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Sir Edward Mountain
Convener of the Net Zero, Energy and Transport
Committee
Scottish Parliament
Edinburgh
EH99 1SP

03 October 2022

Dear Edward,

THE BIOCIDAL PRODUCTS (HEALTH AND SAFETY) (AMENDMENT) REGULATIONS 2022

I am writing in relation to my notification of 23 September 2022 of a UK SI to amend the GB Biocidal Products Regulation (“the GB BPR”) and two associated Implementing Regulations, which will be discussed at the 26th meeting of the NZET Committee on Tuesday 4 October.

My officials have discovered a minor error in the notification, which was raised immediately with committee clerks. I offer my apologies that this has occurred. This letter explains the error, its significance and the correct wording for the notification.

The error is that the notification does not describe accurately one of the proposed changes to be made by the SI, but we consider this to concern a minor proposed amendment compared with other changes made by the SI and its overall purpose.

The SI will make changes to three pieces of retained EU law:

- (1) The GB BPR;
- (2) Commission Implementing Regulation (EU) No 354/2013 of 18 April 2013 on changes of biocidal products authorised in accordance with Regulation (EU) No 528/2012 of the European Parliament and of the Council; and,

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- (3) Commission Implementing Regulation (EU) No 414/2013 of 6 May 2013 specifying a procedure for the authorisation of same biocidal products in accordance with Regulation (EU) No 528/2012 of the European Parliament and of the Council.

The original notification did not accurately describe the effect of the new transitional provision inserted by the SI into the GB BPR for certain authorisation applications under Implementing Regulation 414/2013. The original notification describes this new transitional provision as allowing applications to change or modify an authorisation made under the EU BPR before IP completion day, provided the application and relevant information have been resubmitted.

This should have stated that the new transitional provision will allow applications made to the Health and Safety Executive before IP completion day under Implementing Regulation 414/2013 for biocidal products that are identical to an existing biocidal product, which is already authorised or currently under assessment and subject to the simplified authorisation procedure, to be resubmitted and considered for authorisation under the GB BPR. In these cases, applicants must resubmit their applications and relevant information to the HSE by 31 January 2023. In very simple terms, the new transitional provision allows this type of application to be resubmitted where the application was made to the HSE before IP completion day but not granted.

The incorrect description appears on pages three and four of the Notification and point (c) of the Notification Summary, as published. Those references should read as follows:

Page 3 of Notification

This states:

“Transitional provision for applications under Implementing Regulation 414/2013

The 2022 regulations insert a new transitional provision into the GB BPR for authorisation applications under Implementing Regulation 414/2013. This new transitional provision will allow applications to change or modify an authorisation made under the EU BPR before IP completion day to be transferred to the GB BPR, provided the application and relevant information have been resubmitted.”

This should read:

“Transitional provision for applications under Implementing Regulation 414/2013

The 2022 regulations insert a new transitional provision into the GB BPR for authorisation applications made to HSE before IP completion day under Implementing Regulation 414/2013. The new transitional provision will allow applications for biocidal products that are identical to another biocidal product, which is already authorised or currently under assessment and subject to the simplified authorisation procedure, to be resubmitted and considered for authorisation under the GB BPR. Applicants must resubmit their applications and relevant information to the HSE by 31 January 2023.”

Page 4 of Notification

This states:

“(c) introduce a new transitional provision for applications to change or modify an authorisation made under the EU BPR before IP completion day to be transferred to the GB BPR.”

This should read:

“(c) introduce a new transitional provision that will allow applications made to HSE before IP completion day under Implementing Regulation 414/2013 to be resubmitted and considered for authorisation under the GB BPR.”

Point (c) of Notification Summary

This states:

“(c) to introduce a new transitional provision for applications to change or modify an authorisation made to the HSE under the EU BPR before Implementation Period (IP) completion day to be transferred to the GB BPR.”

This should read:

“(c) to introduce a new transitional provision that will allow applications made to HSE before IP completion day under Implementing Regulation 414/2013 to be resubmitted and considered for authorisation under the GB BPR.

This error was not captured during review of this notification that relates to a very detailed and complex series of changes to the affected legislation, and I again apologise for this.

I am copying this letter to the Convener of the Delegated Powers and Law Reform Committee.

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I am grateful for your consideration of the clarification above for this notification and look forward to further discussion of this UK SI at the NZET committee's 26th Meeting.

Yours sincerely,

MÀIRI MCALLAN

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