

## SCHEDULE 1

### Amendment of Titles 1 to 15

## PART 10

### Amendment of Title 10: Agency

**62.**—(1) Article 77 is amended as follows.

(2) Before paragraph 1, insert—

“**A1.** When forming opinions the Agency must take relevant scientific knowledge and advice into account (including any relevant knowledge and advice relating to socio-economic matters).

**A2.** The Agency may take any such knowledge or advice into account when forming an opinion only if—

- (a) the knowledge or advice has been commissioned by the Agency, from one or more suitably qualified or experienced persons who are independent of the Agency, for the purposes of forming the opinion concerned, or
- (b) the knowledge or advice—
  - (i) is already in existence (whether within the Agency or externally),
  - (ii) is produced within the Agency for the purposes of forming the opinion concerned, or
  - (iii) is, in accordance with Article 2B, produced by the Environment Agency or one of the other environmental regulators in connection with the Agency forming the opinion concerned and then passed on to the Agency, and the Agency considers that it is appropriate to take it into account, rather than to commission knowledge or advice in compliance with point (a).

The knowledge or advice that the Agency may take into account in compliance with point (b) (i) includes knowledge or advice which has previously been commissioned by the Agency from one or more suitably qualified or experienced persons who are independent of the Agency for the purposes of forming a previous opinion on any matter.

**A3.** The Agency must comply with this paragraph if —

- (a) it is forming—
  - (i) an opinion in connection with deciding whether to grant an authorisation under Article 60,
  - (ii) an opinion under Article 70 as to whether suggested restrictions are appropriate in reducing the risk to human health or the environment, or
  - (iii) an opinion under Article 71 on suggested restrictions and on the related socio-economic impact, and
- (b) it only takes into account knowledge or advice that is not commissioned in compliance with paragraph A2(a) for the purposes of forming that opinion.

The Agency must—

- (a) produce an explanation of why it considered that it was appropriate to take only that knowledge or advice into account,
- (b) publish the explanation, and

**Changes to legislation:** There are currently no known outstanding effects for the The REACH etc. (Amendment etc.) (EU Exit) Regulations 2019, Paragraph 62. (See end of Document for details)

(c) send a copy of the explanation to the appropriate authorities.

**A4.** When exercising its functions, the Agency must act in a way that ensures a high degree of transparency.

**A5.** The Agency must produce and publish a statement of how it will comply with paragraphs A1, A2 and A4.

The Agency must produce and publish the first statement within the period of 3 months beginning with the day after [F<sup>1</sup>IP completion day].

The Agency must consult such persons as it considers appropriate before producing the first, or any subsequent, statement.

**A6.** The statement must include—

- (a) information about the qualifications or relevant experience that are suitable in order for persons to be commissioned to provide knowledge or advice to the Agency,
- (b) examples of situations in which the Agency envisages that it might be appropriate to take existing knowledge or advice (rather than knowledge or advice commissioned as mentioned in paragraph A2(a)) into account.

**A7.** Paragraphs A1 to A6 do not limit the Agency's duties under Article 2B.”.

(3) In paragraph 1, for “Member States and the institutions of the Community” substitute “appropriate authorities”.

(4) In paragraph 2—

- (a) in the words before point (a), for “The Secretariat” substitute “The Agency”;
- (b) omit points (a) to (d);
- (c) in point (e)—
  - (i) in the first sentence omit the words from “, the classification” to the end;
  - (ii) omit the final sentence.
- (d) omit point (h);
- (e) in point (i), omit “including Member State competent authorities”;
- (f) in point (l)—
  - (i) omit “Commission's”;
  - (ii) after “request” insert “ of any appropriate authority ”;
  - (iii) for “between the Community, its Member States,” substitute “ with ”;
- (g) in point (m), omit “based on conclusions from the Member State Committee”.

(5) Omit paragraphs 3 and 4.

**F1** Words in Sch. 1 substituted (31.12.2020 immediately before IP completion day) by [The Environment \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1313\)](#), regs. 1(3), **6(2)**

**Commencement Information**

**II** Sch. 1 para. 62 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the The REACH etc. (Amendment etc.) (EU Exit) Regulations 2019, Paragraph 62.