



Northern Ireland
Assembly

Committee for Agriculture, Environment
and Rural Affairs

OFFICIAL REPORT (Hansard)

Chemicals Regulations:
Department of Agriculture, Environment
and Rural Affairs

8 October 2020

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Declan McAleer (Chairperson)
Mr Philip McGuigan (Deputy Chairperson)
Ms Clare Bailey
Mrs Rosemary Barton
Mr John Blair
Mr Maurice Bradley
Mr Harry Harvey
Mr William Irwin
Mr Patsy McGlone

Witnesses:

Ms Caroline Barry	Department of Agriculture, Environment and Rural Affairs
Mr Dave Foster	Department of Agriculture, Environment and Rural Affairs
Miss Alison Jeynes	Department of Agriculture, Environment and Rural Affairs
Mr Tommy McNamara	Department of Agriculture, Environment and Rural Affairs
Mr John Mills	Department of Agriculture, Environment and Rural Affairs
Mr Colin Nugent	Department of Agriculture, Environment and Rural Affairs
Mr Eamon Campbell	Northern Ireland Environment Agency

The Chairperson (Mr McAleer): I welcome back onto StarLeaf John Mills, head of environmental policy; Dave Foster, director of regulatory and natural resources policy; and Caroline Barry, acting head of chemicals and industrial policy branch. We also have Tommy McNamara, staff officer in regulatory and natural resources policy; Eamon Campbell, head of water policy; and Colin Nugent, environmental health officer.

I will ask officials to explain why one of the SIs that we were expecting has not been provided, and whether the Minister intends to give consent to its being laid. Maybe officials will want to take 10 minutes or so to give an overview of the other SIs in the chemicals group. Obviously, members will want to ask questions.

Mr Dave Foster (Department of Agriculture, Environment and Rural Affairs): Thank you, Chair. Good morning, everybody. Can you hear me OK?

The Chairperson (Mr McAleer): Yes, Dave.

Mr Foster: With your permission, I will just make a few introductory comments on chemicals policy and legislation, the links that chemicals legislation has to the Northern Ireland protocol, and, in particular, the SIs that are for the Committee's consideration this morning.

Obviously, chemicals are an integral part of modern society, with production and consumption of chemicals rising continually as the market for chemical-intensive products such as computers, furniture and personal-care products grows. I think that around 95% of all manufactured goods rely in some form on industrial chemical processes. The EU is Northern Ireland's biggest export market for chemicals and chemical products, with around £70 million worth exported in 2019, which is around 56% of Northern Ireland's chemicals and chemical products exports. It is also the largest import market, with around £48 million of imports in 2019, which equates to 66% of Northern Ireland's imports of chemicals and chemical products.

DAERA is the lead Northern Ireland Department for chemicals policy, with specific regulatory and legislative responsibilities for the registration, evaluation, authorisation and restriction of chemicals (REACH); persistent organic pollutants (POPs); plant protection products, or pesticides; fluorinated greenhouse gases, or F gases; ozone-depleting substances (ODS); detergents; and mercury. Of those, REACH is the main piece of EU law which protects human health and the environment from chemicals. In addition to having joint competent authority and responsibility with DAERA on REACH, the Department for the Economy and the Health and Safety Executive for Northern Ireland are also responsible for a number of pieces of other chemicals legislation, and particularly classification, labelling and packaging (CLP); biocides regulations; and the prior informed consent regulations. Obviously, those are not for the Committee's consideration at this time.

The European Union (Withdrawal Agreement) Act 2020 amended the previous European Union (Withdrawal) Act 2018 to incorporate the NI protocol into UK law. That enables the UK Government and devolved Administrations to make regulations to implement the arrangements that are necessary to comply with the protocol. Those regulations are subject to approval by the relevant Parliaments and Assemblies. Under the protocol, when the current transition period ends, Northern Ireland will be required to remain aligned with a variety of different EU chemicals legislation, in particular REACH, the POPs regulations, the plant protection product regulations, and regulations that relate to F gases, ozone-depleting substances, detergents and mercury, as well as a number of other regimes for which the Health and Safety Executive, via the Department for the Economy, has responsibility.

Following the end of the transition period, Britain will effectively become a third country in EU terms. If, over time, UK chemical policy and legislation diverge from those of the EU, it is likely that there may well be a wide impact on how chemicals are managed, regulated and traded across the UK and beyond. In particular, the protocol's articles 5 and 9 and annexes 2 and 4 require that certain elements of EU law will continue to apply in Northern Ireland. That has necessitated the programme of legislation to prepare for 2021 and beyond which you will consider today. The SIs that we are talking about largely make technical and minor changes to implement the protocol and do not, of themselves, make substantive policy changes. However, there are potential impacts from the legislation's application of the protocol, which is perhaps in the same way that John alluded to for some of the waste legislation. The fact that the protocol requires different legislation that arises from the EU to remain in place here may potentially have impacts on businesses, and it is really the protocol itself, rather than the amendments that these SIs bring, that is causing that issue.

As part of the programme, there are six or seven SIs up for consideration, and, as the Chair as indicated, there are two that have yet to be tabled for a number of reasons. If the Committee wishes, we can go through and broadly outline the background to those SI, or I am happy to take questions.

The Deputy Chairperson (Mr McGuigan): Do people want to ask questions? No?

If you want to, briefly and broadly, go through the background to them, that would be helpful.

Mr Foster: I will hand over to my policy colleagues to give a brief overview of the five SIs that we are specifically looking at today. Perhaps Caroline Barry could give us a very quick overview of the REACH SI.

Ms Caroline Barry (Department of Agriculture, Environment and Rural Affairs): Thank you, David. Sorry, can you hear me OK?

The Deputy Chairperson (Mr McGuigan): Yes.

Ms Barry: I am Caroline Barry, and I am the acting head of DAERA's chemicals and industrial policy team. I will give you an overview on the REACH etc. (Amendment etc.) (EU Exit) Regulations 2020. As you will be aware, REACH stands for the registration, evaluation, authorisation and restriction of chemicals. The regulation for REACH from the European Commission is No 1907/2006, and it affects the supply and use of substances. It came into effect and force on 1 June 2007, and it replaced a number of European directives and regulations with a single system. The European Chemicals Agency, or "ECHA" in short, coordinates REACH across the EU.

The EU's REACH regulation covers the manufacturing, placement on the market and the use of chemicals to the extent that they are otherwise not regulated through sector-specific legislation. It covers things like plant protection products, biocidal products, detergents, medicines, cosmetics, environmental permitting of industrial sites or worker protection legislation. I thought that it would be useful to give you that bit of background before we go into what these new regulations actually do.

As you will be aware, the REACH etc. (Amendment etc.) (EU Exit) Regulations 2020, which are under consideration today, are expected to be laid on 15 October. A letter that invites the Committee to agree to the laying of the SI has, as far as I am aware, been shared with the Committee. The regulations ensure that UK legislation establishes a regime that controls and enforces the use and movement of chemicals, that it will continue to be operable in Great Britain after the end of the implementation period and that the EU legislation which controls chemicals in Northern Ireland is applied here. These regulations are needed because of the inclusion of the EU REACH regulation in annex 2 of the Northern Ireland protocol.

This instrument also amends the transitional provisions in the REACH etc. (Amendment etc.) (EU Exit) Regulations 2019. These are known as the exit regulations in the UK. They are to mitigate potential disruption to industry and to move to the new system, and it makes some minor amendments to ensure cross-references to the UK's REACH legislation are up to date. The area is partially devolved so the Minister's consent is being sought and the Committee will be asked to agree to the laying of the regulations. I should also make you aware that it is a cross-cutting issue, with DAERA and the Department for the Economy sharing Northern Ireland REACH competent-authority responsibilities and decision-making responsibilities.

In practical terms, the REACH controls affect significant areas of economic activity. The regulations do not make policy changes to existing regimes, but in effect, the implementation of the Northern Ireland protocol imposes restrictions, prohibitions and additional checks between Northern Ireland and GB with the establishment of separate GB and Northern Ireland regimes. Clarification of the amendments in this area, as John has already mentioned, is dependent on clarification of aspects of the Northern Ireland protocol, particularly in relation to heavily regulated goods and the Northern Ireland qualifying goods.

Mr Foster: If it would be helpful, would the Committee want to pick up questions around this SI before we move on to introduce the others?

The Deputy Chairperson (Mr McGuigan): I was going to ask a question on it anyway. Could Caroline give us more clarity on the potential disruptions that are likely to happen and, if they do occur, what the impact will be?

Ms Barry: To clarify, there are already mitigating measures in the SI to try to reduce those. One of the areas where we had some initial concern was that, where you had existing supplies of chemicals that were imported from GB into Northern Ireland, under the current EU REACH system, Northern Ireland would be classed as a downstream user. However, now that GB has its own REACH system, downstream users will effectively become importers because GB will be treated as a third country. Under those circumstances, there would be additional administrative and, potentially, financial burdens, because the Northern Ireland downstream users would have to register as an importer. There are some fees for that. The fees are based on a scale based on the amount of chemicals that are imported and the hazard that they relate to. One of the measures that are in place is that, if the supplier that the Northern Ireland company uses has registered as an only representative in the EU, no fees would be applicable in that case. It will be up to those who are bringing the goods into Northern Ireland to be aware of that. The guidance came out before the first EU exit deadline to advise UK companies that they needed to register with the EU to enable them to trade with the EU.

Where Northern Ireland companies are exporting into GB, there is a new — *[Inaudible.]*

The Deputy Chairperson (Mr McGuigan): We have lost you a wee bit.

Ms Barry: — notifications scheme [*Inaudible*] —.

The Deputy Chairperson (Mr McGuigan): That is you back on line.

Ms Barry: Hi there. Am I back on line? That is great, thank you. With the new notifications scheme, Northern Ireland companies have to notify the new GB REACH scheme of the existing supplies that they wish to send to GB. That is a permanent notification, and there are no fees attached to that.

The Deputy Chairperson (Mr McGuigan): Has there been much consultation with firms and stakeholders in relation to the changes?

Ms Barry: In relation to the recent changes that have been included in this SI, there has not been any specific engagement in Northern Ireland. However, I am aware that DEFRA, in February and March of this year, had some stakeholder engagement, following the agreement of the Northern Ireland protocol. We believe that they did some high-level engagement, in the middle of December, with stakeholders, members of UK-wide trade associations and NGOs. That followed some of the announcements in relation to phasing for the registration of provision of full data for registration. That was made public earlier on in the month.

The results from some of those engagements were fairly positive, in that they felt that some of the measures being put forward for the notification process did seem sensible. I believe that the point was raised that they felt that, potentially, it could be advantageous to Northern Ireland because they would not have to go through the full registration process to register with GB REACH if they were already registered in the EU. However, there was concern that Northern Ireland could be used as a back door, with companies importing into GB via Northern Ireland, but that is included in the provisions on the qualifying Northern Ireland goods and in the new guidance that we are expecting on highly-regulated goods. We believe that that will militate against those possibilities.

The Deputy Chairperson (Mr McGuigan): Do any other members have questions or points to raise?

Ms Bailey: Is the consultation feedback in a report? Would we be able to access it?

Ms Barry: No, it is not. We just have some anecdotal evidence that we received from our colleagues in DEFRA.

Ms Bailey: OK. Do you know who the stakeholders engaged were? I assume that it was a range from business and NGOs. You mentioned NGOs, but which ones?

Ms Barry: As far as we are aware they were UK-wide: chemical industry associations, the Aerospace Defence Sector Group, the Chemical Business Association, the Cosmetics, Toiletries and Perfumery Association, the British Coatings Federation, Brenntag, the CHEM Trust and the Royal Society of Chemistry. It was quite a mixture, but it was quite a high-level, small group, and it was just to get some initial feedback on what was already in the public domain in terms of what was being proposed via the Command Paper and the first papers that had been released this year.

The Deputy Chairperson (Mr McGuigan): Patsy? [*Pause*] Patsy, are you looking to come in?

Mr McGlone: That is me now. Thanks very much. It is very difficult to absorb all this detail at once, but it appears that the Department for the Economy has gone through it in quite a bit of detail, from what I am reading in that documentation that states that:

DfE officials have identified a number of areas of potential concern to their Minister and are in the process of clarifying her position.

Is there any read-across or any difficulties that have been identified by you in a similar vein?

Ms Barry: Absolutely. We work very closely on this with colleagues in the Department for the Economy. We meet at least twice a week, particularly in recent weeks. We share the concerns.

Initially, when some of the details were shared with us, we were quite concerned, particularly about what the administrative and financial burdens on Northern Ireland businesses were likely to be. Another concern is that these are new provisions that are being brought in for REACH as a result of the Northern Ireland protocol, but a number of the companies are also regulated by a number of other chemical regimes. Our main concern was that there could be a cumulative effect of that. These are new administrative measures that they will have to complete that they did not have to do in the past. There is also a concern that there would be a lack of knowledge and, maybe, ability to fulfil those.

As time went on and DEFRA became a little bit more adept at explaining how some of the processes work, some of our concerns have been waylaid. We have become very aware that our messaging, as well as the future communications and guidance that will be available, will be critical to ensuring that Northern Ireland companies are able to meet the new requirements.

Mr McGlone: Are they "waylaid" in the sense that they are parked or in the sense that they will probably still be there but the way to deal with them will become clearer?

Ms Barry: Yes, that is it. Part of the problem was that DEFRA has been trying to grasp what the full implications of some of those changes are. It has started to develop some scenarios as to what will be required. That is, maybe, what has moved things on slightly.

Mr McGlone: It is all just red tape for business. OK, thank you for that.

Mr Harvey: Where the Environment Agency is to provide support to the Secretary of State under regulation 15, it may ask DAERA for assistance with providing that support in relation to Northern Ireland. Has DAERA explored the potential impact of that on the Department and on stakeholders?

Ms Barry: On the operational side in DAERA, the implementation of REACH lies with the Northern Ireland Environment Agency, which has recently set up a new team — when I say recently, I mean Monday of this week — to look at those issues. It has said that it will look at the new legislation as it comes out, and it will then assess what the full implications are going to be and what requirements will have to be met. We are working closely with our colleagues in the Department for the Economy and the Health and Safety Executive Northern Ireland to arrange stakeholder events in November. The Environment Agency will be involved in that to ensure that stakeholders are brought up to speed on all the new requirements.

The Deputy Chairperson (Mr McGuigan): Perhaps we could have an update on the other SIs.

Mr Foster: The next of the SIs on the agenda is the Detergents (Northern Ireland Protocol) Regulations 2020, which has been assessed as category 2. I will hand over to Eamon Campbell to take us through the regulations broadly.

Mr Eamon Campbell (Northern Ireland Environment Agency): The detergents regulations will be laid on 15 October and have been assessed as a category 2, which means that they contain substantive technical changes but minimal policy changes. They are UK-wide and refer to established systems that are long in place. There are references to Scotland, England and Wales, as well as Northern Ireland. Their purpose is to enable current legislation and policy frameworks to operate after the end of the implementation period. They will maintain regulatory standards and allow Northern Ireland to comply with EU standards as well, under the Northern Ireland protocol.

The regulations will also provide for continued access to the GB market. They amend previous UK regulations that were made in 2010 and 2019. In particular, some of the changes involve divisions and separation between GB and Northern Ireland, so you will see references to England, Scotland and Wales being removed and so on. Their purpose is to ensure the free movement of goods that have been identified as Northern Ireland-qualifying goods from Northern Ireland to GB. The main significant change for the Department is a new role as a competent authority, which was previously held by the Secretary of State. One of the functions of the competent authority will be the appointment of approved testing labs, which is still to be considered.

Enforcement will continue as before, through the local councils and environmental health services. The regulation is a UK reserved matter, with enforcement being considered a devolved matter. I am happy to take questions.

The Deputy Chairperson (Mr McGuigan): Is there anything, members? Go ahead, Rosemary.

Mrs Barton: You said enforcement would be through local councils.

Mr Campbell: Yes.

Mrs Barton: What training are you putting in place for that?

Mr Campbell: Those systems are already in place, so we do not anticipate any changes to that.

Mrs Barton: OK.

The Deputy Chairperson (Mr McGuigan): Nobody has other questions. Thank you, Eamon. We will move onto the next session.

Mr Foster: This is one of the regulations that you do not have in your packs, so you are not able to formally consider it. If you like, we have Alison Jaynes on the line, who can explain where we are on that particular SI, if that would be helpful to the Committee.

Mr McGuigan: As the Chair takes his seat, that is OK.

(The Chairperson [Mr McAleer] in the Chair)

Mr Foster: Thank you.

Miss Alison Jaynes (Department for Agriculture, Environment and Rural Affairs): Good morning, Chair. I will outline the purpose of these regulations. The purpose of the Control of Mercury (Amendment) (EU Exit) Regulations 2020 is to enable its continued operability, as we take the EU law, after the end of the implementation period, for purposes of implementing the Northern Ireland protocol.

The SI does a number of things to achieve that, and these are some of the key elements. First of all, it amends domestic, UK-wide legislation, which is the Control of Mercury (Enforcement) Regulations 2017, to revise changes made previously by the Control of Mercury (EU Exit) Regulations 2019 to reinstate DAERA as a competent authority with responsibility for carrying out obligations under EU regulation 2017/852, which implements international obligations on mercury from the Minamata convention.

The SI also amends the regulation itself, which is being retained as EU law.

The EU Exit regulation takes the EU law to apply amendments in it to GB only, to reflect the requirements of the protocol. It applies export restrictions on mercury, mercury compounds and mixtures of mercury to GB. It requires consent for the import of mercury and mixtures of mercury listed in annex 1 of the EU regulation for allowed uses in GB, which includes transport from Northern Ireland to GB and from GB to Northern Ireland. It also makes provision for mercury waste to move only between Northern Ireland and GB for the purposes of disposal. It prohibits the export, import and manufacture of mercury-added products, which are listed in annex 2 of the regulation.

The effect of that is, basically, that the EU regulation, in an amended form, will apply in GB in relation to the import and export of mercury and, in Northern Ireland, we will retain the EU regulation, applying it in its original form. That said, the actual effect of this regulation, of these changes on the ground, we do not expect to be significant, because the approach of the EU, in its regulation over the last 15 years, has been to reduce and restrict the use of mercury. Therefore, the market is now very small.

DEFRA has been leading on engagement with industry and stakeholders. It has indicated that the UK market for mercury is small and decreasing in size. Only a very small, negligible amount is moving around the UK, and only a very small amount of imports to the UK will be affected by the new customs arrangements with the EU.

In Northern Ireland, we contacted chemical wholesalers and the universities to try to gain some information about the use of mercury. The wholesalers advised that they do not import it. One university said that it imported a small amount of mercury, and that was 10 years ago. We expect the impact of these amendments on the ground to be small, because the use of mercury has been phased

out through increased regulation because it is a toxic element and it is dangerous to public health and to the environment.

The Chairperson (Mr McAleer): Thank you. That is the one on mercury. Do members have any questions?

Mr Harvey: I have one wee comment, Chair.

The Chairperson (Mr McAleer): Go ahead, Harry.

Mr Harvey: Would you say that the impacts and the changes in price will be minimal and that there will not be many changes?

Miss Jeynes: I could not actually say anything about price. DAERA has been leading on this and has been trying to get an understanding of the use of mercury now, given the increased regulation on phasing it out. I cannot comment on price. We have just been trying to get basic market information on the use of mercury.

The biggest use of mercury is in dental amalgam, which is still used quite a lot. That is the main use of mercury, and the amendments do not impact on that. That will fall within the remit of DAERA and within the remit of the Department of Health. It is a cross-cutting issue. We have consulted the Department of Health on that, and it is aware of it.

Mr Harvey: That is OK. Thank you.

The Chairperson (Mr McAleer): This statutory instrument (SI) was received late on Tuesday and is at page 30 of the tabled papers. The DAERA officials have already briefed members on this SI, so can I ask —?

The Committee Clerk: They have not briefed you on this.

The Chairperson (Mr McAleer): They have not, sorry. My mistake. You can take the opportunity to brief members on this SI.

Mr Foster: Thank you, Chair. I will hand over to Colin Nugent, who is the policy lead on this SI, to give you a quick briefing on that.

Mr Colin Nugent (Department of Agriculture, Environment and Rural Affairs): Thank you, Dave. Good morning, Chair, Committee members and colleagues on the line.

The ODS/03 SI, as you mentioned, is a UK-wide SI designed to correct official *[Inaudible]* in the Northern Ireland protocol concerning two pieces of EU law: one relating to fluorinated greenhouse gases, or F gases; and the other relating to ozone-depleting substances, or ODS. F gases are largely used in products such as firefighting equipment, refrigeration and air conditioning and are quite widespread in our market. Ozone-depleting substances have been phased out over many years. Both of those are dealt with under the Montreal protocol from the UN, and the phasing-out has been going on for quite some time. The only use of ODS in Northern Ireland at the moment is in laboratories at some of our universities.

The SI ensures that the EU law is retained in Northern Ireland law with respect to those work areas. It does not amount to a significant policy change in that regard, as Northern Ireland will stay in the EU system. It creates provisions that allow Great Britain to create its own system for monitoring and regulating those substances. It is due to be laid at Westminster on 13 October and has been categorised as category 2.

Mr Blair: I have a quick question, Chair. I can see the procedural aspect of this, but I am keen to know whether, when DEFRA or DAERA are considering these, will they automatically consider the contribution that they will make to the overall greenhouse-gas picture and targets to reduce those gases. Are recommendations made on that basis? Are those matters taken into consideration?

Mr Nugent: Yes. The SI is designed to ensure that the UK continues to meet its obligations under the UN Montreal protocol, which is designed to phase out the use of these fluorinated greenhouse gases and ozone-depleting substances by 2030. Laying the SI will ensure that we continue to do that. It will also ensure that we continue to abide by all the principles of the Montreal protocol and that our climate ambitions set out in the 2008 UK Climate Act continue to be met.

The Chairperson (Mr McAleer): We will move on to the Persistent Organic Pollutants (Amendment) (EU Exit) Regulations 2020, which is category 1. Are there any comments that officials want to make or questions that members want to ask in relation to that one?

We will move on to the Pesticides (Amendment) (EU Exit) Regulations 2020, which is category 2. Are there any comments from officials or members on this one? No.

We will move on to the Air Quality (NI Protocol) Regulations 2020. We have no details of the category and have not received any papers. Is there any commentary around that?

Mr Foster: This is an SI where there is still some discussions with DEFRA about the laying date and the final detail of the regulations. Colin is the policy lead on that and can give a broad overview of what the SI is aiming to do, if that would be helpful.

The Chairperson (Mr McAleer): Yes, if that is possible, absolutely.

Mr Nugent: I can certainly do that briefly for you. The reason that you have not had any papers or sight of the SI is because we received it only quite recently. The submission has not yet been prepared for the Minister, but I believe that that is under way.

To give you a brief overview, this is another NI protocol-related SI. It ensures that two pieces of EU legislation are retained in NI law. The first is a regulation relating to volatile organic compounds, in particular, emissions from paint and varnish products. It is a market access standard that ensures that there are certain emissions standards for paints and varnishes on the market in the EU.

The second element relates to the industrial emissions directive and, in particular, the best available techniques that are applied to regulating emissions from certain industries. This one relates to waste incineration. The industrial emissions directive is listed at annex 4 of the Northern Ireland protocol. It is for any industrial systems that are related to the regulation of the single energy market. For any waste incineration plant in Northern Ireland that is linked to the single energy market, there will be EU standards in place to regulate its emissions. This SI ensures that those pieces of EU law are retained in Northern Ireland law in the context of the protocol.

The Chairperson (Mr McAleer): We will now look at the chemical SIs of which we have been given an overview. The first are the REACH etc. (Amendment etc.) (EU Exit) Regulations 2020. This SI will result in complex changes that will impact on this jurisdiction. There is also a crossover with the Department for the Economy. Officials have already briefed members on this SI.

Is the Committee content for the AERA Minister to give consent for the UK Minister to lay this SI in the UK Parliament and/or to outline any comments or issues that he wishes to draw to the attention of the Minister?

Members indicated assent.

The Chairperson (Mr McAleer): The next SI is the Detergents (NI Protocol) Regulations 2020. DAERA officials have briefed us on the SI.

Is the Committee content for the AERA Minister to give consent for the UK Minister to lay the SI in the UK Parliament and/or to outline any comments or issues that he wishes to draw to the Minister's attention?

Members indicated assent.

The Chairperson (Mr McAleer): Again, I will ask the same question in relation to the Control of Mercury (Amendment) (EU Exit) Regulations 2020. Are members content for —?

The Committee Clerk: We have no papers just yet.

Mr McGlone: Chair?

The Chairperson (Mr McAleer): Sorry, we do not have papers in relation to that one. I got that wrong.

Mr McGlone: Chair, hello.

The Chairperson (Mr McAleer): Sorry, Patsy. Go ahead.

Mr McGlone: Sorry, Chair. I have been trying to get in.

The Chairperson (Mr McAleer): Sorry.

Mr McGlone: I do not know whether you can see the elevated hand. The wonders of technology.

I am not going to labour this, but I just want to make a point about the first one. Clearly, there are problems and difficulties at DFE with the REACH issue. From my point of view, I would like to say that we note the regulations, because we have not had the proper time to scrutinise them. That is my viewpoint. The detail is not there, to be frank with you, and I am uncomfortable with that.

Ms Bailey: Chair, I think that it is really important to have it on the record that we have not had scrutiny time, that we have had brief briefings and that the detail on the implications of any of the regulations has not been provided, so there has not been good practice here. I want that to be noted and to let the Minister know.

Mr McGuigan: We took a position last week on a form of words that we all seemed to be content with. Maybe we should revert to that. Patsy made the point there that we got the regulations late, that there is concern about them and that there is a lack of information.

Mr McGlone: There are some concerns about the dual responsibility between DAERA and DFE on the REACH issue. I do not know what those concerns are, but clearly they are there. As Philip said, we were all comfortable with the position that we took last week. Given that there are concerns in another Department, I would not want us to walk into something there. We had a consistent position last week, and I suggest that we continue with it.

The Chairperson (Mr McAleer): Do the officials have any indication of what the Department for the Economy's concerns are about the REACH regulations?

Mr Foster: It is broadly in relation to the point that has been made about a number of the SIs, and that is that, while the SIs themselves may make minor technical changes, the actual facts of the protocol mean that Northern Ireland is operating in the EU regime and Britain is operating in what will be a separate regime. Therefore, there will potentially be an additional cost to business, depending on how the interpretation of some of the terms in the protocol around unfettered access, Northern Ireland qualifying goods and heavily regulated goods is taken forward. Both the Minister for the Economy and our Minister have written to the Secretary of State for Environment, Food and Rural Affairs to outline those concerns. Caroline, is there anything more specific that we can say on that?

Ms Barry: Just to reiterate, the biggest concern that everyone has is that, if Northern Ireland businesses want to operate in GB, they will have to register not only with the EU system but with the GB system. It will be the same for GB companies wanting to operate in both jurisdictions: they will have to register with both EU REACH and GB REACH. That is the primary concern.

As mentioned, there is a concern about the effect of Northern Ireland downstream users becoming importers. It is generally in and around those types of issues. It is about the protocol and the fact that a distinction is being made between Northern Ireland and GB, which is obviously a necessity because of the Northern Ireland protocol.

Ms Bailey: We were discussing the consultation process, particularly on REACH, and there has been no consultation with NI bodies on that. It has been a DEFRA-led consultation with GB organisations.

The Chairperson (Mr McAleer): There is no reference to qualifying goods or a definition. Is this one that we want to note?

Mr McGuigan: I suggest that we use the form of words that we used last week, if people are happy with that.

The Chairperson (Mr McAleer): Are members content to note?

Members indicated assent.

The Chairperson (Mr McAleer): OK, so we note that one.

Are members content to note the DEFRA detergent regulations as well?

Members indicated assent.

The Chairperson (Mr McAleer): We have no papers. We cannot make any decision on the control of mercury regulations.

The Ozone-Depleting Substances and Fluorinated Greenhouse Gases (Amendment etc.) (EU Exit) Regulations 2020 were, again, received late. DAERA officials have already briefed members on it. Are we content to note this one as well?

Members indicated assent.

The Chairperson (Mr McAleer): Members' information packs explain why this SI has changed from a category 1 to a category 2. Officials have already briefed members on the Persistent Organic Pollutants (Amendment) (EU Exit) Regulations 2020. Are we content to note it?

Members indicated assent.

The Chairperson (Mr McAleer): Officials have briefed members on the Pesticides (Amendment) (EU Exit) Regulations 2020, which is category 2. Is the Committee content to note this?

Members indicated assent.

The Chairperson (Mr McAleer): We do not have papers relating to the Air Quality (NI Protocol) Regulations 2020, and we cannot consider it.