

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Second Delegated Legislation Committee

DRAFT PERSISTENT ORGANIC POLLUTANTS
(AMENDMENT) (NO. 2) REGULATIONS 2023

Monday 13 November 2023

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Friday 17 November 2023

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The Committee consisted of the following Members:

Chair: DAME ANGELA EAGLE

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| † Bristow, Paul (<i>Peterborough</i>) (Con) | † Leadsom, Dame Andrea (<i>South Northamptonshire</i>) (Con) |
| † Byrne, Liam (<i>Birmingham, Hodge Hill</i>) (Lab) | † Loder, Chris (<i>West Dorset</i>) (Con) |
| † Churchill, Jo (<i>Vice-Chamberlain of His Majesty's Household</i>) | † Maskell, Rachael (<i>York Central</i>) (Lab/Co-op) |
| † Courts, Robert (<i>Witney</i>) (Con) | † Maynard, Paul (<i>Blackpool North and Cleveleys</i>) (Con) |
| † Creasy, Stella (<i>Walthamstow</i>) (Lab/Co-op) | Mishra, Navendu (<i>Stockport</i>) (Lab) |
| Elphicke, Mrs Natalie (<i>Dover</i>) (Con) | † Mumby-Croft, Holly (<i>Scunthorpe</i>) (Con) |
| † Fletcher, Colleen (<i>Coventry North East</i>) (Lab) | † Pow, Rebecca (<i>Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs</i>) |
| † Hall, Luke (<i>Thornbury and Yate</i>) (Con) | Jonathan Finlay, <i>Committee Clerk</i> |
| † Hamilton, Mrs Paulette (<i>Birmingham, Erdington</i>) (Lab) | † attended the Committee |
| † Jones, Ruth (<i>Newport West</i>) (Lab) | |

Second Delegated Legislation Committee

Monday 13 November 2023

[DAME ANGELA EAGLE *in the Chair*]

Draft Persistent Organic Pollutants (Amendment) (No. 2) Regulations 2023

6 pm

The Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs (Rebecca Pow): I beg to move,

That the Committee has considered the draft Persistent Organic Pollutants (Amendment) (No. 2) Regulations 2023.

It is a pleasure to see you in the Chair, Dame Angela. The regulations were laid before the House on 16 October 2023 and add a new substance, called perfluorohexane sulfonic acid—hon. Members will be pleased to hear that I will not be repeating that long hand—otherwise known as PFHxS, including its salts and related compounds, to the retained persistent organic pollutants, or POPs, regulation in response to the listing of the substance under the United Nations Stockholm convention for POPs. The UK is a party to the convention, and it is therefore obliged to reflect in UK law the listing of POPs under it. This legislative change is permitted by the use of the powers available in article 15 of the retained EU regulation on POPs and we have worked with the devolved Administrations on the regulations.

This statutory instrument is needed to implement the UK's commitments under the UN Stockholm convention. POPs are substances recognised as particularly dangerous to the health of humans, wildlife and the environment and the regulations preserve and add to the regime for managing, restricting or eliminating POPs in the UK.

What does the statutory instrument actually do? At the 10th meeting of the conference of the parties held last year, a decision was adopted to add a new substance called PFHxS to the list of substances for global elimination under the convention. The decision was communicated to parties and observers by the UN depository in November 2022. This instrument adds the new POP to the list of substances prohibited by law from being manufactured, placed on the market and used in Great Britain. Secondly, the instrument provides some exemptions from the prohibitions by allowing the unintentional presence of PFHxS at trace levels. These limits define the concentrations at which PFHxS can lawfully be found in a substance, article or mixture where it is unintentionally present and found in minimal amounts. This instrument includes two general limits and one that is specific to its presence in firefighting foams.

The instrument was not subject to consultation because, although it represents an update to existing legislation, it implements an international obligation that the UK is required to put into place in law. There were opportunities for UK stakeholders to feed into earlier engagement, both UK and convention-led, at various stages before PFHxS was adopted for elimination under the Stockholm convention. Following the initial proposal of PFHxS as

a POP in 2017, there have been public calls for information and opportunities to comment on draft evaluation documents for the substance. We received no evidence to suggest that exemptions or derogations were required by industry in Great Britain.

Following that engagement, a recent consultation led by the Department for Environment, Food and Rural Affairs on other amendments to the POPs regulation stated our intention to list PFHxS in annex 1 of that regulation to meet the UK's obligations under the Stockholm convention. A de minimis impact assessment was carried out that concluded that there was no indication that PFHxS chemicals are intentionally produced or used in Great Britain. As such, the statutory instrument is not expected to have an impact on business beyond one-off familiarisation costs. It is also not expected to disproportionately burden small businesses.

The Environment Agency is the delivery body for the POPs regulations for England, and Natural Resources Wales and the Scottish Environment Protection Agency are the delivery bodies for Wales and Scotland respectively. They have been involved in the development of the instrument and have raised no concerns about its implementation.

The territorial extent and application of this instrument is Great Britain. Under the Windsor framework, the EU POPs regulation 2019/1021 applies in Northern Ireland. The devolved Administrations in Wales and Scotland were engaged in the development of the instrument and have consented to its being made on a GB-wide basis.

The measures in the instrument are needed to implement the requirements of the Stockholm convention by adding the new POP PFHxS, including its salts and related compounds, to the list of substances prohibited by law. The environmental improvement plan for England has made clear our commitment to support and protect the natural environment, wildlife and human health. That includes our commitment to manage and reduce POPs in the environment. The draft regulations will allow the UK to continue to meet commitments relating to POPs, and to continue to implement the Stockholm convention requirements to prohibit, eliminate or restrict their production and use. I commend the draft regulations to the Committee.

6.6 pm

Ruth Jones (Newport West) (Lab): It is a real pleasure to serve under your chairmanship this evening, Dame Angela, and it is very good to see the Minister in her place. I will be as brief as I can so that she can take her phone off silent, just in case she has any urgent calls that she needs to return.

I want to acknowledge the service in the Department of the former Secretary of State—we did not agree very often, but I acknowledge her service. I will surprise the Minister on this very busy day by saying that the Opposition cautiously welcome the statutory instrument and its contents, but before I sit down—Conservative Members are sighing with relief—I would like to say a few things in consideration. This SI is to be welcomed, and I commend the adding of one subset of PFAS—perfluoroalkyl and polyfluoroalkyl substances—PFHxS, to our country's list of POPs. That follows its designation as such at last year's Stockholm convention, which

restricts or prohibits extremely persistent substances that cause worldwide pollution. The statutory instrument is an important step forward, and I note that the caveats to it are the same as those to the related EU legislation. It is a very good example of common sense alignment with our neighbours, and I commend the Minister for it.

I want to use this opportunity to ask the Minister about the Government's actions on PFAS more generally. The consensus tonight will go only so far, as there are some wider issues relating to PFAS that this SI will influence. Will the Minister please outline the timelines that the Government are following? As she knows, we are still awaiting the 2023-24 work programme for UK REACH—the registration, evaluation, authorisation and restriction of chemicals—which sets out priorities for the year. We are already halfway through, so when will the work programme be published?

In parallel, the PFAS working group, which runs to the end of the year, will culminate in a set of policy options that the Health and Safety Executive will consider and analyse. It would be helpful if the Minister could provide a brief update on the work of that group.

The SI makes it clear that the PFAS pollution crisis is one of the biggest chemical threats of our time, and that we need real action to regulate and mitigate it. Scientists argue that the PFAS planetary boundary has already been exceeded, because PFAS levels in the global environment are ubiquitously above guideline levels. Some 14% of European teenagers have been found to have PFAS in their bodies at levels that may harm their health. Given the comparable lifestyles shared by teenagers in Europe and the UK, it is very likely that a similar percentage of UK teenagers have elevated PFAS levels. The extreme persistence of these chemicals means that if emissions continue, levels will only increase, and that will in turn increase the risk of triggering irreversible large-scale adverse health and environmental effects. That is why the SI is so important, but we must go further and do more.

Like many out there in the real world, I am waiting to get more detail on the action that the UK plans to take on PFAS. The European Chemicals Agency is considering a proposal to ban the manufacture and use of about 10,000 PFAS as a class. Will the Minister consider the merits of such an approach?

The SI's focus on PFAS is a reminder that we have seen a worrying pattern of regulation from Ministers in the UK Government: Ministers in Westminster are prioritising far fewer substances for control and, where action is taken, fewer protective measures are generally proposed in the UK compared with in the EU. I urge the Minister to go big and be bold on such issues. Our planet and our people need it.

6.10 pm

Rebecca Pow: I thank the shadow Minister for supporting the legislation, which aligns us internationally with the Stockholm convention. I also put on record our thanks to our departing Secretary of State for the great work she has done in the Department. She steered through not just pieces of legislation but plans and strategies for the future that are huge and groundbreaking, not least the Plan for Water, which sets the whole water industry on a holistic trajectory.

To clarify, the regulations ensure that existing legal provisions for the prohibition and restriction of the manufacture, placing on the market and use of POPs will be extended to the new POP substance PFHxS, following its addition to the list of POPs for global elimination under the Stockholm convention. That will contribute to the protection of the current and future health of the population, wildlife and environment in both the UK and the rest of the world.

The shadow Minister asked where we were with REACH. I assure her that we are developing our alternative transitional registration model for UK REACH, with the aim of maintaining or improving existing human health and environmental protections in line with our international commitments while reducing costs to businesses transitioning from the EU REACH to UK REACH.

Just last week, on Thursday 9 November, we announced the outlines of our alternative transition model. It includes refining the information on use and exposure in Great Britain that registrants will need to provide. That is the critical information that we expect industry to have so that they fully understand and manage risks, and that GB regulators need in order to prioritise regulatory action. The model also reduces to the essential minimum the hazard information required for transitional registrations and intermediates, which will mean that UK REACH registrants will not generally need to access and pay for the data packages held by EU industry consortia. It also outlines that there will be an improvement in regulator powers so that regulators can require and receive data from registrants quickly for regulatory or risk prioritisation purposes, which will ensure that we can respond to new or emerging risks. A consultation on the proposals will be published in early 2024. I hope that that clarifies the issue.

The shadow Minister also raised the matter of PFAS. To clarify, PFHxS are a type of PFAS—forever chemicals, as they are commonly known. There are thousands of forever chemicals, and not all PFAS are POPs. I want to reassure the hon. Lady that more PFAS will be listed as POPs under the Stockholm convention in the near future. Perfluoroalkyl and polyfluoroalkyl substances—PFAS—represent an enormous group of chemicals, and the group of substances covered by this instrument are a type of PFAS, but, as I said, not all PFAS are listed as POPs.

The Department for Environment, Food and Rural Affairs asked the Environment Agency and the Health and Safety Executive to examine the risks that PFAS pose, and to develop a regulatory management options analysis—or RMOA—to make recommendations for measures to manage the risks of PFAS. That was published back in April 2023, and we have accepted all the listed recommendations. They include work under UK REACH to reduce PFAS emissions by developing UK REACH restrictions, beginning with a restriction on PFAS in firefighting foams, which I think the hon. Member will know about, and exploring further restrictions covering a wide range of industrial and consumer uses, with a joined-up approach across Government and with external stakeholders.

DEFRA is taking forward the recommendation to bring together work on PFAS strategically through the development of a cross-Government chemical strategy and the creation of a chemicals stakeholder forum

[Rebecca Pow]

working group on PFAS, which the shadow Minister referred to. Aspects such as drinking water standards and a fluorinated gases review will be considered within the overall policy development and are subject to further ministerial agreement. I hope that clarifies the issue, which is important, as the shadow Minister rightly said.

I thank the shadow Minister for supporting the regulations. They will ensure that existing legal provisions for the prohibition and restriction of the manufacture,

placing on the market and use of POPs will be extended to the new POPs substance, PFHxS, following its addition to the list of POPs for global elimination under the Stockholm convention. As I have said before, that will contribute to the protection of the current and future health of the population, wildlife and environment of both the UK and the rest of the world.

Question put and agreed to.

6.16 pm

Committee rose.

