
STATUTORY INSTRUMENTS

1991 No. 1285

DANGEROUS DRUGS

**The Controlled Drugs (Substances Useful
for Manufacture) Regulations 1991**

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| <i>Made</i> | - - - - | <i>30th May 1991</i> |
| <i>Laid before Parliament</i> | | <i>7th June 1991</i> |
| <i>Coming into force</i> | - - | <i>1st July 1991</i> |

In exercise of the powers conferred upon me by section 2(2) of the European Communities Act 1972⁽¹⁾ and by section 13 of the Criminal Justice (International Co-operation) Act 1990⁽²⁾, in accordance with regulation 1(2) below, I hereby make the following Regulations:

1.—(1) These Regulations may be cited as the Controlled Drugs (Substances Useful for Manufacture) Regulations 1991 and shall come into force on 1st July 1991.

(2) These Regulations are made under section 2(2) of the 1972 Act and section 13 of the 1990 Act, subject to the following exceptions:

- (a) regulations 3 to 6 are made under section 2(2) of the 1972 Act alone; and
- (b) regulation 7 is made under section 13 of the 1990 Act alone.

2. In these Regulations:

“the 1972 Act” means the European Communities Act 1972;

“the 1979 Act” means the Customs and Excise Management Act 1979⁽³⁾;

“the 1990 Act” means the Criminal Justice (International Co-operation) Act 1990;

“the Community Regulation” means Council Regulation (EEC) No. 3677/90⁽⁴⁾, and “operator” has the same meaning as in that Regulation.

3. Subject to regulations 4 and 6 below:

- (a) the obligations imposed on operators by Articles 2(2) and (3), 4 and 5 of the Community Regulation and by virtue of regulation 5 below shall be treated as if they were requirements imposed on them by regulations made under section 13(1) of the 1990 Act; and

(1) 1972 c. 68. The Secretary of State is the designated Minister for the purpose of these Regulations by virtue of S.I. 1981/1536 and 1983/1706.

(2) 1990 c. 5.

(3) 1979 c. 2.

(4) 1971 c. 80.

- (b) section 13(2) of the 1990 Act shall apply for the purposes of these Regulations as if the reference in that subsection to the requisitenotification were a reference to notification in accordance with Article 4 of the Community Regulation, and as if the references in paragraph (a) of that subsection to Schedule 2 to the 1990 Act and to such countries as may be specified in the regulations were references to the Annex to the Community Regulation and to any country outside the European Economic Community, respectively.

4. In Article 4 of the Community Regulation:

- (a) the words “the competent authorities of the Member State” shall be taken as a reference to the Secretary of State; and
- (b) the period referred to by the words “15 working days” shall be taken to exclude Saturdays, Sundays, Christmas Day, Good Friday and any day which, under the Banking and Financial Dealings Act 1971⁽⁵⁾, is a bank holiday in England and Wales.

5.—(1) An operator who is concerned in an export, import or transit operation involving a scheduled substance shall ensure that he has the documentation required by Article 2(1) of the Community Regulation.

In this paragraph, “export”, “import”, “scheduled substance” and “transit” have the same meanings as in the Community Regulation.

(2) The obligations imposed by Article 2(4) of the Community Regulations shall be complied with by the operator mentioned in paragraph (1) of this regulation, and in that Article the words “the competent authorities” shall be taken as a reference to the Secretary of State.

6. Where a person is convicted of an offence contrary to section 68 of the 1979 Act or section 13(5) of the 1990 Act as a result of the application of regulation 3 above:

- (a) section 68(1)⁽⁶⁾ of the 1979 Act shall have effect as if after the word “greater” there were added the words “but not exceeding the statutory maximum”;
- (b) section 68(3)(a) of the 1979 Act shall have effect as if after the word “greater” there were added the words “but not exceeding the statutory maximum”, and for the words “6 months” there were substituted the words “3 months”;
- (c) section 68(3)(b)⁽⁷⁾ of the 1979 Act shall have effect as if for the words “7 years” there were substituted the words “2 years”;
- (d) section 13(5)(a) of the 1990 Act shall have effect as if for the words “6 months” there were substituted the words “3 months”.

7. A person who produces or supplies a scheduled substance specified in Table 1 in Schedule 2 to the 1990 Act shall:

- (a) make a record of each quantity of such scheduled substance produced or supplied by him, as the case may be; and
- (b) preserve all records made under this regulation for a period of not less than two years from the end of the calendar year in which the production or supply, as the case may be, took place.

In this regulation, “produce” and “supply” have the same meanings as in the Misuse of Drugs Act 1971⁽⁸⁾.

⁽⁵⁾ Section 68(1) was amended by virtue of the Criminal Justice Act 1982 (c. 48), sections 38 and 46.

⁽⁶⁾ Section 68(3)(b) was amended by the Finance Act 1988 (c. 39), section 12(1)(a).

⁽⁷⁾ 1971 c. 38.

⁽⁸⁾ OJ No. L 397, 20.12.90, p.1.

Home Office
30th May 1991

Kenneth Baker
One of Her Majesty's Principal Secretaries of
State

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, subject to one exception referred to below, implement Council Regulation (EEC) 3677/90 (“the Community Regulation”). The Community Regulation requires Member States to adopt within the framework of their domestic law the measures necessary to enable the competent authorities (in the United Kingdom, this phrase refers to the Secretary of State) to obtain information on any orders for or operations involving scheduled substances (substances useful for the manufacture of controlled drugs) and to enter operators' business premises to obtain evidence of irregularities. It also requires Member States to determine the penalties to be applied for infringement of the provisions of the Community Regulation.

The Community Regulation itself provides for the documentation, recording and labelling of scheduled substances. It also requires that the proposed exportation of certain scheduled substances is notified to the competent authorities in advance of such exportation.

These Regulations provide that requirements of the Community Regulation are to be treated as if they were requirements of regulations made under section 13(1) of the Criminal Justice (International Co-operation) Act 1990 (“the 1990 Act”). Section 23 of the 1990 Act provides for rights of entry and search of premises in order to investigate suspected breaches of regulations made under section 13(1) of that Act. The 1990 Act also provides for penalties for breaches of such Regulations. These Regulations therefore enable breaches of the Community Regulation to be investigated and penalised within the framework of the 1990 Act, except that the penalties for breaches of the Community Regulation are in certain respects lower than those provided for under the 1990 Act.

Regulation 7 of these Regulations does not implement the Community Regulation and is made under section 13(1) of the 1990 Act alone. It provides for the recording of the production and supply of scheduled substances. The penalty for breach of this regulation is that provided for under the 1990 Act.