

Consumer Products (Control of Biocides) Bill [HL]

[AS INTRODUCED]

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[AS INTRODUCED]

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B I L L

TO

Restrict the use of biocides (substances with antimicrobial properties) in consumer products; add biocides to the list of substances which cosmetic products, personal care products, and treated articles must not contain except subject to restrictions; require the Secretary of State to monitor the impact of biocides in these products on antibiotic resistance; grant the Secretary of State, and require the use of, powers to reduce the use of biocides which cause antibiotic resistance; prohibit marketing that makes misleading claims about products containing biocides compared to soap and water or alcohol based sanitisers; and for connected purposes.

BE IT ENACTED by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Prohibition on use of biocides

- (1) It is an offence for a product to be made available for public sale from five years after the day on which this Act is passed if it—
 - (a) is a cosmetic product, a personal care product, or a treated article, and
 - (b) contains biocidesunless the product is exempted under section 2. 5
- (2) A person who commits an offence under section 1(1) is liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.
- (3) Where an offence under this Part has been committed by a body corporate and it is proved that the offence—
 - (a) has been committed with the consent or connivance of a person falling within subsection (4), or
 - (b) is attributable to any neglect on the part of such a person,that person (as well as the body corporate) is guilty of that offence and is liable to be proceeded against and punished accordingly. 10
- (4) The persons are—
 - (a) a director, manager, secretary or other similar officer of the body;
 - (b) any person who was purporting to act in such a capacity. 15

2 Exemptions from prohibition

A product is exempt from section 1 if—

- (a) it is medical in nature,
- (b) it is proven to be environmentally safe under real-world conditions,
or
- (c) the producer can demonstrate that the efficacy of the produce is significantly enhanced by the use of the biocide without undue environmental impact.

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3 Biocidal Consumer Products Advisory Board

(1) Within six months of the day on which this Act is passed the Secretary of State must establish a Biocidal Consumer Products Advisory Board (“the Board”).

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(2) The Board must—

- (a) keep under review scientific and social evidence on the use and effect of biocides in consumer products in the United Kingdom, particularly regarding microbiotoxicity and its effects on antimicrobial resistance,
- (b) give to any one or more Ministers, where either the Board consider it expedient to do so or they are consulted by the Minister or Ministers in question, advice on measures (whether or not involving alteration of the law) which in the opinion of the Council ought to be taken in relation to those biocides,
- (c) review, on request from the producer or the Secretary of State, an advertising claim relevant to section 6 (marketing of biocidal products),
- (d) consider any matter relating to the use of biocides in relevant consumer products which may be referred to them by any one or more of the Ministers and advise the Minister or Ministers in question thereon, and
- (e) advise the Secretary of State with respect to any communication referred by him or her to the Board, being a communication relating to the control of any dangerous or otherwise harmful biocide made to the Government by any organisation or authority established by or under any treaty, convention or other agreement or arrangement to which that Government is a party.

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4 Power to ban the sale of a biocidal consumer product

(1) The Secretary of State may by regulations made by statutory instrument prohibit the sale of a biocidal consumer product if it presents a danger on the grounds of—

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- (a) microbiotoxicity, or
- (b) the generation of antimicrobial resistance.

(2) Regulations issued under subsection (1) may, but need not be, based on advice from the Biocidal Consumer Products Advisory Board.

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- (3) If the Board does recommend regulations to be made under this section, the Secretary of State must make them within three months of that recommendation being made.
- (4) A statutory instrument containing regulations under this Act may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

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5 Monitoring the impact of biocides in biocidal consumer products

At least once every two years the Secretary of State must produce and lay before Parliament a report on the impact of biocides in consumer products on—

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- (a) the natural environment, and
- (b) human health, in particular antibiotic resistance.

6 Marketing of biocidal products

- (1) Subject to subsection (2), from one year after the day on which this Act is passed, it is an offence for the marketing of a consumer product containing biocides to implicitly or explicitly claim that it is more effective than a soap- or alcohol-based sanitiser, unless that claim has been proven to the satisfaction of the Biocidal Consumer Products Advisory Board.
- (2) A person who commits an offence under section 6(1) is liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.
- (3) Where an offence under this Part has been committed by a body corporate and it is proved that the offence—
- (a) has been committed with the consent or connivance of a person falling within subsection (4), or
- (b) is attributable to any neglect on the part of such a person, that person (as well as the body corporate) is guilty of that offence and is liable to be proceeded against and punished accordingly.
- (4) The persons are—
- (a) a director, manager, secretary or other similar officer of the body;
- (b) any person who was purporting to act in such a capacity.

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7 Definitions

In this Act—

“biocide” means a substance with known or reasonably suspected antimicrobial effects, but does not include edible substances or commonly-used natural substances;

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“cosmetic product” means any substance or mixture intended to be placed in contact with the various external parts of the human body (epidermis, hair system, nails, lips and external genital organs) or with the teeth and the mucous membranes of the oral cavity with a view exclusively or mainly to cleaning them, perfuming them, changing

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their appearance, protecting them, keeping them in good condition or correcting body odours;

“personal care product” means a product which may be applied externally on a person’s body or on their teeth and mucous membrane of the oral cavity, in order to make them clean, protect them from harmful germs and keep them in good condition;

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“treated article” means any substance, mixture or article which has been treated with, or intentionally incorporates, one or more biocidal products.

8 Extent, commencement and short title

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- (1) This Act extends to England and Wales only.
- (2) This Act comes into force on the day on which this Act is passed.
- (3) This Act may be cited as the Consumer Products (Control of Biocides) Act 2024.

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Baroness Bennett of Manor Castle

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