EXPLANATORY MEMORANDUM FOR EUROPEAN UNION LEGISLATION WITHIN THE SCOPE OF THE UK/EU WITHDRAWAL AGREEMENT AND NORTHERN IRELAND PROTOCOL
16258/22, COM(22)748 + Adds 1-8

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures

Add 1: SWD)22)434: Subsidiarity Grid
Add 2: SWD(22)436: Executive Summary of the Impact Assessment Report
Add 3: SWD(22)435: Impact Assessment Report Part 1
Add 4: SWD(22)435: Impact Assessment Report Part 2
Add 5: SWD(22)435: Impact Assessment Report Part 3
Add 6: SWD(22)435: Impact Assessment Report Part 4
Add 7: SWD(22)435: Impact Assessment Report Part 5
Add 8: SEC(22)452: Regulatory Scrutiny Board Opinion

C(2022) 9383 + Annex

COMMISSION DELEGATED REGULATION (EU) …/... of 19.12.2022 amending Regulation (EC) No 1272/2008 as regards hazard classes and criteria for the classification, labelling and packaging of substances and mixtures

Submitted by the Department for Work and Pensions on 1 February 2023.

SUBJECT MATTER

1. This Explanatory Memorandum (EM) relates to the proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures (‘EU CLP Regulation’), published on 19 December 2022. This proposal (the “Commission proposal”) will make significant changes to the EU CLP Regulation.

2. This EM also covers a Commission Delegated Regulation (EU) of 19.12.2022 (“the delegated act”) which introduces new hazard classes and criteria for classifying substances and mixtures.

3. The purpose of the Commission proposal and delegated act is to improve the EU Single Market for chemicals by addressing weaknesses or gaps in the EU CLP Regulation that prevent consumers, businesses and regulatory authorities from fully benefiting from protection against the dangers posed by hazardous chemicals.

4. The EU CLP Regulation is a directly applicable European Union (EU) Regulation that has applied to the supply of chemicals (substances and mixtures) in the EU and European Economic Area (EEA) since January 2009.

5. The Northern Ireland Protocol ("NI Protocol") provides that limited areas of EU law will continue to apply to, and in, the UK in respect of Northern Ireland. Article 5(4) states that provisions of Union law listed in Annex 2 to the NI Protocol shall continue to apply in respect of Northern Ireland. The EU CLP Regulation is listed in Annex 2 under paragraph 23.

Background to the EU CLP Regulation

6. The EU CLP Regulation requires EU/EEA and Northern Ireland (NI)-based suppliers to classify and label their chemicals in accordance with an internationally agreed system, the United Nations Globally Harmonized System of classification and labelling of chemicals (UN GHS) and to package them safely before placing them on the EU/EEA/NI market. These requirements apply throughout the EU/EEA/NI supply chain down to the point of use and ensure that workers, professional users, and consumers are given important hazard information about chemicals so that they can be supplied, handled, and used safely. The United Nations Globally Harmonized System of classification and labelling of chemicals (UN GHS) provides a voluntary framework for harmonized hazard communication, to protect human health and the environment, and to facilitate trade.

7. Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures ('EU CLP Regulation') also contains list of substances with harmonised classifications that are mandatory to use when classifying and labelling substances and mixtures. Where no harmonised classification exists, actors in the EU supply chain must self-classify and label substances and mixtures in accordance with the EU CLP Regulation.

The proposed new hazard classes introduced by the delegated act

8. The Commission adopted a delegated act in December 2022 to introduce six new hazard classes under the EU CLP Regulation. The proposed new hazard classes are:

- **endocrine disrupting ('ED')** (one for human health and one for the environment);
- **persistent, bioaccumulative and toxic ('PBT'**);
- **very persistent and very bioaccumulative ('vPvB'**);
- **persistent, mobile and toxic ('PMT')**; and

- **very persistent and very mobile ('vPvM')**.

The delegated act will add new definitions and scientific and technical criteria to classify substances and mixtures.

9. The established convention for introducing new hazard classes is to first propose they are introduced into a biennium work programme at the UN GHS where they will be considered, assessed and, if agreed in that forum, added into a revised update (an edition) of UN GHS. The published biennium edition is then typically considered by countries and jurisdictions and adopted into international or national domestic chemicals regulations (in the EU, EU CLP, and in GB, the Great Britain Classification Labelling and Packaging Regulation ('GB CLP')). The EU is introducing new hazard classes directly into the EU CLP Regulation via a delegated act prior to pursuing agreement at the UN GHS level.

The Government's initial assessment of the merits or otherwise of these proposals

10. The UK has no plans to establish similar hazard classes into the GB CLP Regulation without consensus at UN GHS and will consider its position and feed into discussions at UN GHS in the first instance. The changes to the EU CLP Regulation are intended to increase protection of human health and the environment within the EU but as non-tariff technical barriers to trade, the changes could have an impact on exports and international trade for some years to come until similar or equivalent UN GHS criteria are developed and adopted. However, it is also important to note that it is not certain that following due consideration by the UN GHS Sub-Committee that any of the EU new hazard classes would be introduced into the UN GHS.

Proposed changes in the Commission proposal

11. These include:

- **more comprehensive identification and classification of chemical hazards** by improving the efficiency and effectiveness of the EU CLP Regulation's harmonised classification process and strengthening incentives and provisions for duty holders to appropriately classify substances;
- **improved hazard communication** by introducing obligatory labelling rules for readability such as minimum font size and colour; greater use of fold-out labels; a new framework for the sale of chemicals in refillable containers; simplified rules and additional derogations for chemicals sold to consumers in bulk, such as fuel, and in very small packaging; and voluntary digital labelling of chemicals; and

- **addressing legal gaps and ambiguities** in relation to distance sales, including online sales, and extending the requirement to notify hazard information on mixtures to poison centres to include distributors placing chemicals on the market across borders or rebranding/relabelling mixtures.

The Government's initial assessment of the merits or otherwise of the proposals

12. The UK will be assessing whether these changes might offer potential opportunities as part of consideration of potential future reforms to the Great Britain Classification Labelling and Packaging Regulation ('GB CLP Regulation').

SCRUTINY HISTORY

13. The Parliamentary Scrutiny history relevant to this Explanatory Memorandum is contained in **Annex A**.

MINISTERIAL RESPONSIBILITY

14. The Minister for Social Mobility, Youth and Progression advised by the Health and Safety Executive (HSE), has the main responsibility for policy questions arising from this document.

15. HSE has lead responsibility across Government for classification and labelling of chemicals, including the implementation of the United Nations Globally Harmonized System of classification and labelling of chemicals (UN GHS). This responsibility is exercised in consultation with other interested departments, agencies, and the devolved administrations.

INTEREST OF THE DEVOLVED ADMINISTRATIONS

16. The Commission proposal and the delegated act will not apply in GB but will be implemented directly in Northern Ireland under the Northern Ireland Protocol.

17. Chemicals policy engages a mix of reserved and devolved competence. In GB, occupational safety and health, consumer safety, and product labelling are reserved matters under the devolution settlements while environmental protection and public health are devolved competences to the devolved administrations.

18. Accordingly, Scottish and Welsh Ministers have an interest in the environmental protection and public health aspects of chemicals legislation such as the retained 'GB' CLP Regulation as these areas are devolved and, in most cases, the exercise of the Secretary of State's functions under the retained GB CLP Regulation are subject to the consent of the devolved Ministers.

19. The GB CLP Regulation is covered under the UK Chemicals and Pesticides Provisional Common Framework, developed jointly by the UK Government, Devolved Governments, the Health and Safety Executive and the Environment Agency. All provisional frameworks have been shared with committees across UK Parliament and devolved legislatures to enable parliamentary scrutiny before final review and approval by Ministers across the UK Government and Devolved Governments.

20. In circumstances where proposals for changes in GB are not possible in Northern Ireland the Common Framework should allow for Northern Ireland to participate in discussions, and the views of the Northern Ireland Executive should be taken into account in reaching a decision for GB. The GB administrations will consider how to address any issues raised by the Northern Ireland Executive, including potentially modifying their proposals to mitigate any negative impacts that may have been identified.

21. In Northern Ireland, the responsibilities for occupational health and safety, environmental protection, public health, and the safety of civil explosives are transferred under the devolution settlements.

22. The Northern Ireland Executive and its Ministers have a particular interest in this delegated act because it will impact on Northern Ireland directly by virtue of the UK/EU Withdrawal Agreement and the NI Protocol. Officials in the Department for Economy, the Department of Justice, HSE Northern Ireland (HSE NI) have been consulted in the preparation of this EM. Other Northern Ireland Executive departments such as the Department of Agriculture, Environment and Rural Affairs (DAERA), have been made aware of the EM and the Commission proposal.

23. Scottish Ministers and Welsh Ministers also have an interest in the delegated act and officials have been consulted in the preparation of this Explanatory Memorandum (EM).

LEGAL AND PROCEDURAL ISSUES

24. Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures ('EU CLP Regulation') (Regulation (EC) No 1272/2008) is made under Article 114 of the Treaty on the Functioning of the European Union (TFEU).

Legal Base (Commission proposal)

25. The legal base for the Commission proposal is Article 114 of the TFEU. This proposal also includes amendments to Articles 23, 25 and 29 as well as to Annexes I, II, III, VIII for which the Commission is empowered under

Article 53(1) of the CLP Regulation, to adopt delegated acts in order to adapt them to technical and scientific progress.

Voting Procedure (Commission proposal)

26. As the EU CLP Regulation has been adopted by co-decision, its revision needs to be adopted by ordinary legislative procedure as a directly applicable and binding EU Regulation. While the Annexes to the EU CLP Regulation have been amended several times before to adapt to scientific and technical progress, the Commission proposal is a targeted revision of enacting terms and, where relevant, the related Annexes.

Timetable for adoption and implementation (Commission proposal)

27. The Commission proposal was published on 19 December 2022. The Commission also began a new eight-week consultation on 20 December on the final proposal and will summarise the comments and present them to the European Parliament and Council as they scrutinise the proposals under the ordinary legislative procedure ahead of potential formal adoption of the Commission proposal in 2023.

Legal Base (delegated act)

28. The legal base for the delegated act is Article 53(1) of the EU CLP Regulation which empowers the Commission to amend the EU CLP Regulation by delegated acts to reflect technical and scientific progress. The procedure that the Commission is required to follow for the delegated act is set out in Article 53a. Article 3 sets out the obligation to classify under respective hazard classes in Annex I.

Voting Procedure and Timetable for adoption and implementation (delegated act)

29. The EU Commission proposed delegated act will enter into force on the twentieth day following its publication in the Official Journal of the European Union. The European Parliament and Council have been notified. There is an objection period of two months which may be extended by two months by the European Parliament or Council. If no objection is raised, the delegated act will be published in the Official Journal and enter into force. This is likely to be in summer 2023.

Other legal and procedural issues

30. Some Member States and EU industry bodies have expressed concerns that the Commission's approach to bring new hazard classes into the EU CLP Regulation before they have been agreed upon and introduced at UN level is contrary to what is stated in recital 75 of the EU CLP Regulation: *"subject to developments at UN level, the classification and labelling of PBT and vPvB substances should be included in this Regulation at a later stage".*

Does the proposal affect the substance of EU law that will remain in effect under the NI Protocol or is it likely to be the subject of a request by the EU to be added to the NI Protocol under Article 13(4) thereof?

31. The Northern Ireland Protocol (NI Protocol) provides that limited areas of EU law will continue to apply to and in, the UK in respect of Northern Ireland. Article 5(4) states that provisions of Union law listed in Annex 2 to the NI Protocol shall continue to apply in respect of Northern Ireland. Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures ('EU CLP Regulation') is listed in Annex 2 under paragraph 23. Article 13(3) of the NI Protocol confirms that reference to Union legislation in the NI Protocol is a reference to that legislation as amended or replaced. Once the EU CLP Regulation is amended, it will apply in Northern Ireland by operation of Article 13(3).

POLICY IMPLICATIONS

Implications for the application of EU law under the NI Protocol

32. The Commission proposal and delegated act will apply in Northern Ireland under the terms of the NI Protocol. This is subject to further developments under the Northern Ireland Protocol Bill or, as is the Government's preference, through negotiations with the EU.

Domestic UK approach to the policy and whether vital national interests are at stake

33. The adoption and establishment of six new hazard classes into the EU CLP Regulation, without first gaining agreement at the United Nations Globally Harmonized System of classification and labelling of chemicals (UN GHS), is a significant break with the established international convention. This will result in not only greater divergence between the Great Britain Classification Labelling and Packaging Regulation ('GB CLP Regulation') and EU CLP systems but greater differences between the EU CLP Regulation and other countries and jurisdictions that adopt UN GHS. This works against an underlying principle of UN GHS to harmonise regulations at a global level and to facilitate trade.

34. GB now has its own stand-alone GB CLP Regulation, the government will be considering the other amendments in the Commission proposal and the delegated act as part of consideration of potential future reforms to the GB CLP Regulation.

35. The new hazard classes and proposed additional amendments will not be automatically added into the GB CLP Regulation because delegated acts relating to directly acting EU Regulations no longer apply in GB following the UK leaving the EU and the end of the transition period.

Implications for GB-based and Northern Ireland (NI-based businesses)

36. The new hazard classes will be added to the list of hazards that normally trigger harmonised classification and labelling in the EU. Northern Ireland (NI)-based businesses will be required to classify and label substances placed on the EU Single Market considering the new hazard classes and criteria where they apply.

37. Where there is no harmonised classification and labelling, NI-based businesses will be required to evaluate and self-classify substances and mixtures criteria for the new hazard classes in EU CLP before they can be placed on the EU Single Market. The introduction of new hazard classes that must be considered when classifying substances and mixtures will result in a cost of training and familiarisation for competent persons to accurately classify the hazards in accordance with the new EU CLP Regulation hazard classes and further obligations set out in the Commission proposal.

38. There will be some differences in labelling requirements between GB and Northern Ireland markets for the affected substances after the Commission proposal and the delegated act takes effect.

39. Article 37 of the EU CLP Regulation will be amended to allow a further deferred application of the new classification and labelling requirements for the new hazard classes. Substances and mixtures already placed on the market before the end of that deferral period, may continue to be placed on the market without applying the new requirements for an additional deferred period of time depending on the hazard class. Additional transitional provisions allow application of the new requirements at an earlier stage on a voluntary basis.

40. There have been a number of amendments proposed on hazard communication. Northern Ireland (NI)-based businesses will be required to comply with new formatting rules which have been proposed; therefore, non-compliant labels will have to be revised. NI-based businesses will have the opportunity to voluntarily apply digital labelling by applying the newly proposed framework; as this is not obligatory, it should have minimal impact on NI businesses. Another framework has been proposed with changes to the regulation of the sale of chemicals (such as, but not limited to, detergents) at refill stations. NI-businesses will be required to comply with this, which may bring about changes to labelling and packaging, such as dispensers.

41. NI-based businesses will be required to apply Regulation (EC) No 1272/2008 of the European Parliament and of the Council on

classification, labelling and packaging of substances and mixtures ('EU CLP Regulation') when making online sales; full labelling requirements will have to be displayed when advertising a substance or mixture classified as hazardous. This is intended to improve the regulation of distance sales in the single market by non-EU traders; there may be some minor impacts on NI supply chains.

42. Amendments to change hazard communication and to address legal gaps and ambiguities of existing EU CLP Regulation provisions have been drafted in the context of the EU Single Market and thus, are largely beneficial to suppliers operating within this framework. For example, the advantages of the proposed voluntary provisions for multilingual digital labelling will be of increased significance in an EU context, where its citizens communicate in 24 official languages and approximately 60 regional and minority languages.

43. Additional obligations will fall on NI businesses, including the requirement to notify the European Chemicals Agency (ECHA) of any intention to submit a proposal for harmonised classification and labelling under the EU CLP Regulation. Furthermore, distributors of hazardous substances and mixtures will be obligated to submit information relating to emergency health response to prevent loss of information where there has been relabelling and rebranding. However, information shared by importers and downstream users can be used. There are additional minor amendments on top of this which seek to reduce ambiguities and provide clarity on applying the EU CLP Regulation.

44. Importers have a legal obligation to ensure their substances and mixtures are compliant with EU CLP Regulation requirements. Therefore, it is NI-based businesses who import substances or mixtures that have a legal obligation, rather than GB-based suppliers. However, where supply chains from GB to Northern Ireland exist, HSE, as the GB Classification Labelling and Packaging Agency, encourages GB-based suppliers and NI-based businesses through a number of channels including website guidance, e-bulletins and stakeholder engagement presentations, to co-operate to meet classification and labelling requirements by sharing any necessary information, evidence or data wherever possible and where business contracts permit.

Practical implications of this delegated act for regulatory divergence between Great Britain and Northern Ireland and for movement of such products between them

45. The practical implications of regulatory divergence will depend on the direction of supply (GB to Northern Ireland / Northern Ireland to GB) and the final destination of the substances and mixtures. Divergence between

the Great Britain Classification Labelling and Packaging Regulation ('GB CLP Regulation') and EU CLP Regulations has occurred since the UK's withdrawal from the EU and the end of the implementation period but will be exacerbated by the EU's establishment of new hazard classes and where harmonised classifications have been amended to include the new hazard classes. Businesses supplying to either market must comply with the regulatory requirements of that market. However, provided a compliant CLP hazard label appears on supplied substances and mixtures in each jurisdiction, CLP does not introduce any hindrance to that supply.

46. The effects of the Northern Ireland Protocol (NI Protocol), and the primacy of European Union law in that territory, establish two distinct regulatory CLP regimes; one in GB, the other in the EU single market and Northern Ireland. Some GB-based businesses may become dissuaded from engaging with the Northern Ireland market when faced by regulatory barriers in particular, if policies in England, Scotland or Wales move in a different direction while Northern Ireland's options are constrained by the NI Protocol.

47. Under the Government's commitments to Northern Ireland's unfettered access to the rest of the UK market, substances that meet the technical requirements to be placed on the market in Northern Ireland will be able to be placed on the GB market as long the Northern Ireland trader completes an online notification to confirm the hazard classification of its chemical(s). Additionally, businesses seeking to change the name of their chemical would be required to notify the UK regulator and complete the process, which is free of charge, to make sure the UK regulator is aware of the chemicals on the GB market.

48. It should be noted that the Government's overriding priority is preserving political stability in Northern Ireland. The situation as it stands with the NI Protocol is undermining the balance established by the Belfast (Good Friday) Agreement and power sharing and with it, political stability in Northern Ireland. It is the Government's preference to resolve this through talks and the Government is engaging in constructive dialogue with the EU to find solutions to these problems. However, the Northern Ireland Protocol Bill will fix the practical problems the NI Protocol has created in Northern Ireland, if the Government cannot find a solution with the EU.

The impact, if any, of the proposal for Northern Ireland's participation in UK Free Trade Agreement

49. International Trade policy is an area of reserved competence for the UK Government. Free Trade Agreement requirements will need to take

account of the UK's existing obligations under the NI Protocol as UK Free Trade Agreements will continue to apply to Northern Ireland.

50. It is likely that the introduction of new hazard classes unilaterally by the EU without agreement at United Nations Globally Harmonized System of classification and labelling of chemicals (UN GHS) will have a significant impact on trade and the ability of companies outside the EU to access the EU Single Market. The need to comply with them could be seen as offering a competitive advantage in the market to companies in the EU (who need to comply with EU legal requirements to place their products on the market) in relation to accessing the EU Single Market over countries outside of the EU.

CONSULTATION

51. There has been no formal public consultation by the Health and Safety Executive (HSE) of key external stakeholders on the impact of this Commission proposal and delegated act because this relates to a directly applicable EU Regulation and delegated act that will not apply in GB as a result of the UK's withdrawal from the EU but will apply automatically in Northern Ireland by virtue of the UK/EU Withdrawal Agreement and NI Protocol.

52. Officials from the Northern Ireland Department for Economy (DfE) and Department of Justice (DoJ) have an interest in this proposal as it falls within the scope of the Protocol on Ireland/Northern Ireland. As the proposal may affect multiple policy areas of relevance for DfE and DoJ and may have impacts on downstream legislation, more time is required to analyse the proposal. Policy officials are liaising with their UK Government policy counterparts to determine what action is required and what possible impacts the proposal may have. Input has been provided at official level and does not represent the views of Northern Ireland Executive Ministers.

53. There was no direct UK Government engagement with the Commission proposal and delegated act in line with UK Government policy. However, HSE UN GHS and GB CLP Regulation policy officials met with the Commission's UN GHS delegation in two bilateral meetings on 26th July 2022 and 30th November 2022 to discuss the draft proposal for the establishment of a new informal working group at the United Nations Globally Harmonized System of classification and labelling of chemicals (UN GHS), prior to the 43rd UN GHS meeting in December 2022.

54. The Health and Safety Executive (HSE) consulted officials in Scotland and Wales on this Commission proposal and delegated act. Officials have previously expressed their interest to be kept informed about substances

going through the Great Britain Mandatory Classification and Labelling system.

FINANCIAL IMPLICATIONS

55. The Commission has carried out an impact assessment for the Commission proposal estimating direct and indirect savings across the EU, of €57.5 million per year for the next 10 years. Amongst the quantified savings, the simplification of the labelling rules would generate more than €39,5 millions of savings per year for the chemical industry. In addition, the impact assessment identified other benefits from a reduced exposure of humans and of the environment to hazardous substances.

56. There will be significant costs for industry actors placing chemicals on the EU market, both administrative annual costs for compliance with the new rules (€28.47 million for the next 10 years) and adjustment costs for voluntary substitution down the supply chain for substances which would be identified as hazardous according to the new hazard classes (€46.04 million for the next 10 years).

57. The UK has not carried out a regulatory impact assessment of the impacts of the proposal because it will not apply in Great Britain but has provisionally estimated the costs of the Commission proposal on NI-based suppliers using information from the summary of the impact assessment by the Commission. It is not possible to fully assess the financial implications of the EU's proposals at this stage as this will depend on the final shape of the legislation and its application to Northern Ireland. However, costs for small and medium-sized enterprises will be higher in relative terms, as they benefit less from economies of scale and have less capacity to absorb fixed costs.

58. An approximate estimate of the total administrative annual costs for NI-based suppliers amount to £88,000 per annum which will largely arise from the relabelling of packaging for affected substances or mixtures when they are placed on the market (internally within Northern Ireland or the EU Single Market); or imported from a non-EU state. Initial relabelling costs may be minimised by virtue of the implementation period (following the delegated act's entry into force date), which will allow a period within which businesses in some sectors relabel their goods for marketing purposes. The average period is usually 18-months, however, compliance of the labelling requirements for the new hazard classes under the delegated act will be further deferred to help avoid additional burden on suppliers.

59. Familiarisation costs may be incurred by actors in the supply chain (i.e. chemical manufacturers, importers and downstream users) and by

employees who may need to be aware of the new hazard classes at the point of import, manufacture or formulation. Adjustment costs for voluntary substitution down the supply chain for substances in Northern Ireland which will be covered by new hazard classes costs are approximately a total of £82,000 per annum if applied.

60. Costs arising from the delegated act may occur where supply chains exist between GB and the EU/Northern Ireland. In such cases, relabelling costs may be borne by actors in the supply chain at the point of import, where necessary to comply with Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures ('EU CLP Regulation') or the Great Britain Classification Labelling and Packaging Regulation ('GB CLP Regulation').

61. The overall costs of the legislative package to Northern Ireland (NI)-based suppliers will be offset by the savings to public health systems and depollution schemes which could amount to more than a total of £1.12m per annum. The benefits stem mainly from improvement of the protection of health and the environment. The package would strongly contribute to achieving the EU's ambition embedded in the European Green Deal and the Chemicals Strategy for Sustainability in terms of moving toward a toxic free environment, as well as to supporting the green and digital transition of industry, as defined in the Industrial Strategy.

62. Some proposals within the Commission proposal may result in a cost reduction for impacted NI-based suppliers. For example, the introduction of additional derogations (in relation to chemicals sold to consumers in bulk, such as fuel, and in very small packaging) will exempt some suppliers from incurring Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures ('EU CLP Regulation') compliance costs. Moreover, the proposed broader use of fold-out labels may result in closer regulatory alignment with international chemical regimes and thus, lead to indirect savings for NI suppliers through the avoidance of relabelling costs.

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[1] Section 13A of the EU (Withdrawal) Act 2018, as inserted by section 29 of the European Union (Withdrawal Agreement) Act 2020

ANNEX A

PARLIAMENTARY SCRUTINY HISTORY RELEVANT TO THIS EXPLANATORY MEMORANDUM

1. The European Council's proposal for the directly applicable CLP Regulation was first subject to Parliamentary Scrutiny on 17 July 2007 - Proposal for a Regulation of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures, and amending Directive 67/548/EEC and Regulation (EC) No 1907/2006. At the time, the Department for Work and Pensions submitted an Explanatory Memorandum. The relevant document number was 11497/07, COM(07)355.

2. The CLP Regulation was cleared as politically important by the House of Commons European Scrutiny Committee on 30 April 2008 (22nd Report, Session 2007-2008) following a previous report that the proposal had raised issues of political importance (on 10/10/2007 36th Report, Session 2006-07). The House of Lords European Union Select Committee cleared the document from scrutiny on 23 November 2007 (Progress of Scrutiny - 1st Report, Session 2007-2008). The Report was published on 23 November 2007.

3. Parliamentary Scrutiny did not apply to subsequent Commission Regulations relating to ATPs to the CLP Regulation or more recently to Commission Delegated Regulations because the proposed changes to harmonised classification were considered technical and scientific, and because they related to a directly applicable EU Single Market Regulation which applied to Member States without further implementation action.

4. The Department of Health and Social Care submitted an Explanatory Memorandum on Commission Delegated Regulation (EU) …/... of 29.10.2019 amending Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures as regards information relating to emergency health response. This was subject to Parliamentary Scrutiny and an EM produced on 16 January 2020. The relevant document number was EM 13598/19, C(2019) 7611 final. The House of Commons European Scrutiny Committee cleared the document as not legally or politically important on 4 June 2020 (Tenth report of Session 2019-21). The House of Lords European Union Select Committee cleared the document from scrutiny in Chairman's Sift no.1671 on 22 January 2020 (Progress of Scrutiny - 1st Edition, Session 2019-21).

5. The Department for Work and Pensions submitted an Explanatory Memorandum on 1 April 2021 on Commission Delegated Regulation (EU) …/... of 11.3.2021 amending, for the purposes of its adaptation to technical and scientific progress, Part 3 of Annex VI to for the purposes of its adaptation to technical and scientific progress, Part 3 of Annex VI to Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures. This was subject to Parliamentary Scrutiny on 8 April 2021. The relevant EU document number was EM 7007/21, C(2021)1533 final. The House of Commons European Scrutiny Committee cleared the document as not legally or politically important on 12 May 2021 (First report of Session 2021-22). The House of Lords European Union Select Committee sifted the document for examination by the House of Lords Protocol on Ireland/Northern Ireland Sub-Committee on 22 April 2021. The Sub-Committee considered this document at its meeting on 19 May 2021 (letters from the Chair dated 20 May 2021, 15 July 2021, 10 September 2021, 29 November 21, and 14 January 2022 and responses from the relevant government Minister dated 9 June 2021, 21 October 2021 and 13 December 2021). The document was cleared from scrutiny on 12 January 2022.

6. More recently, the Department for Work and Pensions submitted an Explanatory Memorandum on 24 March 2022 on Commission Delegated Regulation (EU) …/... of 16.2.2022 amending, for the purposes of its adaptation to technical and scientific progress, Part 3 of Annex VI to for the purposes of its adaptation to technical and scientific progress, Part 3 of Annex VI to Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures. The relevant EU document number was EM 6328/22, C(2022)846 final. The House of Commons European Scrutiny Committee cleared the document as not legally or politically important on 28 April 2022 (Twenty-first report of Session 2021-22). The House of Lords European Union Select Committee sifted the document for examination by the House of Lords Protocol on Ireland/Northern Ireland Sub-Committee on 1 April 2022. The Sub-Committee considered this document at its meeting on 11 May 2022. The Chair of the Sub-Committee wrote to the Government seeking further information in Ministerial correspondence in 2022 (letters from the Chair dated 12 May 2022 and 1 July and response from the relevant Minister dated 9 June 2022). The document was cleared from scrutiny on 29 June 2022.