

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Council Regulation (EC) No. 111/2005 (“the Community Regulation”). The Community Regulation itself imposes obligations on operators in respect of the documentation, recording and labelling of scheduled substances (substances useful for the manufacture of controlled drugs, known as drug precursors). It also requires operators engaged in the export or import or in intermediary activities involving scheduled substances to have a licence where those substances are in Category 1 of the Annex to the Community Regulation and to register where those substances are in Category 2 of that Annex. It requires operators to notify the competent authorities about their export, import or intermediary activities and about any circumstances which suggest that scheduled substances intended for import, export or intermediary activities might be diverted for the illicit manufacture of narcotic drugs or psychotropic substances. The Community Regulation also imposes obligations on operators to obtain an export authorisation prior to exporting scheduled substances that require a customs declaration and to obtain an import authorisation prior to importing scheduled substances in Category 1 of the Annex to the Community Regulation.

The Community Regulation requires Member States to adopt the measures necessary to enable the competent authorities to obtain information on any orders for or operations involving scheduled substances, to enter operators’ business premises to obtain evidence of irregularities and to establish that a diversion or attempted diversion of scheduled substances has taken place. It also requires Member States to determine the penalties applicable to infringements of the provisions of the Community Regulation.

Regulation 3 of these Regulations specifies which authorities will perform the role given to competent authorities under the Community Regulation. Regulation 4 of these Regulations limits the validity of a licence issued under Article 6(1) of the Community Regulation to 3 years. The power to make this provision is found at Article 9 of the Commission Regulation (EC) no 1277/2005. Regulation 5 of these Regulations provides that the requirements under Articles 3 to 5, 8, 9, 14 and 22 of the Community Regulation are to be treated as if they are requirements imposed by regulations made under section 13(1) of the Criminal Justice (International Co-operation) Act 1990 (“the 1990 Act”) so that it will be a criminal offence to breach these requirements. The 1990 Act provides for penalties for breaches of regulations made under section 13(1) of that Act and regulation 5(3) of these Regulations modifies that penalty in respect of the requirements under Articles 3 to 5, 8, 9, 14 and 22 of the Community Regulation. Penalties under sections 50 and 68 of the Customs and Excise Management Act 1979 will apply to breaches of Articles 20 and 12 of the Community Regulation respectively, subject to those specific modifications made to those penalties by regulations 6(4) and 7(4) of these Regulations. Regulations 6(5) and 7(5) of these Regulations provide that it will be an offence to fail to comply with any requirements specified in regulations 6 and 7. Regulation 8 of these Regulations provides that it is an offence to fail to comply with the requirements of Article 6 or 7 of the Community Regulation. Regulation 9(2) of these Regulations specifies the penalty in respect of an offence under regulation 6(5), 7(5) or 8 of these Regulations. These Regulations therefore enable breaches of the Community Regulation to be penalised.

Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Controlled Drugs (Drug Precursors)(Community External Trade) Regulations 2008. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Regulation 10 of these Regulations applies, for the purposes of executing Articles 6 and 7 of the Community Regulation and regulations 6 and 7 of these Regulations, the power under section 23(1) of the Misuse of Drugs Act 1971 to enter premises of a person carrying on a business as a producer or supplier of any scheduled substance and to demand the production of, and to inspect, any books or documents relating to dealing in any such drugs and to inspect any stocks of any such drugs. These Regulations therefore enable breaches of the Community Regulation to be investigated.

Regulation 11 of these Regulations revokes the Controlled Drugs (Substances Useful for Manufacture) Regulations 1991 (“the 1991 Regulations”) and the Controlled Drugs (Substances Useful for Manufacture) (Amendment) Regulations 1992 but provides that the 1991 Regulations will continue to have effect in respect of any offence committed under them before the commencement of these Regulations.

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Changes and effects yet to be applied to :

- reg. 1 coming into force by [S.I. 2008/296 reg. 1\(1\)](#)
- reg. 2 coming into force by [S.I. 2008/296 reg. 1\(1\)](#)
- reg. 2 words omitted by [S.I. 2019/742 reg. 12\(2\)](#)
- reg. 3 coming into force by [S.I. 2008/296 reg. 1\(1\)](#)
- reg. 3(2) words omitted by [S.I. 2019/742 reg. 12\(3\)\(a\)](#)
- reg. 3(2) words substituted by [S.I. 2019/742 reg. 12\(3\)\(b\)](#)
- reg. 3(6) omitted by [S.I. 2019/742 reg. 12\(3\)\(c\)](#)
- reg. 4 coming into force by [S.I. 2008/296 reg. 1\(1\)](#)
- reg. 5 coming into force by [S.I. 2008/296 reg. 1\(1\)](#)
- reg. 6 coming into force by [S.I. 2008/296 reg. 1\(1\)](#)
- reg. 6(2) words omitted by [S.I. 2019/742 reg. 12\(4\)](#)
- reg. 7 coming into force by [S.I. 2008/296 reg. 1\(1\)](#)
- reg. 7(1) words substituted by [S.I. 2019/742 reg. 12\(5\)](#)
- reg. 7(2) words substituted by [S.I. 2019/742 reg. 12\(5\)](#)
- reg. 8 coming into force by [S.I. 2008/296 reg. 1\(1\)](#)
- reg. 9 coming into force by [S.I. 2008/296 reg. 1\(1\)](#)
- reg. 10 coming into force by [S.I. 2008/296 reg. 1\(1\)](#)
- reg. 11 coming into force by [S.I. 2008/296 reg. 1\(1\)](#)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

- Blanket amendment words substituted by [S.I. 2011/1043 art. 3-68-10](#)