

EXPLANATORY MEMORANDUM TO
THE CONTROL OF EXPLOSIVES PRECURSORS AND POISONS (AMENDMENT)
REGULATIONS 2023

2023 No. 810

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of His Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 This instrument makes a number of amendments to regulation 8 of the Control of Explosives Precursors and Poisons Regulations 2023 (S.I. 2023/63) (“the Principal Regulations”). Given the number of amendments to be made, regulation 2 of this instrument substitutes a new regulation 8 for the existing regulation.
- 2.2 Regulation 8 is being amended to correct defective drafting identified by the Joint Committee on Statutory Instruments.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 This instrument is being issued free of charge to all known recipients of the Principal Regulations.
- 3.2 The Joint Committee on Statutory Instruments drew special attention to the Principal Regulations in its Twenty-Eighth Report of Session 2022-23.

4. Extent and Territorial Application

- 4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales and Scotland only.
- 4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales and Scotland only.

5. European Convention on Human Rights

- 5.1 As the Minister of State for Security, Rt Hon Tom Tugendhat MBE MP has made the following statement regarding Human Rights:

“In my view the provisions of the Control of Explosives Precursors and Poisons (Amendment) Regulations 2023 are compatible with the Convention rights.”

6. Legislative Context

- 6.1 The Principal Regulations impose additional requirements relating to the supply of reportable and regulated substances. The regime for the regulation of certain explosive precursors and poisons is provided by the Poisons Act 1972 (“the 1972 Act”).

- 6.2 Full legislative context can be found in the Explanatory Memorandum to the Principal Regulations.

7. Policy background

What is being done and why?

- 7.1 The Principal Regulations strengthen the controls of the most dangerous poisons and explosive precursors by amending the regime that governs the regulation of poisons and precursors under the 1972 Act.
- 7.2 After laying the Principal Regulations, the instrument was reviewed by the Joint Committee on Statutory Instruments. This review identified areas of defective drafting in relation to regulation 8 which are addressed by this instrument.
- 7.3 Regulation 8 of the Principal Regulations makes amendments to Schedule 1A to the 1972 Act. Regulation 2 of this instrument substitutes a new regulation 8 to include Chemical Abstracts Service Registry numbers for certain substances and makes separate provision for zinc phosphide and calcium phosphide, which were previously listed as zinc and calcium phosphide.
- 7.4 The Joint Committee on Statutory Instruments review of the Principal Regulations also identified a need to provide further information to the public about the electronic and telephone reporting services they are required to use to make suspicious activity reports. Any suspicious transactions or attempted transaction of regulated and reportable substances must be reported. A relevant transaction is a transaction involving the supply of a regulated substance or a reportable substance to a customer, whether an end user or a customer higher up the supply chain and whether a business or a private customer. Disappearances and thefts of regulated substances and reportable substances must also be reported. Suspicious activity reports must be made using the online Report Suspicious Chemical Activity service, which can be found online at: <https://report-suspicious-chemical-activity.dsa.homeoffice.gov.uk/login>. Alternatively, members of the public can make a report via telephone to the national contact point on 0800 789321. This information will be included within the Explanatory Memoranda for the Principal Regulations, which will be re-laid concurrently with this instrument.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 Consolidation is not being done.

10. Consultation outcome

- 10.1 A twelve-week public consultation relating to the Principal Regulations ran between 16 December 2021 and 10 March 2022. The full summary of consultation responses is contained at Annex A of the Impact Assessment for the Principal Regulations.

11. Guidance

- 11.1 The Principal Regulations come into force on 1 October 2023. The Home Office has prepared and, where appropriate, published the following guidance on gov.uk:

- Updated online guidance and training materials for businesses (including manufacturers, small businesses and large retailers) and industry bodies on how to identify/report a suspicious transaction, theft, or significant loss to include guidance on the new requirements in this instrument relating to suspicious activity reporting.
- Online guidance for businesses on how to comply with the supply chain notification requirement, and how to obtain and record certain information about the identity of the business customer and the nature of the customer's business. This will include ways that the supplier can be satisfied that the regulated precursor is being obtained for a purpose reasonably connected with the business.
- Guidance for online marketplaces on how to comply with the measures imposed by this instrument.
- Online guidance for home users of explosives precursors and poisons on when and how they can apply for a licence, including for the newly regulated substances, and the appeals process if an application is rejected.
- Training and guidance for police on enforcement issues and the offence that applies under section 7(4) of the 1972 Act for failure to comply with the requirements imposed by this instrument.

Copies may also be obtained from the Explosives Precursors and Poisons team at the Home Office, 2 Marsham Street, London SW1P 4DF (precursorsandpoisons@homeoffice.gov.uk).

12. Impact

- 12.1 There is no significant impact on business, charities or voluntary bodies.
- 12.2 There is no significant impact on the public sector.
- 12.3 A full Impact Assessment has not been prepared for this instrument because the purpose of this instrument is to correct defective drafting in an existing instrument. A full impact assessment for the Principal Regulations is published on the [legislation.gov.uk](https://www.legislation.gov.uk/uksi/2023/63/impacts) website and can be found at: <https://www.legislation.gov.uk/uksi/2023/63/impacts>. Copies may also be obtained from the Explosives Precursors and Poisons team at the Home Office, 2 Marsham Street, London SW1P 4DF (precursorsandpoisons@homeoffice.gov.uk).

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses. A Small and Medium Business Assessment was previously completed for the Principal Regulations and published as part of the Impact Assessment.

14. Monitoring & review

- 14.1 The instrument does not include a statutory review clause. The Principal Regulations contain a statutory review clause, and the approach to the monitoring of this legislation is to review the effectiveness of the measures at least every five years.

15. Contact

- 15.1 Rachel Roberts at the Home Office, Telephone: 0300 0735 747 or email: precursorsandpoisons@homeoffice.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Henry Hirsch, Deputy Director for Chemical, Biological, Radiological, Nuclear and Explosives, Science & Technology Unit, at the Home Office can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Rt Hon Tom Tugendhat MBE MP at the Home Office can confirm that this Explanatory Memorandum meets the required standard.