
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Council Directive [92/109/EEC](#) (on the manufacture and the placing on the market of certain substances used in the illicit manufacture of narcotic drugs and psychotropic substances) “the Community Directive”).

The Community Directive provides, in Article 2, for the documentation and labelling of scheduled substances (substances useful for the manufacture of controlled drugs). Article 4 of the Community Directive requires that each member State ensures that those who manufacture certain scheduled substances or place them on the market within the European Community obtain licences to do so, and that such substances are supplied only to those specifically authorised to be supplied with them. Article 6 of the Community Directive requires member States to adopt within the framework of their domestic law the measures necessary to enable the competent authorities in each such State to obtain information on any orders for or operations involving scheduled substances and to enter operators' business premises to obtain evidence of irregularities. This is in order to ensure the correct application of Articles 2 and 4. Article 8 of the Community Directive requires member States to determine the penalties to be applied for infringement of the provisions of the Community Directive.

The Community Directive applies only to manufacture and trade in scheduled substances which occurs within the European Community. It is therefore complementary to Council Regulation ([EEC](#)) [3677/90](#) (“the Council Regulation”) which deals principally with the exportation of such substances from, and their importation to, the Community. The Council Regulation was implemented by the Controlled Drugs (Substances Useful for Manufacture) Regulations 1991 (S.I. [1991/1285](#), amended by S.I. [1992/2914](#)).

These Regulations treat the provisions in the Community Directive on the documentation and labelling of scheduled substances as if they were requirements of regulations made under section 13(1) of the Criminal Justice (International Co– operation) Act 1990 (“the 1990 Act”). Section 23 of the 1990 Act provides for rights of entry and search of premises in order to investigate suspected breaches of regulations made under section 13(1) of that Act. The 1990 Act also provides for breaches of such regulations, although the penalties for breaches of these Regulations are in certain respects lower than those provided for under the 1990 Act.

These Regulations also provide for the grant of licences in accordance with the Community Directive. A person who manufactures a scheduled substance listed in Category 1 of Schedule 1 to these Regulations, or places it on the market within the European Community, without a licence to do so is subject to the same enforcement powers and penalties as those outlined above. The same applies to a person who supplies such a substance to a person not authorised to be supplied with it.

The list of scheduled substances in Schedule 1 to these Regulations does not include a number of the substances listed in the Annex to the Council Regulation (and in Schedule 2 to the Criminal Justice (International Co–operation) Act 1990, as modified by [S.I. 1992/ 2873](#), under which certain statutory controls are imposed). This is because these Regulations do not impose controls on those substances.