

Expert Report: With the downstream notification deadline past, what now for UK REACH?

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REACHLaw's Pietro Di Tondo takes a look at the UK's chemical framework and how it is shaping up



On 27 October, UK REACH – for downstream user import notifications (DUINs) – passed its second major [deadline](#). Now is therefore a good time to reflect on what has happened since the implementation of the Regulation, the remaining key dates to be aware of, and the future of the UK's chemical regulatory landscape.

UK REACH came into force on 1 January this year and is now law. The Regulation's [implementation](#) followed several years of tumultuous discussions between the UK and EU authorities. Although it presents new challenges, the chemical industry seems to have embraced the Regulation without appearing to feel like it has been left in a state of limbo following the completion of Brexit.

In structure and principle, UK REACH is very similar to the EU Regulation (as of 31 December 2020, plus the statutory instruments implementing it: SI 2019 Nos 75, 85 and 1144, 2020 No 1577 and Amendment SI 2021 No 904).

Within Great Britain – England, Scotland and Wales – the Health and Safety Executive (HSE) assumes the same role that Echa holds in the EU. Registrants create UK REACH dossiers using the same Iucid software as in the EU, and this is then submitted through the Comply with UK REACH IT platform, which is effectively the same as the EU REACH-IT platform.

The HSE is also responsible for all aspects related to substances of very high concern (SVHC) identification. However, for Annex XIV entry and authorisations and Annex XVII restrictions, the Secretary of State for the Environment makes the final decision, with the agency providing any support or opinion needed.

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It is important to clarify that UK REACH refers just to Great Britain, rather than the whole of the UK, as Northern Ireland remains within EU REACH. As such Northern Ireland is therefore considered to be an importer under UK REACH, and companies based there must have their activities covered by a UK REACH registration, in the same way that those from the EU and the European Economic Area (EEA) must.

Companies located within Great Britain that were previously covered by EU REACH now fall under the UK Regulation. Those that were a GB importer from outside the EU/EEA/Northern Ireland, continue as such under UK REACH. Companies that were downstream users sourcing chemicals from the EU now become GB importers and have a duty to register.

The first main deadline for UK REACH – for the [grandfathering](#) of substances – was 30 April. This applied where a company was a registrant or authorisation holder under EU REACH. The grandfathering process allowed for any EU REACH registration, held by UK-based legal entities (including importers and UK-based only representatives (ORs)), to transfer their registration and be recognised by the HSE.

October's second UK REACH deadline focused on DUINs. Article 127 E of the statutory instrument implementing REACH in the UK provides transitional measures for GB-based legal entities. This means companies that are sourcing from outside, that are now classed as importers under UK REACH, can continue to do so providing they submit a DUIN and can demonstrate an existing supply.

By submitting a DUIN they are then able to take advantage of the transitional provisions in UK REACH and extend their registration deadlines to the specific tonnage band deadlines (see table):

UK REACH transitional measures, including those for DUINs, apply to substances that were actively traded in the UK between 1 January 2019 and 31 December 2020 at any annual volume. GB importers and ORs can supply

a DUIN using the Comply with UK REACH IT system and submit it to the HSE. For all other cases that do not fall within the transitional measures, companies must first inquire and then register a substance before placing it into the GB market at one tonne or more per annum (as with EU REACH).

Having said the above, the day after the official 27 October 2021 DUIN deadline, the UK authorities updated the guidance on how to comply with UK REACH chemical regulations and said that companies could continue to submit DUINs. This pragmatic approach recognised that – potentially because of the Covid-19 pandemic – not all companies were up to date with the guidance and deadlines. The guidance states that GB downstream users should submit their DUINs as soon as possible if importing EU REACH-registered substances into Great Britain at, or above, one tonne per year. These 'late DUINs' are similar to the late pre-registration scenario that occurred with EU REACH. This again reinforces the similarities between the two legal frameworks, making it feel somewhat Back to the Future!

Although the UK authorities have demonstrated flexibility in relation to DUINs, it has transpired that the registration deadlines above will not be as flexible, so it is extremely important not to take these for granted.

With the various deadlines fully set, the chemical industry can expect the UK government to publish an official consolidated version of its Regulation. This is important because, unlike the EU version, which can be read on the Echa website, no published UK REACH currently exists. Publication will add clarity to the framework as well as

Registration deadline	Tonnage band/substances
27 October 2023	<p>≥ 1000 t/a substances</p> <p>≥ 100 t/a very toxic to aquatic organisms (acute or chronic)</p> <p>≥ 1 t/a carcinogenic, mutagenic or reprotoxic (CMR) substances ≥ 1 t/a candidate list SVHCs as on EU List on 31 December 2020 (transposed to UK)</p>
27 October 2025	<p>100-1,000 t/a substances</p> <p>≥ 1 t/a substances (<i>unless already covered above</i>) that are on the UK REACH candidate list as of 28 October 2023</p>
27 October 2027	<p>All substances at the remaining substance tonnage band: 1-100 t/a substances</p>

the structure. This is something that the UK government recognises the need for and it will not be surprising to witness a first official publication in 2022.

In the meantime, it is extremely important for companies to know their own portfolio, correctly identify their position within the supply chain and perform the relevant registration actions.

The views expressed in this article are those of the author and are not necessarily shared by Chemical Watch. The author transparency statement can be seen [here](#).