

Title: EU Regulation on the Marketing and Use of Explosives Precursors IA No: HO Lead department or agency: HOME OFFICE Other departments or agencies: MINISTRY OF JUSTICE, HM TREASURY	Impact Assessment (IA)		
	Date: March 2014		
	Stage: FINAL		
	Source of intervention: EU		
	Type of measure: Secondary legislation		
	Contact for enquiries: precursorsandpoisons@homeoffice.x.gsi.gov.uk		

Summary: Intervention and Options	RPC Opinion: Green
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Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as Two-Out?
-£20.7m	-£19.9m	£1.9m	NO
			N/A

What is the problem under consideration? Why is government intervention necessary?

Chemicals that can be used to manufacture homemade explosives can be made available to the public by retailers. This may increase the likelihood of a successful terrorist attack. Government intervention is necessary to deter and detect terrorist acquisition of explosive precursors and to comply with EU law.

<p>What are the policy objectives and the intended effects?</p> <p>The policy objectives are to:</p> <ul style="list-style-type: none"> • Prevent terrorists using explosives precursors in attacks. • Provide a mechanism to alert authorities to terrorist activity. • Minimise the burdens on industry and legitimate users.

<p>What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)</p> <p><u>Option 1</u> is to make no changes (do nothing). <u>Option 2</u> is to ban sales of Annex 1 chemicals above the concentration thresholds to the general public. <u>Option 3, (the preferred option)</u> is to allow the general public to purchase Annex 1 chemicals above the concentration thresholds if they hold a valid licence. This offers the greatest protection whilst minimising burdens on retailers. <u>Option 4</u> is to allow the general public to purchase a subset of Annex 1 chemicals above the concentration thresholds with a licence, and another subset by entering personal details into a register at the point of sale. Above concentration thresholds for the latter subset, the sale would be either a) banned or b) licensed. Options 2 to 4 also include a requirement for:</p> <ul style="list-style-type: none"> • Labelling products affected by the restrictions in Annex 1. • Suspicious transaction, theft and significant loss reporting. This is necessary for all transactions involving Annex 1 and 2 chemicals at any concentration including business to business sales.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 2017					
Does implementation go beyond minimum EU requirements?			No		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro Yes	< 20 Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: N/A		Non-traded: N/A

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister: James Brokenshire Date: 19 May 2014

Summary: Analysis & Evidence**Policy Option 2**

Description: Ban sales of Annex 1 chemicals above the concentration thresholds to the general public

Price Base Year: 2014	PV Base Year: 2014	Time Period Years: 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -14.7	High: -8.1	Best Estimate: -11.4

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	2.0	1	0.7	8.1
High	5.0		1.1	14.7
Best Estimate	3.5		0.9	11.4

Description and scale of key monetised costs by 'main affected groups'

Transition costs to business in year one include: verifying which products are concerned (£1.7 to £4.6 million) and providing information to prospective buyers on new restrictions (£0.3 million)

For the public sector, there will be a one off cost to police in providing training (<£0.1 million)

Other key non-monetised costs by 'main affected groups'

The most significant cost that would be disproportionate to quantify is the loss of profit to business from the banned products and the impact on home users.

Additional costs are assumed to be low or negligible, such as: labelling affected products and ensuring that internet sales are compliant. There are potential costs to public sector from additional staffing requirements of the anti-terrorism hotline and potential costs to the criminal justice system (including the Crown Prosecution Service, Her Majesty's Courts and Tribunal Services, the Legal Aid Agency and NOMS), from any prosecutions or appeals under the new offences (see Annex C for a full outline).

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low		NK		
High				
Best Estimate				NK

Description and scale of key monetised benefits by 'main affected groups'

N/A

Other key non-monetised benefits by 'main affected groups'

The intended benefit of this policy is to reduce the likelihood or potential impact of a terrorist attack using an Improvised Explosive Device. By banning general public use for high risk chemicals, the risk of misuse of these chemicals has been reduced. It is extremely difficult to estimate the current cost and probability of a terrorist attack, let alone the impact that this policy will have on these figures. Benefits have therefore not been quantified.

Key assumptions/sensitivities/risks

Discount rate (%)

3.5

As most of the costs fall on business, the main sensitivity is around the number of businesses affected. It has not been possible to accurately estimate the number of businesses currently selling Annex 1 and 2 chemicals.

There is a risk that: businesses will not comply with the regulations, the threat of misuse of these chemicals may not be reduced, or instead the threat is displaced.

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: 1.1	Benefits: 0	Net: -1.1	NO	N/A

Summary: Analysis & Evidence**Policy Option 3**

Description: Allow the general public to purchase Annex 1 chemicals above the concentration threshold if they hold a valid licence.

Price Base Year: 2014	PV Base Year: 2014	Time Period Years: 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -24.0	High: -17.3	Best Estimate: -20.7

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low		2.4	1.7	17.3
High		5.3	2.2	24.0
Best Estimate		3.8	2.0	20.7

Description and scale of key monetised costs by 'main affected groups'

Transition costs to business in year one include: verifying which products are concerned (£1.7 to £4.6 million) and providing information to prospective buyers on new restrictions (£0.3 million). Ongoing costs to business are training (£0.7 to £1.1 million) and processing and keeping a record of licensed users (£1.0 million).

For the public sector, there will be a one off cost to police in providing training (<£0.1 million), the set-up cost of the licensing system (£0.35 million) and administering licences (£0.05 million).

Other key non-monetised costs by 'main affected groups'

Additional costs are assumed to be low or negligible, such as: labelling affected products and ensuring that internet sales are compliant. There are potential costs to public sector from additional staffing requirements of the anti-terrorism hotline and potential costs to the criminal justice system (including the Crown Prosecution Service, Her Majesty's Courts and Tribunal Services, the Legal Aid Agency and NOMS), from any prosecutions or appeals under the new offences (see Annex C for a full outline).

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low				
High				
Best Estimate		NK		NK

Description and scale of key monetised benefits by 'main affected groups'

N/A

Other key non-monetised benefits by 'main affected groups'

The intended benefit of this policy is to reduce the likelihood or potential impact of a terrorist attack using an Improvised Explosive Device. By licensing general public use for high risk chemicals, the risk of misuse of these chemicals has been reduced. It is extremely difficult to estimate the current cost and probability of a terrorist attack, let alone the impact that this policy will have on these figures. Benefits have therefore not been quantified.

Key assumptions/sensitivities/risks

Discount rate (%)

3.5

As most of the costs fall on business, the main sensitivity is around the number of businesses affected. It has not been possible to accurately estimate the number of businesses currently selling Annex 1 and 2 chemicals.

There is a risk that: businesses will not comply with the regulations, the threat of misuse of these chemicals may not be reduced, or instead the threat is displaced and a licence could be issued to an inappropriate individual.

BUSINESS ASSESSMENT (Option 3)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: 1.9	Benefits: 0	Net: -1.9	NO	N/A

Summary: Analysis & Evidence

Policy Option 4

Description: Allow the general public to purchase a subset of Annex 1 chemicals above the concentration thresholds with a licence, and another subset by entering personal details into a register at the point of sale. Above concentration thresholds for the latter subset, the sale would be either a) banned or b) licensed.

Price Base Year:	PV Base Year:	Time Period Years:	Net Benefit (Present Value (PV)) (£m)		
2014	2014	10	Low: -20.4	High: -13.8	Best Estimate: -17.1

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	2.0	1.7	17.0
High	5.0	2.2	23.6
Best Estimate	3.5	2.0	20.3

Description and scale of key monetised costs by 'main affected groups'
 Transition costs to business in year one include: verifying which products are concerned (£1.7 to £4.6 million) and providing information to prospective buyers on new restrictions (£0.3 million). Ongoing costs to business are training (£0.7 to £1.1 million) and processing and keeping a register of transactions (£1.0m).

For the public sector, there will be a one off cost to police in providing training (<£0.1 million).

Other key non-monetised costs by 'main affected groups'
 Additional costs are assumed to be low or negligible, such as: labelling affected products and ensuring that internet sales are compliant. There are potential costs to public sector from additional staffing requirements of the anti-terrorism hotline and potential costs to the criminal justice system (including the Crown Prosecution Service, Her Majesty's Courts and Tribunal Services, the Legal Aid Agency and NOMS), from any prosecutions or appeals under the new offences (see Annex C for a full outline).

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low			
High			
Best Estimate	NK		NK

Description and scale of key monetised benefits by 'main affected groups'
 N/A

Other key non-monetised benefits by 'main affected groups'
 The intended benefit of this policy is to reduce the likelihood or potential impact of a terrorist attack using an Improvised Explosive Device. By registering general public use for high risk chemicals, the risk of misuse of these chemicals may be reduced but a review of the Poisons Act showed that it is not likely to be an effective measure. It is extremely difficult to estimate the current cost and probability of a terrorist attack, let alone the impact that this policy will have on these figures. Benefits have therefore not been quantified.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5
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As most of the costs fall on business, the main sensitivity is around the number of businesses affected. It has not been possible to accurately estimate the number of businesses currently selling Annex 1 and 2 chemicals. As the register does not allow for suitability checks of the individuals purchasing the chemicals, it does not provide effective protection against terrorists using Annex 1 chemicals. There is also a risk that: businesses will not comply with the regulations.

BUSINESS ASSESSMENT (Option 4)

Direct impact on business (Equivalent Annual) £m:	In scope of OITO?	Measure qualifies as
Costs: 1.9 Benefits: 0 Net: -1.9	NO	N/A

Evidence Base (for summary sheets)

A. Strategic Overview

A.1 Background

This final stage impact assessment assesses the introduction of control measures for sales of chemicals that can be used to make homemade explosives.

EU regulation

The Regulation on the Marketing and Use of Explosives Precursors was published in the Official Journal of the European Union on 9 February 2013. Government intervention is required to ensure the UK complies with EU law.

The EU Regulation bans the sale of seven chemical precursors (Annex 1 of the regulation) to homemade explosives above specified concentrations from sale to the general public. There are two derogations available: 1) A member state may maintain or establish a licensing regime for certain concentrations of precursors; or 2) a member state may maintain or establish a registration regime for certain concentrations of precursors (see section D for further details). Retailers and wholesalers must ensure that any restricted product is labelled as per the guidance to be developed by the European Commission. Retailers must also monitor transactions of these and a further eight chemicals (Annex 2 of the regulation) for suspicious activity at any concentration great enough that the substance is listed as an ingredient on the label.

The aim of the regulation is to make it easier for authorities to detect attempts to purchase high risk explosives precursors, while still allowing purchase for legitimate purposes.

A.2 Groups Affected

Consumers (home users)

Home users will be affected. There are legitimate household or hobby uses for some of the chemicals affected by the policy restrictions. Home users will need to apply for a licence or find an alternative product, and demonstrate a legitimate purpose when buying the controlled chemicals.

Public retailers

'Public retailers' refers to companies selling chemicals for household or hobby uses. This would typically include: pharmacies, home improvement stores, garden centres and swimming pool supply companies. Public retailers will need to check licences, identify and report suspicious activity or cease trading certain products.

Professional users

Professional users will be affected by the possible need to demonstrate an ongoing professional need for the chemicals for purposes connected to their trade, business or profession but the impact will be significantly less than that for home users.

Production supply chain: producers, manufacturers, transporters and wholesalers

Producers, manufacturers, transporters and wholesalers in the UK are expected to be affected by the need to label products within scope of the legislation, the need to report suspicious transactions, thefts and significant losses and by changes in demand for their products.

General public

The general public will be expected to be safer because of the reduced chance of terrorist attacks using homemade explosives.

Central Government

The Home Office and enforcement authorities will administer the licensing scheme and reporting hotline, ensure legal compliance and taking action against retailers found to be supplying chemicals or members of the general public found to be in possession of chemicals in breach of

the regulation. There may also be a downstream impact on the Criminal Justice System and the Ministry of Justice.

A.3 Consultation

Within Government

The policy has previously been subject to scrutiny through the House of Lords European Union Sub-Committee Scrutiny Committee and the Commons European Scrutiny Committee. It has also been the subject of correspondence with the Reducing Regulation Cabinet Committee and the National Security Council (Threats, Hazards, Resilience and Contingencies) Sub-Committee. On an official level it is regularly discussed at the cross-Government Hazardous Sites and Substances and Protect Boards.

Public Consultation

This impact assessment has been created following public consultation. A seven week written consultation was launched on 21 November 2013. A total of 45 responses were received from home users, business users, wholesalers and distributors, retailers and professional societies and members of the general public with a less specific interest. The consultation sought views on the impact of the policy options on members of the general public, suppliers, business users, manufacturers, distributors and formulators and gave detail on how each of the options might work in practice, and the possible costs and administrative burdens of each option.

Government officials have held one to one discussions with home users, the chemical industry, business and retail representatives. As much information as possible has been gathered from those who will be affected by the regulation through formal and informal consultation. This has been used to refine the estimates within this impact assessment and to develop a practical approach that is as easy for businesses to implement as possible. The Government response to the consultation can be found on the Home Office website.¹

B. Rationale

Government intervention is necessary to comply with EU law. By supplying members of the general public with chemicals that can be used to manufacture home-made explosives, retailers increase the likelihood of a successful terrorist attack. By requiring a minimum level of care from businesses dealing with the sale of explosives precursors, the policy should increase the likelihood of deterring and/or detecting potential attacks.

C. Objectives

The policy objectives are to:

- Prevent terrorists using explosives precursors in attacks.
- Provide a mechanism to alert authorities to terrorist activity.
- Minimise the burdens on industry and legitimate users.

D. Options

The European regulation is split into two annexes. Annex 1 chemicals are those that have a significant history of effective misuse in Improvised Explosive Devices across Europe. Annex 2 chemicals are those that have been used in terrorist attacks, but are less easy to make explosives out of and where banning or restricting sales would be disproportionate to the risk posed by the chemical (for example, the sale of ammonium nitrate is controlled by other regulations).

The following options were considered in the consultation stage impact assessment. **Option 2 is in line with the EU regulations whilst Option 3 and 4 are potential derogations.**

Option 1 is to make no changes (do nothing).

¹ "Government Response to the Home Office Consultation on the EU Regulation on the Marketing and Use of Explosive Precursors", www.gov.uk/homeoffice

Option 2 is to ban sales of Annex 1 chemicals above the concentration threshold² to the general public. Business to business sales would be unaffected by the ban.

Table 1, Annex 1 chemicals

Substance	Concentration threshold ³
hydrogen peroxide	12% w/w
nitromethane	30% w/w
nitric acid	3% w/w
potassium chlorate	40% w/w
potassium perchlorate	40% w/w
sodium chlorate	40% w/w
sodium perchlorate	40% w/w

Option 3 is to allow the general public to purchase Annex 1 chemicals above the concentration threshold if they hold a valid licence. Business to business sales would not need to be licensed but business users would need to be prepared to demonstrate an ongoing business need for the substance at the point of sale if asked.

Option 4 is to allow the general public to purchase the Annex 1 chemicals (see Table 2) above the concentration threshold (*Group A*) with a licence and the Annex 1 chemicals (*Group B*) (see Table 3) by entering personal details into a register at the point of sale.

Table 2, Annex 1, Group A chemicals

Substance	Concentration threshold
potassium chlorate	40% w/w
potassium perchlorate	40% w/w
sodium chlorate	40% w/w
sodium perchlorate	40% w/w

Table 3, Annex 1, Group B chemicals

Substance	Concentration threshold
hydrogen peroxide	12% w/w to 35% w/w
nitromethane	30% w/w to 40% w/w
nitric acid	3% w/w to 10% w/w

Above the concentration threshold quoted for Group B chemicals (see Table 3), the sale to the general public would be either a) banned or b) licensed.

Options 2 to 4 also include a requirement for labelling products affected by the restrictions in Annex 1 clearly to indicate that the acquisition, possession, introduction or use of the product is restricted.

Options 2 to 4 include a requirement for suspicious transaction, theft and significant loss reporting. This is necessary for all transactions involving Annex 1 and 2 chemicals **at any concentration** including business to business sales. Guidance on the detail of this will be prepared by the European Commission before 2 September 2014 (the transposition deadline).

Table 4, Annex 2 chemicals

Substance
hexamine
sulphuric acid
acetone
potassium nitrate

² To avoid confusion, where "Annex 1 businesses" only applies to those that sell above the concentration thresholds, they are labelled "Annex 1 (above the concentration threshold) businesses."

³ w/w = weight by weight which means the percentage weight of a substance within the total weight of a mixture. For example, 5 % hydrogen peroxide means 5g of hydrogen peroxide in 100g total mixture of hydrogen peroxide and water.

sodium nitrate calcium nitrate calcium ammonium nitrate ammonium nitrate

Imports to a UK business and exports outside of the EU would not be affected. Introduction to an individual home user within the EU would need to comply with the regulation as implemented in that Member State. Any individual that imports, for home use, a) banned Annex 1 chemicals (above the concentration threshold) (Option 2); b) licensed Annex 1 chemicals (above the concentration threshold) without the necessary licence (Options 3 and 4) could face criminal prosecution.

The European Commission will review the effectiveness of the regulation in 2017. This will include consideration of whether to extend the restrictions to business to business transactions.

Consultation responses

The consultation responses suggest that licensing (Option 3) was the favoured option amongst retailers, businesses and users. Respondents commented that in their opinion licensing would best meet the policy objectives. Licensing was felt to retain consumer choice. It offered the freedom for members of the general public to choose to continue their activities where there are no suitable alternative chemicals available to use and targeted the end user rather than the retailer.

The consultation also suggested that a combination of registration and licensing was a supported option. However, many respondents felt that a stratified system, involving more than one control measure, would be too complex and costly for retailers to implement and for the general public to understand.

There was very little support for the option to ban the Annex 1 precursor chemicals. Some respondents commented that a ban would have disastrous consequences on their hobbies and detrimental effects for industry as there are no available alternatives. Some suppliers deal in only a small range of materials, meaning banning sales to the general public would have a significant impact on their company.

Preferred option

Based on the analysis in sections E and F, the analysis of the public consultation and given the three stated policy objectives, **licensing is the preferred option**. Licensing allows legitimate users to purchase Annex 1 chemicals whilst minimising burdens on retailers, giving them the choice of whether to continue selling the affected chemicals, and offering an opportunity to check the suitability of the licence applicant and their intended uses. Option 2 (banning) would have the greatest impact on legitimate users and retailers of Annex 1 chemicals by prohibiting general public purchase. Option 4 (registration and ban or licence) would cost businesses at least the same as Option 3 due to the similar processes required⁴, but does not provide effective protection against terrorists using Annex 1 chemicals in terrorist attacks because it does not allow for suitability checks of the individual before a purchase is made and places a greater burden on retailers by making them keep a register in addition to checking licences and verify the legitimacy of the intended use and the intentions of the user.

Options 1, 2 and 4 are therefore not included in the appraisal section of this final stage impact assessment below. For the full appraisal, please see the consultation stage impact assessment⁵.

⁴ Under registration, regulation 98/2013 requires businesses to check identification and complete a register with details of the transaction (name, address, identification number, the substance, quantity, intended use, date and place of transaction and signature of the customer) whilst under licensing, business will have to check the identification and licence and complete a form with details of the transaction (date, substance, quantity and seller). This does not include Group A chemicals which will be licensed under both Options.

⁵ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/262893/Explosive_Precursors_IA.pdf The only additional piece of information required to understand the costs on the summary pages is the assumptions behind the cost of registration for Option 4. It is assumed that Annex 1 (above conc.) retailers will spend 15 minutes, 6 days a week, signing the register. Hourly wage= £9,70, see Annex B for references.

E. Appraisal (Costs and Benefits)

GENERAL ASSUMPTIONS & DATA

While efforts have been made to understand the costs and benefits to all affected groups, it is necessary to make some assumptions. The Home Office has (as far as possible) strengthened and confirmed the evidence base through information gathered from consultation.

Number of businesses affected

The affected chemicals are known to have a wide range of uses and are therefore sold by a wide range of businesses. The main uses are presented in Tables 5 and 6.

The number of businesses that sell Annex 1 and 2 chemicals has been estimated using ONS data on the number and size of UK local units, sorted by Standard Industrial Classification (SIC) codes. The SIC codes encompass a number of different types of business and assumptions were made as to what proportion of each SIC code would sell Annex 1 and 2 chemicals. The Home Office is aware that these figures are assumption-based, but consultation has provided sense check and found no new evidence to improve the estimates (see Annex A for further details).

The SIC codes would not enable an accurate estimate of the number of Annex 1 (above the concentration threshold) retailers, as these are very niche businesses. Research was carried out to gather initial estimates of the number of retailers (see Table 7).

We have assumed that the SIC code approach includes Annex 1 (above the concentration threshold) retailers but we do not subtract these retailers from the total number due to the different methodologies used to estimate the scale. **The overall impact is therefore likely to be an overestimate.**

Professional users, defined as those that use precursors as part of their business activity, are not expected to be significantly affected by this policy. There will be a negligible cost of providing documentation when purchasing precursors, such as proof of VAT payment. In particular, many businesses would need to do this already in order to purchase a wholesale price.

Table 5, Annex 1 chemicals and their uses.

Substance	Main uses
hydrogen peroxide	<ul style="list-style-type: none">• Wound disinfectant.• Metal etching, cleaning and treatment.• Bleaching agent.
nitromethane	<ul style="list-style-type: none">• Model engine fuel.
nitric acid	<ul style="list-style-type: none">• Metal etching.
potassium chlorate	<ul style="list-style-type: none">• Pyrotechnics.• Herbicide.
potassium perchlorate	<ul style="list-style-type: none">• Pyrotechnics and rocket propellant.
sodium chlorate	<ul style="list-style-type: none">• Pyrotechnics.• Herbicide.
sodium perchlorate	<ul style="list-style-type: none">• Pyrotechnics and rocket propellant.

Table 6, Annex 2 chemicals.

Substance	Main uses
hexamine	<ul style="list-style-type: none">• Camping fuel tablets
sulphuric acid	<ul style="list-style-type: none">• Swimming pool cleaner• Drain cleaner
acetone	<ul style="list-style-type: none">• Household solvent

	<ul style="list-style-type: none"> • Nail varnish remover
potassium nitrate	<ul style="list-style-type: none"> • Food preservative • Fertiliser
sodium nitrate	<ul style="list-style-type: none"> • Food preservative • Fertiliser
calcium nitrate	<ul style="list-style-type: none"> • Fertiliser
calcium ammonium nitrate	<ul style="list-style-type: none"> • Fertiliser
ammonium nitrate	<ul style="list-style-type: none"> • Fertiliser (business to business only)

Table 7, Number of businesses (see Annex A for details).

Business type	Lower	Best⁶	Upper
<i>Annex 1 (above the concentration threshold) retailers⁷</i>		<i>1,300</i>	
Retailers	5,000	8,900	12,900
Wholesalers	1,900	3,400	4,800
Producers	700	1,100	1,500
Pharmacists and KYC retailers ⁸		30,000	
TOTAL⁹	37,500	43,400	49,200

Responses to the consultation and follow up research show that there are no ready alternatives for home uses of the Annex 1 precursor chemicals. Respondents stated that as long as the licence is easy to apply for, and does not cost more than £40, they will continue to purchase Annex 1 chemicals. Therefore, demand for these chemicals is unlikely to be significantly affected.

COSTS

The activities and the related costs are outlined below.

Costs to business for Licensing

The majority of these costs are based on assumptions about the amount of time that might be reasonably taken to perform each activity. The evidence base underlying these assumptions has been strengthened through the written consultation and stakeholder discussions.

Transition costs

These costs will be incurred in year one.

E.1 Verifying which products are affected

Businesses will need to check which of their products are affected and, for Annex 1 chemicals to be made available to the general public, whether they are above the concentration threshold. This is in order to label the relevant products appropriately and be aware of the new regulations affecting them.

Based on responses to the consultation, an estimate of 2 to 5 administration hours per business has been made¹⁰. It is assumed that producers and specialist suppliers would already be aware of what concentrations their products are therefore do not incur a cost.

⁶ Best estimate is the mid-point between the lower and upper estimates.

⁷ Assumed to be included in the total number of retailers.

⁸ Know Your Customer recipients (see Section E.8)

⁹ Numbers may not add up due to rounding.

¹⁰ The amount of time taken will vary by the size of the retailer but the methodology to estimate the number of businesses affected does not allow for separation by size.

The total cost is estimated to be **£1.7 to £4.6 million in the first year**. See Annex B, Table B.1 for details.

E.2 Labelling affected products

Retailers will need to work with their suppliers to ensure Annex 1 chemicals above the concentration thresholds are labelled if they are to be made available to the general public. Based on information from the consultation and a key industry association, as long as manufacturers and formulators are made aware of the requirement in good time before the regulation comes into force, the costs of adding a single line of text to a label would be negligible. If labels need to be affixed retrospectively because we have not raised awareness in good time (as manufacturers print labels and cans in bulk in advance of filling them) the cost to business would be estimated at 1p per label.

Awareness of the forthcoming regulation has been raised by using a layered information dissemination method (including through business and hobby associations, news articles, stakeholder workshops and via head offices). This has targeted retailers, wholesalers, formulators, home users and law enforcement agencies and started in March 2014 to allow all affected groups to prepare for the changes.

E.3 Providing information for prospective buyers on restrictions concerning concentration levels

Annex 1 (above the concentration threshold) retailers will need to inform customers that the goods are now licensed and potentially point them to alternatives if available. This is assumed to take 30 administration minutes per week for each business at an estimated cost of £248 per retailer in the first year, with negligible costs from year 2 onwards¹¹. The total cost is therefore **1,300 * £252 = £0.3 million in year one**.

As requested during consultation, the Home Office will provide lines for businesses to take when explaining the regulatory changes that affect their products.

E.4 Internet sales

Online retailers that sell Annex 1 chemicals above the concentration thresholds will need to ensure that they are selling to businesses or licensed general public users at the recorded address. Online sellers tell us that they can add a field on their online ordering forms to request a license number and would be willing to use a Home Office provided service that allows them to check the validity of the licence. The private delivery service will also be requested to ensure that the recipient possesses the necessary documents (for a business, this could be VAT receipts; for a licensed user, this would be the licence).

Limited research has identified 43 independent online retailers of above concentration Annex 1 precursors.

Ongoing costs

E.5 Compulsory training and awareness raising of staff members

All businesses that currently sell Annex 1 or Annex 2 chemicals will need to familiarise themselves with the new regulations, and maintain this knowledge each year.

Training is expected to take significantly more time for Annex 1 (above the concentration threshold) retailers who will need to be aware of the restrictions in place for sale to the general public. Annex 2 retailers will need to learn and maintain their knowledge about suspicious transactions and significant loss reporting.

Producers, wholesalers, transporters and pharmacies that sell explosive precursors are expected to have already received some training on suspicious transactions and significant loss reporting.

¹¹ Using the hourly wage of a sales and customer service occupation (Annual Survey of Hourly Earnings, 2013) updated to 2014/15 prices using GDP deflators and 30 per cent on costs from the Standard Cost Model, Better Regulation Framework.

This assumption is based on evidence gathered through the public consultation and aggregated information from the Chemical Business Association, the Agricultural Industries Confederation, the Swimming Pool and Allied Traders Association and the Company Chemists Association.

Based on responses to the consultation, it is assumed that training will take 2 hours for each member of staff for Annex 1 (above the concentration threshold) retailers as they need to know how and when to check licences. 3 hours per store for retailers of Annex 2 substances (excluding pharmacies) and 0.5 hours for other businesses (wholesalers, producers, KYC recipients)¹². This estimate is the upper estimate as the Home Office is working with retailers to reduce staff training requirements by developing systems to minimise the numbers of staff who have to deal with the affected products. In addition, training costs would be expected to reduce over time as retailers adapt to the new regulations.

The total cost is estimated to be **£0.7 to £1.1 million per year at a present value of £6.1 to £9.8 million over 10 years**. See Annex B, Table B.2 for details.

E.6 Checking that a business is a business

Information from businesses and associations suggests that producers and wholesalers would already have mechanisms in place to check that they are only dealing with businesses that need the restricted chemicals for the purpose of their trade, business or profession. We are developing advice on how a wholesaler can verify an ongoing business need by checking, for example VAT receipts and company numbers. This advice is to be voluntary; it will be the responsibility of the business to be content that they are selling to appropriate customers in compliance with the regulation.

Therefore it is retailers that will face the biggest burden as they may sell to professional users (those that use precursors as part of their business activity) and may need to check documents which they may not have done previously. This is estimated to take two minutes per transaction.

It has not been possible to estimate the number of transactions that will occur. This is due to a lack of evidence on the total number of retailers selling to business users, as well as the number of business users. Further information on this was sought through the consultation but was not available.

There will also be an impact on professional users who may be asked for proof, such as VAT number and/or company number. This is expected to be negligible, particularly as wholesalers should already be ensuring that they only sell to businesses.

E.7 Reporting suspicious transactions, thefts or significant losses

Any business that experiences a suspicious transaction, theft or significant loss, must report this to the anti-terrorism hotline. It is not possible to estimate exactly how many suspicious transactions or significant losses will occur.

'Know Your Customer' (KYC) type campaigns, currently run by NaCTSO (National Counter-Terrorism Security Office) have been running from the 1990s and are reported to have informed 30,000 chemists, opticians, dentists and pharmacies regarding voluntary measures about suspicious transaction reporting.

The anti-terrorism hotline reported that in recent months there was an average of four calls per month that made reference to chemicals. Following an internal review of the KYC campaign, evidence suggests that a number of businesses contact the police directly, instead of the anti-terrorism hotline. Assuming that at least as many calls are made to police as to the hotline, and that these calls are from businesses that received KYC training reporting suspicious transactions, an estimated one call per 312 businesses would be made per year.¹³ Whilst the estimated number of

¹² Know Your Customer recipients (see Section E.8)

¹³ 96 (4 calls from the hotline plus 4 calls from the police each month) divided by 30,000.

calls currently made to the anti-terrorism hotline are not necessarily all about suspicious transactions, therefore likely to be an overestimate, it is expected that due to the awareness raising campaign that will follow the implementation of this policy, there will be an initial spike in calls.

With an estimated 7,500 to 19,200 additional businesses affected by these regulations, then, an estimated 24 to 61 extra calls would be made each year. This may be a low estimate due to the more specialist nature and higher baseline awareness level of the businesses that have already received 'KYC' training and the fact that this policy will raise awareness. Some businesses will already contact the police following a suspicious transaction or significant loss. The cost of suspicious transaction reporting to business is expected to be negligible.

HO and EU guidance will be issued that will give clear advice on how to identify and report suspicious transactions. This will be based on current business models to ensure the advice results in a practical way to achieve requirements in a cost effective way.

E.8 Processing licences and keeping a record of licensed users

Annex 1 (above the concentration threshold) retailers will need to check the licence against photographic ID for each transaction from the general public and mark the details of the transaction on the back of the licence. The consultation suggests that processing licences will take 15 minutes per day. With an estimated 1,300 retailers (hobby shops (nitromethane and pyrotechnic experimenters), and swimming pool cleaners (hydrogen peroxide)) checking licences, this is estimated to cost £757 per retailer per year, therefore **£1.0 million in total each year, at a present value of £8.5 million over 10 years**¹⁴.

The Home Office is offering a voluntary service, whereby a retailer may check the validity of the licence by entering the number onto an on-line form.

E.9 Deterrence effect of licence

The consultation suggests that the majority of home users would not be deterred from purchasing restricted chemicals at this licence fee. This is due to the lack of alternatives for these chemicals. In particular, individuals who use hydrogen peroxide in their swimming pool filtration systems would incur significant costs in replacing their systems if they were to switch to an alternative.

The deterrence effect is therefore not expected to be significant for business. Consultation responses suggest that as long as the licence application is not too complicated and the cost of a licence is kept below £40, most home users would not be deterred from purchasing restricted chemicals. (77% of those who responded to the consultation question stated that they would continue to purchase.)

A small number of home users spend only a small amount on the purchase of chemicals for their hobbies. In this case the cost of a licence may be too prohibitive, and they are unlikely to apply for a licence. However, there are only a small number of these individuals identified and the amounts purchased are very small.

Where an alternative does exist, but costs more (for example diluted versions of the same chemical), there may be a potential benefit to business as it is expected that a higher profit margin can be made from these products.

¹⁴ Using the hourly wage of a sales and customer service occupation (Annual Survey of Hourly Earnings, 2013) updated to 2014/15 prices using GDP deflators and 30 per cent on costs from the Standard Cost Model, Better Regulation Framework.

Table 8, Costs (1): Costs to business.

Costs occur both as transition costs and as annual ongoing costs.

Transition or Ongoing	Activity	Cost (£m) (per year)		Assumption s (see para:)
		Low	Upper	
Transition	Verifying which products are concerned	1.7	4.6	E.1
Transition	Labelling affected products	Negligible		E.2
Transition	Providing information for prospective buyers	0.3		E.3
Transition	Internet sales	Negligible		E.4
Ongoing	Compulsory training and awareness raising of staff members	0.7	1.1	E.5
Ongoing	Checking that a business is a business	Negligible		E.6
Ongoing	Reporting suspicious transactions, thefts or significant losses	Negligible		E.7
Ongoing	Processing licences	1.0		E.8
Ongoing	Deterrence effect of licence	Negligible		E.9
Transition cost		2.0	5.0	
Ongoing cost		1.7	2.1	

Note: The best estimate is based on the mid-point of the low and upper costs. Tables may not add due to rounding.

The total cost to business is estimated to be £2.0 to £5.0 million in transition costs, and £1.7 to £2.1 million per year from ongoing costs, at a present value of £16.6 to £23.2 million over 10 years.

Cost to public sector

Transition costs

E.10 Implementation costs

A member of each police force is expected to put on a half day workshop for affected businesses. This will cost the police an estimated <£0.1 million in the first year.¹⁵

Police will be trained through routine continuing professional development meetings.

Ongoing costs

E.11 Monitoring of compliance and enforcement costs

The Home Office is working with the Ministry of Justice to create four new offences in line with the EU regulations.

- 1) Possession or use of Part/Annex 1 substances above the concentration thresholds without a valid licence.

The proposed offence is an either way offence, dealt with at either the Magistrates', or the Crown Courts and with a maximum sentence of 2 years imprisonment.

¹⁵ Based on 44 forces in Great Britain spending 3.5 hours with a hourly wage of £34.26. Hourly wage taken from Annualised Survey Hours and Earnings (ASHE) and Chartered Institute of Public Finance and Accountancy (CIPFA) data from 2011/12 and uprated to 2014/15 prices using GDP deflators.

2) Sale or Supply of Part/Annex 1 substances above the concentration thresholds to a person without a valid licence.

The proposed offence is an either way offence, dealt with at either the Magistrates', or the Crown Courts and with a maximum sentence of 2 years imprisonment and/or a fine.

3) Failure by economic operator to report suspicious transactions, significant disappearances or thefts of the substances listed in Parts/Annexes 1 and 2.

The proposed offence is a summary only offence, dealt with only at the Magistrates' Court and with a maximum sentence of 3 months imprisonment.

4) Failure by economic operator to ensure items have necessary labelling indicating sale/supply restricted.

The proposed offence is a summary only offence, dealt with only at the Magistrates' Courts and with a maximum penalty of a level 5 fine on the standard scale.

The expectation is that the substantial majority of businesses and the general public will comply with the regulations from the outset. There is an 18 month transitional period (until 2 March 2016) for possession and use by the general public of Annex 1 precursors to allow people to adjust to the new restrictions. However, if a business or a member of the general public is found to be non-compliant, action will be taken which could result in criminal prosecution. Annex C outlines the potential costs to the criminal justice system of additional prosecutions. It is assumed that the impact would be minimal.

If information is received about non-compliance, enforcement officers will be tasked to conduct a test purchase and take action as appropriate. A small percentage of randomly selected retailers and businesses in each area will also be subject to routine test purchasing. Guidance will be prepared to assist enforcers in how to conduct the test purchases to ensure they are conducted ethically and within the bounds of the regulation. The cost to the police of enforcement is expected to be **negligible**.

E.12 Monitoring and maintaining the suspicious transactions, theft and significant loss reporting systems

Under the new legislation, when a company identifies a suspicious transaction, they are required to report it to the anti-terrorism hotline. The UK already has a fully operational anti-terrorism hotline, and so no setup costs will occur. We have consulted with the anti-terrorism hotline about the potential impacts on resourcing and the increase in number of reports is not expected to impact on their staffing levels.

It is the job of the hotline staff to filter the calls for information to be followed-up by the police. Without this filtering, the legislation might result in a high cost of increased police time following up new leads which may not in fact be useful. It is assumed that new leads provide an overall benefit to the police due to the increase in likelihood that a terrorist plot is disrupted. It is assumed that police officers would run the same level of investigation (that is, using the same number of officers and resources) but now have better information.

E.13 Licensing costs

Members of the public (i.e. non-professional consumers) who wish to continue using certain precursors at above-threshold concentrations will have to apply for a precursors licence.

The most significant cost is the set up cost of the licensing system, which is estimated to cost **£0.35 million in Year 1**.

The cost of administering the licensing system is estimated to be **£0.02 million** per year, based on the assumption that two members of staff will be hired.¹⁶ The exact number of staff required will be determined by the number of licences applied for.

In addition, the ongoing costs of maintaining the licensing system are estimated at **£0.02 million** per year.¹⁷

The licence fee will be based on full cost-recovery and therefore need only be counted as a single cost, not the cost to home users (as a fee) as well as the cost to the public sector (as a process).

Any appeals would go through judicial review and thus have an impact on the Criminal Justice System. The cost of appeals has not been quantified in this impact assessment but the Home Office will be working with the Ministry of Justice to estimate the potential cost of appeals.

The licensing system is therefore estimated to cost £0.35 million in transition costs and £0.05 million per year from ongoing costs, at a present value of £0.8 million over 10 years.

Table 9, Costs (2): Costs to public sector

Costs occur both as transition costs and as annual ongoing costs.

Transition or Ongoing	Activity	Cost (£m) (per year)	Assumptions (see para:)
<i>Transition</i>	Implementation costs	<0.1	E.10
<i>Ongoing</i>	Monitoring of compliance and enforcement costs	Negligible	E.11
<i>Ongoing</i>	Monitoring and maintaining the suspicious transactions	Negligible	E.12
<i>Transition</i>	Set up costs of licensing system	0.35	E.13
<i>Ongoing</i>	Administering licences	0.05	
Transition cost		0.35	
Ongoing cost		0.05	

Note: The best estimate is based on the mid-point of the low and upper costs. Tables may not add due to rounding.

The total cost to the public sector is estimated to be £0.35 million in transition costs, and ongoing costs of £0.05 million per year at a present value of £0.8m over 10 years.

Costs (3): Costs to home users

Licence costs

Based on consultation with businesses, home users and hobby societies, an estimated 1,675 to 1,995 individuals will require a licence to continue with their activities. Consultation responses suggest that as long as the licence application is not too complicated and the cost of a licence is kept below £40, most home users would not be deterred from purchasing restricted chemicals.

The Home Office has worked with HM Treasury to establish what is in scope for cost recovery and the maximum cost of a licence to a home user will be £40¹⁸.

¹⁶ Assume 50% of a Executive Officer's time and 20% of a Higher Executive Officer's time each year. Calculated using Home Office estimates of the cost of an Executive Officer (£32,511) and Higher Executive Officer (£39,881), including the cost of national insurance contributions and superannuation. No assumptions made regarding a salary increase over time as no assumptions were made regarding a future fee increase.

¹⁷ Estimate includes the cost of overheads, postage, paper, credit/debit card payments, IT hosting. The business case is being cleared through HM Treasury therefore the estimates may be subject to change.

¹⁸ The fees cover cost of processing, office and management overheads and cross-cutting costs that apply to all applications such as IT costs, postage, worldpay fees and inflation. The fees do not include compliance and enforcement costs since there will be no additional police resources required.

In addition, there will be the cost to the home user in having to fill out the licence form. This is estimated to take half an hour, at an estimated cost of £3.¹⁹

The licence will need to be renewed every one to three years, subject to consultation with HM Treasury. As a worst case scenario, we assume that the licence will last for one year, after which it will need to be renewed.

There will also be an inconvenience cost to home users because they will need to plan ahead for purchases of precursor chemicals. This cost has not been quantified, but is expected to be small, since most home use of licensed precursors is by hobbyists, with particular projects or experiments or routine use in mind, rather than for impromptu use. The publicity campaign to inform home users about the change in legislation will help to minimise these costs, by allowing them to plan ahead.

No suitable, cost effective alternatives have been identified for home users instead of the restricted chemicals for the most popular uses.

It is expected that the majority of consumer licence applications will come from demand for hydrogen peroxide for swimming pool and hot tub use as well as for nitromethane for competitive modellers.

Home users who have invested in a swimming pool filtration system that requires hydrogen peroxide, or who are allergic to chlorine, are assumed to be willing to pay a high price for the licence. Information from a leading supplier indicates that home users might use approximately 5litres at approximately £20 per month, so £240 per year. The Home Office checked the viability of these individuals contracting a professional to disinfect their pool. Discussions with the pool and spa industry community lead us to estimate that professional cleaning of a pool would cost approximately £15,000 per year, so this is not a cost effective alternative.

Similarly, competitive modellers who believe nitromethane improves performance are expected to be willing to pay a high price to access the chemical.

If individuals do not choose to purchase a licence, perhaps purchasing weaker concentrations or stopping their hobby, the maximum cost to them is assumed to be £43 per year (the cost of applying for a licence) otherwise it would be rational for them to purchase a licence.

With an estimated 1,675 to 1,995 licences required, at a cost of £43 per licence, **licensing will cost home users £0.07 to £0.09 million per year, at a present value of £0.6 to £0.7 million over 10 years. This cost is already included in the cost to the public sector of the licensing system therefore is not reflected in total costs.**

Suspicious transactions, theft and significant losses

The requirement to report suspicious transactions may lead to some genuine customers being refused sale, or having to deal with the police investigating the reasons behind their transaction. Clear guidance, tailored to different types of sale, will be widely disseminated advising retailers about suspicious behaviours. If followed, the advice should not affect the sale and the police are experienced in dealing with such matters sensitively.

BENEFITS FOR LICENSING

The intended benefit of this policy is to reduce the likelihood or impact of a potential terrorist attack. Once the policy is implemented, a terrorist seeking to execute an attack should be disrupted through one of the following mechanisms:

¹⁹ Source: DfT Guidance, Unit 3.5.6 Values of Time and Operating Costs, Perceived Cost of 'other' non-working time, uprated according to non-working Value of Time growth rates for 2014/15 gives a value of £5.86.

1. They try to obtain explosives precursors either legally or illegally, in both cases drawing the attention of the police or security services. Earlier investigation means that the attack is more likely to be foiled by the police prior to execution.
2. They are deterred from buying the listed explosives precursors, and instead substitute to a less harmful attack type (for example, using less harmful substances to manufacture a less harmful IED).

There are specific benefits relating to licensing. These are outlined below.

- Products are still available to members of the general public.
- Licensing allows checks on individuals.
- There is an opportunity to detect a terrorist in the planning stages of an attack.

It is expected that the benefits in reducing the likelihood or impact of a potential terrorist attack would outweigh the costs of the policy.

Distributional Impact

Some of the costs and benefits may fall unevenly on different groups in society. The main cost to consumers falls on a small group of individuals who purchase Annex 1 chemicals above the concentration threshold for home uses. There is limited data available to determine the demographic make-up of these users.

Home and business users may also be affected by the cost of ‘false positive’ reporting. That is the cost of being denied a licence or transaction, or being regarded with suspicion when the individual’s intentions are entirely genuine. This cost may fall more heavily on some groups in society if businesses attempt to profile customers according to prejudices or misconceptions about race, religion, ethnicity or other demographic characteristics. It is likely that those perceived to be Muslims may experience a high false-positive cost. The cost of being perceived with suspicion and distrust is difficult to quantify but is likely to cause distress, anxiety and feelings of isolation and injustice in the victims. The awareness raising campaign (mentioned in paragraph E.2) and clear guidance being drafted by the European Commission and Home Office to be delivered alongside the legislation will ensure that businesses are able to spot suspicious transactions because of the unorthodox behaviour or requests of individuals or groups, rather than using demographic prejudices. However, even with such an education programme in place, there may still be some costs felt by consumers in minority ethnic or faith groups.

The Home Office does not support a policy of profiling by any method, and so any ‘false positive’ cost associated with licence applications should be distributed equally across all consumers applying for a precursors licence. A Policy Equality Statement will be prepared.

ONE-IN-TWO-OUT (OITO)

This policy is not applicable for OITO as EU regulations that do not go beyond the minimum requirements are out of scope for OITO purposes²⁰.

To support balanced reporting of overall EU burdens in the Statement of New Regulation, the estimated EANCB figure (in 2009 prices), is £1.9m. This is based on transition costs to business of verifying products concerned (£1.7 to £4.6m) and providing information to prospective buyers on new restrictions (£0.3m) and ongoing costs of training (£0.7 to £1.1 m) and processing and keeping a record of licensed users (£1.0m).

The UK implementation of the regulation does not gold plate i.e. go beyond the minimum requirements of the EU regulation. As in the EU regulation, the GB implementation will only apply to the general public. The EU regulation provides a choice of derogations that allows us to relax

²⁰ One-in-one-out methodology, HM Government, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/31616/11-671-one-in-one-out-methodology.pdf

restrictions allowing the general public to acquire, possess or use the restricted substance if granted a licence or part registration/part licensing regime.

A non-regulatory approach would not be regarded by the European Court as adequate means of transposing the regulation. The regulation will not be transposed before the transposition dead-line. A statutory Ministerial Review will be written into the regulation before 2 September 2017 when the European Commission will report on implementation and thereafter every five years.

By using the derogation to allow sales to the public in accordance with a licence, the preferred option provides the greatest protection at the lowest cost to businesses.

This relaxation of the default banning option puts UK businesses at an advantage compared to those in other EU Member States who have chosen to ban sales to the general public. For example, bans will apply in the Netherlands, Norway, Denmark and Poland.

UK guidance is based on the guidance produced by the European Commission. The preferred option, to licence, allows the authorities to check the suitability of the individual to acquire, possess and use explosives precursors as allowed by the EU regulation, whilst placing the main burden on government and the individual.

F. Risks

- The regulation relies on businesses being responsible and reporting suspicious transactions or significant losses. There is a risk that businesses will not take this up or that after the initial novelty of the regulations, will forget. There is also a risk that businesses will be fearful of reporting a suspicious transaction to the anti-terrorism hotline due to doubt about the credibility of their suspicion. To mitigate this, on-going awareness raising activities are conducted by Police Counter-Terrorism Security Advisers and should refresh the aims of the regulation. In addition, test purchase operations may be conducted on a random basis and will serve as an incentive to make sure members of staff are aware of the requirements.
- There is a risk that alternative explosive precursors that are easier to acquire could be used. This will be mitigated by a continuous review of the chemicals on the annexes (1 and 2).
- There is a risk of damage to Home Office's reputation if a licence is granted to someone who then misuses the chemicals.
- There is a risk that the number of additional prosecutions as a result of the creation of the new offences will be higher than anticipated, which would incur a cost to the Criminal Justice System.

These risks will be mitigated by raising awareness through the consultation and inviting home users and businesses to provide their views on the impact each option would have on them.

G. Enforcement

Enforcement will be the responsibility of the Home Office as the licensing authority and the Police. When enforcing this policy enforcement bodies will need to check compliance. This will be in the form of test purchase exercises where a covert officer will attempt to purchase a banned or restricted product without complying with the required conditions. Test purchases may be targeted based on intelligence, for example, reports of the supplier's non-compliance from members of the general public or a small percentage chosen at random based on the number of businesses.

Additionally, when conducting a search of domestic premises, if Annex 1 chemicals are found, the police would be expected to check for a valid licence.

Guidance will be drafted by the Home Office for enforcement agencies. The European Commission has drafted guidance for businesses on: identifying and reporting suspicious transactions, thefts and significant losses and labelling requirements.

The licensing applications and checks are based on existing systems such as those for processing a shotgun or explosives licence and Disclosure and Barring Service checks.

H. Summary and Recommendations

The table below outlines the costs and benefits of the proposed changes.

Option	Costs	Benefits
Licensing	Cost to business of familiarisation, training, verifying products affected, informing customers, and processing licences. Cost to public sector of enforcement, training and licensing system. Cost to consumers from licence fee. £20.7m (PV over 10 years)	
	(not quantified)	Benefits to society of the reduced risk or impact of a terrorist attack by Improvised Explosive Device (IED). (not quantified)

Based on the analysis in sections E and F and given the three stated policy objectives, **licensing is the preferred option**. Licensing allows legitimate users to purchase Annex 1 chemicals whilst minimising burdens on retailers and offering an opportunity to check the suitability of the licence applicant and their intended uses. Option 2 (banning) would have the greatest impact on legitimate users of Annex 1 chemicals by prohibiting general public purchase. Option 4 (registration) costs the same as Option 3 but does not provide effective protection against terrorists using Annex 1 chemicals in terrorist attacks and places a greater burden on retailers by making them keep a register in addition to checking licences. There are a number of aspects that are not quantifiable such as the loss of profit and benefits.

I. Implementation

The Government plans to implement these changes on 2 September 2014, the transposition deadline for the EU regulation. It will be introduced via secondary legislation under the European Communities Act 1972. This will later be amended or revoked to introduce a cohesive licensing regime with that to control retail sales of poisons via amendments to the Poisons Act 1972 under the Government's Red Tape Challenge.

The delivery of the Marketing and Use of Explosive Precursors Regulation will be led by the Home Office.

J. Monitoring and Evaluation

There will be a European Commission review of the regulation in 2017.

Baseline data on: the number of calls per month to the anti-terrorist hotline relating to suspicious transactions and the number that lead to further investigation and action are available. It will be possible to measure the difference following implementation of the policy. This will indicate whether the regulation has made it easier for authorities to detect attempts to purchase high risk explosive precursors.

A full evaluation plan will be designed that can be implemented in 2017.

K. Feedback

In order to accurately assess the impact of the legislation the Government will seek views from those who will be most affected by the policy: the home users, retailers and enforcement authorities through on-going engagement.

This will be achieved by regular stakeholder meetings and monitoring public correspondence relating to the policy.

ANNEX A

Standard Industrial Classification (SIC) codes from the ONS were used to estimate the number of retailers, wholesalers and producers that would sell Annex 1 or 2 chemicals (see A.3).²¹ Pharmacies were excluded from this methodology to avoid double counting with the number of recipients of *Know Your Customer*. Assumptions were made as to the scale of Annex 1 and/or 2 use in each category (% of SIC code that sell Annex 1 and/or 2 chemicals), based on Table A.1 below.

Table A.1, Level of precursor use.

Level of precursor use	Minimum (%)	Maximum (%)
None	0	0
Low	1	10
Medium	40	60
High	75	95

The SIC codes cover a wide range of businesses and some business types will sell both Annex 1 and 2 chemicals. It has not been possible to entirely separate out businesses by Annex 1 and 2 as some SIC codes cover a wide range of business types and some businesses will sell both, (those in **bold** cover both Annex 1 and 2 chemicals, see Table A.3).

These figures should be treated with caution as they are based on assumptions on the scale of explosive precursor use in each industry classification. Further evidence to strengthen these assumptions will be gathered through the consultation.

Table A.2, Estimated number of business affected (all concentrations)

Business type	Lower	Upper
Retailers	5,000	12,900
Wholesalers	1,900	4,800
Producers	700	1,500
TOTAL	7,500	19,200

²¹ UK Business: Activity, Size and Location, 2012, Table A3.1 United Kingdom- Number of Local Units in VAT and/or PAYE based enterprises in 2012.

Table A.3. Number of retail, wholesale and producer businesses affected.

Annex 1/2	SIC codes	Retail, SIC code description	Estimated impact (%)	Estimated No.
Annex 1	4719	Other retail sale in non-specialised stores	1	140
	4730	Retail sale of automotive fuel in specialised stores	1	50
	4774	Retail sale of medical and orthopaedic goods in specialised stores	1	20
	4775	Retail sale of cosmetic and toilet articles in specialised stores	40	1,400
	4778	Other retail sale of new goods in specialised stores	1	290
Annex2	4791	Retail sale via mail order houses or via Internet	1	140
	4776	Retail sale of flowers, plants, seeds, fertilisers, pet animals and pet food in specialised stores	40	2,900
	4789	Retail sale via stalls and markets of other goods	1	10
Total			5,000	12,900

Annex 1/2	SIC codes	Wholesale, SIC code description	Estimated impact (%)	Estimated No.
Annex 1	4618	Agents specialised in the sale of other particular products	1	50
	4619	Agents involved in the sale of a variety of goods	1	20
	4644	Wholesale of china and glassware and cleaning materials	1	10
	4646	Wholesale of pharmaceutical goods	1	30
	4649	Wholesale of other household goods	1	60
Annex 2	4671	Wholesale of solid, liquid and gaseous fuels and related products	1	20
	4675	Wholesale of chemical products	75	1,300
	4611	Agents involved in the sale of agricultural raw materials, live animals, textile raw materials and semi-finished goods	40	300
Annex 2	4615	Agents involved in the sale of furniture, household goods, hardware and ironmongery	1	10
	4618	Agents specialised in the sale of other particular products	1	50
Total			1,900	4,800

Table A.3. Number of retail, wholesale and producer businesses affected (continued).

Annex 1/2	SIC codes	Producers, SIC code description	Estimated impact (%)	Estimated No.
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	2013	Manufacture of other inorganic basic chemicals	75	95	90	110
	2020	Manufacture of pesticides and other agrochemical products	75	95	50	60
	2051	Manufacture of explosives	75	95	20	20
Annex 1	2059	Manufacture of other chemical products n.e.c.	40	60	210	320
	2110	Manufacture of basic pharmaceutical products	1	10	<10	20
	2399	Manufacture of other non-metallic mineral products n.e.c.	1	10	<10	20
	3299	Other manufacturing n.e.c.	1	10	50	540
	2015	Manufacture of fertilisers and nitrogen compounds	75	95	80	100
Annex 2	2041	Manufacture of soap and detergents, cleaning and polishing preparations	40	60	150	230
	2042	Manufacture of perfumes and toilet preparations	1	10	<10	40
		Total			700	1,500

ANNEX B

Table B.1 Identifying affected products (year 1).

	No.		Hourly wage (inc. on costs)		Cost (£m)	
	(low)	(high)	(low)	(high)	(low)	(high)
	2-5 hours per business					
Retailers	5,000	12,900	£ 9.70 ¹	£ 96,100	£ 626,000	
Pharmacies and other KYC recipients	30,000		£ 26.67 ²	£ 1,600,000	£ 4,000,000	
TOTAL	35,000	42,900	£ 1,700,000	£ 4,630,000	£ 4,630,000	

Table B.2 Ongoing training costs

	Hours and no. staff per business		No.		Hourly wage (inc. on costs)		Cost (£m)	
	(low)	(high)	(low)	(high)	(low)	(high)	(low)	(high)
	2 hours per staff per business:							
Annex 1 (above conc.) retailers	6	13	1,300		£ 9.70	£ 151,000	£ 328,000	
Retailers			4,960		£ 9.70	£ 144,000	£ 376,000	
Wholesalers			1,900		£ 9.70	£ 9,210	£ 23,500	
Producers			666		£ 12.73 ³	£ 4,240	£ 9,320	
Pharmacies and other KYC recipients			30,000		£ 26.67	£ 400,000	£ 400,000	
TOTAL			37,500		£ 49,200	£ 709,000	£ 1,140,000	

¹ Hourly wage based on ASHE Median Gross Hourly Wage 2013 (updated to 2014/15 prices) for Sales and customer service occupations, including 30 per cent on costs from the Standard Cost Model, Better Regulation Framework.

² Hourly wage based on ASHE Median Gross Hourly Wage 2013 (updated to 2014/15 prices) for Pharmacists, including 30 per cent on costs from the Standard Cost Model, Better Regulation Framework.

³ Hourly wage based on ASHE Median Gross Hourly Wage 2013 (updated to 2014/15 prices) for Process, Plant and Machine Operatives Staff, including 30 per cent on costs from the Standard Cost Model, Better Regulation Framework.

ANNEX C- Costs to the Criminal Justice System

The estimated costs provided are weighted costs that account for the proportion of defendants tried in the Magistrates' and Crown Courts, the proportion of offenders sentenced to each disposal²⁵ and where custodial sentences are given, the average time those sentenced to immediate custody spend in prison (assuming they serve half the custodial sentence length given).

The estimated unit costs therefore represent the average cost of a proceeding from the beginning of that proceeding to the end of the case (whether the offender is found guilty or not and accounting for the range of disposals possible). The agencies potentially affected by additional prosecutions include the Crown Prosecution Service, Her Majesty's Courts and Tribunal Services, the Legal Aid Agency and NOMS.

The unit cost of a proceeding has been estimated for the four offences created.

Offence 1

Possession or use of Part/Annex 1 substances above the concentration thresholds without a valid licence.

The proposed offence is an either way offence, dealt with at either the Magistrates', or the Crown Courts and with a maximum sentence of 2 years imprisonment.

In order to estimate the costs to the CJS, we use a proxy offence with the same disposal and penalty. For Offence 1, the suggested proxy offence is Firearms Act Section 1(1): possession of a firearm without valid licence.

Unit cost of a proceeding under offence 1

Using data from 2012 on the proportion of defendants tried in each court, the proportion of offenders given each disposal and the average custodial sentence lengths served from the proxy offence, we estimate the average cost per proceeding for the proposed offence to be £15,900. (See below for an outline of the unit costs by CJS agency).

Table C:1: Weighted estimated CJS cost per case:

CJS Agency	CJS Cost²⁶
HMCTS	£900
CPS (EXCLUDING advocacy costs)	£700
Legal Aid	£2,400
Prison	£11,000
Probation	£1,000
Weighted cost per case	£15,900²⁷

²⁵ A disposal is the end result of a trial at court. In this publication the disposals of interest are sentences, but other disposals are possible, for example where there is no finding of guilt and the defendant is acquitted.

²⁶ All costs are in 2012/13 prices and are rounded to the nearest 100.

²⁷ Numbers may not add due to rounding

See the assumptions and risks section below for a full outline of what the costs include and the associated limitations.

Total costs for offence 1

The UK has not regulated in this area before therefore it is not possible to know how many proceedings would be brought about as a result of the creation of the new offences. However, as an illustration, for the proxy offence there were 181 prosecutions in 2012²⁸. With 141,820 firearm certifications²⁹ in March 2012, approximately 0.1% of individuals with firearms are prosecuted. With an estimated 1,675 to 1,995 home users of Annex 1 above concentration chemicals, this would lead to 2- 3 prosecutions each year. There is a risk that the number of prosecutions may be significantly lower or higher.

Offence 2

Sale or Supply of Part/Annex 1 substances above the concentration thresholds to a person without a valid licence.

The proposed offence is an either way offence, dealt with at either the Magistrates', or the Crown Courts and with a maximum sentence of 2 years imprisonment and/or a fine.

Offence 3

Failure by economic operator to report suspicious transactions, significant disappearances or thefts of the substances listed in Parts/Annexes 1 and 2.

The proposed offence is a summary only offence, dealt with only at the Magistrates' Court and with a maximum sentence of 3 months imprisonment.

Offence 4

Failure by economic operator to ensure items have necessary labelling indicating sale/supply restricted.

The proposed offence is a summary only offence, dealt with only at the Magistrates' Courts and with a maximum penalty of a level 5 fine on the standard scale.

Unit cost of a proceeding under offence 2, 3 and 4

Data on the suggested proxies for offences 2-4 were not sufficient to give a robust estimate of proceedings, convictions and disposals.

An upper bound estimate of the CJS costs is calculated by assuming that for the either way offences (offence 2) all cases progress through the Crown Courts; and that for the summary offences (offence 3 and 4) all cases progress through the Magistrates' Courts.

²⁸ MOJ statistics, 2012

²⁹ Firearm and Shotgun Certificates in England and Wales 2012/13, HOS, 29th March 2013

'Worst case scenario' cost per cases are estimated by assuming that all proceedings that could lead to a custodial sentence do so and that in those cases the offender is given the maximum custodial sentence available. The costs may be lower if the average custodial sentence length given is less than the maximum.

Estimated costs for offence 2 could be up to £37,900. Note that the cost per case for offence 1 under the 'worst case scenario' would also be £37,900.

As offences 3 and 4 are summary only and are tried only in the Magistrates' courts where the costs are lower, the estimated cost per case could be up to £4,300 for offence 3 and up to £800 for offence 4.

CJS Costs³⁰	Offence 2	Offence 3	Offence 4
HMCTS	£1,000	£200	£200
CPS (EXCLUDING advocacy costs for Offence 2)	£1,200	£600	£600
Legal Aid	£4,800	£0	£0
Prison	£30,800	£3,500	£0
Probation	£0	£0	£0
Weighted cost per case³¹	£37,900	£4,300	£800

Total costs for offences 2, 3 and 4

The UK has not regulated in this area before therefore it is not possible to know how many proceedings would occur as a result of the creation of the new offences. Although we have tried to estimate the number of proceedings using proxy offences, the proxy offences themselves had negligible numbers therefore could not be used. We therefore have no proxy on which to base the number of proceedings that would be brought about.

There is a risk that the number of prosecutions may be significantly lower or higher.

Assumptions and risks

Assumptions	Risks
<p>CPS costs:</p> <p>Note that the CPS costs are subject to change pending further work to provide more robust costs estimates.</p> <p>At present the CPS costs do not include several categories, and in particular advocacy costs are excluded from Crown Court costs, which in some</p>	<ul style="list-style-type: none"> The key limitation of the ABC model is that it is built purely on staff time and excludes accommodation and other ancillary costs (e.g. those associated with complex cases and witness care). It also relies on several assumptions. This could mean there is a risk that costs are underestimated. For further

³⁰ Rounded to the nearest £100. Same caveats apply as for Table C:1.

³¹ Numbers may not add due to rounding

<p>cases can be significant. Therefore, CPS costs are expected to increase as we work with the CPS to agree advocacy costs. Current CPS costs are based on Activity Based Costings (ABC), the primary purpose of which is resource distribution. The key limitation of the ABC model is that it is built purely on staff time and excludes accommodation and other ancillary costs (e.g. those associated with complex cases and witness care). It also relies on several assumptions. This could mean there is a risk that costs are underestimated. For further information about how CPS ABC costs are calculated please see the following CPS guidance (CPS, 2012): http://www.cps.gov.uk/publications/finance/abc_guide.pdf.</p> <p>Source: CPS, 2013.</p>	<p>information about how CPS ABC costs are calculated please see the following CPS guidance (CPS, 2012): http://www.cps.gov.uk/publications/finance/abc_guide.pdf.</p> <ul style="list-style-type: none"> • Advocacy costs for the CC are excluded.
<p>HMCTS costs:</p> <p>Magistrates Courts Costs</p> <p>To generate the costs by offence categories, HMCTS timings data for each offence group were applied to court costs per sitting day. Magistrate's court costs are £1,200 per sitting day in 2012/13 prices. A sitting day is assumed to be 5 hours.</p> <p>Source: The HMCTS costs are based on average judicial and staff costs, found at HMCTS Annual Report and Accounts 2012-13. HMCTS timings data from the Activity based costing (ABC) model, the Timeliness Analysis Report (TAR) data set and the costing process.</p>	<p>Timings data for offence categories:</p> <ul style="list-style-type: none"> • The timings data are based on the time that a legal advisor is present in court. This is used as a proxy for court time. Please note that, there may be a difference in average hearing times as there is no timing available e.g. when a DJ(MC) sits. • Timings do not take into account associated admin time related with having a case in court. This could mean that costings are an underestimate. There is some information available on admin time, however we have excluded it for simplicity. • The timings are collection of data from February 2009. Any difference in these timings could influence costings. • The data also excludes any adjournments (although the ABC model does), and is based on a case going through either one guilty plea trial (no trial) or one effective trial. However a combination of cracked, ineffective and effective trials could occur in the case route. As a result the costings could ultimately be underestimates. • Guilty plea proportions at the Initial

	<p>hearing from Q2 in 2012 are used, based on the Time Analysis Report. As these can fluctuate, any changes in these proportions could influence court calculations (effective trials take longer in court than no trials (trials where there was a guilty plea at the initial hearing)).</p> <p>HMCTS average costs per sitting day:</p> <ul style="list-style-type: none"> • HMCTS court costs used may be an underestimate as they include only judicial and staff costs. Other key costs which inevitably impact on the cost of additional cases in the courts have not been considered; for example juror costs.
<p>HMCTS costs:</p> <p>Crown Courts Costs</p> <p>Timings data for types of case (eg, indictable only, triable either way) were applied to Crown court costs per sitting day. This was added to the cost of the initial hearing in the Magistrates, as all criminal cases start in the Magistrates courts. Crown Court cost is £1,600 per sitting day in 2012/13 prices, assuming a sitting day is 5 hours. Source: The HMCTS costs are based on average judicial and staff costs, found at HMCTS Annual Report and Accounts 2012-13.</p>	<p>Timings data for types of cases:</p> <ul style="list-style-type: none"> • The average time figures which provide the information for the timings do not include any down time. This would lead to an underestimate in the court costing. • Timings do not take into account associated admin time related with listing a case for court hearings. This could mean that costings are an underestimate. • The data which informed the timings data excludes cases where a bench warrant was issued, no plea recorded, indictment to lie on file, found unfit to plead, and other results. • Committals for sentence exclude committals after breach, 'bring backs' and deferred sentences. <p>HMCTS average costs per sitting day:</p> <ul style="list-style-type: none"> • HMCTS court costs used may be an underestimate as they include only judicial and staff costs. Other key costs which inevitably impact on the cost of additional cases in the courts have not been considered; for example juror costs.

<p>Legal Aid costs: In the Magistrates Court, we assume an eligibility rate of 50% for all cases involving an individual. For cases involving a retailer we assume an eligibility rate of 0%. This is based on the assumption that retailers earn more than the maximum allowed under means testing and therefore do not qualify for Legal Aid.</p> <p>We assume an eligibility rate of 100% in the Crown Court.</p> <p>The average legal aid cost in the Magistrates assumed was around £400, and £5,000 in the Crown Court (based on Crime Lower Report and Crime Higher Report, Legal Aid Agency).</p> <p>We use an average cost including all offence types from the dataset that includes both standard and non-standard fees to estimate the cost to the Legal Aid Agency.</p>	<ul style="list-style-type: none"> • There is a risk that variance in the Legal Aid eligibility rate assumed for cases in the magistrates' courts would impact the costings. • Assuming 100% eligibility for Legal Aid in the Crown court carries several risks. Firstly, an individual may refuse legal aid. Secondly, an individual may be required to contribute to their legal aid costs. Lastly, the size of this contribution can vary. This could mean that the costings provided are a slight overestimate.
<p>Prison costs: We assume that 50% of a prison sentence 12 months or over is served on probation and that there is no element of licence for a sentence under 12 months. The proportions of offenders who are sentenced to probation are determined by the proportion of those who receive a 12 month sentence or over. We assume that half the given ACSL is served. The cost per prison place is £28,000 in 2012/13 prices (NOMS management accounts addendum (2011)).</p>	<ul style="list-style-type: none"> • The cost of additional prison places is also dependent on the existing prison population, as if there is spare capacity in terms of prison places then the marginal cost of accommodating more offenders will be low due to existing large fixed costs and low variable costs. Conversely, if the current prison population is running at or over capacity then marginal costs may be significantly higher as contingency measures will have to be found.
<p>Probation costs: Costs for probation and community sentences are approximately £2,600 per year in 2012/13 prices. The probation costs are based on national costs for community order/ suspended sentence order, found at NOMS, Probation Trust Unit Costs, Financial Year 2012-13 and updated in line with the GDP deflator of 2% (https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/266322/GDP_Deflators_Autumn_Statement_December_2013_update_v2.xls). Source: MoJ internal analysis, 2013.</p>	<ul style="list-style-type: none"> • Costs represent the national average fully apportioned cost based on delivery by 35 Probation Trusts in 2012/13. • Unit costs are calculated from the total fully apportioned cost of relevant services divided by starts in that year and do not consider which elements of cost are fixed and which will vary based on service volumes. Major changes to the volume, length or content of community sentences or the

	<p>characteristics of the offender population could affect the unit cost.</p> <ul style="list-style-type: none">• The costs consist of costs for both (a) managing the sentence and (b) delivering court-ordered requirements. Excludes centrally managed contract costs for Electronic Monitoring and Sentence Order Attendance Centres.
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