Net Zero, Energy and Transport Committee
Tuesday 18 November 2025
34th Meeting, 2025 (Session 6)

UK subordinate legislation: consideration of consent notification

Introduction

1. This paper supports the Committee's consideration of two 'type 1' consent notifications sent by the Scottish Government relating to the following proposed UK statutory instruments (SIs):

    - the GB Biocidal Products (Amendment) Regulations 2025 (working title)
    - the Control of Mercury (Amendment) Regulations 2025

2. The process for how the Scottish Parliament considers consent notifications is set out in the SI Protocol. See **Annexe A** for further details.

The GB Biocidal Products (Amendment) Regulations 2025

3. On 8 October, the Cabinet Secretary for Climate Action and Energy wrote to the Committee to give notice that the Scottish Government proposed to consent to this SI. Her letter is in **Annexe B** and the formal SI notification is in **Annexe C**. The notification sets out that the UK Government intends to lay the SI on 26 November 2025 with a coming into force date of 31 December 2025. The Committee has been asked to respond by **24 November**.

4. Under Regulation (EU) 528/2012 (the GB Biocidal Products Regulation or GB BPR) a company wishing to market a biocidal product must be authorised by the Health and Safety Executive (HSE). The data submitted by a company in their application to the HSE is protected for defined periods of time following its submission. While the data is protected, HSE may only use that data to process an application by a third party if a "letter of access" has been agreed commercially indicating that payment has been made to the data owner.

5. From 31 December 2025, Article 95(5) of GB BPR ends data protection periods for certain substances (those that were already on the market when predecessor legislation came into force and for which GB BPR confirms an ongoing obligation to complete evaluations; known as the GB Review Programme – the system for HSE evaluation of biocidal products already on the market in Great Britain). This would mean that after 31 December 2025 the HSE must grant access to these data packages, without any confirmation of payment to the data owner (provided the applicant meets certain other requirements), whereas the GB Review Programme is not due to be complete until 2030.

6. The proposed UK SI would postpone this change until 31 December 2030 to align with the planned end of the Review Programme. The notification states that

this is necessary to prevent an unfair disadvantage to companies who have already invested in regulatory data required for biocides approvals.

7. The key powers being used here to legislate in devolved areas are only available to the UK Ministers, not Scottish Ministers, but can be used if the Scottish Ministers consent. The notification sets out that the Scottish Government proposes to consent to the UK SI as it is "the most effective and transparent way to make these amendments as it has been agreed that the GB BPR will operate consistently across GB". The notification also highlights the mix of devolved and reserved issues involved and that Scottish Government officials have worked with the HSE "to ensure the drafting delivers for our interests and respects devolved competence".

Next steps

8. If the Committee wishes to approve the proposal to consent to the SI, it may, in doing so, set out in its letter to the Scottish Government any observations or concerns that it thinks are relevant.

9. If the Committee is not content with the proposal, it should include in its letter to the Scottish Government one of the following recommendations:

    - That the Scottish Government should not consent to the provision being made in a UK SI and that the Scottish Government should instead take forward an alternative Scottish legislative solution. However, the particular power being used is available only to UK Ministers so Scottish Ministers would need to find a different way to make this provision; or

    - That the provision should not be made at all (that is, that the Scottish Government should not consent to the provision being included in a UK SI, nor should the Scottish Government take forward an alternative Scottish legislative solution).

The Control of Mercury (Amendment) Regulations 2025

10. On 29 October, the Cabinet Secretary for Climate Action and Energy wrote to the Committee to give notice that the Scottish Government proposed to consent to this SI. Her letter is in **Annexe D** and the formal SI notification is in **Annexe E**. The notification sets out that the UK Government intends to lay the SI on 2 December 2025 with a coming into force date of 23 December 2025. The Committee has been asked to respond by **28 November**.

11. This UK SI would add a number of mercury added products (MAPs) to the list of those which are prohibited for manufacture, import, and export, fulfilling the UK's commitments under the Minamata Convention on Mercury (the Convention).

12. At the Convention's Conference of the Parties (COP) 4 and 5 in 2022 and 2023 it was agreed that several MAPs would be phased out (some by 31 December

2025, others by 31 December 2026 or 31 December 2027). A list of affected products is provided in the notification:

- Very high accuracy capacitance and loss measurement bridges and high frequency radio frequency switches and relays in monitoring and control instruments with a maximum mercury content of up to 20 mg except those used for research and development purposes.
- Several compact fluorescent lights (CFLs)
- Several linear fluorescent lights (LFLs)
- Several non-linear fluorescent lamps (NFLs)
- Cold cathode fluorescent lamps (CCFL) and external electrode fluorescent lamps (EEFL) for electronic displays
- Strain gauges to be used in or with plethysmographs
- Melt pressure transducers, melt pressure transmitters and melt pressure sensors
- Mercury vacuum pumps
- Tyre balancers and wheel weights
- Photographic film and paper
- Propellant for satellites and spacecraft

13. On EU alignment, the notification sets out that the EU has already implemented its legislation to prohibit the additional MAPs as stipulated by the Minamata Convention, therefore this UK SI will bring Scotland into closer alignment with the EU. However it also sets out that the EU has implemented a phase-out of an additional MAP not agreed at Convention level. Scottish Government officials have advised SPICe that this relates to a restriction on certain types of high-pressure sodium (vapour) lamps, which will be restricted in the EU from 31 December 2025. Another area where the notification indicates there is not full EU alignment is in relation to mercury use in dental amalgam (a medical phase out is being encouraged in Scotland which the notification states is in line with the Convention). The notification states that the phase-out of both of these MAPs could not be included in regulations made under article 20(1) of the UK Mercury Regulation as it provides powers only to amend Annex II to align with decisions adopted by the Conference of the Parties to the Minamata Convention.

14. The power being used here to legislate in devolved areas are only available to the UK Ministers, not Scottish Ministers, but can be used if the Scottish Ministers consent. The notification sets out that the Scottish Government proposes to consent to the UK SI as the provision is necessary to implement the UK's responsibilities under the Convention and it has been agreed that the UK Mercury Regulation will operate consistently across Great Britain. It states that Scottish Government officials have worked with DEFRA "to ensure the drafting delivers for our interests and respects devolved competence".

Next steps

15. If the Committee wishes to approve the proposal to consent to the SI, it may, in doing so, set out in its letter to the Scottish Government any observations or concerns that it thinks are relevant.

16. If the Committee is not content with the proposal, it should include in its letter to the Scottish Government one of the following recommendations:

    - That the Scottish Government should not consent to the provision being made in a UK SI and that the Scottish Government should instead take forward an alternative Scottish legislative solution. However, the particular power being used is available only to UK Ministers so Scottish Ministers would need to find a different way to make this provision (and given this spans devolved and reserved areas of competence, finding an alternative means would not be straightforward); or

    - That the provision should not be made at all (that is, that the Scottish Government should not consent to the provision being included in a UK SI, nor should the Scottish Government take forward an alternative Scottish legislative solution). Though note that this option would result in a breach of an international obligation.

Clerks to the Committee
November 2025

Annexe A: Process for parliamentary scrutiny of consent notifications in relation to UK statutory instruments

1. The Protocol provides for the Scottish Parliament to scrutinise the Scottish Government's decisions to consent to certain subordinate legislation made by the UK Government: specifically, UK Government subordinate legislation on matters within devolved competence in areas formerly governed by EU law. It sets out a proportionate scrutiny approach and categorises SI notifications as 'type 1' or 'type 2'.

2. Type 2 applies where all aspects of the proposed instrument are clearly technical (e.g., they merely update references in legislation that are no longer appropriate following EU exit) or do not involve a policy decision. These are notified retrospectively, after the Scottish Government has given its consent.

3. All other proposals are type 1. In this case, the Scottish Parliament's agreement is sought before the Scottish Government gives consent to the UK Government making subordinate legislation in this way. Each type 1 notification must be considered by the relevant Committee.

4. **The Committee's role in relation to type 1 notifications is to decide whether it agrees with the Scottish Government's proposal to consent to the UK Government making Regulations within devolved competence, in the manner that the UK Government has indicated to the Scottish Government.**

5. If Members are content for consent to be given, the Committee will write to the Scottish Government accordingly. The Committee may also wish to note any issues in its response or request that it be kept up to date on any relevant developments.

6. If the Committee is not content with the proposal, however, it may recommend that the Scottish Government should not give its consent. In that event, the Scottish Ministers have 14 days under the Protocol to respond to the Committee's recommendation. They could—

   - Agree. If so, the Scottish Ministers would then withhold their consent.
   - Not agree. If so, the Parliament will debate the issue.

7. If the Parliament agrees to the Committee's recommendation that the Scottish Ministers should not consent, the Protocol provides that the Scottish Ministers should "normally not consent" to the UK SI. However, the Protocol also provides that if the Scottish Ministers consider that the Committee's proposed alternative cannot be achieved, they may consent to the UK SI. If so, they must explain why they are doing so to the Scottish Parliament.

Annexe B: Correspondence from the Cabinet Secretary for Climate Action and Energy – 8 October 2025

Dear Edward,

STATUTORY INSTRUMENT TO AMEND ARTICLE 95(5) OF THE GREAT BRITAIN BIOCIDAL PRODUCTS REGULATION (GB BPR) – PROTOCOL WITH SCOTTISH PARLIAMENT

I am writing in relation to the protocol on obtaining the approval of the Scottish Parliament to proposals by the Scottish Ministers to consent to the making of UK secondary legislation affecting devolved areas arising from EU Exit.

That protocol, as agreed between the Scottish Government and then Parliament, accompanied the letter from the then Cabinet Secretary for Government Business and Constitutional Relations, Michael Russell MSP, to the Conveners of the Finance & Constitution and Delegated Powers and Law Reform Committees on 4 November 2020 and replaced the previous protocol that was put in place in 2018.

I attach a Type 1 notification which sets out the details of the GB Biocidal Products (Amendment) Regulations 2025 (working title) which the UK Government proposes to make and the reasons why I am content that Scottish devolved matters are to be included in this SI. Please note, we are yet to have sight of the SI and it is not available in the public domain at this stage. We will, in accordance with the protocol, advise you when the final SI is laid and advise you as to whether the final SI is in keeping with the terms of this notification.

The purpose of this instrument is to amend assimilated law Regulation (EU) 528/2012 on the making available on the market and use of biocidal products (the GB Biocidal Products Regulation or GB BPR) to prevent the expiry at the end of this year for a data protection provision for relevant companies. If not extended, companies may be unfairly financially disadvantaged and this could result in critical biocidal products being withdrawn from the GB market.

I understand the UK Government has set a laying date for this SI of the 26 November 2025 so that it can come into force date before 31 December 2025. Therefore if possible, consent from Scottish Ministers and agreement from Scottish Parliament is required by 24 November 2025.

I am copying this letter to the Convener of the Delegated Powers and Law Reform Committee.

I look forward to hearing from you before the 24 November.

Yours sincerely,

GILLIAN MARTIN

Annexe C: Notification to the Scottish Parliament (Biocidal Products)

Statutory Instrument to amend Article 95(5) of the Great Britain Biocidal Products Regulation (working title "The GB Biocidal Products (Amendment) Regulations 2025")

Is the notification Type 1 or Type 2

Type 1

Brief overview of the SI (including reserved provision)

The proposed GB Biocidal Products (Amendment) Regulations 2025 ("the 2025 Regulations") will amend assimilated law Regulation (EU) 528/2012 concerning the making available on the market and use of biocidal products (the GB Biocidal Products Regulation or GB BPR) to postpone the expiry date for the protection of companies' data on certain biocidal active substances that they supply or intend to supply to the GB market by 5 years. The amendment is necessary to prevent an unfair financial disadvantage to companies who have invested in regulatory data required for biocides approvals, and to ensure that supply of existing biocidal active substances and the products that contain them on the GB market is not impacted.

Previous amendments to the GB BPR were made by the Chemicals (Health and Safety) and Genetically Modified Organisms (Contained Use) (Amendment etc.) (EU Exit) Regulations 2019, the Biocidal Products (Health and Safety) (Amendment) Regulations 2022, and The Biocidal Products (Health and Safety) (Amendment and Transitional Provision etc.) Regulations 2024. The consent of Scottish Ministers to these three instruments was scrutinised by the Scottish Parliament.

The UK Government Department for Work and Pensions expects to lay the instrument under negative procedure at Westminster on 26 November 2025 with a coming into force date before 31 December 2025.

Details of the provisions that Scottish Ministers are being asked to consent to.

Summary of the proposals

The GB BPR concerns the placing on the market and use of biocidal products, which are used to protect humans, animals, materials or articles against harmful organisms, such as pests or bacteria, by the action of the active substance contained in the biocidal product. The Health and Safety Executive (HSE) is the Competent Authority for GB BPR and acts on behalf of Scottish and Welsh Ministers. Under GB BPR, a company wishing to market a biocidal product or active substance (for use in a biocidal product) must apply for it to be authorised by HSE before the company can start supplying their biocidal chemical on the GB market.

A key principle of GB BPR is that data submitted by a company in their application is protected for defined periods of time following its submission to the HSE. This means

that while the data is protected, HSE will only use it to process an application made by a third party (i.e. a company that is not the data owner) if that third party can demonstrate they have paid the data owner a share of the cost it took to generate the data. Cost-sharing takes place through commercial agreements known as 'letters of access', with these typically costing tens to hundreds of thousands of pounds.

Data on an active substance is protected from the point at which it is submitted for the purposes of GB BPR until a defined period of time after a decision has been taken by the HSE on its approval or renewal.

From 31 December 2025, Article 95(5) of GB BPR ends data protection periods for biocide active substances included in the GB Review Programme of existing active substances. These are active substances that were already on the market when predecessor legislation to the EU equivalent of the GB BPR (Directive 98/8/EC) came into force and for which GB BPR confirms an ongoing obligation to complete evaluations; this is known as the GB Review Programme. This means that manufacturers of affected active substances, or those supporting their approval, will not be able to charge other companies for letters of access to use their data after 31 December 2025. Conversely, companies who wish to start supplying these active substances for use in biocidal products in GB will be able to do so without buying access to a data package or producing one themselves.

This data protection provision is currently relevant for about 300 cases ("biocidal active substance / product type combinations") included in the GB Review Programme that are used in pest control, disinfection, manufacturing and water treatment among other applications.

Using powers in Article 89(2) of the GB BPR, the 2025 Regulations will postpone the date by which this data protection provision in Article 95(5) of GB BPR will expire, currently 31 December 2025, and extend it to 31 December 2030. The instrument will also make two minor technical amendments to ensure that the relevant provisions in GB BPR work as intended using relevant powers in Article 83A(2) of GB BPR. These involve: rewording Article 95(5) so that it is clearer that once the HSE has taken a decision on the approval of an active substance, Article 95(5) no longer applies and data protection periods are provided under Article 60 (which applies to approved active substances); replacing the reference to Regulation EC No 1451/2007 with Regulation (EU) No 1062/2014, which is an updated version of the arrangements for the Review Programme referred to above and was inadvertently not made at the point of EU exit.

In summary, the amendment is necessary to prevent an unfair disadvantage to companies who have invested in regulatory data required for biocides approvals. This is because without the amendment, after 31 December 2025 HSE must grant access to these data packages to third parties seeking access to the data, without any confirmation of payment to the data owner, provided the applicant meets other relevant requirements. The amendment will also ensure that access to biocidal active substances and the products that contain them is not impacted where these remain on the market pending review.

EU Alignment

Currently the Scottish Government is not aware of any plans to amend the equivalent EU Biocidal Products Regulation (EU BPR) in a similar way this year. This means that after 31 December 2025 in the EU, third party companies will be able to use such data free of charge in their applications under the EU BPR, potentially creating an unfair financial advantage for such companies. HSE suspects the current expiry date, set when the UK was still an EU Member State, was intended to coincide with the end of the EU Review Programme (originally planned for 2024). However, both the EU and the GB BPR Review Programmes are delayed well beyond this date with the EU having amended article 89 of the EU BPR to provide an updated date of 31 December 2030 for its Review Programme to be completed. Ending data protection while many active substances are still awaiting review lacks any clear rationale and seems to be an unintended consequence of the provision.

Does the SI relate to a common framework or other scheme?

Yes. The GB BPR is a regulation covered by the provisional Chemicals and Pesticides Common Framework.

Summary of stakeholder engagement/consultation

While the proposed changes this SI covers have not been formally consulted on, HSE has engaged extensively with affected industries across Great Britain and beyond. We believe this exercise to also represent the interests of Scotland.

A note of other impact assessments, (if available)

No Scottish impact assessments have been prepared. Through interviews with industry and regulatory consultant representatives, in addition to the financial disadvantage described above, HSE identified that lapsing of data protection may lead to many companies currently supplying active substances withdrawing from the GB market because it will no longer be financially viable for them, and could lead to substandard active substances, manufactured at lower costs, to enter the supply chain and be used in GB biocidal products.

No direct impacts have been identified on GB to NI trade in biocidal active substances and products from the changes and the instrument does not affect trade agreements under the Windsor Framework.

Summary of reasons for Scottish Ministers' proposing to consent to UK Ministers legislation

The GB BPR covers a mix of reserved and devolved competence, as it applies to environmental and public health protection which are devolved as well as worker protection, product safety, and animal testing which are reserved. It applies across England, Wales and Scotland.

Scottish Ministers consider that consenting to the 2025 Regulations is the most effective and transparent way to make these amendments as it has been agreed that the GB BPR will operate consistently across GB. Officials have worked with HSE to ensure the drafting delivers for our interests and respects devolved competence in Scotland, and so Scottish Ministers propose to agree to a GB approach for these amendments. The provision will ensure a level playing field for GB businesses that supply biocidal active substances and products, and ensure continued access to affected products that are on the market and currently going through the review programme.

Intended laying date (if known) of instruments likely to arise

UK Government has proposed a laying date of 26 November 2025.

If the Scottish Parliament does not have 28 days to scrutinise Scottish Minister's proposal to consent, why not?

The Scottish parliament will have the usual minimum 28-day period for scrutiny of this SI.

Information about any time dependency associated with the proposal

The current expiry date that is to be amended is the 31 December 2025 and so the changes this SI concerns must be enacted before this date. HSE are still preparing the SI and while the Scottish Government has not yet had sight of a draft, we have engaged in detail with the HSE on the purpose, content and structure of the SI that is in preparation.

Are there any broader governance issues in relation to this proposal, and how will these be regulated and monitored post-withdrawal?

Scottish Government officials work closely with the HSE on the UK and GB chemicals regulation for which HSE has the policy lead. HSE, as the Competent Authority for GB BPR, monitors any unintended consequences of the Regulation and is in regular contact with relevant trade associations and businesses.

Any significant financial implications?

If the end date for data protection in Article 95(5) is extended to 31 December 2030, HSE estimates that the equivalent annual net direct cost to business would be between around £330,000 and £840,000, with a mid-estimate of around £550,000. The costs arise from businesses negotiating voluntary commercial arrangements to access protected data and are not fees to HSE.

NZET/S6/25/34/5

SI NOTIFICATION: SUMMARY

Title of Instrument Statutory Instrument to amend Article 95(5) of the Great Britain Biocidal Products Regulation (working title "The GB Biocidal Products (Amendment) Regulations 2025")
Proposed laying date at Westminster 26 November 2025
Date by which Committee has been asked to respond Before 24 November 2025
Power(s) under which SI is to be made Article 89(2) and 83A(2) of Regulation (EU) 528/2012 concerning the making available on the market and use of biocidal products ("GB BPR")
Categorisation under SI Protocol Type 1
Purpose To extend the expiry date of a data protection provision in Article 95(5) of the GB BPR so that companies that own data used in their applications to market biocides in GB are protected from other companies using that data for free. The amendment will allow the current situation to continue, whereby a third party company must enter into an agreement in order to use another company's data in its application, with the expiry date for this data protection provision being extended from 31 December 2025 to 31 December 2030. Two other minor changes are also proposed to Article 95(5) to support this date change. If the change is not made then companies will be unfairly disadvantaged and it is possible that biocidal products, used in pest control, manufacturing, disinfection and water purification amongst other sectors, may be withdrawn from the GB market.
Other information The Government is not aware currently of any plans to amend the equivalent EU Biocidal Products Regulation (EU BPR) in a similar way, but it is likely similar action would need to be taken for the same reasons it is needed in GB. Ending data protection while many active substances are still awaiting review lacks any clear rationale and seems to be an unintended consequence of the provision.

Annexe D: Correspondence from the Cabinet Secretary for Climate Action and Energy – 29 October 2025

Dear Edward,

THE CONTROL OF MERCURY (AMENDMENT) REGULATIONS 2025 - EU EXIT LEGISLATION – PROTOCOL WITH SCOTTISH PARLIAMENT

I am writing in relation to the protocol on obtaining the approval of the Scottish Parliament to proposals by the Scottish Ministers to consent to the making of UK secondary legislation affecting devolved areas arising from EU Exit.

That protocol, as agreed between the Scottish Government and the Parliament, accompanied the letter from the then Cabinet Secretary for Government Business and Constitutional Relations, Michael Russell MSP, to the Conveners of the Finance & Constitution and Delegated Powers and Law Reform Committees on 4 November 2020 and replaced the previous protocol that was put in place in 2018.

I attach a Type 1 notification which sets out the details of the SI which the UK Government propose to make and the reasons why I am content that Scottish devolved matters are to be included in this SI. Please note, we are yet to have sight of the final SI and it is not available in the public domain at this stage. We will, in accordance with the protocol, advise you when the final SI is laid and advise you as to whether the final SI is in keeping with the terms of this notification.

The purpose of this instrument is to amend Regulation (EU) 2017/852 of the European Parliament and of the Council on mercury, which is now assimilated law, to add several mercury added products to Annex II in accordance with changes to the Minamata Convention which were adopted by the Conference of the Parties in 2022 and 2023.

The UK Government has set a provisional laying date for this SI of 2 December 2025 with a coming into force date of 23 December 2025, and therefore if possible, consent from Scottish Ministers and agreement from Scottish Parliament is required by 28 November 2025.

I am copying this letter to the Convener of the Delegated Powers and Law Reform Committee.

I look forward to hearing from you by the 28 November 2025.

Yours sincerely,

GILLIAN MARTIN

Annexe E: Notification to the Scottish Parliament (Control of Mercury)

Name of the SI(s)

The Control of Mercury (Amendment) Regulations 2025

Is the notification Type 1 or Type 2

Type 1

Brief overview of the SI (including reserved provision)

The Control of Mercury (Amendment) Regulations 2025 ("the 2025 Amendment Regulations") will amend Regulation (EU) 2017/852 of the European Parliament and of the Council on Mercury ("the UK Mercury Regulation"), which is assimilated law, to add a number of mercury added products (MAPs) to the list of those which are prohibited for manufacture, import, and export, fulfilling the UK's commitments under an international Convention.

The Minamata Convention on Mercury is an international treaty, to which the UK is a signatory, which aims to reduce adverse human health and environmental effects of the metal mercury. The 2025 Amendment Regulation enables the UK to fulfil its responsibility to phase out several MAPs which were agreed at the Convention's Conference of the Parties (COP) 4 and 5 in 2022 and 2023. Annex II of the UK Mercury Regulation outlines the MAPs and date for which the export, import and manufacture of these products should be prohibited. The decision made at COP 4 of the Minamata Convention requires several MAPs to be phased out by 31st December 2025. The decision made at COP 5 requires the phase out of certain further MAPs with phase out dates of 2025, 2026 or 2027.

Details of the provisions that Scottish Ministers are being asked to consent to.

Regulation (EU) 2017/852 of the European Parliament and of the Council on Mercury ("the EU Mercury Regulation") is the mechanism by which the EU and its member states, including the UK while it was a member state, implemented the provisions of the Minamata Convention on Mercury through the prohibition of the manufacture, supply and trade of mercury and certain products containing mercury. The negative effects of mercury on human health and the environment are well recognised and understood. On IP completion day, the EU Mercury Regulation was converted into retained EU law and became the UK Mercury Regulation. The UK Mercury Regulation is now assimilated law.

Specific changes the Instrument makes

Products that contain intentionally added mercury (Mercury Added Products) listed in Annex II of the UK Mercury Regulation are prohibited from being manufactured, imported or exported after a phase out date listed within the regulation and in the

Protocol to it that are subject to elimination (Part A), alongside specific exemptions on continuing necessary uses of those substances (Part B). The 2025 Amendment

Regulations will result in several mercury added products being added to Annex II. Listing of these MAPs is required under the Minamata Convention and means that the MAPs' manufacture, import and export must cease unless specific time-limited exemptions, agreed at Convention level, are included for necessary uses.

The mercury added products which will be added to the Annex II list by the 2025 Amendment Regulations are:

- Very high accuracy capacitance and loss measurement bridges and high frequency radio frequency switches and relays in monitoring and control instruments with a maximum mercury content of up to 20 mg except those used for research and development purposes.
- Several compact fluorescent lights (CFLs)
- Several linear fluorescent lights (LFLs)
- Several non-linear fluorescent lamps (NFLs)
- Cold cathode fluorescent lamps (CCFL) and external electrode fluorescent lamps (EEFL) for electronic displays
- Strain gauges to be used in or with plethysmographs
- Melt pressure transducers, melt pressure transmitters and melt pressure sensors
- Mercury vacuum pumps
- Tyre balancers and wheel weights
- Photographic film and paper
- Propellant for satellites and spacecraft

For most of these the phase-out date is 31 December 2025, except for some of the CFLs and LFLs for which the phase-out dates are either 31 December 2026 or 31 December 2027.

Summary of the proposals

The United Kingdom is a party to the Minamata Convention. The UK Mercury Regulation implements the UK's obligations under the Minamata Convention in Great Britain, while the EU Mercury Regulation continues to apply in Northern Ireland. Annex II to the UK Mercury Regulation contains the substances listed in the Minamata Convention.

The objective of the Convention is to protect human health and the environment from the well documented harmful effects of mercury by phasing out or phasing down mercury use in products and industrial processes.

The purpose of the 2025 Amendment Regulations is to update the UK Mercury Regulation to include the prohibition of manufacture, import and export of further MAPs which were agreed at COP 4 and COP 5.

EU Alignment

The EU has already implemented its legislation to prohibit the additional MAPs as stipulated by the Minamata Convention, therefore this UK SI will bring us into closer alignment with the EU. The EU has also implemented a ban on the manufacture, use and trade of dental amalgam (which contains mercury). Under the Windsor Framework, NI implements the EU's mercury regulations. However, the UK Government is laying an SI which allow for the continued use and import of dental amalgam in NI, as separate arrangements have been granted in Northern Ireland as per European Commission Notice C/2024/4675. Currently, the Minamata convention encourages the phase-down of the use of dental amalgam, and Scottish Ministers support this, as dental amalgam can still be used where necessary in particular cases as dictated by clinical need. The EU has also implemented a phase-out of an additional MAP not agreed at Convention level.

Additionally, the phase-out of both of these MAPS could not be included in regulations made under article 20(1) of the UK Mercury Regulation as it provides powers only to amend Annex II to align with decisions adopted by the Conference of the Parties to the Minamata Convention.

Does the SI relate to a common framework or other scheme?

Yes. The UK Mercury Regulation forms part of the relevant regulations set out within the scope of the provisional Chemicals and Pesticides Common Framework.

Summary of stakeholder engagement/consultation

A full consultation for the 2025 Amendment Regulations was not carried out as the UK Government is required to implement the decisions of the Minamata Convention on Mercury. The Scottish Government understands that the UK Government has undertaken engagement with relevant stakeholders, both before and after COP 4 and COP 5. It is understood that no concerns were raised around the phase out of the MAPs, and they have limited to no use in Great Britain.

A note of other impact assessments, (if available)

No Scottish impact assessment has been prepared. Engagement that UK Government has had with relevant industries have not highlighted that there may be any impacts from the 2025 Amendment Regulations, as the majority of MAPs listed within them have little to no use across the UK at present.

Summary of reasons for Scottish Ministers' proposing to consent to UK Ministers legislation

Scottish Ministers consider that consenting to the 2025 Amendment Regulations is necessary to implement the UK's responsibilities under the Minamata Convention to phase out the outlined MAPs. It has been agreed that the UK Mercury Regulation will operate consistently across Great Britain in line with the common frameworks approach. Officials have worked with DEFRA to ensure the drafting

delivers for our interests and respects devolved competence in Scotland, and so the Scottish Ministers propose to agree to a GB-wide approach.

Intended laying date (if known) of instruments likely to arise

This instrument is subject to the negative procedure and is expected to be laid at Westminster on 2 December 2025.

If the Scottish Parliament does not have 28 days to scrutinise Scottish Ministers' proposal to consent, why not?

N/A

Information about any time dependency associated with the proposal

Change to the Minamata Convention on Mercury was adopted at the Conference of the Parties 4 and 5 in 2022 and 2023. The UK Government is required to implement the phase out of the identified MAPs by 31 December 2025.

Are there any broader governance issues in relation to this proposal, and how will these be regulated and monitored post-withdrawal?

None.

Any significant financial implications?

None.

NZET/S6/25/34/5

SI NOTIFICATION: SUMMARY

Title of Instrument The Control of Mercury (Amendment) Regulations 2025
Proposed laying date at Westminster 2 December 2025
Date by which Committee has been asked to respond 28 November 2025
Power(s) under which SI is to be made This SI is subject to negative procedure and is made in exercise of powers in Article 20(1) of assimilated law Regulation (EU) 2017/852 of the European Parliament and of the Council of 17 May 2017 on mercury.
Categorisation under SI Protocol Type 1
Purpose The purpose of this instrument is to amend Regulation (EU) 2017/852 of the European Parliament and of the Council on Mercury ("the UK Mercury Regulation" which is now assimilated law) to add several identified mercury added products (MAPs) for prohibition to domestic legislation as stipulated by the Minamata Convention on Mercury, to which the UK is a signatory. The SI will enact the prohibition of a number of MAPs that either have low use or for which use has already ceased in the UK. These amendments will also bring the UK into closer alignment with the EU, where these changes have already been adopted.
Other information These changes to the Minamata Convention on Mercury were adopted at Conference of the Parties 4 and 5 in 2022 and 2023 respectively.