

Summary of key concerns and recommendations

We urge the NZET Committee not to agree with the consent to The Chemicals (Health and Safety) (Amendment, Consequential and Transitional Provision) Regulations 2026 due to a lack of key details, insufficient opportunity for proper scrutiny and concerns about the current content of the Statutory Instrument (SI). Chemical regulation underpins health, environment, trade and consumer safety and HSE propose to amend three regulations in one Statutory Instrument before June 2026.

Instead of pursuing alignment with the gold standard system operating across the EU this **proposed SI risks increasing divergence**. We are concerned **due process has not been followed and the role of Scottish Parliament is being undermined** as the SI is not publicly available for scrutiny by the committee, the consultation response on these proposals has not been published, and there is **lack of impact assessments, evidence and no clear business case**. Currently there is no evidence of consideration of the environmental principles policy statement, health or gender impacts.

The key risks of the proposals include:

- **Overreach of REUL**. The SI is being proposed under the Retained EU (Revocation and Reform) Law Act 2023, this is putting undue time pressure on policy processes resulting in a lack of detail, no impact assessments, and no consultation response has been published. The use of the REUL powers is leaving Scottish Parliament insufficient opportunity for scrutiny. It also undermines Scottish Government's commitment to align with EU protection for health and environment.
- **Reduced accountability, transparency and evidence-based decision making**. The Health and Safety Executive (HSE) acts as both the regulator and policy maker for these regulations [[Classification, Labelling and Packaging of Substances and Mixtures Regulation](#) (GB CLP) and [Biocidal Products Regulation](#) (GB BPR) and Prior Informed Consent regulation (PIC)]. This dual role as both policy maker and regulator is an inherent risk in the UK's chemical governance structure which can only be addressed by having robust regulation and oversight¹. The summary of the proposed SI has no clarity on legislative guardrails; for example, it does not mention much-needed safeguards such as legislated timescales for taking classification decisions or reporting on EU divergence. As such, it is unclear how these regulations will be delivered and scrutinized on an ongoing basis. Given the consultation response to the initial proposals has not been published and that the proposed SI is different to previous proposals consulted on, there is already a demonstrable lack of transparency.

¹ The post Brexit chemical regulation responsibilities are set out in the [Chemicals and Pesticides Common Framework](#) which has been widely criticised. The Royal Society of Chemistry has said post Brexit "chemical regulation in the UK is broken" calling for an [independent separate UK chemical agency](#).

- **Environmental regression** resulting from no or slow decision being taken on chemical hazards thereby allowing harmful chemicals on the UK market as insufficient hazard classifications are in place to enable supply chain management and product regulations. The proposals also enable ongoing emergency authorization of biocides with no time limits which could be open to abuse.
- **Increased complexity and burden on the UK regulator** HSE as a regulator has already raised concerns about its own capacity. There are no details on the regulatory processes and costs needed to deliver the proposed SI however previous experience of work programmes from HSE for chemical regulation UK REACH (which has led to just two restriction decisions in over 4 years) demonstrates HSE work plans on chemicals lead to burdensome and costly processes with little progress on delivering regulatory decisions on chemicals.
- **Misalignment with EU.** While the SI could allow for some alignment there are no ways of monitoring whether this is delivered, as such there is also the risk of increasing divergence with the EU. As the SI summary notes ***‘the changes proposed by the SI will bring closer alignment with the EU in some cases, but in others will not’*** without guardrails in place divergence could easily become the default, particularly as how the policy is applied will be dependent on political will. The flexibility this allows could be interpreted as creating loopholes and unintended gaps, which may not support robust policymaking. The HSE has not yet adopted new EU hazard classifications which are essential building blocks to regulating chemicals, this is inevitably leading to further divergence in the future.
- **Increased barriers to trade** as the proposal breaks existing regulatory links with the UK’s largest trading partner, EU, and increases NI and GB regulatory divergence.
- **Questionable costs and efficiency claims:** The regulatory processes needed to implement the proposals and costs estimates for these processes have not been outlined. With insufficient details and evidence provided the business case for the proposal is unclear.
- **Product safety:** If the UK does not recognize certain chemicals as hazardous, they could still appear in our products such as toys, risking the UK market becoming a dumping ground and risking our ability to export UK products to the EU and beyond.
- **Circular economy:** the classification and labelling of hazardous substance becomes ever more important as we seek to use, reuse and recycle products safely. The often-unknown presence of hazardous chemicals can lead to waste or contamination of secondary materials. Rather than investing resources into complex regulatory processes for processing GB CLP should be strengthened and built upon to enable chemical transparency throughout supply chains and product lifecycles.

About the regulations

These proposals concern [Classification, Labelling and Packaging of Substances and Mixtures Regulation](#) (GB CLP) and [Biocidal Products Regulation](#) (GB BPR) and Prior Informed Consent regulation (PIC) which are assimilated laws based on EU regulations designed to keep the environment and our health safe from some of the most harmful chemicals in existence. Biocides kill target organisms, such as pests and bacteria, but can also impact health and environment, they are found in [rivers](#) and are a [risk to soil health](#). Deciding which chemicals are hazardous and what constitutes hazardous, through CLP, is critical to managing chemicals and underpins other health, safety and environmental regulations such as UK REACH and products controls. For example, to protect children from growth and developmental issues caused by endocrine disrupting chemicals such as bisphenol A (BPA), there is a new EU regulation to prohibit these chemicals in toys. This product regulation relies on chemicals being recognized and classified as endocrine disruptors in EU CLP. But because the UK has not adopted this hazard classification these hormone disrupting chemicals can still appear in toys in Scotland but not those in Northern Ireland. Due to the regulations central functions in protecting health and environment without sufficient scrutiny or checks and balances in place, the proposed SI risks undermining product safety, trade and our health and environment.

A government response has not been published following the consultation which opened on 18 June 2025 on the HSE Chemicals Legislative Reform Proposals on these three regulations however the Summary and Notification of the SI are significantly different to the proposals consulted on in 2025 and no impact assessments have been published.

Problems with HSE work plans

The SI will require HSE to produce a work plan for CLP and only if an EU decision is already on this 3-year work plan will regulatory decision-making progress down a fast-track process. This is a risky game of snap where HSE must guess in advance what the EU will progress, put it on a plan 3 years in advance and then wait to see if it comes up.

If the EU decides a chemical is hazardous based on the comprehensive data they hold, but it is not already on the HSE work plan, HSE CLP decisions will be funneled down a slower route. HSE will also have the power to decide to opt for the slower more cumbersome route for EU decisions by deeming them 'contentious' and there are no criteria for what HSE deems contentious. There is a risk many chemicals will be deemed contentious by HSE as the UK does not have access to comprehensive chemical data held by the European Chemical Agency. HSE's track record with the UK REACH Work Programme raises concerns about the work plan approach proposed for CLP. The UK REACH Work Programmes have been delayed repeatedly (sometimes by as much as 11 months for an annual plan) and contain very few chemicals, leading to just [two chemical restriction decisions in over four years compared to 13 in the EU](#).

It is conceivable that that the CLP work plan will contain very few chemicals and as such decisions on chemical classification will be deferred. If decisions on chemicals are diverted into a longer, more laborious process, it will leave hazardous chemicals in use with no

knowledge of them in the supply chain. The work plan approach proposed is not an effective mechanism for chemical management. It risks many chemicals ending up on the slower route and decisions on whether they are hazardous being continually deferred, meanwhile they remain in use, and EU divergence grows.

Environmental and health concerns and alternative approaches

We are concerned the proposal will lead to fewer and slower decisions being taken on harmful chemicals in GB CLP. The GB BPR proposals focus on extending emergency but without time limits. **We are also concerned that the GB CLP proposals do not address adopting the new classifications in the EU and instead are proposing to decouple the remaining links between GB and EU decisions on classification.** There is a failure to evidence how the proposals will maintain or increase environmental protection.

We recognise the challenges faced in delivering chemical regulation following EU Exit. Regulatory efficiency could instead be better achieved by harmonising GB chemical regulations with EU decisions including adopting the new hazard classes. EU decisions on biocides and hazardous chemicals are based on the most comprehensive chemicals data available, and the EU regulatory system has equivalent standards and processes to the UK. EU alignment on chemical regulation would provide the efficiencies sought, deliver regulatory certainty for businesses and safeguard the UK internal market and facilitate trade with our biggest trading partner, the EU, without putting important protections at risk. There is a real danger that the proposals on the table will result in slow, cumbersome regulations based on unknown data leading to fewer and poorer decisions that diverge further from the EU.

Key concerns and questions

This SI fails to demonstrate that it will effectively regulate some of the most harmful chemicals created i.e. hazardous chemicals (such as carcinogens) and substances that are designed to kill organisms (biocides). The SI covers 3 distinct regulations each with their own technical areas of expertise and far-reaching consequences for other areas of policy and regulation such as UK REACH and trade, yet Summary of Proposals states "HSE has not conducted an impact assessment for the proposed changes".

- Given the critical importance of regulations under this SI and their highly technical nature; is the committee satisfied with the level of information and opportunity for scrutiny available?
- The SI Notification and Summary states '*Scottish Ministers are content to give consent to the SI on the basis that the amendments it proposes will increase and speed up EU alignment*' however it also states '*the changes proposed by the SI will bring closer alignment with the EU in some cases, but in others will not*' With no legal guardrails in place in the SI are the committee and ministers satisfied these proposal will not default to divergence as has happened with UK REACH?
- The Summary of Proposals outlines there were a variety of views and concerns expressed by stakeholders during the June – August 2025 consultation. Given a consultation response has not been provided, and the current proposals differ from the

those consulted on, are the committee confident the public consultation on these proposals was run legally and fairly and the Ministers (in Westminster and Scottish Parliament) have all the relevant information needed to make their decision on the SI?

- Are the committee satisfied that sufficient legal guardrails are in place to monitor and have oversight of the delivery of the regulations in the SI?
- Are the committee satisfied that this is the most appropriate route for this regulation? Could this proposal not be dealt with through other legislative routes that allow better scrutiny?

Conclusion

Classification, labelling and packaging regulations, biocidal product regulations and prior informed consent regulations protect people and the environment from some of the most hazardous chemicals that have been developed. The HSE proposals for the SI are not evidence based, they do not address environmental or health concerns or avoid unintended consequences such as increasing burdens on the regulator or creating greater uncertainty for businesses, there is no evidence that the proposals are feasible as it is not clear what resources are required to implement them, there are no mechanisms for greater transparency and accountability, there is lack of consistency and coherence with other laws and policies (which is likely to result in increased confusion and poorer compliance); and impact assessments and the consultations response are missing. Overall, the benefits to the proposals simply do not outweigh the costs. The proposal should be replaced by mechanisms to align GB chemical regulations with EU decisions on chemicals. A robust alignment mechanism with the EU will not prevent the UK from implementing its own regulations but will provide a baseline level of protection and ensure progress on chemical regulation.

For further information contact:

[Redacted contact information]

About Fidra

Fidra shines a light on environmental issues, working with the public, industry and governments to deliver pragmatic, evidence-based solutions to pollution and habitat degradation. Our projects support sustainable societies and healthy ecosystems. More information be found at www.fidra.org.uk