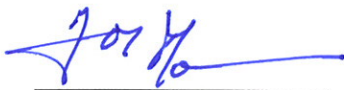


Memorandum of Understanding
between the
Health and Safety Authority
and the
Department of Agriculture, Food & the Marine

This memorandum of understanding sets out areas of co-operation in relation to the operation and enforcement of the REACH Regulation, the CLP Regulation, the Chemicals Act 2008 and the Chemicals Amendment Act 2010.

Signed:

Signed:





Mr. Tom Moran

Mr. Martin O'Halloran

On behalf of the

On behalf of the

Department of Agriculture
Food & the Marine

Health & Safety Authority

Date: 9/11/11

Date 14/11/11

OBJECTIVE OF THE MEMORANDUM OF UNDERSTANDING

In accordance with Section 9 of the Chemicals Act, national authorities shall “*co-operate with each other in the performance of their functions under the relevant chemicals statutory provisions*” and for this purpose they may enter into arrangements with other national authorities.

This Memorandum of Understanding (MoU) establishes a co-operative framework to facilitate implementation and enforcement of the REACH and Classification, Labelling and Packaging (CLP) Regulations as outlined in the Chemicals Act 2008 and 2010, between the Health and Safety Authority (HSA) and the Department of Agriculture, Food & the Marine (DAFM).

LEGISLATIVE BASIS

THE REACH REGULATION (EC 1907/2007)

REACH is a European Community Regulation EC 1907/2006 on chemicals and their safe use. It deals with the Registration, Evaluation, Authorisation and Restriction of Chemical substances. The aim of REACH is to improve the protection of human health and the environment through the better and earlier identification of the intrinsic properties of chemical substances. The REACH Regulation imposes obligations on those who manufacture, import, supply or use substances, on their own, in preparations or in articles, to identify and manage the risks arising from their manufacture or use.

THE CLP REGULATION (EC 1272/2008)

Regulation (EC) No 1272/2008 on the classification, labelling and packaging of substances and mixtures requires manufacturers, importers and downstream users to classify, label and package substances and mixtures which they place on the market. Substances which are registered or notified under REACH but not placed on the market also come under the scope of CLP. Furthermore, the Regulation places an obligation on manufacturers, importers and downstream users to notify to the European Chemicals Agency of such classification and label elements which have not been submitted as part of a registration under REACH.

THE CHEMICALS ACT 2008 (NO. 13 OF 2008) AND 2010 (NO. 32 OF 2010)

The main purpose of the Chemicals Act 2008 is to facilitate the enforcement of certain EU Regulations concerning chemicals, including *inter alia*, the REACH Regulation and to set out the national authorities that will enforce the REACH Regulation.

The Chemicals Act 2008 lists three competent authorities (CAs) for the purposes of the REACH Regulation in Ireland.

- The Health and Safety Authority (HSA)
- The Department of Agriculture, Food & the Marine (DAFM)
- The Environmental Protection Agency (EPA)

The main purpose of the Chemicals Amendment Act 2010 is to appoint the relevant competent authorities in Ireland for the purposes of the CLP Regulation and lists the following three CAs for those purposes:

- The Health and Safety Authority (HSA)
- The Department of Agriculture, Food & the Marine (DAFM)
- Beaumont Hospital Board for the purposes only of Article 45 of the CLP Regulation on provision of Poison Information Centre

ROLES AND RESPONSIBILITIES OF THE PARTIES TO THIS MOU

HEALTH AND SAFETY AUTHORITY (HSA)

The HSA is the national body in Ireland with responsibility for securing health and safety at work. It is a state-sponsored body, established under the Safety, Health and Welfare at Work Act 2005 reporting to the Minister for Enterprise, Trade and Innovation.

Under the Chemicals Act 2008 and 2010, the HSA, through the Chemical Business Services Division, is the Competent Authority for the application of the REACH and CLP Regulations relating to all chemicals except pesticides. The Chemicals Act 2008 also gives the HSA a lead role in relation to national administrative and operational requirements.

THE DEPARTMENT OF AGRICULTURE, FOOD & THE MARINE (DAFM)

DAFM is the government department with responsibility for regulating and promoting the agriculture, fishing and food sectors in Ireland. Part of this remit is the regulation of pesticides in agriculture, food, marine, forestry and biocides sectors. The work of pesticide regulation in DAFM is undertaken by the Pesticide Registration and Control Division (PRCD). Under the Chemicals Act 2008 and 2010, DAFM is the Competent Authority for the purposes of the REACH and CLP Regulations in respect of pesticides (Plant protection and Biocidal products).

AREAS OF CO-OPERATION:

In recognising each Competent Authority's respective statutory responsibilities and obligations, the HSA and DAFM shall endeavour to co-operate closely particularly in relation to the following:

- Co-ordination for EU CARACAL meetings
- Provision of the REACH and CLP national helpdesk
- EU Member State reporting under the respective legislation
- European Chemicals Agency (ECHA) Committees
- Annual national reports under the Chemicals Act 2008
- Enforcement

CO-ORDINATION FOR EU CARACAL MEETINGS

Meetings of the Member State (MS) Competent Authorities for the REACH and CLP Regulation, known as the CARACAL, are organised by the EU Commission. As the lead CA, the HSA normally attends these meetings. As the CA for pesticides, DAFM may, where warranted by specific agenda item(s), attend such meetings.

The HSA and DAFM shall have responsibility for drafting position papers concerning their respective areas and will circulate these to each other and other Member State CAs for information and/or comment, as deemed appropriate.

The meeting attendee(s) shall represent Ireland and shall be responsible for raising items and positions of the other organisation at the meeting. In the event that the non-attending organisation wishes to raise an item, it shall alert the attending CA and provide details, where possible, in writing in advance.

The HSA and DAFM shall both ensure that contact details for their respective CA have been provided to the Commission and the European Chemicals Agency (ECHA) to allow for access to CIRCA and other circulation lists.

REACH AND CLP HELPDESK

The HSA operates the national REACH and CLP helpdesks which provides advice to manufacturers, importers, downstream users and any other interested parties on their respective responsibilities and obligations as required by Article 124 of the REACH Regulation and Article 44 of the CLP Regulation. In the event of a specific pesticide query arising, the HSA shall forward the query to DAFM, who shall respond directly to the enquirer.

EUROPEAN CHEMICALS AGENCY (ECHA) COMMITTEES

The HSA shall nominate the national representative to the Member State Committee (MSC) and the Forum on Enforcement. The HSA shall also nominate at least one expert to the Risk Assessment (RAC) and Socio-Economic Analysis (SEAC) Committees. DAFM shall, if it so wishes, nominate an expert to the RAC.

EU MEMBER STATE REPORTING

In accordance with Article 117 of REACH and Article 46 of CLP, every 5 years, Member States shall submit to the Commission a report on the operation of the respective Regulation in their territories including sections on evaluation (for REACH report) and enforcement (REACH and CLP). The section on enforcement shall include results of the official inspections, the monitoring carried out, the penalties provided for and the other measures taken pursuant to Articles 125 and 126 of REACH and Article 46 of CLP during the previous reporting period.

The HSA and DAFM shall prepare their respective sections of each of the reports and shall submit it to the Department of Jobs, Enterprise and Innovation (DJEI).

NATIONAL ANNUAL REPORT

Under Section 8 of the Chemicals Act 2008, the HSA is required to compile an annual report with respect to operation of the Chemicals Act in Ireland. Within two months after the end of each year, the DAFM shall submit a report to the HSA in an agreed format on its activities relating to pesticides. The HSA shall provide the template to the DAFM no later than six weeks in advance of this deadline.

Under Section 8(4) of the Chemicals Act, the HSA may from time to time require the DAFM to furnish other reports and information related to the performance of DAFM's function. In so doing, the HSA shall provide DAFM with the necessary request and templates in sufficient time.

ENFORCEMENT

DAFM is responsible for the enforcement under the Chemicals Act of the REACH (of Titles II, IV, V, VII and VIII) and CLP Regulations with respect to substances within its remit (pesticides). The HSA is responsible for enforcement under the Chemicals Act of the REACH (Titles II, IV, V, VII and VIII) and CLP Regulations with respect to all substances other than pesticides. The specific requirements on enforcement can be found in Part 4 of the Chemical Act 2008.

The HSA shall provide updates and outcomes from the Forum on Enforcement to DAFM. The HSA and DAFM may choose to be involved in specific Forum-led enforcement initiatives either separately or jointly. For joint initiatives, the respective organisations shall co-ordinate their activities in advance to arrive at an agreed national involvement.

From time to time, the HSA or DAFM may request advice and input to enforcement activity not specifically outlined above from one another.

OTHER AREAS OF CO-OPERATION:

STAKEHOLDER AWARENESS AND ENGAGEMENT

In order to maximise resources in the raising of Irish stakeholder awareness on the requirements of the REACH and CLP Regulations, both organisations shall, where possible, consult and co-ordinate prior to the undertaking of awareness efforts.

INFORMAL COMMUNICATION

In the interest of achieving clarity of roles, staff from the HSA and DAFM may consult on issues of mutual interest, as the need arises.

FORUM FOR CO-OPERATION AND REVIEW

The HSA and DAFM shall meet jointly on an annual basis (minimum) to monitor and review the implementation and effectiveness of this MoU. This forum shall be known as the ***Joint Review Group*** (JRG) and it shall be held in either HSA or DAFM offices, as appropriate. The JRG may also consider co-operation on operational and enforcement matters relating to the REACH

Regulation, the CLP Regulation and the Chemicals Act (2008 and 2010) which are not otherwise covered by this MoU. Where appropriate, representatives from the CAs will refer such matters to higher management within each organisation, for consultation and direction in line with the respective organisational policy for each body.

REVIEW PERIOD

The terms and operation of this memorandum of understanding shall be reviewed at 3-yearly intervals by the HSA and DAFM or when necessary.

This MOU does not override the statutory duties or powers of the individual CAs and is an indication of agreement rather than a legal commitment.