



The Scottish Parliament  
Pàrlamaid na h-Alba

Mairi McAllan MSP  
Cabinet Secretary for Net Zero and  
Energy

By email only

**Net Zero, Energy and Transport  
Committee**

c/o Clerk to the Committee  
Room T3.40  
The Scottish Parliament  
Edinburgh  
EH99 1SP

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12 June 2024

Dear Cabinet Secretary,

### **The Persistent Organic Pollutants (Amendment) Regulations 2024**

The Net Zero, Energy and Transport Committee will consider the Scottish Ministers' proposal to consent to the UK statutory instrument, the Persistent Organic Pollutants (Amendment) Regulations 2024, at its meeting on 25 June.

In advance of the Committee's consideration of the regulations, we would appreciate answers to the following questions:

1. Given the Scottish Government's commitment to align with EU standards where possible, why is the Scottish Government content with the various areas set out in the notification where the UK POPs regime will diverge from EU standards?
2. Has Environmental Standards Scotland been involved in any discussions over the divergence from EU law on POPs?
3. Given the Scottish Government has legislative powers in the UK POPs Regulation to amend the Annexes to the POPs Regulation in response to amendments to the Stockholm Convention, and/or in response to scientific and technical progress, why is the Scottish Government not proposing to use its powers to legislate in this area to pursue its policy commitment to align with EU environmental standards?
4. In considering whether or not to give consent to these Regulations, what consideration did the Scottish Government give to the prevalence of the relevant

POPs in the environment in Scotland and the associated risks to public health and the environment, including cumulative impacts?<sup>1</sup>

5. To what extent is the Scottish Government's decision to consent to a UK-wide approach (which does not align with EU standards) impacted or informed by:
  - Capacity of the Scottish Government to separately regulate in this area;
  - Agreement with the UK Government that it is not possible to align with EU standards in the specific area listed in the notification;
  - The operation of the Chemicals and Pesticides (or any other) Common Framework
  - Other factors
6. Has the Scottish Government sought the advice of SEPA on this decision, as the relevant enforcement agency? If so, what advice was received?
7. How has the Scottish Government assessed the proposed changes against the guiding principles for the environment, in particular the precautionary principle?
8. There are areas where the notification states that limits cannot currently be reduced or reduced further (or tightened restrictions put in law for a later date) due to lack of evidence around "the most appropriate values". For example this is the case regarding the limit for PCDD/PCDF and dl-PCBs, where the EU has already imposed a tighter limit of 5 µg/kg since 10 June 2023. How does this decision not to impose stricter controls due to uncertainty accord with the precautionary principle under the Continuity Act?
9. In relation to PBDE limits, the UK Government initially proposed lower limits (350 mg/kg, dropping to 200 mg/kg 5 years after entry into force) and said it would only consider other options where "compelling evidence is presented regarding unforeseen impacts and/or burdens". Has the Scottish Government reviewed the evidence provided that "lack of incineration capacity and the impacts of disposal costs" mean that lowering the limit to 350 and beyond was not possible, and does it agree that this assessment applies to waste management in Scotland?
10. How have the potential additional incineration costs raised by stakeholders in the 2023 consultation been weighed against the potential public health and environmental benefits of introducing stricter limits?
11. The notification refers to "more time" being needed to consider further evidence on introducing lower limits in some cases e.g. for PBDE. What are the proposed timescales for this further work and do the Regulations provide for a legal requirement for this review? If not, does the Scottish Government consider this commitment to review and further consider lower limits should be set out in the Regulations (noting the EU approach requiring further reviews in some instances)?

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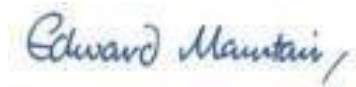
<sup>1</sup> The Committee notes, in relation to standards that impact on waste management, that certain waste services are excluded from application of the market access principles in the UK Internal Market Act under Schedule 2.

12. The 2023 UK Government consultation states that future further legislative changes to the POPs Regulation will depend on multiple factors, including “UK priorities, such as those laid out in 25 Year Environment Plan, the Environment Improvement Plan and the upcoming Chemicals Strategy”. What information is the Scottish Government aware of regarding the timescales for the UK Chemicals Strategy, and how are you currently feeding in to this work to ensure devolved interests are represented in areas of UK-wide regulation?

The Committee would appreciate a response by midday on Friday 21 June.

Please contact the Committee clerks should you have any questions.

Yours sincerely,

A handwritten signature in blue ink that reads "Edward Mountain".

Edward Mountain MSP  
Convener  
**Net Zero, Energy and Transport Committee**