

SCHEDULE 2

AMENDMENTS TO RETAINED DIRECT EU LEGISLATION

Regulation (EC) No 1272/2008

33. For Article 37, substitute—

“Article 37

Procedure for mandatory classification and labelling where the EU Risk Assessment Committee publishes an opinion

1. This Article applies in relation to a substance—
 - (a) on which the Committee for Risk Assessment of the European Chemicals Agency (“the Committee”) publishes an opinion under Article 37(4) of the EU CLP Regulation on or after exit day; or
 - (b) on which the Committee has published an opinion under Article 37(4) of the EU CLP Regulation before exit day, but which has not, as at exit day, been included in Part 3 of Annex VI of the CLP Regulation.
2. Within 6 months of the publication of the Committee’s opinion, the Agency must publish its own opinion.
3. Where the Agency’s opinion recommends aligning with the Committee’s opinion that there should be a change—
 - (a) the Agency must, within 12 months of the publication of its opinion, submit a recommendation to the Secretary of State to give effect to the classification and labelling requirement set out in the Agency’s opinion, and must send a copy of that recommendation to each of the Devolved Authorities;
 - (b) the Secretary of State must decide whether to accept that recommendation and must publish that decision, together with the reasons for that decision, and specifying the date when any new or revised classification and labelling requirement is to be included in the UK mandatory classification and labelling list;
 - (c) the Secretary of State’s function under point (b) is subject to the consent requirement in Article 53B;
 - (d) the Agency must without undue delay update the UK mandatory classification and labelling list in accordance with the Secretary of State’s decision.
4. Where the Agency’s opinion does not recommend aligning with the Committee’s opinion, the Agency may produce a proposal under paragraph 2 of Article 37A for a new or revised mandatory classification and labelling requirement.”