
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision under section 2(1) of the Trade Act 2021 to implement provisions relating to co-operation in the regulation of chemicals contained in the EEA EFTA Agreement. The Regulations also make amendments to retained EU legislation in exercise of powers conferred by sections 8(1) and 8C(1) of the European Union (Withdrawal) Act 2018 and by paragraph 7 of Schedule 4 to that Act.

They make provision under section 8(1) of that Act in order to address failures of retained EU legislation to operate effectively and other deficiencies falling under section 8(2)(a), (d) and (e) arising from the UK's exit from the European Union. They make provision under section 8C(1) in order to make amendments relating to the Northern Ireland Protocol.

These Regulations make provision under paragraph 7 of Schedule 4 to alter fees contained in regulation 21 of the Health and Safety and Nuclear (Fees) Regulations 2021 (S.I. 2021/33) ("the 2021 Regulations"), which came into force on 1st April 2021. Amendments were made to regulation 21 of the Health and Safety and Nuclear (Fees) Regulations 2016 (S.I. 2016/253) ("the 2016 Regulations") by the Chemicals (Health and Safety) and Genetically Modified Organisms (Contained Use) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/720) which came into force on 31st December 2020 and which were erroneously omitted from the 2021 Regulations, which remade the 2016 Regulations. The amendment intends to clarify the law in relation to the charging of fees in relation to biocidal products.

Regulation 3 provides an information sharing gateway to the Health and Safety Executive ("the Executive") which allows it to share information related to the trade in or safety of chemicals supplied by a relevant trading partner under the EEA EFTA Agreement within the UK. The information may be disclosed for a permitted purpose meaning to ensure health and safety, ensure protection of consumers, and ensure protection of the environment.

Regulation 4 provides an information sharing gateway to the Executive which allows it to share information related to the trade in or safety of chemicals with a relevant trading partner under the EEA EFTA Agreement to give effect to a provision of that agreement.

Regulation 5 ensures that the effect of regulation 3 or 4 does not limit the circumstances in which information can be disclosed under any other enactment or rule of law. It confirms that a disclosure under regulation 3 or 4 does not breach any obligation of confidence owed by the Executive or any other restriction on the disclosure of that information. Further, it confirms that nothing in these Regulations authorises disclosure that contravenes data protection legislation but in determining whether a disclosure should do so, regulations 3 and 4 should be taken into account.

Regulation 6 provides definitions for terms used in regulations 3 to 5.

Regulations 7 to 11 make amendments to retained direct EU legislation¹ in the field of chemicals regulation to correct minor deficiencies and ensure the implementation of the Northern Ireland Protocol.

Regulations 12 and 13 make provision under section 8C(1) of the European Union (Withdrawal) Act 2018 to correct references to the Northern Ireland Protocol. Regulation 13 also makes consequential provision in exercise of the power conferred by section 41(1) of the European Union (Withdrawal Agreement) Act to substitute references to "exit day" with "IP completion day".

Regulation 14 makes provision in relation to the Health and Safety and Nuclear (Fees) Regulations 2021 as explained above.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: *The Chemicals (Health and Safety) Trade and Miscellaneous Amendments Regulations 2022 No. 1037*

No impact assessment has been prepared for these Regulations as there is not expected to be any additional costs to business, charities or the voluntary sector. Some of the regulations contained in this Statutory Instrument correct errors in [S.I 2019/720](#) as amended by [S.I 2020/1567](#) and [S.I. 2021/33](#), therefore it is being issued free of charge to all known recipients of those Statutory Instruments.