This Statutory Instrument has been printed to correct errors in S.I. 2019/720 as amended by S.I. 2020/1567 and S.I. 2021/33 and is being issued free of charge to all known recipients of those Statutory Instruments.

Draft Regulations laid before Parliament under paragraph 4(1) of Schedule 2 to the Trade Act 2021 and paragraphs 1(1), 8F(1), 12(1) and 38(2) of Schedule 7 to the European Union (Withdrawal) Act 2018 for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2022 No.

ENVIRONMENTAL PROTECTION

FEES AND CHARGES

HEALTH AND SAFETY

TRADE

The Chemicals (Health and Safety) Trade and Miscellaneous Amendments Regulations 2022

Made - - - -	*2022*
Coming into force - -	*2022*

The Secretary of State makes the following Regulations, in exercise of powers conferred by section 2 of the Trade Act 2021(**a**), by section 8(1) and 8C(1) of, and paragraph 7 of Schedule 4 to, the European Union (Withdrawal) Act 2018(**b**), and by section 41(1) of the European Union (Withdrawal Agreement) Act 2020(**c**).

In accordance with paragraph 4(1) of Schedule 2 to the Trade Act 2021, and paragraphs 1(1), 8F(1), 12(1) and 38(2)(**d**) of Schedule 7 to the European Union (Withdrawal) Act 2018, a draft of these Regulations has been laid before Parliament and approved by a resolution of each House of Parliament.

(**a**) 2021 c. 10. The Secretary of State is an "appropriate authority" as defined in section 5 of the Trade Act 2021.
(**b**) 2018 c. 16. The European Union (Withdrawal) Act 2018 ("the 2018 Act") was amended by the European Union (Withdrawal Agreement) Act 2020 ("the 2020 Act"); section 8C of the 2018 Act was inserted by section 21 of the 2020 Act.
(**c**) 2020 c. 1.
(**d**) Paragraph 8F of Schedule 7 to the 2018 Act was inserted by paragraph 51 of Schedule 5 to the 2020 Act.

PART 1

GENERAL

Citation and commencement

1.—(1) These Regulations may be cited as the Chemicals (Health and Safety) Trade and Miscellaneous Amendments Regulations 2022.

(2) These Regulations come into force on the 22nd day after the day on which they are made.

Extent

2.—(1) This Part and Part 2 extend to England and Wales, Northern Ireland and Scotland.

(2) An amendment made by Part 3 and Part 4 has the same extent as the provision amended.

PART 2

TRADE

Disclosure of chemical trade and safety information within UK

3.—(1) This regulation applies to information which relates to the trade in or safety of chemicals supplied by a relevant trading partner, or such person as a relevant trading partner may specify by written notice to the Secretary of State, for the purpose of giving effect to a provision of the EEA EFTA Agreement (including any annex to such agreement).

(2) The Executive may disclose that information for a permitted purpose.

(3) The following are the "permitted purposes" for the purpose of paragraph (2)—

(a) to ensure health and safety;

(b) to ensure protection of consumers;

(c) to ensure protection of the environment.

(4) A person who receives information as a result of paragraph (2) may—

(a) use the information for a permitted purpose, or

(b) further disclose that information with the consent of the Executive.

(5) A person who receives the information following consent by the Executive under sub-paragraph 4(b) may use or disclose the information in accordance with paragraph (4).

Disclosure of chemical trade and safety information to a relevant trading partner

4.—(1) This regulation applies to information held by the Executive which relates to the trade in or safety of chemicals.

(2) The Executive may disclose information to a relevant trading partner, or such person as the relevant trading partner may specify by written notice to the Secretary of State, for the purpose of giving effect to a provision of the EEA EFTA Agreement (including any annex to such agreement).

General provisions about disclosure of chemical trade and safety information

5.—(1) Nothing in regulation 3 or 4 limits the circumstances in which information may be disclosed under any other enactment or rule of law.

(2) A disclosure under regulation 3 or 4 does not breach—

(a) any obligation of confidence owed by the Executive, or

(b) any other restriction on the disclosure of that information (however imposed).

(3) Nothing in this regulation, or regulation 3 and 4, authorises a disclosure of information if the disclosure would contravene the data protection legislation (but in determining whether a disclosure would do so, regulation 3 and 4 of these Regulations should be taken into account).

Interpretation of regulations 3 to 5

6. In regulations 3 to 5—

"data protection legislation" has the same meaning as in the Data Protection Act 2018(**a**);

"EEA EFTA Agreement" means the Free Trade Agreement between Iceland, the Principality of Liechtenstein and the Kingdom of Norway and the United Kingdom of Great Britain and Northern Ireland(**b**);

"relevant trading partner" means a Party, other than the United Kingdom, to the EEA EFTA Agreement;

"the Executive" means the Health and Safety Executive(**c**).

PART 3

AMENDMENTS TO RETAINED DIRECT EU LEGISLATION

Regulation (EC) No 1272/2008

7.—(1) Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures(**d**) is amended as follows.

(2) In Article 21(3), omit "in that Part".

(3) In Article 53—

(a) in paragraph 1,

(i) from "The Commission" to "amending" substitute "The Secretary of State may by regulations amend";

(ii) omit from "Where imperative" to "this paragraph".

(b) omit paragraph 2.

(4) Omit Article 53a (Exercise of the delegation).

(5) Omit Article 53b (Urgency procedure).

(6) Omit Article 53c (Separate delegated acts for different delegated powers).

(**a**) 2018 c. 12. Section 3(9) of the Data Protection Act 2018 was amended by S.I. 2019/419, regulation 4 and Schedule 2, paragraph 1 and 4.

(**b**) Done at London on 8th July 2021. Volume 1 and 2 published on 16th July 2021, ISBN 978-1-5286-2805-1, CP 496, available at https://www.gov.uk/government/publications/free-trade-agreement-between-iceland-the-principality-of-liechtenstein-and-the-kingdom-of-norway-and-the-united-kingdom-of-great-britain-and-northern. A hard copy can be obtained on request from the Department of Work and Pensions.

(**c**) The Health and Safety Executive was established by section 10 of the Health and Safety at Work etc. Act 1974 (c. 37), which was amended by Article 4 of S.I. 2008/960.

(**d**) EUR 2008/1272. Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures was amended by the Chemicals (Health and Safety) and Genetically Modified Organisms (Contained Use) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/720) and the Chemicals (Health and Safety) and Genetically Modified Organisms (Contained Use) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1567).

Regulation (EU) No 649/2012

8.—(1) Regulation (EU) No 649/2012 of the European Parliament and of the Council of 4 July 2012 concerning the export and import of hazardous chemicals (recast)(**a**) is amended as follows.

(2) In Article 3(16), substitute—

> ""export" means:
>
> (a) the export of a chemical made in accordance with sections 33(4), 35 or 36 of the Taxation (Cross-border Trade) Act 2018(**b**);
>
> (b) the removal of a chemical from Great Britain to Northern Ireland; or
>
> (c) the export of a chemical where the chemicals are, immediately prior to export, in a temporary storage facility or subject to the control of any HMRC officer as described in paragraph 1(2) of Schedule 1 to the Taxation (Cross-border Trade) Act 2018,
>
> but does not include chemicals which are under a transit procedure by which chargeable goods may be moved between places in Great Britain.".

Regulation (EU) No 528/2012

9.—(1) Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products(**c**) is amended as follows.

(2) In Article 2(3), omit "or other Union legislation".

(3) In Article 64(2), omit ", as applicable"(**d**).

Commission Delegated Regulation (EU) No 1062/2014

10.—(1) Commission Delegated Regulation (EU) No 1062/2014 of 4 August 2014 on the work programme for the systematic examination of all existing active substances contained in biocidal products referred to in Regulation (EU) No 528/2012 of the European Parliament and of the Council(**e**) is amended as follows.

(2) In the heading of Article 5, for "category 6" substitute "category B".

(3) In Article 5(1), for "category 6" substitute "category B".

(4) In Article 6(7)(a), for "UK mandatory classification" substitute "GB mandatory classification".

(5) In Article 20, omit "the third subparagraph of".

(6) In Article 22—

(a) in paragraph (1), for "point (a)(ii) of Article 89(7)" substitute "Article 89(8)";

(b) in paragraph (3), omit "point (a)(ii) of"(**f**).

(**a**) EUR 2012/649.

(**b**) 2018 c. 22.

(**c**) EUR 2018/528. Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products was amended by the Chemicals (Health and Safety) and Genetically Modified Organisms (Contained Use) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/720) and the Chemicals (Health and Safety) and Genetically Modified Organisms (Contained Use) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1567).

(**d**) Article 64 of EUR 2018/528 was amended by paragraph 110(3) of Schedule 2 of the Chemicals (Health and Safety) and Genetically Modified Organisms (Contained Use) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/720).

(**e**) EUR 2014/1062. Commission Delegated Regulation (EU) No 1062/2014 of 4 August 2014 on the work programme for the systematic examination of all existing active substances contained in biocidal products referred to in Regulation (EU) No 528/2012 of the European Parliament and of the Council Chemicals (Health and Safety) and Genetically Modified Organisms (Contained Use) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/720).

(**f**) Article 22 of EUR 2014/1062 was amended by paragraph 234 of the Chemicals (Health and Safety) and Genetically Modified Organisms (Contained Use) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/720) and the Chemicals (Health and Safety) and Genetically Modified Organisms (Contained Use) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1567).

Commission Implementing Regulation (EU) No 88/2014

11.—(1) Commission Implementing Regulation (EU) No 88/2014 of 31 January 2014 specifying a procedure for the amendment of Annex I to Regulation (EU) No 528/2012 of the European Parliament and of the Council concerning the making available on the market and use of biocidal products(**a**) is amended as follows.

(2) In Article 1(a), for "category 1, 2, 3, 4, 5 or 6" substitute "category A or category B".

(3) In Article 3(2), for "category 6" substitute "category B".

(4) In Article 4, in both places it occurs—

(a) for "category 1, 2, 3, 4 or 5" substitute "category A";

(b) for "category 6" substitute "category B".

(5) In Annex I—

(a) in Part A, including the heading, in both places it occurs for "category 1, 2, 3, 4 or 5" substitute "category A";

(b) in Part B, including the heading, in both places it occurs for "category 6" substitute "category B".

PART 4

DOMESTIC LEGISLATION

Plant Protection Product (Fees and Charges) Regulations 2011

12.—(1) The Plant Protection Product (Fees and Charges) Regulations 2011(**b**) are amended as follows.

(2) In regulation 2, in both places it occurs, for "EU law" substitute "Northern Ireland by virtue of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement".

Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013

13.—(1) The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013(**c**) are amended as follows.

(2) In regulation 4(1), in paragraph (b) of the definition of the PIC Regulation, for "EU law" substitute "Northern Ireland by virtue of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement".

(3) In paragraph 1 of Schedule 2, in the definition of "plant protection product", for "exit day" substitute "IP completion day".

(4) In paragraph 11 of Schedule 2, for "exit day" substitute "IP completion day".

Health and Safety and Nuclear (Fees) Regulations 2021

14.—(1) The Health and Safety and Nuclear (Fees) Regulations 2021(**a**) are amended as follows.

(**a**) EUR 2014/88.

(**b**) S.I. 2011/2132. The Plant Protection Product (Fees and Charges) Regulations 2011 were amended by the Chemicals (Health and Safety) and Genetically Modified Organisms (Contained Use) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/720) and the Chemicals (Health and Safety) and Genetically Modified Organisms (Contained Use) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1567). There are other amendments that are not relevant to this instrument.

(**c**) S.I. 2013/1506. The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013 were amended by the Chemicals (Health and Safety) and Genetically Modified Organisms (Contained Use) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/720) and the Chemicals (Health and Safety) and Genetically Modified Organisms (Contained Use) (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1567).

(2) In regulation 21—

(a) omit paragraph (1);

(b) in paragraph (2)(a), omit "and";

(c) after paragraph (2)(b) insert—

"(c) work it carries out in order to evaluate an application for a change to an authorised product under Regulation 354/2013; and

(d) work it carries out to determine an application to be a participant for the review of an active substance/product-type combination under Article 17 of Regulation 1062/2014.".

(d) in paragraph (12), after the definition of "competent authority", insert—

""Regulation 354/2013" means 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;

"Regulation 1062/2014" means Commission Delegated Regulation (EU) No 1062/2014 of 4 August 2014 on the work programme for the systematic examination of all existing active substances contained in biocidal products referred to in Regulation (EU) No 528/2012 of the European Parliament and of the Council.".

Name
Minister of State
Date
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision under section 2(1) of the Trade Act 2021 to implement provisions relating to co-operation in the regulation of chemicals contained in the EEA EFTA Agreement. The Regulations also make amendments to retained EU legislation in exercise of powers conferred by sections 8(1) and 8C(1) of the European Union (Withdrawal) Act 2018 and by paragraph 7 of Schedule 4 to that Act.

They make provision under section 8(1) of that Act in order to address failures of retained EU legislation to operate effectively and other deficiencies falling under section 8(2)(a), (d) and (e) arising from the UK's exit from the European Union. They make provision under section 8C(1) in order to make amendments relating to the Northern Ireland Protocol.

These Regulations make provision under paragraph 7 of Schedule 4 to alter fees contained in regulation 21 of the Health and Safety and Nuclear (Fees) Regulations 2021 (S.I. 2021/33) ("the 2021 Regulations"), which came into force on 1st April 2021. Amendments were made to regulation 21 of the Health and Safety and Nuclear (Fees) Regulations 2016 (S.I. 2016/253) ("the 2016 Regulations") by the Chemicals (Health and Safety) and Genetically Modified Organisms (Contained Use) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/720) which came into force on 31st December 2020 and which were erroneously omitted from the 2021 Regulations, which remade the 2016 Regulations. The amendment intends to clarify the law in relation to the charging of fees in relation to biocidal products.

Regulation 3 provides an information sharing gateway to the Health and Safety Executive ("the Executive") which allows it to share information related to the trade in or safety of chemicals supplied by a relevant trading partner under the EEA EFTA Agreement within the UK. The information may be disclosed for a permitted purpose meaning to ensure health and safety, ensure protection of consumers, and ensure protection of the environment.

(**a**) S.I. 2021/33.

Regulation 4 provides an information sharing gateway to the Executive which allows it to share information related to the trade in or safety of chemicals with a relevant trading partner under the EEA EFTA Agreement to give effect to a provision of that agreement.

Regulation 5 ensures that the effect of regulation 3 or 4 does not limit the circumstances in which information can be disclosed under any other enactment or rule of law. It confirms that a disclosure under regulation 3 or 4 does not breach any obligation of confidence owed by the Executive or any other restriction on the disclosure of that information. Further, it confirms that nothing in these Regulations authorises disclosure that contravenes data protection legislation but in determining whether a disclosure should do so, regulations 3 and 4 should be taken into account.

Regulation 6 provides definitions for terms used in regulations 3 to 5.

Regulations 7 to 11 make amendments to retained direct EU legislation1 in the field of chemicals regulation to correct minor deficiencies and ensure the implementation of the Northern Ireland Protocol.

Regulations 12 and 13 make provision under section 8C(1) of the European Union (Withdrawal) Act 2018 to correct references to the Northern Ireland Protocol. Regulation 13 also makes consequential provision in exercise of the power conferred by section 41(1) of the European Union (Withdrawal Agreement) Act to substitute references to "exit day" with "IP completion day".

Regulation 14 makes provision in relation to the Health and Safety and Nuclear (Fees) Regulations 2021 as explained above.

No impact assessment has been prepared for these Regulations as there is not expected to be any additional costs to business, charities or the voluntary sector. Some of the regulations contained in this Statutory Instrument correct errors in S.I 2019/720 as amended by S.I 2020/1567 and S.I. 2021/33, therefore it is being issued free of charge to all known recipients of those Statutory Instruments.

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

£6.90

http://www.legislation.gov.uk/id/ukdsi/2022/9780348236613

ISBN 978-0-34-823661-3