

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement, as regards Northern Ireland, 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 (the “Precursors Regulation”). These Regulations also revoke and replace with modifications regulations made under the Explosives Act (Northern Ireland) 1970 and the Explosives (Northern Ireland) Order 1972 relating to the control of explosives precursors in Northern Ireland.

Under these Regulations, two categories of explosives precursor are controlled.

Tier 1 substances are substances which were previously controlled in Northern Ireland by regulations made under the Explosives Act (Northern Ireland) 1970 by virtue of the Explosives (Northern Ireland) Order 1972. Those substances are defined in regulation 3 and Schedule 1: ammonium nitrate (including calcium ammonium nitrate), sodium chlorate, potassium nitrate and sodium nitrate). Three substances which were controlled under the previous legislation – nitrobenzene, sodium chlorite and sodium nitrite – are no longer subject to control and are not included in the definition of a tier 1 substance. Under regulation 3, a person is prohibited from supplying, acquiring, importing into Northern Ireland, possessing or using a tier 1 substance otherwise than under and in accordance with the terms of a licence granted by the Secretary of State. A limited number of persons are exempt from this prohibition.

Tier 2 substances are substances which are “restricted explosives precursors” within the meaning of the Precursors Regulation, as amended from time to time, other than tier 1 substances (see regulation 4). Currently, the tier 2 substances are hydrogen peroxide, nitromethane, nitric acid, potassium chlorate, potassium perchlorate and sodium perchlorate. Under Article 4(1) of the Precursors Regulation, a member of the general public is prohibited from possessing, acquiring, using or importing a tier 2 substance, but regulation 4 permits such a person to do so under and in accordance with the terms of a licence granted by the Secretary of State.

Regulation 5 provides for the grant and amendment of licences, including consultation requirements, the factors that the Secretary of State must consider and communication of the decision to the applicant. A licence may be granted for up to 3 years.

Regulation 6 sets out the requirements of a valid application for a licence. Where an application for a tier 1 substance is made by an organisation, the application must include details of a person who will be responsible for the substance. All applications must be accompanied by an identification document and a specified fee (a new requirement not previously imposed under the previous regulations which are replaced by this instrument).

Regulation 7 provides that the Secretary of State must conduct a review of her decision if requested to do so by the affected person within a specified time period.

Regulation 8 imposes general obligations on all licence holders, including requirements to permit inspections and provide information, and requirements to notify the Secretary of State of certain matters. Regulations 9 and 10 impose obligations on licence holders in respect of tier 1 substances only, including a requirement to obtain the consent of the Chief Constable of the Police Service of Northern Ireland for certain transactions, and a requirement to keep detailed records and documents.

Regulation 11 provides for the recognition of licences issued in Great Britain, or in other member States in accordance with Article 7(6) of the Precursors Regulation.

Regulations 12 to 14 place obligations on suppliers of tier 1 and tier 2 substances. A person must not supply a substance to a person who is required to have a licence unless a specified licence and identification are provided. For tier 1 substances in certain quantities, police consent to the transaction must also be provided. The supplier is required to fill out specified records. A person

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Changes to legislation: There are currently no known outstanding effects for the The Control of Explosives Precursors etc. Regulations (Northern Ireland) 2014. (See end of Document for details)

can supply tier 1 substances, other than sodium chlorate, for despatch or export outside Northern Ireland without requiring a licence, but the supplier must obtain the consent of the Chief Constable for transactions involving any tier 1 substances in certain quantities. A person who supplies a tier 2 substance in Northern Ireland, for despatch to Great Britain, or for export to another member State must require a licence. Suppliers also have obligations under Articles 5 and 9 of the Precursors Regulation in relation to labelling of substances (see regulation 15) and reporting of suspicious transactions and significant thefts and disappearances.

Regulation 16 prohibits the making of a false statement in relation to the licensing process.

Regulation 17 and Schedule 2 restrict the application of the Regulations to certain premises and activities in the territorial sea, except in relation to importation.

Regulation 18 provides for the enforcement of Articles 4 (prohibition on possession, etc of certain substances), 5 (labelling) and 9 (suspicious reporting) of the Precursors Regulation. It applies certain provisions of the Health and Safety at Work (Northern Ireland) Order 1978 (S.I. 1978/1038 (N.I. 9)) to those Articles so that they will be enforced in the same way as health and safety regulations. It is a criminal offence to contravene health and safety regulations under Article 31 of that Order.

Regulations 19 to 23 provide for the enforcement of the Regulations, defences in relation to certain contraventions and separate penalties for certain contraventions of the Regulations.

Regulation 24 provides for the issue of guidance by the Secretary of State and regulation 25 provides for regular review of the Regulations. Regulation 26 allows for the provision of copies of documents in place of originals in certain circumstances. Regulation 27 permits the Chief Constable to delegate his functions under the Regulations to specified police officers and members of the police support staff.

Regulations 28 to 31 and Schedule 3 provide for revocations, consequential amendments, linked amendments, and transitional and saving provisions.

Contravention of these regulations or any requirement or prohibition imposed under these regulations is an offence under Article 31 of the Health and Safety (Northern Ireland) Order 1978.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Northern Ireland Office, and is annexed to the Explanatory Memorandum which is available alongside the instrument at www.legislation.gov.uk

A copy of the transposition note in relation to the implementation of the Precursors Regulation is available from the Northern Ireland Office, and is annexed to the Explanatory Memorandum which is available alongside the instrument at www.legislation.gov.uk.

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