House of Lords Debate on Draft REACH etc. (Amendment etc.) (EU Exit) Regulations 2019

Briefing on proposals to transfer additional responsibilities to the Health and Safety Executive in the event of no deal

Summary

The Royal Society of Chemistry calls for chemicals regulation that achieves a balance between nurturing innovation, protecting the environment and human health, and enabling the UK to trade internationally. Should a no deal scenario arise, we call for pragmatic and evidence-based decision-making that is harmonised with EU outcomes in chemicals regulation.

The Draft REACH etc. (Amendment etc.) (EU Exit) Regulations 2019 aim to correct inoperabilities in the EU REACH legislation, as it would be transposed into UK law. One of the main changes is who holds decision-making powers for restrictions and authorisations in REACH. Hence, this SI is not just to correct inoperabilities in process but the changes also shift decision-

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Harmonising the scientific evidence base for decision-making

- 4. In the event of no deal, UK and EU decision-makers would immediately scientific networks and databases that provide data and information into regulatory decision-making. The UK will no longer have a place on the EU member state committees that make important decisions for chemicals such as the Risk Assessment Committee (RAC) and the Committee for Socio-Economic Analysis (SEAC) within the European Chemicals Agency (ECHA).
- 5. Scientific research collaborations are at the heart of effective and harmonised chemicals regulation, which is critical for frictionless trade in the chemicals sector. Scientists provide policy-makers with up to date scientific information on the risks and impacts of chemicals on health and the environment. Good science therefore influences the design of regulations and influences chemical safety decisions.
- 6. We ask that the government clarify if and how the UK will seek to aid harmonisation in decision-making rather than divergence from the EU when it leaves RAC and SEAC, specifically:
 - a. Will the HSE aim to harmonise UK decisions with EU decisions for the benefit of UK-EU trade, or will there be a UK decision-making framework for chemicals that could lead to regulatory divergence?
 - b. ECHA does not review every substance dossier submitted into EU REACH, even with its large budget and capability. How will the HSE prioritise substance review and what proportion of dossiers would the HSE ex(102(ec)(tr)6t)-(b)r(tdg))(ev)-(few)-in f(s)-(u)!?

APPENDIX	A: Decision-	making i	orinciples f	or chemicals	regulation
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Figure 1: Decision-making principles for the management of chemicals in the environment

- 13. **Precautionary principle**: Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation. (Rio principle 15; TFEU Article 191(2))
 - This principle requires significant discussion by governments as to how it is implemented in practice and in particular in relation to the full interpretation stated in the Communication from the EU Commission² (EC) on the precautionary principle in 2000. An important point made by the EC is that 'The implementation of an approach based on the precautionary principle should start with a scientific evaluation, as complete as possible, and where possible identifying at each stage the degree of scientific uncertainty.' Full scientific certainty is rarely achieved, even with a large amount of scientific evidence, and uncertainty is often complex to communicate. The scientific community is integral to the implementation of the precautionary principle and assessing risk. The ultimate risk management decisions for chemicals and products are taken by policymakers based not only on the science but on societal acceptability of the degree of precaution desired in a given situation and should involve all relevant stakeholders, with experienced high calibre scientists as key contributors to decision-making.
- 14. Risk & impact principle: An environmental and human health risk and impact assessment shall be undertaken for proposed activities that are likely to have a significant adverse impact on the environment

- principle through which to do this, is via scientifically informed integrated risk and impact assessments. See also principles of risk assessment and risk management from the Health and Safety Executive³]
- 15. **Mutual Recognition principle**: It should be considered as to whether the decision being taken is in agreement with the nature of decisions taken in other nations, where mutual interests require harmonisation e.g. for trading or collaboration purposes.
 - The principle of mutual recognition stems from Regulation (EC) No 764/2008⁴. In the EU context it defines the rights and obligations for public authorities and enterprises that wish to market their products in another EU member state country. A similar principle could be developed to consider harmonisation in matters relating to environmental issues of mutual importance between collaborative partners in other parts of the