
STATUTORY INSTRUMENTS

1992 No. 2914

DANGEROUS DRUGS

**The Controlled Drugs (Substances Useful for
Manufacture) (Amendment) Regulations 1992**

<i>Made</i>	- - - -	<i>19th November 1992</i>
<i>Laid before Parliament</i>		<i>27th November 1992</i>
<i>Coming into force</i>	- -	<i>1st January 1993</i>

In exercise of the powers conferred upon me by section 2(2) of the European Communities Act 1972⁽¹⁾, I hereby make the following Regulations:

1. These Regulations may be cited as the Controlled Drugs (Substances Useful for Manufacture) (Amendment) Regulations 1992 and shall come into force on 1st January 1993.
2. In these Regulations, “the principal Regulations” means the Controlled Drugs (Substances Useful for Manufacture) Regulations 1991⁽²⁾.
3. Regulation 3 of the principal Regulations shall be amended as follows:
 - (a) in paragraph (a), for the words “Articles 2(2) and (3), 4 and 5”⁽³⁾ there shall be substituted the words “Article 2(2) and (3)”; and
 - (b) paragraph (b) together with the word “and” immediately preceding it shall be omitted.
4. In regulation 4 of the principal Regulations, paragraph (b) together with the word “and” immediately preceding it shall be omitted.
5. After regulation 5 of the principal Regulations, there shall be inserted the following regulations:

“**5A.**—(1) An operator who is concerned in an export operation involving a scheduled substance in Category 1 of the Annex to the Community Regulation shall ensure that he has the authorisation required by Article 4 of that Regulation.

(1) 1972 c. 68. The Secretary of State is the designated Minister for the purpose of these Regulations by virtue of S.I. [1981/1536](#) and [1983/1706](#).
(2) S.I. [1991/1285](#).
(3) Articles 2(1) and (4), 4 and 5 of the Community Regulation were amended, and Articles 2a and 5a of that Regulation were inserted, by Community Regulation ([EEC](#)) No. [900/92](#) (OJ No. L 96, 10.4.92, p. 1).

(2) An operator who is concerned in an export operation involving a scheduled substance in Category 2 of the Annex to the Community Regulation shall ensure that he has such authorisation as is required by Article 5 of that Regulation.

(3) An operator who is concerned in an export operation involving a scheduled substance in Category 3 of the Annex to the Community Regulation shall ensure that he has such authorisation, if any, as is required by Article 5a of that Regulation.

(4) For the purposes of section 68 of the 1979 Act (offences relating to exportation of prohibited or restricted goods) any scheduled substance shall be deemed to be exported contrary to a restriction for the time being in force with respect to it under these Regulations if it is exported without the requisite authorisation having been obtained.

(5) In this regulation, “export” (except where it occurs in paragraph (4) above) and “scheduled substance” have the same meanings as in the Community Regulation, and in Articles 4, 5 and 5a of the Community Regulation the words “the competent authorities” shall be taken as a reference to the Secretary of State.

5B. An operator who fails to comply with any of the requirements imposed by Article 2a of the Community Regulation is guilty of an offence and liable:

- (a) on summary conviction, to imprisonment for a term not exceeding 3 months or a fine not exceeding the statutory maximum or both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.

5C.—(1) An operator who fails to comply with any of the requirements imposed by virtue of regulation 5A above is guilty of an offence and liable to the same penalties as an operator who is guilty of an offence under regulation 5B above.

(2) The powers conferred by subsection (1) of section 23 of the Misuse of Drugs Act 1971(4) shall be exercisable also for the purposes of the execution of Articles 4, 5 and 5a of the Community Regulation and subsection (3) of that section (excluding paragraph (a)) shall apply also to the offence under paragraph (1) above, taking references in those subsections to controlled drugs as references to scheduled substances within the meaning of the Community Regulation.

5D. Any reference in regulations 5B and 5C above to an operator who fails to comply with the requirements mentioned in those regulations shall include an operator who, in purported compliance with any such requirement:

- (a) furnishes information which he knows to be false in a material particular; or
- (b) recklessly furnishes information which is false in a material particular.”

6. In regulation 6 of the principal Regulations, after the words “contrary to section 68 of the 1979 Act” there shall be inserted the words “as a result of the application of regulation 5A above,”.

Home Office
19th November 1992

Kenneth Clarke
One of Her Majesty’s Principal Secretaries of
State

(4) 1971 c. 38. Section 23 of the 1971 Act was amended by the insertion of subsection (3A), by section 23(4) of the Criminal Justice (International Co-operation) Act 1990 (c. 5).

EXPLANATORY NOTE

(This note is not part of the Regulations)

The principal purpose of these Regulations is to implement the amendments made to Council Regulation (EEC)3677/90 (“the Community Regulation”) by Council Regulation (EEC) 900/92.

The Community Regulation, as amended, includes provision requiring operators concerned in the export of scheduled substances (substances useful for the manufacture of controlled drugs) to obtain export authorisations in respect of such exports. The Community Regulation, by Article 6, requires Member States to adopt within the framework of their domestic law the measures necessary to enable the competent authorities (in the United Kingdom, this phrase refers to the Secretary of State) to obtain information on any orders for or orders involving scheduled substances and to enter operators' business premises in order to obtain evidence of irregularities. It also requires Member States to determine the penalties to be applied for infringement of the provisions of the Community Regulation.

These Regulations amend the Controlled Drugs (Substances Useful for Manufacture) Regulations 1991 (S.I.1991/1285). They provide that failure to obtain the requisite export authorisation (under Articles 4, 5 and 5a of the Community Regulation) constitutes an offence and set out the penalties applicable to such an offence. They also provide that the power conferred under section 23 of the Misuse of Drugs Act 1971 to enter and search premises in order to investigate suspected offences under that Act shall also be exercisable for the purposes of the execution of Articles 4, 5 and 5a of the Community Regulation.