the Functioning of the European Union.

### II. **Voting Procedure** - Ordinary legislative procedure.

### III. **Timetable for adoption and implementation**

The New Detergents Regulation will apply 42 months after it comes into force to allow time for manufacturers and EU member states to adapt. Therefore, it will come into force in 2029.

## POLICY AND LEGAL IMPLICATIONS

29. The New Detergents Regulation will apply in NI under the terms of the Withdrawal Agreement and Windsor Framework. These apply without the need for further legislation. However, domestic legislation is in place for control and enforcement measures (including criminal penalties) through the 2010 Detergents Regulations (SI 2010/740) UK Government will need to amend these regulations for NI.

### *The Government's initial assessment of the merits or otherwise of the New Detergents Regulation*

30. The removal of duplicative regulations is beneficial in supporting sustainability, reducing regulatory burdens on businesses, and providing clarity of regulatory requirements across chemicals. **Simplifying placement and free movement on the market by** streamlining labelling requirements reduces legislative overlap with other labelling regulations such as the EU CLP Regulation. The New Detergents Regulation increases the amount of information that can be communicated digitally which may contribute to improved flow of information through supply chains but may also come with an implementation cost. This should also facilitate more effective communication of hazards and information for sustainable practices (e.g. refilling).

31. The EU proposal will introduce requirements for Digital Product Passports (DPP) for detergents and surfactants, which will be interoperable with EU DPPs for other product groups. The DPPs will create a unique digital record for each product containing compliance, safety, and sustainability information. The DPP would be linked to an EU registry and declared at customs, which the EU hopes will enable

authorities to verify compliance more efficiently, reduce non-compliant imports, and improve traceability across supply chains. It also **supports digital labelling, reducing packaging clutter and facilitating bulk/refill sales**. The New Detergents Regulations specify that DPPs should be available for each 'model'<sup>6</sup> which reduces ongoing costs for businesses, contrary to earlier concerns that DPPs would be required for each 'batch'. Therefore, this requirement is not anticipated to be substantially burdensome. As part of upcoming reviews of GB product regulations, the Government is considering the EU DPP requirements as this falls across multiple product categories, beyond just detergents and surfactants.

32. Online sales of chemicals and chemical products have grown in recent years. The provisions in the New Detergents Regulation for an **authorised representative** for non-EU manufacturers who place products on the market directly aims to mitigate risks associated with practice. This may also have the benefit of improving market access and global trade. The vast majority of the industry will likely already be in compliance with this requirement. Therefore, we do not expect this to create any significant impacts to the movement of goods from GB to NI.

33. The UK already has many of the systems in place to accept New Approach Methods within our existing UK chemicals regulatory framework. Under UK REACH, tests on vertebrate animals must only be conducted as a last resort. Requiring only **non-animal testing** within the New Detergents Regulation provides additional legislative backing towards this overall aim. It is beneficial and in line with the Government's aim to reduce the need for animal testing.

34. Where new regulatory requirements are being introduced, for example on **microbial cleaning products**, the costs will vary according to business model. For businesses that make microbial cleaning products the main ongoing cost will be related to new testing requirements. Such costs are not unusual in the chemicals industry, and therefore we expect manufacturers to build these costs into their business operations, whilst also being able to take advantage of cost savings linked to other simplifications.

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<sup>6</sup> a type of detergents or surfactants all of whose units meet the following conditions:

- they have the same manufacturer and are placed on the market under the same trade name;
- they have the same content, in accordance with point (h) in Part A of Annex V, and are manufactured using the same manufacturing processes;
- where applicable, they are subject to the same classification under Regulation (EC) No 1272/2008; and
- they are defined by a type number or other element allowing them to be identified as a group.

35. Evidence gathered by the EU through SME interviews, indicates that the testing costs would not negatively impact the manufacturers and that these costs are within the acceptable range. There are benefits to setting standardised criteria and clarifying requirements for microbial cleaning products that ensure the safety of products on the market but allow for innovation and market growth
36. The 2004 Detergents Regulations introduced high standards for the biodegradability of surfactants used in Detergents. Since this time there has been an increase in use of capsules used to enclose the detergent active ingredient. These capsules need to break down in order to perform their desired function of releasing detergent product during use but there were no regulatory standards for **biodegradability** of substances and mixtures other than surfactants in detergents (including detergent capsules). Introducing these standards is consistent with the overall aim of the regulations on detergents to deliver high standards of environmental protections. Transition periods of 3 and 5 years respectively for encapsulating polymers and other organic ingredients ensure businesses will have time to account for these new regulatory requirements.
37. There are environmental risks associated with **phosphorus**, resulting in eutrophication (excessive growth of algae and plants) of freshwaters. Whilst reduction in phosphorus in detergents may contribute to overall aims for improved water quality, detergents are no longer a significant source compared with sewage effluent and agriculture. Phosphorus in detergents is required for cleaning efficiency. Reducing it may result in consumers using higher doses.

#### *Implications for NI businesses*

38. At present, we do not hold precise data on the number of businesses engaged in the production of detergents and surfactants in NI, however it is not expected that the number of businesses would be in double figures. Work is ongoing to better understand the sector and the potential impact of the New Detergents Regulations. However, the 42-month transition period means that businesses will have a significant period of time before the changes take effect.
39. Familiarisation costs with the new regulations were previously estimated to be minimal per company based on the Commission's initial proposals. Amendments introduced during the EU's legislative process will likely increase these familiarisation costs but overall, the costs here will remain small.
40. With regard to regulatory compliance and authorised representative requirements, industry engagement has found that over 90% of members of the UK Cleaning Products Association (UKCPI) - the trade body representing the UK industry - supply to the EU and the majority of these have a legal presence in the EU to comply with EU regulations, e.g., Detergent Regulations or CLP, and therefore are likely to already be in compliance or will comply with these requirements. Given

this strong EU export focus, it is expected that UK businesses will generally come into compliance with the new regulation in order to maintain this EU market access.

41. The requirement to have DPPs may incur a cost to businesses. This has not been quantified but is likely to be small for detergents as the majority of companies will already hold most of the required information digitally. Further analysis is required but information from stakeholders gathered during the post implementation review of the 2010 Detergents Regulation in 2023 indicates that the UK market is dominated by large companies who have international footprints and place goods on the EU market. Therefore, we expect these companies to adapt fully to EU rules to continue trading across the pan-European market, meaning that goods will be manufactured in line with applicable law in Northern Ireland.
42. The abolishment of ingredient data sheets for hazardous detergents is estimated to have an overall benefit of €7 million across the EU single market according to the EU's 2023 Impact Assessment. NI based businesses may benefit from this change when placing goods on the EU or GB market.
43. Microbial cleaning products will be held to a higher regulatory and labelling standard within NI, but further analysis and engagement with stakeholders, especially SMEs at the forefront of innovations, is required to determine the impact.

#### *UK Internal Market*

44. Looking at the UK's approach to chemicals legislation more broadly, our intention is for UK REACH to take regulatory decisions made by other trusted jurisdictions, especially the EU, as the starting point for our own, and to align our regulatory decisions with EU decisions unless there are compelling reasons to diverge. This is set out in the [UK REACH: rationale for priorities 2025 to 2026 \(RAP\)](#)<sup>7</sup> and the [Environmental Improvement Plan \(EIP\) 2025](#)<sup>8</sup> which outline a clear path forward for UK REACH overall. This will enable new protections to be applied more quickly and efficiently. This commitment also affirms our determination to protect people and the environment, and to reduce the business complexity and trade barriers that have emerged following EU exit as a result of UK REACH operating much more slowly than EU REACH.
45. The UK Government intends to apply this approach to all chemicals regulatory regimes, in line with the Government's commitment to protect the UK internal market. Doing so would ensure that there is a single regulatory approach across the whole of the UK. This would mean that there would be no disincentives for Great Britain-based businesses to stop selling into NI or impact on the supply of relevant goods to NI. In taking this approach the Government will take any steps

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<sup>7</sup> [UK REACH: rationale for priorities 2025 to 2026 - GOV.UK](#)

<sup>8</sup> [Environmental Improvement Plan 2025](#)

necessary to protect the UK internal market in line with the Government's manifesto commitment and the provisions of section 46 of the UK Internal Market Act 2020.

46. Engagement activity to date has shown that stakeholders have expressed their desire for complementary GB and EU labelling rules, with streamlined labelling which would be able to display information, in a clear manner.
47. In relation to potential issues with labelling for products in scope, the Government recognises the value of a single UK-wide label for those products and we will actively explore this outcome in order to protect the movement of these goods within the UK market and to ensure continued UK-EU market access.
48. The Government is fully committed to upholding the unfettered access of goods moving from NI into GB. NI based businesses can supply detergents directly to GB (England, Scotland and Wales), provided they are supplying qualifying NI goods. NI products will need to comply with the new regulations if they are adopted. Some NI businesses may face familiarisation costs as a result of the transition to new regulations but may also derive benefits. The extent of this cost or benefit will be dependent on the exact nature of the business in question.
49. With regards to the requirement to have DPPs, most GB based detergents companies trade with the EU and will therefore already have access to DPPs registry. This requirement for NI therefore does not present an additional barrier.

#### *Implications for good moving between GB and the EU*

50. Changes to labelling requirements may result in increased costs for businesses that need to comply with both GB and EU regulatory requirements.
51. The introduction of the EU's DPP for detergent products places an additional requirement on UK businesses supplying detergents to the EU market.

#### *Domestic UK approach to the policy*

52. Government undertook a post-implementation review of the 2010 Detergents Enforcement Regulations in 2023. This concluded that no regulatory changes were required for continued operation of this legislation.
53. Work has begun, including engagement with stakeholders in GB and NI to inform and develop options for reform. We met with the main industry trade association, the UK Cleaning Products Industry (UKCPI) last November to discuss the proposed EU Regulation and gather their initial views. Following on from that meeting we have asked the UKCPI to gather evidence and understand whether there are any concerns. We also plan to seek further input at a stakeholder event

this spring. This information will help us develop options to ensure a consistent UK-wide regime for reform that consider trade between (both NI-GB and GB-EU) and any regulatory burden on businesses, whilst also ensuring that the Detergents regulations continue to ensure that high levels of human health and environmental protections are maintained.

54. The EU proposal recognises the necessity of a 42-month long transition period before the regulations would come into force. We will continue to work with UK industry and other interested parties during this transition period to provide UK businesses with up-to-date guidance on any changes to the GB detergents regime, including in a way that maintains Northern Ireland's full dual market access to both UK and EU markets. This will continue to keep all informed and provide clarity on any future changes to the Detergents regulations as they apply in GB.

## **CONSULTATION**

55. There has been no formal public consultation by Defra of key external stakeholders on the impact of this Commission proposal because this relates to a directly applicable EU Regulation that will not apply in GB as a result of the UK's withdrawal from the EU but will apply automatically in NI by virtue of the UK/EU Withdrawal Agreement and the Windsor Framework.

## **FINANCIAL IMPLICATIONS**

56. The proposed legislative measure has no budgetary implications for the UK Government.



**EMMA HARDY MP  
PARLIAMENTARY UNDER-SECRETARY OF STATE  
DEPARTMENT FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS**