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DRAFT STATUTORY INSTRUMENTS

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**2019 No.**

**The Law Enforcement and Security  
(Amendment) (EU Exit) Regulations 2019**

**PART 13**

**Explosive Precursors**

**Amendment of the Control of Explosives Precursors etc. Regulations (Northern Ireland) 2014**

**49.**—(1) The Control of Explosives Precursors etc. Regulations (Northern Ireland) 2014<sup>(1)</sup> are amended as follows.

(2) In regulation 2(1) (interpretation)—

- (a) omit the definition of “EEA State”;
- (b) omit the definition of “member State”;
- (c) in the definition of “the Precursors Regulation” omit “, as amended from time to time”.

(3) In regulation 12 (supply of tier 1 substances)—

- (a) in paragraph (5) for “another” substitute “a”;
- (b) in paragraph (6)(b) for “another” substitute “a”.

(4) In regulation 13(2)(c) (supply of tier 2 substances), for “another” substitute “a”.

(5) In regulation 14(1)(b) (supply of tier 1 substances for despatch or export: consent), for “another” substitute “a”.

(6) In regulation 18(1) (application of enforcement provisions in the 1978 Order), after “competent authority” insert “, the United Kingdom”.

(7) In regulation 24(1)(c) (guidance), omit “(incorporating any guidance issued by the European Commission in accordance with those Articles)”.

**Amendment of the Control of Poisons and Explosives Precursors Regulations 2015**

**50.**—(1) The Control of Poisons and Explosives Precursors Regulations 2015<sup>(2)</sup> are amended as follows.

(2) In regulation 2(3) (supplies of substances involving despatch to Northern Ireland or export from the UK: modification of section 3A of the Act), for “another member State” substitute “a member State”.

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(1) S.R. 2014 No. 224.  
(2) S.I. 2015/966.

### Amendment of Regulation (EU) No 98/2013

**51.**—(1) Regulation (EU) No 98/2013 of the European Parliament and of the Council of 15 January 2013 on the marketing and use of explosives precursors is amended as follows.

(2) In Article 1 (subject matter), omit the second paragraph.

(3) In Article 2 (scope), for paragraph 1 substitute—

“**1.** This Regulation applies—

- (a) in England and Wales and Scotland, in relation to the substances listed in Part 1 (regulated explosives precursors) and Part 3 (reportable explosives precursors) of Schedule 1A to the Poisons Act 1972<sup>(3)</sup>, and to mixtures and substances containing them;
- (b) in Northern Ireland, in relation to the substances listed in the Annexes, and to mixtures and substances containing them.

**1A.** In relation to England and Wales and Scotland, any reference in this Regulation to—

- (a) “the Annexes” is to be read as a reference to Parts 1 and 3 of Schedule 1A to the Poisons Act 1972;
- (b) “Annex I” is to be read as a reference to Part 1 of Schedule 1A to that Act;
- (c) “Annex II” is to be read as a reference to Part 3 of Schedule 1A to that Act.”.

(4) In Article 3(5) (definitions), for “a Member State whether from another Member State or from a third country” substitute “the United Kingdom”.

(5) In Article 4 (making available, introduction, possession and use)—

(a) in paragraph 2—

(i) for “a Member State” substitute “the Secretary of State”;

(ii) for “a competent authority of the Member State” substitute “the Secretary of State”;

(b) in paragraph 3, for “a Member State” substitute “the Secretary of State”;

(c) omit paragraph 4;

(d) omit paragraph 5;

(e) for paragraph 6 substitute—

“**6.** Where a member of the general public intends to introduce a restricted explosives precursor into the territory of the United Kingdom, that person shall obtain and, if requested present to the Secretary of State, a licence issued in accordance with rules laid down in Article 7.”;

(f) in paragraph 7, for “the Member State” to the end, substitute “the Secretary of State”.

(6) In Article 6 (free movement)—

(a) for “Without prejudice to the second paragraph of Article 1 and to Article 13, and unless” substitute “Unless”;

(b) for “or in other legal acts of the Union, Member States” substitute “the Secretary of State”.

(7) In Article 7 (licences)—

(a) in paragraph 1—

(i) for “Each Member State” to “restricted explosives precursors” substitute “The Secretary of State”;

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(3) 1972 c. 66. Schedule 1A was inserted by paragraph 16 of Schedule 21 to the Deregulation Act 2015 (c. 20), and Parts 1 and 3 were amended by S.I. 2018/451.

- (ii) for “competent authority of the Member State” substitute “Secretary of State”;
- (b) in paragraph 2, for “competent authority” in both places where it occurs substitute “Secretary of State”;
- (c) in paragraph 3, for “competent authorities” substitute “Secretary of State”;
- (d) in paragraph 4, for “competent authority” substitute “Secretary of State”;
- (e) omit paragraph 5;
- (f) for paragraph 6 substitute—
  - “6. Licences granted by the competent authorities of a Member State or of any other country may be recognised in the United Kingdom.”.
- (8) In Article 8(3) (registration of transactions), for “competent authorities” substitute “Secretary of State”.
- (9) In Article 9 (reporting of suspicious transactions, disappearances and thefts)—
  - (a) in paragraph 2, for “Each Member State” substitute “The Secretary of State” and omit “national”;
  - (b) in paragraph 3, for “the national contact point of the Member State where the transaction was concluded or attempted” substitute “a contact point established under Article 9(2)”;
  - (c) in paragraph 4, for “the national contact point of the Member State” substitute “a contact point established under Article 9(2)”;
  - (d) in paragraph 5—
    - (i) for the first sentence substitute “The Secretary of State shall draw up guidelines to assist the chemical supply chain.”;
    - (ii) for “The Commission shall update” substitute “The Secretary of State shall update”;
  - (e) in paragraph 6, for “competent authorities”, in both places where it occurs, substitute “Secretary of State”.
- (10) In Article 10 (data protection)—
  - (a) for the first reference to “Member States” substitute “The Secretary of State”;
  - (b) for the second reference to “Member States” substitute “the Secretary of State”;
  - (c) for “Articles 8 and 17” substitute “Article 8”.
- (11) Omit Article 11 (penalties).
- (12) For Article 12 (amendments to the annexes) substitute—

#### *“Article 12*

##### *Amendments to the Annexes*

1. In relation to Northern Ireland, the Secretary of State may by regulations amend the Annexes (whether to add, vary or remove a substance or concentration limit or make any other change).

2. In determining the distribution of substances as between Annex I and Annex II, the Secretary of State must have regard to the desirability of restricting Annex II to substances that meet each of the following criteria—

- (a) they are in common use, or are likely to come into common use, for purposes other than the treatment of human ailments, and
- (b) it is reasonably necessary to include them in Annex II if members of the general public are to have adequate facilities for obtaining them.

3. The power to make regulations under paragraph 1 includes power—
    - (a) to make different provision for different purposes,
    - (b) to make consequential, incidental or supplemental provision, and
    - (c) to make transitional, transitory or saving provision.
  4. The power to make regulations under paragraph 1 is exercisable by statutory instrument.
  5. An instrument containing regulations made under paragraph 1 is subject to annulment in pursuance of a resolution of either House of Parliament.”.
- (13) Omit Articles 13 to 18.
- (14) In the text following Article 19 (entry into force), omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.