

T: 0300 244 4000  
E: CabSecNZJT@gov.scot

Net Zero, Energy and Transport  
Committee  
c/o Clerk to the Committee  
[netzero.committee@parliament.scot](mailto:netzero.committee@parliament.scot)

21 April 2023

Dear Edward,

### **The REACH (Amendment) Regulations 2023**

Thank you for your letter of 30 March 2023, following the NZET Committee meeting of 28 March at which I gave evidence on proposed UK legislation to amend the UK REACH Regulation.

As you know, the legislation concerns the extension of UK REACH transitional deadlines by which GB-based companies must register the chemicals they make or import. The extension was proposed to allow the completion of work, led by the UK Government, to develop an alternative registration model following representations by the UK Chemicals Industry of its serious concerns about the current registration system.

The Committee noted that the Scottish Government considers there to be no realistic alternative to agreeing to the legislation. I have come to this conclusion because the amendments will not result in an increased risk for the environment, while I understand that by not extending registration deadlines the impact on GB business and the functioning of the UK chemicals market would be very significant.

You have noted that the Committee recognises the need for a well-functioning registration system in UK REACH, as part of the regulation's overarching objective of protecting public health and the environment following Brexit. My officials continue to be involved in the ongoing work on UK REACH alternative transitional registration arrangements, and UK Government expects to be in a position to consult on this towards the end of the year. I will write to you at that time, to update you on the proposals being consulted on, and I will follow this with a second letter outlining the outcome of the consultation once available. If significant public representations are made before this time I will make the Committee aware accordingly.

You have asked that I outline how risks to standards and of future divergence from EU REACH will be monitored and assessed. The EU REACH regulation was described as the most complex EU regulation and one of the most important at the time of its entry into force. This complexity is mirrored in UK REACH, and relates to the various processes to which chemicals,

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actors in the supply chain, regulators and decision makers in the UK and devolved administrations may be subject. The Committee identified UK and EU REACH Restrictions as one example where differences between the regimes are becoming apparent. My officials, working with Defra, track changes over time between UK and EU REACH. Understanding these differences helps inform the annual UK REACH workplan and what they mean for protections. As was mentioned at Committee, my officials are working with Defra to find ways to make better use of evidence and regulatory products produced elsewhere, including in the EU, to make sure UK REACH offers the levels of protection it should. The annual UK REACH workplan, to which Scottish Government contributes to ensure our priorities are taken into account, is usually published in May. I propose that I write to the Committee shortly after the next workplan is published, outlining significant areas of work and how these compare with work under the EU system. I understand that to date the governance structures put in place by the Chemicals and Pesticides Common Framework are working well and these include periodic updates that cover the technical detail of UK and EU REACH.

Aside from these operational processes, the EU plans a more fundamental revision to EU REACH itself. The outcome of proposals and consultations on this revision are provisionally due later this year. It is important we track the progress of any changes to the EU system and consider their applicability for UK REACH. Where differences arise because UK REACH applies to Great Britain only whereas EU REACH applies to all EU Member States, I would consider such differences to be “necessary divergence”. An example here are the changes made to the regulation to ensure operability upon EU exit. There may be future changes to EU REACH that for similar reasons would not be applicable in the GB situation; I will ensure the Committee is made aware of EU REACH developments and their relevance for the UK at the appropriate time. At an operational level, there may also be examples that could be described as “necessary divergence”; for example, in some areas of reserved competency it may be more efficient or result in a faster outcome to use alternative legislation to UK REACH to arrive at the same risk control measure. I would view “unnecessary divergence” as any case where protections in GB are seriously impacted by a lack or significantly slower pace of action compared with the EU, and clearly it is these that are of most concern to me because of their potential for adverse effects on the environment or people’s health.

Beyond UK REACH, the Committee is interested in the development of a UK-wide Chemicals Strategy. As I explained at the Committee’s meeting on 28 March, the strategy that is in development will focus on managing chemicals in the environment (and people exposed via the environment) and will complement other strategies that include relevant environmental targets or actions, developed both here in Scotland and by UK Government. Briefly, my aspirations for this strategy are that it provides commitments on: making a significant contribution to the transition to a circular economy; looking at improvements to the UK REACH regulation in a GB context (e.g. enabling faster decisions on chemical controls); an holistic management approach and action plan for key chemicals of concern (poly- and perfluorinated alkyl substances; PFAS), and; the UK’s overall approach to regulation and on identifying new chemical issues. The strategy is planned for publication this year. As its content is being developed I cannot comment further at this stage, but will be sure to update the Committee on progress in due course.

## MAIRI MCALLAN

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