Classification, Labelling and Packaging of Chemicals ('GB CLP')

Currently, the **Retained CLP Regulation (EU) No. 1272/2008 as amended** ('GB CLP Regulation') regulates the **classification, labelling and packaging of any chemicals** placed on the market in England, Scotland and Wales, writes **Dr Rosanna Cooper**.

1. Businesses that fall under the GB CLP Regulation

The GB CLP is relevant to your business if you are one of the following UK based businesses. For instance, your business is an **importer of chemicals** if your **business imports products into the UK** from businesses based in the European Union or European Economic Areas and you **place these products on the UK market**:

- Manufacturer
- Importer
- Downstream user or distributor who places chemicals on the GB market (known as a GB-based supplier)
- An NI-based manufacturer, downstream user or distributor who directly supplies chemicals to the GB market (known as an NI-based supplier)

2. Key amendments to GB CLP

The **European legislation** in relation to the classification, labelling and packaging of chemicals was adopted by the UK with some key amendments as set out below:

- The main duties to classify, label and package remain
- HSE becomes the relevant GB CLP Agency overseeing GB CLP functions for substances and mixtures placed on the GB market
- The GB CLP Regulation applies to GB-based manufacturers, importers, downstream users and distributors supplying the GB market
- Substances and mixtures placed on the market in Northern Ireland are subject to the EU CLP Regulation (placed on the market includes import into the territory)
- The GB CLP Regulation applies to NI based manufacturers, downstream users and distributors (collectively referred to as 'NI suppliers') who directly supply the GB market, with no intermediate NI supply, with qualifying NI goods (QNIGs)
- Substances and mixtures are goods in this context
- GB-based manufacturers and importers and NI suppliers directly supplying the GB market with QNIGs will have to notify HSE within one month of placing 'new' substances on the GB market unless one of the exemptions applies
- All existing EU harmonised classification and labelling in force on 31 December 2020, are retained in Great Britain as GB mandatory classification and labelling (GB MCL)

- The classification and labelling of substances and mixtures placed on the GB market must comply with GB MCL where relevant. GB MCLs are listed in the **GB mandatory classification and labelling list**
- GB-based manufacturers, importers or downstream users wanting to submit information to support new or revised mandatory classification and labelling proposals should read the GB MCL guidance **'Submitting a new or revised GB MCL proposal'**
- HSE and ministers, including ministers in the devolved administrations, acting as GB CLP competent authorities can also propose new and revised GB MCLs
- The allowance to request the use of alternative chemical names remains
- GB-based manufacturers, importers or downstream users or NI-based suppliers, directly supplying the GB market with QNIGs, wanting to use a new alternative chemical name in Great Britain should **apply to the HSE**
- GB-based importers and downstream users and NI-based downstream users directly supplying the GB market with QNIGs should be aware of the arrangements for submitting information to the **UK National Poisons Information Service** (NPIS) known as the National poison Centre

3. Importer of Chemicals under GB CLP

Your business is under an obligation to **comply fully with the GB CLP Regulation**.

Duties of a GB-based importer

If you place substances or mixtures on the GB market by importing them into Great Britain (England, Scotland and Wales) from the EU or European Economic Area (EEA), or the rest of the world, you are an importer under the GB CLP Regulation, and you must comply with the duties of an importer.

Understanding the duties of an importer is particularly important if you are a GB-based downstream user or distributor supplied by businesses based in the EU or in EEA countries before 1 January 2021. If these supply arrangements continue after this date, you are an importer under the GB CLP Regulation, and you must comply with the duties of an importer.

Classifying and labelling substances or mixtures must be carried out by someone with the scientific competence to do so. If you do not have this competence immediately available to you, you must make alternative arrangements to ensure you can meet your duties under the GB CLP Regulation, if you want to place imported substances and mixtures on the GB market.

As an importer under the GB CLP Regulation you must:

classify, label and package substances and mixtures according to the GB CLP Regulation before placing them on the market also classify substances not placed on the market that are subject to registration or notification in line with Articles 6, 9, 17 or 18 of UK REACH

notify the classification and labelling of new substances you place on the GB market to HSE for inclusion in the GB CLP notification database established by HSE

take all reasonable steps available to you to make yourself aware of new scientific or technical information that may affect the classification of the substances or mixtures

you place on the market. When you become aware of such information which you consider to be adequate and reliable you must, without undue delay, carry out a new evaluation of the relevant classification

update the label following any change to the classification and labelling of that substance or mixture, in certain cases without undue delay

assemble and keep available all the information required for the purposes of classification and labelling under CLP for a period of at least 10 years after you have last supplied a substance or mixture submit a proposal in accordance with the new arrangements, if you have new information that may lead to a change of the existing mandatory classification and labelling elements of a substance listed in the GB mandatory classification and labelling lis

4. GB CLP Regulation is applicable to REACH, Cosmetics, Biocidal and Plant Protection Products

The following are specific Regulations that relate to our practice areas. They are not the entire regulations that refer to GB CLP Regulation:

- **UK REACH Regulation**

Restrictions can be affected by classification. For example, substances classified as either Category 1A or 1B carcinogen, mutagen or toxic for reproduction, cannot be supplied to the general public.

- **GB Biocidal Products Regulation (BPR)**

Certain classifications are used in the authorisation/approval process under biocides legislation.
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- **GB Plant Protection Products Regulation (PPPR)**

Certain classifications are used as exclusion criteria for approved use under PPPR.
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- **GB Cosmetics Regulation**

Substances with certain classifications are prohibited from being used in cosmetic products.

5. When the GB CLP Regulation is not applicable

The GB CLP Regulation is not applicable to chemicals which are in the finished state intended for the final user:

- medicines
- medical devices
- veterinary medicines
- cosmetics
- food
- feeding stuffs (such as food additive; food flavouring; feeding stuffs used in animal nutrition)

Except where Article 33 applies, the GB CLP Regulation does not apply to the transport of dangerous goods by air, sea, road, rail or inland waterways. More information about how the GB CLP Regulation (supply) and transport labelling work together can be found in ECHA's guidance (see link below) and should still be used. These exemptions are not affected by the UK leaving the EU**: CLP labelling and packaging**

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