



The Scottish Parliament
Pàrlamaid na h-Alba

Michael Warhurst
Executive Director
CHEMTrust

By email only

**Net Zero, Energy and Transport
Committee**

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

netzero.committee@parliament.scot

12 June 2024

Dear Mr Warhurst

The Persistent Organic Pollutants (Amendment) Regulations 2024

The Net Zero, Energy and Transport Committee will consider the Persistent Organic Pollutants (Amendment) Regulations 2024 at its meeting on 25 June. These would be UK regulations that the Scottish Ministers are proposing to consent to the UK Government making. The Scottish Ministers are seeking the view of the Scottish Parliament on this matter under an agreed [protocol](#) for scrutiny of certain proposed UK statutory instruments.

The proposed instrument would amend EU Regulation 2019/1021 on Persistent Organic Pollutants (POPs), which is now assimilated UK law. It will implement changes to the Stockholm Convention on POPs adopted by the Parties to the Stockholm Convention (which include the UK) in May 2023.

The Stockholm Convention lists 31 POPs, defined by four main criteria: they are persistent, toxic, bioaccumulative, and transportable across international borders. The Convention aims to protect human health and the environment by prohibiting, eliminating or restricting the global production and use of POPs.

The notification sets out that the 2024 Regulations will amend the current law in numerous ways: they will amend three existing entries in Annex I (Substances listed in the Convention and in the Protocol as well as substances listed only in the Convention); amend one entry and insert four new entries to Annex IV (List of substances subject to waste management provisions set out in Article 7); and insert two new waste classification descriptions, amend one and insert four new maximum

concentration limits to Part 2 of Annex V (Wastes and operations to which Article 7(4)(b) applies).

The amendments relate to a number of different POPs with multiple uses across various sectors, including POPs which have been banned for a number of years, and the restrictions refer to how POPs are managed as waste. Examples of products and uses potentially impacted include certain flame retardants used in plastics and textiles, electrical wire and construction materials, pesticides, and certain surfactants used in fire-fighting foams, paints and paper.

The key driver behind the changes is to reflect changes to international law via the Stockholm Convention but in some areas (according to the notification), the changes will go further than the Convention. The notification also provides a breakdown and comparison of a number of areas (see 'EU alignment' section in notification) where the 2024 UK Regulations will diverge from the EU POPs Regulation, following on from tightened restrictions introduced in the EU in 2023.

The power to amend Annexes to the UK POPs Regulation in response to amendments to the Stockholm Convention, or to scientific and technical progress, sits with the Secretary of State DEFRA for England, Welsh Ministers for Wales and Scottish Ministers for Scotland. But the UK Secretary of State may make changes for a devolved administration if, as here, they consent.

In appearing to consent to diverge from new EU law, the Scottish Ministers appear not to be "keeping pace" with EU law, which they have publicly committed to do "where appropriate". It appears that this is an area of policy where the Scottish Government would be able to make different provisions from the rest of the UK.

More information on the regulations is provided in the Cabinet Secretary for Net Zero and Energy's [notification letter of 21 May](#).

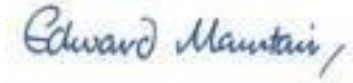
In advance of the Committee's consideration of the regulations, we would appreciate your views on the following areas:

1. Did you respond to the 2023 UK Government consultation on the proposed changes in these UK Regulations and can you share your views with the Committee?
2. There are areas where the notification sets out that the UK Regulations will diverge from EU law, including in areas where more stringent restrictions were proposed in the 2023 consultation. Do you have any views about this divergence from EU law? What is your view on the UK Government assessment that more evidence and certainty around industry impacts is needed to tighten restrictions in the areas highlighted as diverging from EU law?
3. The supporting evidence for these Regulations points to policy tensions between different goals – for example the need to reduce GHG emissions from waste and increase recycling, alongside the need to safeguard the public and environment from POPs – do the UK Regulations strike the right balance in this area?
4. How important is GB-wide alignment in this area, or would you see any benefit to Scottish-specific legislation on POPs?

Apologies for the quick turnaround but 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". The signature is written in a cursive style and is positioned above the typed name.

Edward Mountain MSP
Convener

Net Zero, Energy and Transport Committee