

SCHEDULE 1

Amendment of Titles 1 To 15

PART 14

Amendment of Title 15: Transitional and final provisions

87. In the heading of Title 15 omit “transitional and”.

88. Omit Article 128.

89.—(1) For Article 129 substitute—

“Article 129

Safeguard clause

1. An appropriate authority may impose an appropriate provisional restriction in respect of a substance if that authority—

- (a) has justifiable grounds for believing that urgent action is essential to protect human health or the environment in respect of the substance, on its own, in a mixture or in an article, even if satisfying the requirements of this Regulation, and
- (b) has competence to impose the provisional restriction.

2. If an appropriate authority imposes a provisional restriction in accordance with paragraph 1, it must—

- (a) immediately inform the Agency and the other appropriate authorities, giving reasons for its decision and submitting the scientific or technical information on which the provisional restriction is based, and
- (b) within three months of its decision, request the Agency to initiate the procedure under Article 69.

3. When a decision has been reached under Article 73 (as part of the procedure under Article 69) the appropriate authority must revoke the provisional measure.

4. In this Article “restriction” means a restriction on the placing on the market or use of a substance.

5. The Secretary of State has competence to impose a provisional restriction if, or to the extent that, the exercise of that function to impose that restriction—

- (a) relates to England;
- (b) relates to Scotland and is not within devolved competence (within the meaning of section 54 of the Scotland Act 1998);
- (c) relates to Wales and is not within devolved competence (within the meaning of section 58A(7) and (8) of the Government of Wales Act 2006);
- (d) relates to Northern Ireland and is not within devolved competence in Northern Ireland.

6. The Scottish Ministers have competence to impose a provisional restriction if, or to the extent that, the exercise of that function to impose that restriction is within devolved competence (within the meaning of section 54 of the Scotland Act 1998).

7. The Welsh Ministers have competence to impose a provisional restriction if, or to the extent that, the exercise of that function to impose that restriction is within devolved competence (within the meaning of section 58A(7) and (8) of the Government of Wales Act 2006).

8. The Department of Agriculture, Environment and Rural Affairs and the Department for the Economy in Northern Ireland have competence to impose a provisional restriction if, or to the extent that, the exercise of that function to impose that restriction is within devolved competence in Northern Ireland.

9. For the purposes of paragraph 8, the exercise of the function of imposing a provisional restriction is within devolved competence in Northern Ireland except so far as a provision of an Act of the Northern Ireland Assembly conferring the function of imposing that provisional restriction would be outside the legislative competence of the Assembly.

The reference in this paragraph to provision being outside the legislative competence of the Northern Ireland Assembly is to be read in accordance with section 6 of the Northern Ireland Act 1998.

Any provision that would be outside the legislative competence of the Northern Ireland Assembly unless the Secretary of State consented to it is to be regarded, for the purposes of this paragraph, as outside legislative competence.

Article 3(A2) includes provision about the exercise by the Department of Agriculture, Environment and Rural Affairs and the Department for the Economy of the function of giving consent under this Article.”.

90. In Article 130—

- (a) for “competent authorities,” substitute “appropriate authorities and”;
- (b) omit “and the Commission”.

91. For Article 131 substitute—

“Article 131

Amendments to the Annexes

1. The Secretary of State may, by regulations, make such amendments of the Annexes as the Secretary of State considers appropriate.

The Secretary of State must consider any request made by any of the other appropriate authorities for amendments of the Annexes to be made.

2. Regulations under this Article are to be made by statutory instrument; and a statutory instrument containing regulations under this Article is subject to annulment in pursuance of a resolution of either House of Parliament.

The function of making regulations under this Article is subject to the consent requirement in Article 4A.”.

92. For Article 132 substitute—

“Article 132

Implementing legislation

1. The Secretary of State may, by regulations, make such provision as the Secretary of State considers appropriate for putting the provisions of this Regulation efficiently into effect.

The Secretary of State must consider any request made by any of the other appropriate authorities for such provision to be made.

2. Regulations under this Article are to be made by statutory instrument; and a statutory instrument containing regulations under this Article is subject to annulment in pursuance of a resolution of either House of Parliament.

The function of making regulations under this Article is subject to the consent requirement in Article 4A.”.

93. After Article 132, insert—

“Article 132A

Regulations under this Regulation

Any power to make regulations under this Regulation includes power to make supplementary, incidental, consequential, transitional, transitory or saving provision.”.

94. Omit Articles 133 to 137.

95.—(1) Article 138 is amended as follows.

(2) For “Commission”, in each place it occurs, substitute “Secretary of State”.

(3) In paragraph 1—

(a) in the first sentence, for “June 2019”, substitute “December 2020”;

(b) omit the second sentence;

(c) after point (c) insert—

“(d) the views of any appropriate authority.”;

(d) in the final sentence, for “present legislative” substitute “formulate”.

(4) In paragraphs 2 and 3, for “present legislative” substitute “formulate”.

(5) Omit paragraphs 4 to 7.

(6) In paragraph 8—

(a) in the first sentence, for “June 2019” substitute “December 2020”;

(b) in the last sentence, for “present legislative” substitute “formulate”.

(7) In paragraph 9—

(a) for “June 2019” substitute “December 2020”;

(b) for the final sentence substitute—

“The Secretary of State may, by regulations, amend Annex 8 if the Secretary of State considers that it is appropriate to do so on the basis of this review, while ensuring a high level of protection of health and the environment.

Regulations under this paragraph are to be made by statutory instrument; and a statutory instrument containing regulations under this paragraph is subject to annulment in pursuance of a resolution of either House of Parliament.

The function of making regulations under this Article is subject to the consent requirement in Article 4A.”.

96. Omit Articles 140 and 141.