

Title: Proposed changes to the Poisons Act 1972, Poisons Rules 1982, Poisons List 1982 and associated amendments IA No: HO Lead department or agency: HOME OFFICE Other departments or agencies: MINISTRY OF JUSTICE	Impact Assessment (IA)		
	Date: March 2014		
	Stage: Final		
	Source of intervention:		
	Type of measure: Primary legislation		
	Contact for enquiries: Tom Rawson 020 7035 3429		

Summary: Intervention and Options	RPC Opinion:
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Cost of Preferred (or more likely) Option			
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Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Two-Out?	Measure qualifies as
£0.19m	£0.19m	-£0.02m	YES	OUT

What is the problem under consideration? Why is government intervention necessary?
The current regulations do not effectively prevent the abuse of poisons. The poisons register only keeps a record of purchases and does not prevent inappropriate sales. Current controls focus on the retailer rather than the end user who has the potential to misuse the poisons. We have evidence that we can make improvements to the regulatory regime.

What are the policy objectives and the intended effects?

The policy objectives are to:

- Ensure poisons controls are effective in reducing the risk of misuse whilst still enabling legitimate sales.
- Minimise the burden on business.
- Minimise the administrative burdens

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

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

Option 2 is to make a requirement that home users obtain a licence in advance of a purchase of a Part 1 poison. Part 1 poisons would still only be sold by registered pharmacists. Retailers would no longer need to apply for a licence to sell Part 2 poisons. Both Part 1 and 2 poisons would be subject to mandatory suspicious transaction, theft and significant loss reporting for home user and business to business sales. There would also be a requirement to label affected Part 1 products clearly to indicate that the acquisition, possession or use of the product is restricted.

Option 2 is the preferred option.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 2019

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: 01/04/2014

Summary: Analysis & Evidence

Policy Option 2

Description: Make a requirement that home users obtain a licence in advance of a purchase of a Part 1 poison. Remove the requirement for retailers to apply for a licence to sell Part 2 poisons. Both Part 1 and 2 poisons would be subject to mandatory suspicious transaction, theft and significant loss reporting for home user and business to business sales.

Price Base Year: 2014	PV Base Year: 2014	Time Period Years: 10	Net Benefit (Present Value (PV)) (£m)		
			Low: 0.10	High: 0.28	Best Estimate: 0.19

COSTS	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low			0.03	0.23
High			0.05	0.41
Best Estimate			0.04	0.32

Description and scale of key monetised costs by 'main affected groups'
Ongoing cost to business from training and awareness raising of staff members (£0.03 to £0.05 million).

For the public sector, the cost of the licensing system is assumed to be negligible due to the low home usage of Part 1 poisons.

Other key non-monetised costs by 'main affected groups'
There are costs to business that are assumed to be negligible, such as labelling affected products and the loss of profit from the deterrence effect of a licence for legitimate users. Potential costs to the public sector from additional staffing requirements of the anti-terrorism hotline are assumed to be negligible. The cost to individuals from either purchasing a licence or finding alternatives to Part 1 poisons has not been estimated due to the negligible number of home users found. There may be 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 B for a full outline).

BENEFITS	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low				
High				
Best Estimate		N/A	0.06£0.06million	0.51

Description and scale of key monetised benefits by 'main affected groups'
Removing the licensing requirement for Part 2 retailers will save business time and the annual cost of the renewal fee (£0.06million). The cost to trading standard offices of administering this fee is assumed to be based on full cost recovery, therefore not included to avoid double counting.

Other key non-monetised benefits by 'main affected groups'
Suspicious transaction reporting could lead to additional intelligence and reports to the police, allowing them to investigate and prosecute those intending on causing harm before they do so. Fatalities involving chemicals require a specialist response, so if such incidents can be prevented the cost of providing this response is removed. Those with a genuine need to acquire and use Part 1 and 2 poisons will still be able to do so. However, the general public will be less likely to suffer harm from poisons as a result of greater control over those able to purchase them.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5
Since most of the costs and benefits 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 Part 1 and 2 poisons. Evidence suggests that the majority of businesses also sell explosive precursors and are already affected by the EU regulations. There is also a risk that businesses will not comply with the regulations and that the threat of misuse of these poisons has not been significantly reduced, or instead displaced.		

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: 0.03	Benefits: 0.05	Net: 0.02	YES	OUT

Evidence Base (for summary sheets)

A. Strategic Overview

A.1 Background

This final stage impact assessment assesses the amendment of control measures for sales of non-medicinal poisons.

Poisons Act, Rules and List

The Poisons Act 1972, which applies to Great Britain only, was designed to restrict the availability of poisons to the public to prevent their misuse, inadvertently or by criminal design, while at the same time making the poisons available to those with a legitimate need by regulating their retail sale. The Poisons List sets out those poisons under control and the Poisons Rules relax, vary and extend the controls laid down by the Act.

The Poisons List is split into Part 1 and Part 2 (Annex A). Part 1 poisons, which would be considered the most dangerous, may only be sold by a person lawfully conducting a retail pharmacy business. They must also keep a Poisons register that records details about the transaction and purchaser. Part 2 poisons, which would be considered less dangerous, can only be sold by a person conducting a retail pharmacy business or by a person whose name is entered on to a local authority's list granting them approval to sell poisons.

The Home Office and the Poisons Board, which is a statutory consultee, have reviewed the existing regime against its effectiveness as a public protection measure from terrorism or criminal use. This review is part of the retail theme of the Red Tape Challenge (RTC), which aims to remove unnecessary burdens from business. The primary burden of the current Poisons legislation is financial, as sellers of poisons need to purchase a licence from their local authority which is responsible for enforcing the legislation.

The review identified the following weaknesses in the existing regime:

1. The poisons register in its current form does not, on its own, prevent someone purchasing poisons for misuse.
2. Licensing retailers does not add significant protection against misuse.
3. Business-to-business transactions are not monitored.

A.2 Groups Affected

Consumers (home users)

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

Public retailers

The term 'public retailer' refers to companies selling chemicals for household or hobby uses. This would typically include pharmacies, home improvement stores, garden centres and pest control supply companies. Pharmacists will need to check licences and report suspicions. All retailers of Part 2 poisons will need to identify and report suspicions or cease trading certain products.

Business users

Business users will be affected by the need to demonstrate an ongoing business use for the Part 2 poisons at point of purchase, 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 and by changes in demand for their products. They will also need to report any suspicious transactions, thefts and significant losses.

General public

The general public will be expected to be safer because of the reduced chance of misuse of toxic chemicals.

Central Government

The Home Office and enforcement authorities will administer the licensing scheme and reporting hotline, ensure legal compliance and take action against retailers found to be supplying poisons in breach of the regulation. There may also be a downstream impact on the Criminal Justice System (CJS) and the Ministry of Justice (MoJ).

Local Government

Local authorities will no longer need to administer licences and inspect retailers of Part 2 poisons.

A.3 Consultation

Within Government

The policy has previously been subject to scrutiny through the statutory Poisons Board which includes representatives from all relevant Government Departments and has been reported into the Government Red Tape Challenge Star Chamber. It has also been reported into the cross-government official level Hazardous Sites and Substances Board.

Public Consultation

Analysts and policy colleagues from the Home Office have developed this impact assessment following a seven week written public consultation conducted by the government. The consultation sought views on the impact of proposed amendments to the current controls on the sale of non-medicinal poisons, and to gather information on the size and nature of the market for these substances. The consultation received a total of 36 responses from home users, representative associations, retailers and hobby groups, academia and members of the general public with a less specific interest.

Government officials have also held one to one discussions with pharmacies, business and retail representatives and regulators. To assist with refining this impact assessment, officials have sought written comments and held meetings with representatives from the affected groups. This has been used to refine, where possible, the estimates within this impact assessment and to develop a practical approach that is proportionate and effective. The Government response to the consultation can be found on the Home Office website.¹

¹ "Government Response to the Home Office Consultation on the proposed changes to the Poisons Act 1972, Poisons Rules 1982, Poisons List 1982 and associated amendments", www.gov.uk/homeoffice

B. Rationale

The current regulations may not effectively prevent the abuse of poisons. The poisons register only keeps a record of purchases and does not prevent inappropriate sales. Current controls focus on the retailer, rather than the home user who has the potential to misuse the poisons. Business-to-business transactions are currently exempt from the regulation.

C. Objectives

The policy objectives are to:

- Ensure poisons controls are effective in reducing the risk of misuse whilst still enabling legitimate sales.
- Minimise the impact on business.
- Minimise the administrative burdens.

D. Options

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

The general public will still be able to purchase high risk Part 1 poisons with the potential for misuse as they would not require a licence. Part 2 retailers would still require a licence to retail Part 2 poisons and there would be no suspicious transaction reporting for any sales.

Option 2 is to make a requirement that home users obtain a licence in advance of a purchase of a Part 1 poison. Part 1 poisons can still only be sold by registered pharmacists. Business users do not need to apply for a licence but need to be prepared to demonstrate an ongoing business use at point of sale. Retailers no longer need to apply for a licence to sell Part 2 poisons.

Both Part 1 and 2 poisons, if listed as an ingredient above the concentration threshold in the Poisons Rules (1982), would be subject to mandatory suspicious transaction, theft and significant loss reporting for home user and business-to-business sales.

Option 2 would also include a requirement for labelling affected Part 1 products clearly to indicate that the acquisition, possession or use of the product by members of the general public is restricted.

Option 3 is to move all Part 2 poisons above the current concentration threshold to Part 1 so they may only be sold by a registered pharmacist (as recommended by the Poisons Board in order to simplify the current regulation). A member of the general public wishing to purchase a Part 1 poison would need to enter their personal details into the register at the point of sale.

Consultation responses

The consultation found that Option 2 was the preferred approach, with 64% of respondents agreeing that Option 2 would meet the policy objectives. Option 2 originally included the removal of the poisons register for pharmacists. There was strong support for the retention of the poisons register from pharmacists, pharmacy regulators and specialist retailers due

to its effectiveness as a traceability method for businesses. The Home Office have therefore decided to maintain the poisons register.

Home users of Part 1 Poisons would continue to purchase these substances provided the cost of the licence was not prohibitive and the application process was straightforward. Larger retailers (in particular supermarkets and department stores) and representatives of small businesses requested detailed guidance on the practical implementation of suspicious transaction reporting.

Only 4% of respondents supported the proposal to move all Part 2 Poisons above the current concentration thresholds to Part 1 so that they could only be sold by a registered pharmacy (Option 3).

Preferred option

Option 2 is the Government's preferred option. This is because it best meets the stated policy objectives. It minimises burdens on retailers by removing the requirement to apply for a licence to retail Part 2 poisons. Requiring an individual home user to apply for a licence offers greater protection as we can perform checks into their suitability and verify their need for the poison. This option also places the burden on the home user and less so on the retailer.

Many of the affected groups will already be affected by similar measures under the Marketing and Use of Explosives Precursors regulation, so the additional impact of this option is small but introduces greater protection against misuse. Consultation responses also suggested that this was the preferred option amongst retailers, regulators and the general public.

Option 3 meets the important objective of simplifying the regulation but it is the Government view that there are poisons that should be controlled by regulation, but not to the same extent as the most dangerous and niche use poisons. Measures must be proportionate to the risk that Part 2 poisons pose to society.

Option 3 would not resolve the problem of the general public being able to purchase high risk Part 1 poisons with the potential for misuse as they would not require a licence and this could lead to a potentially significant loss of profit for Part 2 retailers who can no longer sell these poisons. As pharmacists would be the only type of business allowed to retail these poisons to the general public, competition would be limited, potentially leading to higher costs for consumers in addition to the inconvenience cost of the poisons being less readily available.

For this reason, Option 3 has not been appraised further in this impact assessment.

E. Appraisal (Costs and Benefits)

GENERAL ASSUMPTIONS & DATA

Option 2: Licensing

The amendment of the Poisons Act [1972] will be implemented shortly after the Marketing and Use of Explosives Precursors Regulation.

For our base case we assume that the EU regulation on explosive precursors is already in place, to avoid double counting costs. Most businesses affected by the proposed poisons

amendments would already be affected by the Marketing and Use of Explosives Precursors Regulation. The only identified exception to this is pest control suppliers of Part 1 Poisons but most of this trade would be business to business.

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 strengthened and confirmed the evidence base through information gathered from consultation as far as possible.

No. of businesses

From consultation with industry experts, a Superintendent Pharmacist and the General Pharmaceutical Council, we assume that there are between 15-20 pharmacies that currently sell Part 1 poisons to the general public.

We were unable to quantify the size of the market and the number of home users of Part 1 Poisons during consultation. However, evidence gathered from the General Pharmaceutical Council, Pharmacy Voice and a chain of registered pharmacists indicates that the market for these products for home use is small.

In order to estimate the number of businesses that sell Part 2 poisons, data was gathered on the number of licences currently held across Great Britain. The Home Office invited all Trading Standards Offices (TSOs) to provide the number of licences renewed and applied for in their area in 2011 and 2012. 54 out of 192 TSOs responded. On average, there were 12 renewals, and less than one new application and amendment per TSO. By multiplying the average number by the number of TSOs, it is estimated that there are approximately 2,360 renewals each year.

Most businesses affected by the proposed poisons amendments would already be affected by the Marketing and Use of Explosives Precursors Regulation. The only identified exception to this is pest control suppliers but most of this trade would be business to business. Evidence gathered during consultation indicates that there are approximately 200 distributors of Part 1 Poisons for use as pesticides.

Registered pharmacies can also sell Part 2 poisons. However, we are not aware of a significant number of pharmacies that do sell Part 2 poisons.

Uses of Part 1 and Part 2 Poisons

Part 1 poisons have a variety of home uses : general cleaning, metal treatment and in home made experiments (see Annex A for further information). Part 2 Poisons are most commonly used in drain and oven cleaners, specialist pet treatments, and general purpose cleaning products and can be purchased from chemical suppliers at high concentrations/pure form. They also have industrial uses in the manufacture of dyes, plastics and medical products. Part 1 Poisons that are used as pesticides (Aluminium Phosphide) are restricted to professional use only and cannot be purchased by the general public for home use. Part 2 substances that are used as pesticides (Alpha-Chloralose) can be used by home users.

Analysis of the consultation showed that the most popular uses of Part 1 substances are in pyrotechnic experiments and for general cleaning. Pyrotechnic hobbyists that purchase Part 1 substances are also likely to purchase chemicals on Annex 1 of the explosives precursors regulation. The consultation showed that 73% of home users of Part 1 Poisons also use Annex 1 Explosives Precursors.

Table 1, Substances, uses and number of retailers.

Substance	Key uses	Number of retailers
Part 1 poisons	<ul style="list-style-type: none">• Mostly agricultural or pest control.• Niche metal plating/extraction.	15-20
Part 2 poisons	<ul style="list-style-type: none">• Household cleaning products.• Pest control.	2,360

COSTS

Costs (1): Costs to business

The Home Office have bid for EU funding to develop a chemical security awareness e-learning course for retailers that if successful, would be made available to retailers to use free of charge in 2015.

Verifying controlled products

All businesses should be aware of the poisons they sell due to the current regulations. Therefore there is no expected cost from verifying which products are affected.

Labelling controlled products

Pharmacies will need to ensure that any Part 1 poisons being made available to the general public above the concentration thresholds are labelled with:

“Acquisition, possession or use of by the general public is restricted.”

It is not known how many products are affected. Based on information from the Chemical Business Association and the formal consultation, as long as manufacturers and formulators are made aware of the requirement in good time before the regulation comes into force, then 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 will be raised by using a layered information dissemination method e.g. through business and hobby associations, news articles, stakeholder workshops and via head offices.

Ongoing costs

Refresher training

Based on the evidence gathered through consultation, we have assumed that between 30-60% of retailers of Part 2 Poisons do not also sell explosive precursors. With an estimated

2,360 retailers of Part 2 Poisons, 709-1,420 businesses will need ongoing training on suspicious transaction and significant loss reporting.²

This is likely to be an overestimate, as a significant number of retailers (including supermarket chains, DIY stores, small businesses and pharmacies) also sell products containing explosives precursors and will receive refresher training as part of the implementation of the EU regulation to avoid duplicating costs.

In addition to Part 2 retailers, there are approximately 200 distributors of Part 1 Poisons for use as pesticides that are not affected by the Explosive Precursors regulations.

In line with the Explosive Precursors Impact Assessment, and based on evidence gathered through consultation, this training will take 3 hours per store. With 909-1,620 businesses needing training, training will cost **£0.03 to £0.05 million per year at a present value of £0.23 to £0.41 million over 10 years**³.

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.

Compliance costs

Part 1 poisons can only be sold to the general public by registered pharmacists. If a member of the general public wishes to purchase a Part 1 poison, they will be required to hold a valid licence and present it to the pharmacist at the point of sale. The pharmacist will be required to record the details of the sale i.e. the quantity and type of poison on the back of the licence. From consultation with the General Pharmaceutical Council, Pharmacy Voice and a chain of pharmacists, the time taken to record the details of a purchase of a Part 1 Poison on the back of the poisons licence would be negligible.

Reporting suspicious transactions and significant losses/thefts

All businesses selling Part 1 or Part 2 poisons as a listed ingredient will be required to report suspicious transactions and significant losses. It is not possible to estimate exactly how many suspicious transactions or losses will occur.

The anti-terrorism hotline reported that in recent months there was an average of 4 calls per month that made reference to chemicals. Following an internal review of the *Know Your Customer* 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 *Know Your Customer* training reporting suspicious transactions, an estimated 1 call per 312 businesses would be made per year.⁴

Whilst the estimated number of calls currently made to the anti-terrorism hotline are not necessarily all about suspicious transactions, therefore this is 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.

² Numbers do not add up due to rounding.

³ Hourly wage of £9.70 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.

⁴ 96 (4 calls from the hotline, plus 4 calls from the police each month) divided by 30,000. $1 \div 0.0032 = 312.5$.

The cost of suspicious transaction reporting to business is therefore expected to be **negligible**.

Loss of sales due to deterrent effect of licence

Evidence gathered during consultation suggests that there are only 15-20 pharmacies that currently sell these substances. We do not have an estimate of the total value of sales despite attempting to gather further evidence through the consultation but there is limited evidence to suggest that pharmacies sell a significant amount of Part 1 poisons to the general public in the first place. For illustration, our research found that one pharmacy sells a single Part 1 substance to 60 customers per year. By contrast, one consultation respondent representing a chain of 53 pharmacists had not sold a Part 1 Poison for a number of years.

The consultation showed that a majority of home users would continue to purchase Part 1 poisons if a licence was required. A small minority of respondents would stop purchasing these substances altogether. The main concern for home users was that the cost of obtaining a licence should not be prohibitive and the process should be straightforward. Analysis of the consultation indicates that the general public would be prepared to pay up to £40 for a licence. As the cost of a licence is estimated to be £40, the deterrence effect is not expected to be significant for the pharmacies that sell these substances to the general public.

The total cost to business is therefore £0.03 to £0.05 million per year at a present value of £0.23 to £0.41 million over 10 years

Costs (2): Costs to public sector

Transition costs

Providing information to business on new regulations

The new regulations will be implemented alongside the EU regulations on Explosive Precursors. The additional cost of aligning changes to the poisons controls is expected to be **negligible**.

Ongoing costs

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 for Explosive Precursors. It is expected that Poisons will be covered by these new offences.

- 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.

- 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.

We would expect the great majority of businesses and the general public to comply with the regulations from the outset. In line with the Marketing and Use of Explosives Precursors Regulation there will be a transitional period (until 2 March 2016) for possession and use by the general public of Part 1 poisons to allow people to adjust to the new restrictions. However, if a business or member of the general public is found to be non-compliant, action will be taken which could result in criminal prosecution. Annex B 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 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 General Pharmaceutical Council is responsible for inspecting pharmacists selling Part 1 poisons. By giving the police new powers to conduct test purchases and creating a new offence for businesses reported to be inappropriately supplying Part 1 substances, there may be an increase in the number of prosecutions for the illegitimate sale of Part 1 poisons.

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

Under the new legislation, when a business 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 be incurred.

It is not possible to estimate the number of additional calls that the Hotline will receive as a result of this regulation. We have consulted with the anti-terrorism hotline team about the potential impacts on resourcing.

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. We assume that new leads provide an overall benefit to the police due to the increase in the likelihood that a terrorist plot is disrupted. This is because we assume that police officers would run the same level of investigation (that is, using the same number of officers and resources) but now they have better information.

Licensing costs

There will be no additional system set-up costs above those required for the EU marketing and use of explosives precursors regulation.

There is not expected to be a significant number of licences requested for Part 1 poisons alone. We therefore assume that the cost to both the public sector and individuals from the Poisons regulations is **negligible**.

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.

Costs (3): Cost to home users

Cost of a licence

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 £40⁵.

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 £3.⁶

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 Part 1 poisons. This cost has not been quantified, but is expected to be small, since most home use of Part 1 poisons is by hobbyists for pyrotechnic experiments and metal treatment. The publicity campaign to inform home users about the change in legislation will help to minimise these costs, by allowing them to plan ahead.

To minimise the burden on home users the licence will be multi-use and will allow the licensee to purchase both Annex 1 precursor chemicals and Part 1 Poisons.

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 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.

INs (One-in-Two-Out)

This policy adds the requirement that registered pharmacists must check licences. This is not expected to lead to significant costs for pharmacies.

There will be a cost as a result of the familiarisation and training required of the new policy. This is estimated to be £0.02 to £0.04 million per year. In addition, there will be the cost of labelling. This is not expected to be significant due to the significant period of time given to businesses to put the labelling into practice.

This policy will therefore lead to a direct cost of **£0.03m EANCB (2009 prices)**.⁷

⁵ 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.

⁶ 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.

BENEFITS

Benefits (1): Benefits to business

The policy removes the requirement for retailers to apply for a licence to sell Part 2 poisons. For the purposes of this assessment we have estimated that there are 2,360 licence holders in Great Britain (see calculations on p7).

Authorities charge varying fees for an application, renewal and variation. From the consultation with Trading Standards Offices, the average fee for a renewal was £18.

Assuming that all 2,360 licence holders renew each year, at a renewal fee of £18, Option 3 will lead to a saving of **£0.04 million per year**⁸.

In addition, there is the time saving from not having to renew your licence every year. Assuming that it takes half an hour to renew your licence, the saving would be £6 per business.⁹ **This equates to £0.02 million per year.**

Therefore the total saving is estimated to be £0.06million per year, ie. a saving of £0.51 million over 10 years (PV).

Benefits (2): Benefits to public sector

Table 2 shows the number of incidents per year relating to the use of chemicals to cause harm reported to the Police National Chemical, Biological, Radiological and Nuclear Centre. If the proposed amendments to the Poisons Act had been in place, some of these incidents may have been brought to the attention of the authorities earlier.

Table 2, The number of reported incidents involving chemicals (2010-2013)¹⁰.

Year	No. of chemical incidents
2010	42
2011	40
2012	88*
Jan-Aug 2013	51

* The spike in numbers reflects the inclusion of Metropolitan Police data.

Suspicious transaction reporting should lead to additional intelligence and reports to the police, allowing them to investigate and prosecute those intent on causing harm before they do so. Fatalities involving chemicals require a specialist response, so if such incidents can be prevented the cost of providing this response is removed.

Removing the licensing requirement for Part 2 retailers will reduce the burden on Trading Standard Officers to process the licence applications. However, as the fees they charge are assumed to be based on full cost recovery, we have not included this saving in order to avoid double counting with the benefit to business from no longer requiring a licence.

Benefits (3): Benefits to home users

⁷ Mid-point of lower and upper estimate.

⁸ Assuming no increase in fee over time.

⁹ Using the Annual Survey of Hourly Earnings 2013, for "Shopkeepers and proprietors- wholesalers and retailers" updated for inflation to 2014/15 prices using GDP deflators and adding 30 per cent on costs. On costs from the Standard Cost Model, Better Regulation Framework.

¹⁰ These figures are for all chemicals, not just Part 1 or 2 poisons.

Those with a genuine need to acquire and use Part 1 and 2 poisons will still be able to do so. However, the general public will be less likely to suffer harm from poisons as a result of greater control over those able to purchase them.

OUTS (One-in-Two-out)

The removal of the requirement for retailers to apply for a licence to sell Part 2 poisons is estimated to lead to **a direct benefit of £0.05m EANCB (2009 prices)**.

ONE-IN-TWO-OUT (OITO)

The cost of familiarisation and training is estimated to be £0.03 million (EANCB) whilst the benefit of removing the requirement for retailers to apply for a licence is estimated to be £0.05 million (EANCB). **Therefore overall this policy will lead to an OUT of £0.02 million.**¹¹

F. Risks

- There is a risk of damage to the Home Office's reputation if a licence is granted to someone who then misuses the poisons.
- There is a risk of the policy not meeting the objectives by leading to increased use of the black market and the only effect is a negative impact on industry.
- Removal of affected products from the market is also a risk.
- There is a risk of additional prosecutions as a result of the creation of the new offences which would incur a cost to the Criminal Justice System.

G. Enforcement

Enforcement will be the responsibility of the Home Office as the licensing authority and the police as the enforcement agency. Inspection of pharmacies will remain the responsibility of the General Pharmaceutical Council.

When enforcing this policy enforcement bodies will need to check compliance. We expect this to be in the form of test purchase exercises where a covert officer would attempt to purchase a banned or restricted product without complying with the required conditions. Test purchases would be targeted based on intelligence, for example, reports of the supplier's non-compliance from members of the general public or through other inspections.

Additionally, when conducting a search of domestic premises, if Part 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. Guidance (based on that for a similar regulation controlling sales of explosives precursors) will be available for businesses on: identifying and reporting suspicious transactions, thefts and significant losses, and labelling requirements.

Where possible licensing applications and checks have used existing systems to maximise cost effectiveness.

H. Summary and Recommendations

¹¹ Figures do not add up due to rounding.

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

Table H.1 Costs and Benefits		
Option	Costs	Benefits
2	The cost of training and familiarisation to business is £0.23 to £0.41 million (PV over 10 years).	The removal of the requirement to hold a licence for Part 2 retailers is £0.51 million (PV over 10 years).
	Cost to business of loss of sales due to deterrence effect of licence. Potential cost to public sector in administering licences. Impact on home users of licensing Part 1 poisons. (not quantified)	Benefits to the public sector and individuals from a potential reduction in the misuse of poisons for a) harming the self or b) harming others. (not quantified)

Given the stated policy objectives and the analysis in sections E and F, **licensing of home users of Part 1 poisons and reporting of suspicions is the preferred option**. It minimises burdens on retailers by removing the requirement to apply for a licence to retail Part 2 poisons. Many of the affected groups will already be affected by similar measures under the Marketing and Use of Explosives Precursors regulation, so the additional impact of this option is small but introduces greater protection against misuse.

I. Implementation

The Government plans to implement these changes in October 2014. We aim to introduce the amendments via the Deregulation Bill during the fourth session.

The delivery of the amendments will be led by the Home Office.

J. Monitoring and Evaluation

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 poisons.

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.

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

Annex A: Part 1 Poisons List

Name of substance	Retailled to general public?
Aluminium phosphide	No
Arsenic; its compounds (other than those specified in List 2)	No
Barium, salts of, (other than compounds specified in List 2)	Yes
Bromomethane	No
Chloropicrin	No
Fluoroacetic acid; its salts; fluoracetamide	
Hydrogen cyanide; metal cyanides, other than ferrocyanides and ferricyanides	Metal cleaning, electroplating
Lead acetates; compound of lead with acids from fixed oils	Hobbies: painting, soldering, target shooting, pottery
Magnesium phosphide	No
Mercury, compounds of, the following: - nitrates of mercury ; mercuric cyanide oxides; mercuric thiocyanate; ammonium mercuric chlorides; potassium mercuric iodides; organic compounds of mercury which contain a methyl group directly linked to the mercury atom	No
Oxalic acid	Stain removal, leather tanning and general cleaning.
Phenols (phenol; phenolic isomers of the following cresols, xylenols, monoethylphenols) except in substances containing less than 60% weight in weight of phenols; compounds of phenols with metal, except in substances containing less than the equivalent of 60% weight in weight, of phenols	No
Phosphorus yellow	No
Strychnine; its salts in quaternary compounds	No
Thallium, salts of	No

ANNEX B- 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 disposal¹² 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 E:1: Weighted estimated CJS cost per case:

CJS Agency	CJS Cost¹³
HMCTS	£900
CPS (EXCLUDING advocacy costs)	£700
Legal Aid	£2,400
Prison	£11,000
Probation	£1,000
Weighted cost per case	£15,900¹⁴

¹² 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.

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

¹⁴ 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 2012¹⁵. With 141,820 firearm certifications¹⁶ in March 2012, approximately 0.1% of individuals with firearms are prosecuted. A negligible number of home users of Part 1 poisons have been found therefore we do not expect to see a significant increase in prosecutions.

However, 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.

¹⁵ MOJ statistics, 2012

¹⁶ 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 Costs¹⁷	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 case¹⁸	£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

¹⁷ Rounded to the nearest £100. Same caveats apply as for Table E:1.

¹⁸ 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 is 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 (e.g., 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:</p> <p>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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