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Dear Edward,

The Chemicals (Health and Safety) (Amendment, Consequential and Transitional Provision) Regulations 2026 and The REACH (Amendment) (No. 2) Regulations 2026

I am writing to you in relation to the points outlined by the Committee in your letter of 12 February 2026 following the Committee's scrutiny of Scottish Ministers' proposal to give consent to proposed UK Statutory Instruments, namely the REACH (Amendment) (No. 2) Regulations 2026 and the Chemicals (Health and Safety) (Amendment, Consequential and Transitional Provision) Regulations 2026.

On the first of these UKSIs, that will amend UK REACH, you asked for further information on how Scottish Government will monitor divergence with EU REACH going forward and what safeguards are in place to ensure that environmental and human health protections are not weakened during the extended transitional period.

As discussed during the Committee Session, monitoring divergence between UK REACH and EU REACH is challenging. Since Brexit, Scottish Government officials have tracked decisions and significant proposals in the public domain made under EU REACH, using these to feed into UK REACH annual work planning cycles. Scottish Government also maintains ongoing dialogue with the UK Government to understand what divergence may mean in real terms, including on protections. It is not expected that this UK SI will lead to weakened environmental and human health protections during the extended transitional period. While registration allows suppliers of chemicals to demonstrate safe use of their chemicals, suppliers and users of chemicals should still be adhering to conditions of use set under EU REACH. Registration also provides the regulator, the Health and Safety Executive (HSE), with data to carry out regulatory activities under UK REACH. However, there are other ways for the HSE to be able to carry out regulatory activities while in the transitional phase, including using information from the EU REACH data dissemination website, or using targeted calls for evidence to gain necessary information.

The second of the UKSIs I refer to above will amend the Classification, Labelling and Packaging (CLP) Regulation, as well as two other regulations. On the changes to the way

that the CLP Regulation will consider EU classification proposals, you have asked for further clarification on the basis on which Scottish Ministers are satisfied that these changes will support, rather than undermine, alignment with EU chemicals standards, how "fast track" proposals will be identified, and how the role of Scottish Ministers is affected where proposals are deemed non-contentious.

I am satisfied that these particular changes will not negatively impact alignment compared with the current situation, in which the HSE is obliged to consider each EU classification decision and to form its own opinion on it, and that neither will these changes impact on Scottish Ministers' role in the process. There is a clear intention here that the new work plan and the "fast track" system within it will increase the speed with which we align with EU classification decisions (the Committee should also note that more generally the HSE has outlined that the Trade and Cooperation Agreement between the EU and the UK following EU exit commits the UK and EU to work co-operatively to continue high levels of environmental protection, and the HSE has committed to align with the EU standards and only diverge where absolutely necessary).
Based on experience of the current CLP Article 37 system since Brexit, the vast majority of cases should be subject to the fast-track procedure. This in effect means the HSE will propose to the Secretary of State that the EU classification is taken up under GB CLP once it has completed a technical report, with no obligation to produce its own Opinion on the classification based on this technical report, as is currently the case. The consent role of Scottish Ministers here is unchanged, although the timescale for this part of the process is reduced from 6 to 3 months, reflecting the fact that these cases should be straightforward and that Ministers are not being asked to consider an HSE Opinion.

You have also asked for my views on the HSE consultation response, and the extent to which you consider it has addressed stakeholder concerns on matters such as regulatory transparency, accountability and product safety.

The HSE published its consultation response on its website on 12 February 2026[1]. A prevalent concern across the consultation was that HSE's proposals, and especially those involving use of "trusted jurisdictions", would result in a reduction in protections compared with current levels. In response, HSE states it is HSE's policy to maintain high levels of protection analogous to those in the EU and that it will continue to align with these standards, with divergence occurring only in exceptional circumstances. HSE clearly states that the only jurisdiction that would fulfil the criteria here, that "trusted jurisdictions" must be assessed as having at least as high standards as those in GB, is the EU. So, I am confident that a high bar has been set and that this will mean standards and levels of protections, including on product safety, are maintained and increased above the current situation. Issues of transparency and accountability did not seem to be common themes from consultation respondents, but the more significant changes the instrument will introduce, such as the creation of a published CLP workplan, should increase transparency. The changes do not decrease accountability across the three regimes.

I will close by thanking you for the Committee's interest in these important instruments, and by saying that it is Scottish Government's intention to continue to keep the Parliament fully informed of further legislative proposals in this area in the forthcoming session.

[1] https://consultations.hse.gov.uk/hse/chemicals-legislative-reform-proposals/results/responsereport-chemicalslegislativereformproposals.pdf

Yours sincerely,

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