

## UK MINISTERS ACTING IN DEVOLVED AREAS

### 190 - The REACH etc. (Amendment etc.) (EU Exit) Regulations 2020

*Laid in the UK Parliament: 19 October 2020*

#### Sifting

Subject to sifting in UK Parliament?	No
Procedure:	Draft affirmative
Date of consideration by the House of Commons European Statutory Instruments Committee	NA
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	NA
Date sifting period ends in UK Parliament	NA
Written statement under SO 30C:	Paper 99
SICM under SO 30A (because amends primary legislation)	Not required

#### Scrutiny procedure

Outcome of sifting	NA
Procedure	Draft affirmative
Date of consideration by the Joint Committee on Statutory Instruments	Not known
Date of consideration by the House of Commons Statutory Instruments Committee	Not known
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	Not known

#### Background

These Regulations are proposed to be made by the UK Government pursuant to sections 8(1) and 8C(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018.

#### Summary

These Regulations amend EU and domestic legislation relating to the Registration, Evaluation, Authorisation and Restriction of Chemicals (“REACH”). The amendments are to help to ensure that the UK meets its obligations under the Protocol on Ireland/Northern Ireland to the Withdrawal Agreement so that the EU REACH regime will continue to operate in Northern Ireland after 31 December 2020.

The Regulations also provide for the continued access of Northern Ireland goods to the Great Britain market, including a notification process for when substances are placed on the GB market and applicable timescales for notifications.

#### Statement by Welsh Government

Legal Advisers make the following comments in relation to the Welsh Government’s statement dated 20 October 2020 regarding the effect of these Regulations:

- The statement contains a limited summary of the Regulations and what they do in practice. The Explanatory Memorandum to the Regulations states:

*“These Regulations create two versions of the REACH Enforcement Regulations 2008. One will apply to Great Britain, including to offshore installations other than those in the UK territorial sea adjacent to Northern Ireland. The other will apply to Northern Ireland, including to offshore installations in the UK territorial sea adjacent to Northern Ireland. These Regulations also provide for Northern Irish entities to be able to exercise certain functions under the GB REACH Regulation. Related GB REACH offences will be applied to Northern Ireland by the Northern Irish version of the REACH Enforcement Regulations.”*

The Explanatory Memorandum goes on to refer to how Northern Ireland will have access to the GB market and to the applicable deadlines for submitting information regarding the importation of chemicals to GB.

No detail is given in the statement regarding the changes which are made by the Regulations relating to the import of chemicals from Northern Ireland to Great Britain following the end of the transition period and what direct or indirect impact, if any, such changes will have on the chemicals industry in Wales. Legal Advisers recommend that clarification be sought from the Welsh Government as to what direct or indirect impact these Regulations will have on Wales.

- The Welsh Government’s statement confirms that these Regulations do not impact on the Senedd’s legislative competence or the Welsh Minister’s executive competence.

#### **Intergovernmental Agreement on the European Union (Withdrawal) Bill**

The above summary and the content of the Explanatory Memorandum to these Regulations confirm their effect.

Legal Advisers do not consider that any significant issues arise under paragraph 8 of the Memorandum on the European Union (Withdrawal) Bill and the Establishment of Common Frameworks in relation to these Regulations.