

2014 No. 1942

HEALTH AND SAFETY

The Control of Explosives Precursors Regulations 2014

Made - - - - *18th July 2014*

Laid before Parliament *24th July 2014*

Coming into force - - *2nd September 2014*

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972(a) in relation to the notification and control of substances(b).

The Secretary of State, in exercise of the powers conferred by section 2(2) of and paragraph 1A of Schedule 2 to the European Communities Act 1972(c), makes the following Regulations.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Secretary of State that it is expedient for any reference to an Annex of Regulation (EU) No 98/2013(d) of the European Parliament and of the Council of 15th January 2013 on the marketing and use of explosives precursors to be construed as a reference to that Annex as amended from time to time.

Citation and commencement

1.—(1) These Regulations may be cited as the Control of Explosives Precursors Regulations 2014 and come into force on 2nd September 2014.

(2) These Regulations extend to England and Wales and Scotland only.

General interpretation

2. In these Regulations—

“the EU Regulation” means Regulation (EU) No 98/2013 of the European Parliament and of the Council of 15th January 2013 on the marketing and use of explosives precursors;

“Great Britain” includes the territorial sea of the United Kingdom other than the part adjacent to Northern Ireland;

“licence” (unless otherwise indicated) means a licence granted under regulation 7;

“member of the general public” means an individual who is acting (alone or with others) for purposes not connected with his or her trade, business or profession or the performance by him or her of a public function;

(a) 1972 c. 68.

(b) European Communities (Designation) (No.3) Order 1981 (S.I. 1981/1536).

(c) Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c. 51).

(d) OJ No L 39, 9.2.2013, p 1-11

“mixture” means a mixture or solution composed of two or more substances;

“recognised non-GB licence” has the meaning given in regulation 10;

“substance” means a chemical element and its compounds in the natural state or obtained by any manufacturing process—

- (a) including any additive necessary to preserve its stability and any impurity deriving from the process used, but
- (b) excluding any solvent that may be separated without affecting the stability of the substance or changing its composition;

“supply” means any kind of supply or making available, whether in return for payment or free of charge.

Meaning of “regulated explosives precursor” and “reportable explosives precursor”

3.—(1) This regulation defines what is meant for the purposes of these Regulations by “regulated explosives precursor” and “reportable explosives precursor”.

(2) Except for the purposes of regulation 6, “regulated explosives precursor”—

- (a) means a substance listed in Annex I of the EU Regulation in a concentration higher than the corresponding limit value set out in that Annex, and
- (b) includes a mixture or other substance in which a substance listed in that Annex is present in a concentration higher than the corresponding limit value,
but, in each case, only if the substance or mixture is not excluded.

(3) For the purposes of regulation 6, “regulated explosives precursor”—

- (a) means a substance listed in Annex I of the EU Regulation, and
- (b) includes a mixture or other substance in which a substance listed in that Annex is present, but, in each case, only if the substance or mixture is not excluded.

(4) “Reportable explosives precursor”—

- (a) means a substance listed in Annex II of the EU Regulation, and
- (b) includes a mixture or other substance in which a substance listed in that Annex is present, but, in each case, only if the substance or mixture is not excluded.

(5) A substance or mixture is “excluded” if it is—

- (a) medicinal, or
- (b) contained in a specific object.

(6) For these purposes, a substance or mixture is “medicinal” if it is—

- (a) a medicinal product as defined by regulation 2 of the Human Medicines Regulations 2012^(a),
- (b) an investigational medicinal product as defined by regulation 2 of the Medicines for Human Use (Clinical Trials) Regulations 2004^(b),
- (c) a substance to which Part 12 of the Human Medicines Regulations 2012 or Part 6 of the Medicines for Human Use (Clinical Trials) Regulations 2004 applies by virtue of an order under section 104 or 105 of the Medicines Act 1968^(c) (whether applying subject to exceptions and modifications or not and, in the case of an order under section 104, whether the substance is referred to in the order as a substance or an article), or
- (d) a veterinary medicinal product as defined by regulation 2 of the Veterinary Medicines Regulations 2013^(d).

(a) S.I. 2012/1916.

(b) S.I. 2004/1031.

(c) 1968 c. 67.

(d) S.I. 2013/2033.

- (7) A substance or mixture is “contained in a specific object” if it is contained in—
- (a) an object that, during production, is given a special shape, surface or design that determines its function to a greater degree than does its chemical composition, or
 - (b) an article that contains explosive substances or an explosive mixture of substances designed to produce heat, light, sound, gas or smoke or a combination of such effects through self-sustained exothermic chemical reactions, including—
 - (i) pyrotechnic equipment falling within the scope of Council Directive 96/98/EC^(a) on marine equipment, and
 - (ii) percussion caps intended specifically for toys falling within the scope of Council Directive 88/378/EEC^(b) concerning the safety of toys.
- (8) References in this regulation to an Annex of the EU Regulation are to that Annex as amended from time to time.

Activities prohibited without a licence

4.—(1) A member of the general public commits an offence if he or she does anything listed in paragraph (2) without having a licence, or a recognised non-GB licence, to do that thing with respect to that explosives precursor.

(2) The things are—

- (a) importing a regulated explosives precursor,
- (b) acquiring a regulated explosives precursor,
- (c) possessing a regulated explosives precursor,
- (d) using a regulated explosives precursor.

(3) In these Regulations—

- (a) “acquiring” means taking into your possession, custody or control,
- (b) “importing” means bringing into Great Britain from a country or territory outside the United Kingdom,
- (c) “possessing” means having in your possession, custody or control, and
- (d) “using” includes processing, formulating, storing, treating or mixing, including in the production of an article.

(4) This regulation does not apply to the possession or use of a regulated explosives precursor at any time before 3rd March 2016.

Supply of regulated explosives precursors

5.—(1) A person commits an offence if the person supplies a regulated explosives precursor to a member of the general public without first verifying—

- (a) that the member of the general public has a licence, or a recognised non-GB licence, allowing him or her to acquire and possess (or acquire, possess and use) the explosives precursor, or
- (b) where the supply involves despatch to Northern Ireland, that the member of the general public has a licence issued or recognised under relevant Northern Ireland legislation allowing him or her to acquire and possess (or acquire, possess and use) the explosives precursor, or
- (c) where the supply involves export from the United Kingdom, that the member of the general public has a licence issued or recognised in accordance with Article 7 of the EU Regulation by the member State where he or she is acquiring the explosives precursor

(a) OJ No L 046, 17.2.1997, p 25-56

(b) OJ No L 187, 16.07.1988, p 1-13

allowing him or her to acquire and possess (or acquire, possess and use) the explosives precursor.

- (2) In order to verify that someone has the requisite licence, it is sufficient for these purposes to—
- (a) inspect the person’s licence, and
 - (b) inspect the form of identification specified in that licence (or, if no form is specified, a form of identification sufficient to allow the supplier to verify that the person is the holder of the licence in question).

(3) A person commits an offence if the person supplies a regulated explosives precursor to a member of the general public without first entering details of the transaction (or causing details of the transaction to be entered) in the licence that the person inspected for the purposes of paragraph (1).

(4) A person commits an offence if the person supplies a regulated explosives precursor to a member of the general public without first ensuring that a warning label is affixed to the packaging in which the explosives precursor is supplied.

(5) A “warning label” is a label clearly indicating that the acquisition, possession and use of the explosives precursor in question are subject to a restriction as set out in Article 4 of the EU Regulation.

(6) Before 3rd March 2016, paragraphs (1) and (5) have effect as if the references to possession and use of the explosives precursor were omitted.

- (7) “Relevant Northern Ireland legislation” means—
- (a) regulations made under the Explosives Act (Northern Ireland) 1970^(a) by virtue of the Explosives (Northern Ireland) Order 1972^(b),
 - (b) any legislative instrument that implements the EU Regulation in Northern Ireland, and
 - (c) any legislative instrument that replaces or supersedes (with or without modification) anything falling within sub-paragraph (a) or (b) of this sub-paragraph.
- (8) References in paragraph (7) to a legislative instrument are to—
- (a) an Act or instrument made under an Act, or
 - (b) any Northern Ireland legislation or instrument made under Northern Ireland legislation.

Reporting of suspicious transactions, disappearances and thefts

6.—(1) A supplier must report any relevant transaction that it makes or proposes to make if the supplier has reasonable grounds for believing the transaction to be suspicious.

(2) A “relevant transaction” is a transaction involving the supply of a regulated explosives precursor or a reportable explosives precursor to a customer, whether an end user or a customer higher up the supply chain and whether a business or a private customer.

(3) A relevant transaction is “suspicious” if there are reasonable grounds for suspecting that the explosives precursor in question is intended for the illicit manufacture of explosives.

(4) In deciding whether there are reasonable grounds for suspecting such a thing, regard must be had to all the circumstances of the case, including in particular where the prospective customer—

- (a) appears unclear about the intended use of the explosives precursor,
- (b) appears unfamiliar with the intended use of the explosives precursor or cannot explain it plausibly,
- (c) intends to buy regulated explosives precursors in quantities, combinations or concentrations uncommon for private use,
- (d) is unwilling to provide proof of identity or place of residence, or

(a) 1970 c.10 (N.I.).

(b) S.I. 1972/730 (N.I. 3).

(e) insists on using unusual methods of payment, including large amounts of cash.

(5) A person carrying on a trade, business or profession that involves regulated explosives precursors or reportable explosives precursors must report the disappearance or theft of any such explosives precursors if the disappearance or theft—

- (a) is from stocks in the person's possession, custody or control in Great Britain, and
- (b) is significant.

(6) In deciding whether a disappearance or theft is significant, regard must be had to whether the amount involved is unusual in all the circumstances of the case.

(7) A duty under this regulation to "report" something is a duty to give notice of it to the Secretary of State as soon as reasonably practicable and in accordance with such requirements as may be published from time to time by the Secretary of State for the purposes of this paragraph.

(8) A person who fails to comply with paragraph (1) or (5) commits an offence.

Licences

7.—(1) The Secretary of State may grant a licence to a person on application by that person in accordance with this regulation.

(2) The licence may permit the person to do one or more of the things listed in regulation 4(2) with respect to one or more of the regulated explosives precursors.

(3) The term for which a licence is granted must not exceed 3 years, but this does not affect—

- (a) a person's right to apply for a further licence to take effect on expiry of that term, nor
- (b) any power of the Secretary of State under the terms and conditions of the licence to vary, suspend or revoke the licence before expiry of that term.

(4) The Secretary of State may charge applicants a fee of the following amount to cover the reasonable cost of processing applications—

- (a) for applications for the grant of a licence, a fee of £39.50, and
- (b) for applications to replace any lost, damaged or stolen licence, a fee of £25.

(5) In deciding whether to grant or amend a licence with respect to a regulated explosives precursor, the Secretary of State must have regard to all the circumstances of the case, including in particular—

- (a) the use intended to be made of the explosives precursor,
- (b) the availability of alternative substances that would achieve the same purpose,
- (c) the proposed arrangements to ensure that the explosives precursor is kept securely,
- (d) any danger to public safety or public order that may be caused by possession of the explosives precursor, and
- (e) whether the applicant is a fit and proper person to possess the explosives precursor.

(6) But if there are reasonable grounds for doubting the legitimacy of the use intended to be made of the explosives precursor or the intentions of the user to use the explosives precursor for a legitimate purpose, the Secretary of State must in any event refuse the application so far as it relates to that explosives precursor.

(7) A licence may be granted subject to such terms and conditions as may be specified in the licence.

(8) Examples of terms and conditions that may be specified include, for any regulated explosives precursors with respect to which the licence is granted, terms and conditions about—

- (a) storage,
- (b) use,
- (c) maximum quantities,
- (d) maximum levels of concentration, and

(e) reporting of disappearances or thefts.

(9) The Secretary of State must notify the applicant of the Secretary of State's decision to grant or refuse the application as soon as reasonably practicable after the decision is taken.

(10) The notice under paragraph (9) must also inform the applicant of the right under regulation 9 to ask the Secretary of State to reconsider the decision.

Applications for a licence

8.—(1) An application for a licence or for the amendment of a licence is valid only if it complies with this regulation.

(2) The application must—

- (a) be made on a form and in a manner approved for that purpose by the Secretary of State,
- (b) contain the information required by that form, and
- (c) be accompanied by such further information or documentation as the Secretary of State may require.

(3) The power of the Secretary of State to approve the manner in which applications may be made includes power to require all applications to be made, and all further information or documentation to be submitted, by electronic means.

(4) The Secretary of State must publish details of the forms and other matters approved or required from time to time for the purposes of paragraph (2).

(5) The applicant must—

- (a) provide any additional information or documentation that the Secretary of State requests in order to decide the applicant's application,
- (b) assist and co-operate as far as reasonably practicable with any investigations or checks that the Secretary of State thinks it appropriate to carry out for that purpose, and
- (c) do such other things as the Secretary of State may request for that purpose.

(6) The investigations and checks that the Secretary of State may carry out include investigations and checks about for example—

- (a) the applicant's physical or mental health, and
- (b) the commission or alleged commission by the applicant of any offence (including cautions, or convictions, that are spent).

(7) The applicant, in making the application, is deemed to have consented to—

- (a) the carrying out of any investigations or checks that the Secretary of State thinks it appropriate to carry out in order to decide the application, and
- (b) the processing by any person of information about the applicant (including sensitive personal data) that needs to be processed by that person for or in connection with those investigations and checks.

(8) "Processing" and "sensitive personal data" have the same meaning as in the Data Protection Act 1998(a).

Internal review of decisions with regard to a licence

9.—(1) This regulation applies if—

- (a) the Secretary of State makes a relevant decision, and
- (b) within 28 days beginning with the day on which the affected person is notified of the decision, the affected person asks the Secretary of State to reconsider the decision.

(2) The Secretary of State must carry out a review of the decision.

(a) 1998 c. 29.

(3) The provisions of regulation 8 apply to a request under this regulation as to an application under that regulation.

(4) On conclusion of the review, the Secretary of State must either—

- (a) confirm the relevant decision (whether on the same or different grounds),
- (b) make such changes to the relevant decision as the Secretary of State thinks fit, or
- (c) revoke the relevant decision.

(5) Paragraphs (5) to (8) of regulation 7 apply to a decision under paragraph (4) as to a decision under that regulation.

(6) A “relevant” decision is a decision—

- (a) to refuse an application for a licence,
- (b) to grant an application for a licence subject to any terms or conditions,
- (c) to refuse an application to amend a licence,
- (d) to grant an application to amend a licence subject to any terms or conditions, or
- (e) to vary, suspend or revoke a licence.

(7) “The affected person” is the applicant or, for a decision within paragraph (6)(e), the licence-holder.

Recognised non-GB licences

10.—(1) The Secretary of State must publish a list from time to time of recognised member States (if any).

(2) A member State is “recognised” for these purposes if licences granted by the competent authority of that State in accordance with the EU Regulation are recognised in the United Kingdom under Article 7(6) of that Regulation.

(3) References in these Regulations to a “recognised non-GB licence” are to—

- (a) a licence granted in accordance with the EU Regulation by the competent authority of a member State that is included in the list (or latest list) published under paragraph (1), or
- (b) a licence granted under relevant Northern Ireland legislation.

(4) “Relevant Northern Ireland legislation” has the same meaning as in regulation 5.

Proof of lack of knowledge

11.—(1) In any proceedings for any offence under regulation 4 or 5, it is a defence for the accused to prove that the accused neither knew of nor suspected nor had reason to suspect the existence of some fact alleged by the prosecution that it is necessary for the prosecution to prove if the accused is to be convicted of the offence charged.

(2) This is subject to paragraph (4).

(3) Paragraph (4) applies where, in any proceedings for an offence under regulation 4 or 5—

- (a) it is necessary, if the accused is to be convicted of the offence charged, for the prosecution to prove that some substance or mixture involved in the alleged offence was the regulated explosives precursor that the prosecution allege it to have been, and
- (b) it is proved that the substance or mixture in question was that regulated explosives precursor.

(4) Where this paragraph applies—

- (a) the accused must not be acquitted of the offence charged by reason only of proving that the accused neither knew nor suspected nor had reason to suspect that the substance or mixture was the particular regulated explosives precursor alleged, but
- (b) the accused must be acquitted of the offence charged if—

- (i) the accused proves that the accused neither believed nor suspected nor had reason to suspect that the substance or mixture was a regulated explosives precursor, or
- (ii) the accused proves that the accused believed the substance or mixture to be a regulated explosives precursor such that, if it had in fact been that regulated explosives precursor, the accused would not at the material time have been committing any offence to which this regulation applies.

(5) Nothing in this regulation affects any defence that it is open to a person accused of an offence under regulation 4 or 5 to raise apart from this regulation.

Penalties

12.—(1) A person guilty of an offence under regulation 4 or 5(1) is liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both);
- (b) on summary conviction, to imprisonment for a term not exceeding 3 months or to a fine not exceeding level 5 on the standard scale (or both).

(2) A person guilty of an offence under regulation 5(3) or (4) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(3) A person guilty of an offence under regulation 6 is liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding level 5 on the standard scale (or both).

(4) In the case of proceedings against a person for an offence under these Regulations in connection with the supply of a regulated explosives precursor, where the act in question was done by an employee—

- (a) it is not a defence that the employee acted without the authority of the employer, and
- (b) any material fact known to the employee is deemed to have been known to the employer.

(5) Notwithstanding any provision in any Act, or Act of the Scottish Parliament, prescribing the period within which summary proceedings may be commenced, proceedings for an offence under regulation 5(3) or (4) or 6 may be commenced at any time—

- (a) within the period of 12 months next after the date of commission of the offence, or
- (b) in the case of proceedings instituted by, or by the direction of, the Secretary of State, within the later to end of—
 - (i) that 12-month period, and
 - (ii) the period of 3 months next after the date on which evidence sufficient in the Secretary of State's opinion to justify a prosecution for the offence comes to the Secretary of State's knowledge.

(6) For the purposes of paragraph (5)(b)(ii), a certificate purporting to be signed by the Secretary of State as to the date on which such evidence came to the Secretary of State's knowledge is to be conclusive evidence of that fact.

(7) A document purporting to be a certificate signed by a person specified in paragraph (8) stating the result of an analysis made by that person is admissible in any proceedings under these Regulations as evidence of the matters stated in the certificate, but either party may require the person to be called as a witness.

(8) The persons are—

- (a) a public analyst appointed under section 27 of the Food Safety Act 1990(a), or
- (b) a person appointed by the Secretary of State to make analyses for the purposes of these Regulations.

(a) 1990 c. 16.

(9) In the application of this regulation to Scotland, paragraphs (5) and (6) have effect as if the references to the Secretary of State were references to the Lord Advocate.

Offences by bodies corporate etc

13.—(1) If an offence under these Regulations is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to the neglect on the part of—

- (a) a director, manager, secretary or other similar officer of the body corporate, or
- (b) any person who was purporting to act in any such capacity,

that person, as well as the body corporate, is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) The reference in paragraph (1) to a director, in relation to a body corporate whose affairs are managed by its members, is a reference to a member of the body corporate.

(3) If an offence under these Regulations is committed by a Scottish partnership and is proved to have been committed with the consent or connivance of, or to be attributable to the neglect on the part of—

- (a) a partner, or
- (b) any person who was purporting to act in that capacity,

that person, as well as the partnership, is guilty of the offence and liable to be proceeded against and punished accordingly.

Application of PACE powers

14. As regards England and Wales, sections 8, 17 and 18 of the Police and Criminal Evidence Act 1984 (powers of entry and search) apply in relation to an offence under regulation 5(3) or (4) or regulation 6 as in relation to an indictable offence.

Consequential amendments

15. In Part II of the Schedule to the Poisons List Order 1982(a) (the Poisons List), omit the entries for—

- (a) nitric acid, and
- (b) sulphuric acid.

16. In Group II of Schedule 4 to the Poisons Rules 1982(b) (special exemptions), omit the entries for—

- (a) nitric acid, and
- (b) sulphuric acid.

17.—(1) The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975(c) is amended as follows.

(2) In article 3(1)(a)(iv), for “paragraph 1 or 3” substitute “paragraph 1, 3 or 6”.

(3) In article 3ZA(a)(iii), for “paragraph 1 or 3” substitute “paragraph 1, 3 or 6”.

(4) In Schedule 2 (excepted licences, certificates or permits), after paragraph 5 insert—

“6. Licences granted under regulation 7 of the Control of Explosives Precursors Regulations 2014.”

(5) In Schedule 3 (excepted proceedings), after paragraph 19 insert—

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- (a) S.I. 1982/217.
 - (b) S.I. 1982/218.
 - (c) S.I. 1975/1023.

“**19A.** Proceedings relating to the grant, amendment, variation, suspension or revocation of a licence under regulation 7 of the Control of Explosives Precursors Regulations 2014.”

18.—(1) The Rehabilitation of Offenders Act 1974 (Exclusions and exceptions) (Scotland) Order 2013(a) is amended as follows.

(2) In Schedule 1 (proceedings), after paragraph 10 insert—

“**10A.** Proceedings relating to the grant, amendment, variation, suspension or revocation of a licence under regulation 7 of the Control of Explosives Precursors Regulations 2014.”

(3) In Schedule 3 (exclusions of section 4(2)(a) and (b) of the Act), in paragraph 3(3), after paragraph (c) insert—

“(ca) licences granted under regulation 7 of the Control of Explosives Precursors Regulations 2014;”.

Home Office
18th July 2014

James Brokenshire
Minister of State

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision to implement Regulation (EU) No 98/2013 of the European Parliament and of the Council of 15th January 2013 on the marketing and use of explosives precursors (“the EU Regulation”) in England and Wales and Scotland. Separate regulations make provision to implement the EU Regulation in Northern Ireland.

These Regulations come into force on 2nd September 2014. This is subject to regulation 4(4), which postpones controls on the possession and use of substances until March 2016.

Regulation 3 defines the substances to which these Regulations apply. There are two categories of substance:

- (a) The first category is referred to in the Regulations as “regulated explosives precursors”. This covers the substances listed in Annex I of the EU Regulation and includes mixtures and other substances that include those substances. Save in relation to the reporting duties in regulation 6, this category only applies to a substance if it is present in a concentration higher than the level specified in Annex I of the EU Regulation.
- (b) The second category is referred to as “reportable explosives precursors”. This covers the substances listed in Annex II of the EU Regulation. It is only relevant for the purposes of the reporting duties in regulation 6. Again, it includes mixtures and other substances that include a listed substance.

(a) S.I. 2013/50.

Regulation 4 gives effect to Articles 4(1) and (6) of the EU Regulation. The government has chosen to establish a licensing regime in accordance with Article 4(2) of the EU Regulation. Regulation 4(1) therefore makes it an offence for members of the general public to import, acquire, possess or use a regulated explosives precursor without having a licence issued by the Home Office under regulation 7 or a licence recognised under regulation 10 (referred to as a “recognised non-GB licence”). In accordance with Article 16 of the EU Regulation, regulation 4 will not apply to the possession or use of a substance until 3rd March 2016, but it will apply to importation and acquisition of a substance from 2nd September 2014.

Regulation 5(1) implements Article 4(7) of the EU Regulation by making it a criminal offence to supply a regulated explosives precursor to a member of the general public without first verifying that the member of the general public has the requisite licence to acquire and possess (or acquire, possess and use) the substance in question.

Regulation 5(3) requires suppliers to enter details of each transaction on the customer’s licence. This is to assist suppliers in identifying suspicious transactions. Licences issued by the Home Office under regulation 7 will include a section in which details of transactions can be recorded.

Regulation 5(4) implements Article 5 of the EU Regulation by making it a criminal offence to supply a regulated explosives precursor to a member of the general public without affixing a “warning label” to the packaging in which it is supplied, warning people that it is an offence to acquire, possess or use it without a licence. This is in addition to any other legal requirements about the labelling of dangerous substances.

Regulation 6 implements Article 9 of the EU Regulation by requiring those who supply substances (at any stage in the supply chain, including supply to businesses) to report suspicious transactions and by requiring businesses to report significant disappearances or losses of substances. Failure to comply with these reporting requirements will be a criminal offence. This regulation extends to a larger group of substances than the other regulations – it covers both “regulated” and “reportable” explosives precursors and, in the case of regulated explosives precursors, there is no minimum concentration level.

Regulations 7 to 9 establish the new licensing regime in accordance with Article 7 of the EU Regulation. Regulation 9 gives people the right to request an internal review of licensing decisions taken by the Secretary of State. Failing that, people may be entitled to apply for a judicial review of the decision, subject to the requirements of general public law.

Regulation 10 provides for the recognition of licences issued by the competent authorities of other member States recognised by the UK in accordance with Article 7(6) of the EU Regulation and for the recognition of licences issued in Northern Ireland.

Regulations 11 to 14 contain provision for the investigation, enforcement and prosecution of offences created by these Regulations. These provisions mirror certain provisions of the Poisons Act 1972.

Regulation 15 removes the entries for nitric acid and sulphuric acid from the Poisons List made under the Poisons Act 1972. Those substances appear in Annex I and Annex II respectively of the EU Regulation and will now be regulated in accordance with the EU Regulation.

Regulations 17 and 18 allow for spent cautions and convictions to be disclosed in connection with decisions to grant, amend, suspend, vary or revoke licences under regulation 7.

A full regulatory impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Home Office, and is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website.

A copy of the transposition note in relation to the implementation of the EU Regulation is also available from the Home Office, and is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website.

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