

**EXPLANATORY MEMORANDUM TO**  
**THE CHEMICAL WEAPONS (LICENCE APPEAL PROVISIONS) (REVOCAATION)**  
**(NO. 2) ORDER 2013**

**2013 No. 1129**

1. This explanatory memorandum has been prepared by the Department of Energy and Climate Change and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

- 2.1 The purpose of this instrument is to revoke the Chemical Weapons (Licence Appeal Provisions) Order 1996 and the Chemical Weapons (Licence Appeal Provisions)(Revocation) Order 2013.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

- 3.1 There are no matters of special interest to the Committee.

4. **Legislative Context**

- 4.1 Firstly, this Order revokes the Chemical Weapons (Licence Appeal Provisions) Order 1996. That Order puts in place certain rules concerning the conduct of appeals for the purposes of section 20(4) of the Chemical Weapons Act 1996. The effect of this Order is that these rules will no longer apply to any decision taken on or after the day on which the Order comes into force.

- 4.2 Secondly, this Order revokes the Chemical Weapons (Licence Appeal Provisions)(Revocation) Order 2013. That Order purported to revoke the Chemical Weapons (Licence Appeal Provisions) Order 1996 and was made and registered. However it was not printed following the discovery of a defect.

5. **Territorial Extent and Application**

- 5.1 This instrument extends to the United Kingdom.

## **6. European Convention on Human Rights**

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6.2 Although the SI removes a statutory right of appeal the Department considers that the non-statutory processes in place and the availability of Judicial Review of the decisions of the Secretary of State are sufficient to ensure the protection of rights under Article 6 of the European Convention on Human Rights.

## **7. Policy background**

7.1 The Chemical Weapons (Licence Appeal Provisions) Order 1996 sets out the rules that apply should a person appeal against a refusal by the Secretary of State to grant, renew or amend a licence, under the Chemical Weapons Act 1996, s.20, to use, produce or hold chemicals listed in Schedule 1 to the Chemical Weapons Convention.

7.2 The intended change is further to the Government's Red Tape Challenge which aims to reduce the stock of existing regulations by inviting businesses and individuals to suggest which regulations should be scrapped, improved or kept. The Chemical Weapons (Licence Appeal Provisions) Order 1996 has never been used since being placed on the statute book and we do not expect there is much likelihood of it being used in future given that our approach is not designed to refuse licences but to use the licensing process to ensure proper controls are in place for research using CWC Schedule 1 chemicals. It has therefore been decided that the Order should be scrapped and replaced with a new appeal process in case of any future appeal. The appeal process will be a non-statutory process administered by DECC and if it was ever used it would be cheaper and less bureaucratic to implement than the Order. It is important to note that the new arrangements will not reduce the scope for appeal compared with the provisions of the Order.

## **8. Consultation outcome**

8.1 A consultation was carried out on the proposals with all current CWC Schedule 1 licence holders at the end of 2012. The proposals were also discussed with the CWC Advisory Committee - a group of experts from academia and the chemical industry which meets twice a year to advise DECC on CWC issues. All are content with the proposals.

## **9. Guidance**

9.1 Guidance on the appeals process has been circulated to all CWC Schedule 1 licence holders and will be placed on the DECC website.

## **10. Impact**

10.1 A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

## **11. Regulating small business**

11.1 This Order applies to all business regardless of size.

## **12. Monitoring & review**

12.1 This provision revokes an existing Order so is not suitable for monitoring and review.

## **13. Contact**

13.1 Terry Dance at the Department of Energy and Climate Change (tel: 0300 068 5925 or email: [terry.dance@decc.gsi.gov.uk](mailto:terry.dance@decc.gsi.gov.uk)) can answer any queries regarding the instrument.