EXPLANATORY MEMORANDUM TO

THE CONTROLLED DRUGS (DRUG PRECURSORS)(INTRA-COMMUNITY TRADE) REGULATIONS 2008

2008 No. 295

THE CONTROLLED DRUGS (DRUG PRECURSORS)(COMMUNITY EXTERNAL TRADE) REGULATIONS 2008

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1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. **Description**

2.1 The proposed legislation is a small part of a worldwide legal structure designed to monitor the trade in licit substances that can be used in the manufacture of illegal drugs ("precursors") to prevent their leakage on to the illicit market or for illicit purposes. It will support EU legislation that is already in place to implement the 1988 UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic substances at European Union level.

3. **Matters of Special Interest to the Joint Committee on Statutory Instruments**

3.1 None

4. **Legislative Background**

4.1 The United Kingdom, along with all other members of the European Union, and most other countries in the world, is a party to the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. Article 12 of the Convention relates to precursors and requires parties to monitor the manufacture and distribution of these substances and specifies how this should be done. The aim is to strike a balance between the need for law enforcement authorities to prevent the manufacture of illicit drugs and the legitimate needs of the chemical and pharmaceutical industries and other private sector participants.

4.2 The basic requirements of the Convention are transposed into UK law through Section 12 in Part II of the Criminal Justice (International Co-operation) Act 1990 which makes it an offence to manufacture and/or supply certain specified substances to another person, knowing or suspecting that the substance is to be used in or for the unlawful production of a controlled drug.

4.3 As precursors have many licit uses and are traded legally, control of trade in them to comply with the UN Convention is a matter of EU competence. The Controlled Drugs (Drug Precursors)(Intra-Community Trade) Regulations 2008 ("the UK internal regulations") and the Controlled Drugs (Drug Precursors)(Community External Trade) Regulations 2008 ("the UK external regulations") (collectively "the UK regulations") therefore support the implementation in the United Kingdom of two European Union Regulations. The UK internal regulations support the implementation of Regulation (EC) No. 273/2004 on drug precursors ("the EU internal regulation") relating to the placing of specified substances on the market in the EU whilst the UK external regulations support the implementation of Council Regulation (EC) No. 111/2005 ("the EU external regulation") (collectively "the EU regulations") relating to control in the trade of drug precursors between the Community and third countries.

4.4 The EU regulations have direct effect in UK law. The UK regulations support the EU regulations by providing for the powers and penalties required by the EU regulations. Although not obligatory, given the direct effect of Regulations a form of transposition note is attached.

4.5 The EU regulations came into effect on 18 August 2005. The implementing regulations have been delayed by a number of administrative and operational issues notably the allocation of competent authority roles, including the establishment of SOCA, and discussions surrounding the requirement for operators to notify unusual transactions involving precursors. The competent authority is now defined for statutory purposes and operationally covers the police, Revenue and Customs, SOCA and the Department.

5. **Territorial Extent and Application**

5.1 These instruments apply to all of 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.

7. **Policy Background**

7.1 *Policy* : EU regulations have existed in this area since 1990. The EU Action Plan on Drugs 2000-2004 called for a strengthening of EU measures on precursor control. A review of the existing system ensued, and the current EU regulations are the result of that review, without making radical changes to the existing system.

7.2 The most significant changes to the system brought about by the new EU regulations are:

- The imposition of an obligation on operators to report suspicious transactions – previously traders were encouraged to make such disclosures on a voluntary basis

- A requirement for operators to be in possession of a licence in order to possess certain controlled substances (the most sensitive ones that are key to the manufacture of illicit drugs) where before they were only required to have a licence to place such items on the market

- The introduction of a requirement to obtain a licence for the permanent importation (i.e. not importation for re-exportation) of some substances (again, the most sensitive ones) into the Community Customs territory

- The introduction of a requirement on operators to appoint a "responsible officer"

- The alteration of the exemption for certain entities from the requirement to hold a licence. Instead, certain persons can now obtain a "special licence", which requires a lower level of obligation and control. However, this does not appear to apply to Universities according to guidance provided by the Commission.

7.3 Both sets of Regulations will specify which UK authorities will perform the role of competent authorities referred to in the EU regulations, set penalties for non-compliance, provide a power of entry to enforce the EU regulations, set time limits on the validity of licences and revoke the relevant previous secondary legislation. In addition, the UK internal regulations will explain who will be entitled to special licences as allowed by the EU internal regulations (i.e. those who possess controlled substances but are unlikely to trade in them). The UK external regulations will require operators to ensure they have valid export and import authorisations and that they are presented in accordance with the relevant provisions of the EU external regulations. Time limits on the validity of licences will be set (at three years) as member states were invited to do by the Commission Regulations.

7.4 *Consultation* : approximately 30 major chemical trade organisations, companies and other bodies were consulted about the proposed new legislation over a three month period concluding on 24 September 2007 using a combined consultation paper and Regulatory Impact Assessment (to avoid unnecessary bureaucracy) for those with an interest. Only one response, which was from the Royal Pharmaceutical Society of Great Britain and was favourable, has been received and confirms the uncontroversial nature of the legislation. Details of the consultation, which was specifically targeted at businesses and others with a key interest, are referenced in the RIA attached. Universities UK, which represents universities and some higher education institutions, have also been consulted. In addition, we provide detailed advice to those already complying with the EU regulations through published guidance and a telephone helpline. In addition, SOCA has regular contact with the industry through the ACPO Chemical Liaison Officer (CLO) network.

7.5 These UK regulations are expected to be cost neutral. The industry has been operating the precursor control system since 1992 and, in its current form, since 2005.

The EU regulations of 2005, which were directly applicable in Member States, made only minor additions to that system as discussed above, most notably, the introduction of very limited import licensing, a reduction of the scope of exemption (bringing in universities) and making the voluntary reporting of suspicious transactions mandatory. Those changes made only a minimal impact on the industry.

7.6 The bulk of the industry was already reporting suspicious transactions, at the rate of about 55 a year, on a voluntary basis. Compulsory reporting is unlikely to lead to any increase in such notifications. In view of the very good relationship between industry and the law enforcement community, the operating guidance described below gives every assistance in ensuring that such reports will be made only where really necessary. In view of this, and in the light of the historically very low reporting rate, an increase in notifications, and consequent cost, is not envisaged.

7.7 As for the additional licensing requirement for permanent importation, records show that the level of transactions is very low, averaging about 100 a year. As approximately 600 companies deal with precursor chemicals, the financial impact of import licensing on individual companies, and the industry as a whole, on top of the much larger volume of export licensing, is insignificant. In any event, such costs as there may be are attributable not to these Regulations but to the EU regulations.

7.8 *Guidance:* The European Commission has produced 'Guidelines for Operators', a document answering questions raised by Member States. The guidance was issued in good time to allow business to prepare and is clear and informative. Our website already contains the texts of the EU regulations and frequently asked questions. SOCA will be issuing guidance to operators from their website and via the CLO network.

7.9 *Consolidation* : the Regulations revoke, rather than amend, previous regulations, namely the Controlled Drugs (Substances Useful for Manufacture) Regulations 1991, the Controlled Drugs (Substances Useful for Manufacture)(Amendment) Regulations 1992, Controlled Drugs (Substances Useful for Manufacture)(Intra-Community Trade) Regulations 1993 and the Controlled Drugs (Substances Useful for Manufacture)(Intra-Community Trade)(Amendment) Regulations 2004. .

8. **Impact**

8.1 A Regulatory Impact Assessment, issued in 2007, is attached to this memorandum and paragraphs 7.4-7.8 above update the information it contains.

9. **Contact**

Mike Evans at the Home Office, tel: 020 7 035 0467 or e-mail: MichaelAnthony.Evans@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.

REGULATORY IMPACT ASSESSMENT CONSULTATION DOCUMENT:

1. Purpose of consultation and titles of proposed measures

The purpose of this communication is to seek views on proposed United Kingdom legislation that, if adopted, would become the Controlled Drugs (Drug Precursors) (Community External Trade) Regulations 2007 and the Controlled Drugs (Drug Precursors) (Intra-Community Trade) Regulations 2007. These are referred to below as the UK external regulations and the UK internal regulations respectively.

2. Purpose and intended effect of measure

(i) Objective

2. The proposed legislation is a small part of a worldwide legal structure designed to monitor the trade in licit substances that can be used in the manufacture of illegal drugs (precursors), and thereby prevent their leakage into illicit purposes. It will support EU legislation[1] that is already in place to implement the worldwide legal structure at European Union level. It will do so by…

- setting proportionate and dissuasive penalties in UK law for contravention of the EU Regulations;
- defining breaches of the EU legislation to which penalties attach;
- defining "competent authorities" for various aspects of what the EU legislation require;
- providing powers of competent authorities to enter premises in furtherance of precursor control;
- setting a period of validity for licences that the EU legislation requires to be issued;
- revoking previous legislation.

The UK internal regulations also provide for a special licensing system for certain classes of person or organisation and defines who will benefit from it.

(ii) Background

3. Various chemicals are used in the manufacture of various illicit drugs. They are known as precursor chemicals. For the most part, these chemicals have perfectly legitimate uses and are traded legally in large quantities all over the world. But small amounts are diverted to illicit drug manufacture, either by purchase or by theft. Drugs law enforcement authorities therefore need to try to prevent such diversion. The cornerstone for this is good co-operation between producers of and traders in such chemicals on the one hand, and the authorities on the other. But a legal framework is needed to support such co-operation.

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[1] Council Regulation (EC) No 111/2005 of 22 December 2004 laying down rules for the monitoring of trade between the Community and third countries in drug precursors;
Regulation (EC) No 273/2004 of the European Parliament and of the Council of 11 February 2004 on drug precursors;
Commission Regulation No 1277/2005 of 27 July 2005 laying down implementing rules for Regulation (EC) No 273/2004 of the European Parliament and of the Council of 11 February 2004 on drug precursors and for Council Regulation (EC) No 111/2005 of 22 December 2004 laying down rules for the monitoring of trade between the Community and third countries in drug precursors.

4. Accordingly, the United Kingdom, along with all other members of the European Union – and, indeed, most countries in the world - is a party to the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. Article 12 of that Convention relates to precursors and the substances concerned are listed in annexes to the Convention (which can be viewed at http://www.unodc.org). The tables may be amended from time to time. They do not include such substances when they are found in pharmaceutical preparations that are compounded in such a way that they cannot be easily used or recovered by readily applicable means. (But it should be noted that manufacturers of illicit drugs are ingenious in developing ways to perform such extractions.)

5. The article in the Convention requires parties to monitor the trade and distribution of the substances listed, and it goes on to specify how they should do this. The specifications are intended to strike an appropriate balance between, on the one hand, the need for law enforcement authorities to prevent the manufacture of illicit drugs and, on the other, the legitimate needs of the chemical and pharmaceutical industries and other private sector participants.

6. The basic requirements of the Convention are rendered into UK law through Section 12 in Part II of the Criminal Justice (International Co-operation) Act 1990**.** This says that…

> "(1) It is an offence for a person -
> (a) to manufacture a scheduled substance; or
> (b) to supply such a substance to another person,
>
> knowing or suspecting that the substance is to be used in or for the unlawful production of a controlled drug…"
>
> and that…
>
> "(2) A person guilty of an offence …is liable –
> (a) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both;
> (b) on conviction on indictment, to imprisonment for a term not exceeding fourteen years or a fine or both."

7. The article 12 of the Convention also provides guidance on how signatories should implement its provisions. It allows parties to…

- Control people and businesses who make or distribute the substances;
- Control by licence the places where manufacture and trade takes place;
- Require licence holders to obtain a permit to manufacture of trade in the substances;
- Limit the amount of the substances that can be held by manufacturers or traders.

And it requires parties to…

- Set up systems to monitor trade, in close co-operation with the various actors involved in it;

- Provide for seizure of substances where there is sufficient evidence that they are to be used for illicit drug manufacture;
- Warn other parties about imports or exports of substances that it is suspected will be used in illicit drug manufacture;
- Require imports and exports to be properly documented – the documentation to be retained for at least two years and be available for inspection.

Additionally, the requirements provide a system of "pre-export notification" whereby an exporting party notifies an importing party in advance of an intention to make an export to it – so that the receiving party can check that the *bona fides* of the transaction.

8. Such a monitoring system amounts to an inhibition on trade, so, within the European Union, the controls are a matter for EU law. The risk if this were not so would be that different EU Member States would impose the requirements of the UN Convention in different ways, thus creating barriers to free trade between them.

9. European law, and supporting UK law, in this area has existed since the early 1990s. But in 2002 a review of the effectiveness of the EU legislation was undertaken, which concluded that the system was working, but was operating unevenly and not to its full potential.

10. The changes to the system resulting from this assessment were adopted in 2004-05 by the European Council of Ministers in the form of the new EU Regulations. (Two sets of Council Regulations were necessary because the internal and external systems are based on different provisions of the EU Treaties.). They are aimed at reinforcing the coherence and effectiveness of the existing system: they provide targeted improvement rather than radical or systematic change.

11. Broadly, the drug precursor control system for trade between the EU and third countries has always required:

- Specified documentation of transactions and labelling of goods;
- Licensing or registration for operators;
- Notification by operators to the authorities of suspicious transactions;
- Pre-export notification of the arrival of goods to 3rd countries receiving them;
- Export authorisation;

And the system for intra-Community trade has always required:

- Licensing or registration of operators;
- Documentation of customer bona-fides (the "customer declaration");
- Specified documentation of transactions;
- Specified labelling of goods;
- The authorities to develop good relations with industry so as to encourage the reporting of suspicious transactions and activity.

Under the old system and the new, controlled substances are classified in lists attached to the legislation and those trading such substances ("operators" in the legislation) are required to comply with various of the above requirements and conditions.

12. The most significant changes to the system brought about by the new EU Regulations are:

- The imposition of a clear obligation on traders to report suspicious transactions in controlled substances: previously, the obligation had been on national authorities to develop good relations with industry and encourage voluntary disclosure;

- The introduction of a requirement for operators to be in possession of a licence in order to possess certain of the controlled substances (the most sensitive ones that are key to the manufacture of illicit drugs) where before they were only required to have a licence to place such items on the market;

- The introduction of a requirement to obtain a licence for the permanent importation (ie: not importation for re-exportation) of some substances (again, the most sensitive ones) into the Community Customs territory;

- The introduction of a requirement on operators to appoint a "responsible officer";

- The alteration of the relief for certain entities that was provided by their exemption from the requirement to hold a licence by a relief: this relief is now provided by a requirement for them to hold a "special licence";

- The removal of any such relief for universities.

13. A page on the Home Office drugs website http://www.drugs.gov.uk/drugs-laws/licensing/precursor-forms/?version=1 contains guidance on compliance with these arrangements, suitable application forms, frequently asked questions, etc. The European Commission has also produced industry guidelines to help industry to comply with the requirements and to assist law enforcement authorities to identify diversion for illicit transactions. The competent authorities will issue printed copies to known operators. The Guidance includes a table showing in simplified form how the requirements work.

14. As European Community Regulations, the new EU instruments have direct effect in the UK and do not need UK law to implement them here. However, UK regulations are needed for certain ancillary purposes. Thus…

Both UK regulations would…

- Specify which UK authorities will be performing the role of competent authorities referred to in the EU regulations;
- Set penalties for non-compliance…
    - non-compliance with Articles 5, 7 and 8 of the EU internal regulation and Articles 3 to 5 and 8 to 9 of the EU external regulation is treated as an offence under regulations made under section 13 of the Criminal Justice (International Co-operation) Act 1990: the penalties are;
        (a) on summary conviction, imprisonment for up to 3 months or a fine not exceeding the statutory maximum, or both;
        (b) on conviction on indictment, imprisonment for a term not exceeding two years, or a fine, or both.

- non-compliance with Article 3 of the EU internal regulation and Articles 6 and 7 and any requirements in Articles 12-25 of the EU external regulation is an offence attracting the same penalties as above.
- importation and exportation of scheduled substances without a valid import or export authorisation will be treated as an importation/exportation contrary to a restriction in force for the purposes of sections 50 and 68 of the Customs and Excise Management Act 1979 (respectively) and the penalties under those provisions are amended for this purpose as follows:

  (a) offence under section 50(2)(3) and section 68(2)–

  (i) on summary conviction, penalty of the prescribed sum or of 3 times the value of the goods, whichever is greater but not exceeding the statutory maximum, or imprisonment for up to 3 months, or both;

  (ii) on conviction on indictment, to a penalty of any amount, or to imprisonment for up to 2 years, or both.

  (b) offence under section 68(1), on summary conviction to a penalty of 3 times the value of the goods or level 3 on the standard scale, whichever is greater but not exceeding level 5 on the standard scale.

- Provide a power of entry to enforce the regulations: regulation 8 of the UK internal regulations and regulation 9 of the UK external regulations will allow the powers of entry in subsection (1) of section 23 of the Misuse of Drugs Act 1971 to be used to enforce Article 3 of the EU internal regulation and Articles 6 and 7 and 12 to 25 of the EU external regulation. (A power of entry is also provided to enforce those provisions, non-compliance with which is to be treated as an offence under regulations made under section 13 of the Criminal Justice (International Co-operation) Act 1990.
- Set time limits on the validity of licences (three years - but no limit for special licences) as invited to do by the EU intra-Community trade regulations;
- Revoke relevant previous secondary legislation.

In addition, the UK intra-Community trade regulations would…

- Explain who the persons would be in UK terms that would be entitled to the special licences allowed by the EU intra-Community trade regulations (the list comprises persons who are likely to have to possess controlled substances but who are unlikely to trade them and who are likely to be trustworthy for other reasons).

And the UK external regulations would…

- Require operators to ensure that they have a valid export authorisation and a valid import authorisation and that they present such authorisations in accordance with the relevant provisions of the EU external regulation. (The EU external regulation does not specify expressly on whom this requirement is imposed, so the UK external regulations confirm that they are imposed on the operator.)
- Set time limits on the validity of licences (three years) as invited to do by the Commission Regulations.

(iii) Risk assessment

15. The requirements to be made by the UK legislation are specifically required of member States by the European legislation. The United Kingdom would therefore be in breach of European Union law if it did not introduce national legislation along these lines.

16. Failure to implement European Union law (and, by extension, United Nations Convention obligations) to control precursor chemicals would also result in the increased manufacture of illicit drugs in this country, since it would make the UK a magnet for criminals seeking more favourable environments for their activities than those countries that did implement such legislation.

17. Such manufacture, being illegal, would not be carried out in accordance with health and safety law and considerations and would be extremely hazardous to the local environment and persons in it, threatening explosion, and serious land, building, air and water contamination.

3. Benefits and costs of alternative approaches

18. An alternative option to that followed might have been to oppose the introduction of the European Union law or some of its requirements. However…

- The changes made to European law in the main merely reinforce processes which were already happening under previous legislation;

- Although the changes to European law introduce a new licensing requirement (for persons placing on the market substances listed in category 1 of annex I to the EU internal Regulations, including persons storing for supply for payment or free of charge) that requirement should not impose any significant extra cost or burden to industry because…

    - The licence application form (annex I of the Commission Regulation – included at annex B) is simple to complete.

    - Most applicants will anyway be accustomed to completing similar application forms under the previous system;

    - Licences will be granted quickly to *bona fide* operators (the Commission regulations specify a time limit within which the competent authorities must notify an applicant of a decision on an initial application of 60 working days (30 in respect of a renewal) - the timetable being suspendable to give the applicant time to produce missing information – see article 7 of the Commission regulations.);

    - Licence validity has been extended from the two years allowed under the previous system to three years, so that the amount of time that needs to be devoted to licence application will be reduced

- Although a system allowing exemptions for certain classes has been discontinued under the new system, it has been replaced with an equivalent system of “special licences” which licenses are open-ended:

- The previous legislation allowed for certain exemptions from the licensing requirements for:

    - Manufacturers of medicinal products;
    - Pharmacists;
    - Persons in charge of laboratories etc in universities and hospitals;
    - Persons so authorised by the UK Government or another EU Government.

    The new intra-Community trade legislation replaces these exemptions with the concept of a "special licence", which is unlimited as to time and which exempts holders from the requirements of the regulations that relate to trading situations (documentation, labelling, notification of the competent authorities and related provisions). This does mean that more entities than previously will need to apply for licences, but it will be a one-off process for new category applicants because these licences will not be time-limited.

- The new EU intra-Community trade Regulations do not provide for special licences for persons in charge of laboratories etc in universities. But consultation with universities through Universities UK has made clear that universities fully recognise the need to assist in the prevention of the diversion of drug precursors and are willing to participate in the system established by this legislation.

- The new EU Regulations require licence holders to appoint a "responsible officer". But it is expected that this will be no more than a nomination of the person who would normally be responsible in a business or other entity who is already engaged in work relating to the substances under control: it is not envisaged that additional staff would need to be recruited. The Commission Guidelines give advice on the nomination and functions of the responsible officer.

- The United Kingdom Government's view is that precursor control makes a significant contribution to limiting the production of illicit drugs, to detecting such production, and to protecting the public and the environment from the harms that can be caused by the unskilled and uncontrolled use of precursor chemicals.

- The Government accepts that the requirements of article 12 of the 1988 UN Convention must be achieved through EU law within the EU.

- No other EU Member State was opposed to the new EU legislation.

- The Government's considered view was that the changes to European Union law were desirable.

- It was accepted that the introduction of a compulsory reporting requirement would lead to an increase in suspicious activity reporting in all Member States. It is difficult to estimate what the increase will be. It is emphasised that the cornerstone of the effectiveness of precursor control is good relations between industry and the law enforcement community and that as much assistance as possible will be given to industry to help it ensure that it is able

to make reports where, but only where, appropriate. The Government requires the competent authorities to resource the additional suspicious activity reporting from existing resources and efficiency savings.

- It is not anticipated that there will be a significant number of prosecutions for failure to comply with this legislation. The Government believes that the overwhelming majority of operators will wish to comply with the revised system as they have been with the old one – under which there were no prosecutions. It is more likely that a rogue trader would be prosecuted under the Criminal Justice (International Co-operation) Act 1990.

Comments and observations

19. Comments and observations on the draft United Kingdom regulations. They would be particularly welcome on the following points:

- Do you consider that the penalties envisaged in the draft UK will be effective in ensuring compliance with the requirements of the EU regulations?

- Do you think the penalties envisages are..
    - Too severe?
    - Too lenient?
    - About right?

- While the competent authorities are keen to ensure that reports are made where there are real grounds for suspicion, they also want to avoid a situation where operators seek to avoid risk of prosecution by over-reporting. Do you have any views on how this balance might best be achieved?

- In order to simplify the task placed on operators to make reports, and the task place on the Serious and Organised Crime Agency (SOCA) to analyse them, the Government is considering including in the UK Regulations a requirement to the effect that reports should be made in such a form and format as the competent authorities may from time to time specify. This format would be kept as simple as would be commensurate with obtaining usable information, and would be accompanied by clear guidance on identifying suspicious transactions (this may take the form of the Commission guidance mentioned at paragraph 13 above, or that guidance plus other material). The intention would be to move towards an on-line system in dues course. Do you have any views on, or suggestions to make about, this proposal? Do you think it would simplify, or complicate, the task for you?

20. Comments should reach the Home Office by **24 September** 2007. They, and any questions concerning this communication, should be directed to:

Mike Evans
Drugs Strategy Unit
Home Office
2 Marsham Street
London SW1P 4DF

michaelanthony.evans@homeoffice.gsi.gov.uk

21. This consultation follows the Cabinet Office Code of Practice on Consultation. These are to…

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.

2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.

3. Ensure that your consultation is clear, concise and widely accessible.

4. Give feedback regarding the responses received and how the consultation process influenced the policy.

5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.

6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

The full code of practice is available at:
www.cabinet-office.gov.uk/regulation/Consultation

22. If you have any complaints or comments specifically about the consultation process only, you should contact the Home Office consultation co-ordinator Christopher Brain by email at: christopher.brain2@homeoffice.gsi.gov.uk. Alternatively, you may wish to write to him at

Performance and Delivery Unit
Home Office
3rd Floor Seacole
2 Marsham Street
London
SW1P 4DF

23. The information you send us may be passed to colleagues within the Home Office, the Government or related agencies.

24. Furthermore, information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

25. If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

26. Please ensure that your response is marked clearly if you wish your response and name to be kept confidential.

27. Confidential responses will be included in any statistical summary of numbers of comments received and views expressed.

28. The Department will process your personal data in accordance with the DPA - in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Home Office

5 June 2007

TRANSPOSITION NOTE FOR REGULATION No. 273/2004 BY THE CONTROLLED DRUGS (DRUG PRESCURSORS) (INTRA-COMMUNITY TRADE) REGULATIONS 2008

ARTICLE	REQUIREMENT/ PROVISION	IMPLEMENTATION	REGULATION
3, 5(5), 8(1), 8(2), 9(1), 9(3), 10, 13	To specify who the competent authorities are for the purposes of the EU Regulations	The competent authorities will be different depending on the requirement concerned so, for example, the Secretary of State will be the competent authority for issuing licences whilst suspicious transactions should be notified to a person authorised by the Director General of the Serious Organised Crime Agency.	3
3(5)	Allows the competent authorities to limit the validity of a licence required for placing category 1 and 2 scheduled substances on the market to a period not exceeding 3 years	Licences, other than special licences, shall be issued for a period not exceeding 3 years.	4
3(2) and 3(6)	Provides that the competent authorities may grant special licences and a special registration to certain persons, further listed in Article 13 of EC Regulation No 1277/2005	The persons to whom special licences and registration may be granted are listed to confirm that the Secretary of State will consider applications from all these persons.	5
12	Member States must set penalties for the infringement of the provisions in the Regulations	Non-compliance with the documentation, labelling or notification requirement (Articles 5, 7 and 8) of the Regulations is to be treated as an offence	6 and 7

		under regulations made under section 13 of the Criminal Justice (International Co-Operation) Act 1990 although the penalty under that section is amended	
10((1)(b)	To ensure the correct application of Articles 3 to 8, Member states shall adopt measures to enable its competent authorities to perform their monitoring and control duties and in particular to enter premises to obtain evidence of irregularities.	The power of entry conferred by section 23 of the Misuse of Drugs Act 1971 is extended for the purpose of enforcing Article 3. This power of entry extends to enforcement of Articles 5, 7 and 8 of the EU Regulations because non-compliance with those Articles is to be treated as an offence under regulations made under section 13 of the Criminal Justice (International Co-Operation)Act 1990 and section 23 of the 1971 Act extends to such an offence.	8