



Home Office

Consultation on the UK implementation of the European Union regulation on marketing and use of explosives precursors

November 2013

Consultation on the UK implementation of the European Union regulation on marketing and use of explosives precursors

Scope of consultation

Topic of Consultation:	This consultation seeks views on the UK implementation of the 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.
Scope of consultation:	<p>This consultation concerns the implementation of policy and enforcement regimes to control the sale of explosives precursors.</p> <p>The aims of the amendments are to increase controls of end users whilst minimising burdens on businesses.</p>
Geographical scope:	United Kingdom.
Impact assessment:	Attached

Basic information

To:	This consultation is open to the public.
Duration:	This consultation runs for seven weeks from 21 November 2013
Enquiries:	precursorsandpoisons@homeoffice.x.gsi.gov.uk
How to respond:	<p>Information on how to respond to this consultation can be found on www.gov.uk at:</p> <p>https://www.gov.uk/government/consultations/precursors-and-poisons-consultations</p> <p>Responses can be submitted online through www.gov.uk or by post by sending responses to:</p> <p>Explosives Precursors and Poisons Regulation Consultation Home Office CBRNE unit 5th Floor Peel Building 2 Marsham Street London, SW1P 4DF</p>
Additional ways to become involved:	Please contact the Home Office (as above) if you require information in any other format, such as Braille, large font or audio.
After the consultation:	Responses will be analysed and a 'response to consultation' document will be published.

Fair processing notice

Some of the questions in this survey may ask for personal information. Please note that you are under **no obligation** to provide this information should you not wish to do so.

If you are happy to provide personal information please note that:

- Any personal information will be stored on a secure system.
- It will not be shared with third parties.
- Your personal information will be kept on record for no more than 6 months and be used for purposes of this consultation only.
- You may be contacted by a Home Office official for your feedback on this consultation and to discuss your answers in more detail.

Introduction

This consultation seeks views on the introduction of control measures for sales of chemicals that can be used to make homemade explosives.

In the UK and globally, explosives have been the terrorist's weapon of choice for many years. Homemade explosives have been part of over 70% of UK homeland attacks since the late 1990s. They are capable of causing mass harm and significant infrastructure damage. Some of the chemicals used to make the explosives used in the attacks also have legitimate uses in the home. It is important that we protect against their misuse, whilst still allowing legitimate use.

The EU Regulation that is the subject of this consultation bans the sale to the general public of seven chemical precursors (Annex 1 of the regulation) to homemade explosives above specified concentrations. Member States can decide to allow purchase of these chemicals above the concentrations on presentation of a licence or registration of personal details. Retailers and wholesalers must ensure that any restricted product is labelled as per guidance to be developed by the European Commission. Retailers must also monitor transactions of these and a further eight chemicals (Annex 2 of the regulation) for suspicious activity at any concentration great enough that the substance is listed as an ingredient.

Objectives

The policy objectives are to:

- Prevent terrorists using explosives precursors in attacks;
- Provide a mechanism to alert authorities to terrorist activity; and
- Minimise the burdens on industry and legitimate users.

Background

The regulation is split into two annexes. Annex 1 chemicals are those that have a significant history of effective misuse across Europe. Annex 2 chemicals are those that have been used in terrorist attacks, but are less easy to make explosives out of or where banning or restricting sales were considered to be disproportionate to the risk posed by the chemical. In the case of ammonium nitrate, retail is controlled by other regulations.

Option 1 is to make no changes (do nothing).

Option 2 is to ban sales of Annex 1 chemicals above the concentration limits to the general public. Business to business sales would be unaffected by the ban.

Annex 1 chemicals:

Name of substance	Concentration limit
Hydrogen peroxide	12% w/w
Nitromethane	30% w/w
Nitric Acid	3% w/w
Potassium Chlorate	40% w/w
Potassium perchlorate	40% w/w
Sodium Chlorate	40% w/w
Sodium perchlorate	40% w/w

Option 3 is to allow the general public to purchase Annex 1 chemicals above the concentration limits if they hold a valid licence.

Option 4 is to allow the general public to purchase the following Annex 1 chemicals above the concentration limits (Group A) with a licence:

Name of substance	Concentration limit
Potassium Chlorate	40% w/w
Potassium perchlorate	40% w/w
Sodium Chlorate	40% w/w
Sodium perchlorate	40% w/w

and the following Annex 1 chemicals (Group B) by entering personal details into a register at the point of sale.

Name of substance	Concentration limit
Hydrogen peroxide	12% w/w – 35% w/w
Nitromethane	30% w/w – 40% w/w
Nitric Acid	3% w/w – 10% w/w

Above the concentration limits quoted for Group B above, the sale to the general public would be either a) banned or b) licensed.

Options 2-4 also include a requirement for labelling products affected by the restrictions in Annex 1 clearly to indicate that the acquisition, possession, introduction or use of the product is restricted.

Options 2-4 include a requirement for suspicious transaction, theft and significant loss reporting. This requirement is necessary for all transactions involving Annex 1 and 2 at any concentration including business to business sales. Guidance on the detail of this will be prepared by the European Commission before 2 September 2014 (the transposition dead-line).

Annex 2 chemicals:

Name of substance
Hexamine
Sulphuric acid
Acetone
Potassium nitrate
Sodium nitrate
Calcium nitrate
Calcium ammonium nitrate
Ammonium nitrate

The proposed options for implementing EU regulations that restrict the sale of chemical precursors to the general public will have a direct impact on businesses that sell Annex 1 or 2 chemicals and consumers who purchase these chemicals for home use. Examples of home use of these chemicals are nitromethane in model engines, hydrogen peroxide in swimming pool cleaner and nitric acid as jewellery cleaner.

Any customer of Annex 1 or 2 chemicals could be affected by the request for businesses to report suspicious transactions.

In addition, home users of Annex 1 (above concentration) chemicals will be affected by the proposal to regulate the use of these chemicals.

Licences

Option 3 will require home users to possess a licence in order to purchase annex 1 explosives precursors. The licence will last for three years and will be multi-purpose, giving the option to use the licence for both poisons and explosive precursors (see the Consultation on proposed changes to the Poisons Act 1972, Poisons Rules 1982, Poisons List 1982 and associated amendments). The licence fee would be based on full cost recovery. This means that the overall cost of the licence will be determined by the number of applications received and the costs of processing the licence application. The application process may also take some time as we may need to conduct background checks to determine suitability.

We would like to gather evidence on whether home users would consider purchasing a licence, rather than using alternatives, and if so, what is the maximum price they would be willing to pay for a licence.

Business to business sales

Business to business transactions are exempt from the regulations imposed on Annex 1 (above concentration) chemicals. However, businesses must be confident that the purchaser is another business or professional user. We are therefore recommending that when a business sells to another business they must check for proof of VAT as well as some other form of proof, such as the customer's company number.

Suspicious transaction reporting

Businesses that sell the listed chemicals will need to be aware of potential suspicious transactions.

The European Commission has prepared draft guidance on what a suspicious transaction could look like.

The draft guidance states that a suspicious transaction is any (attempted) purchase of one or more explosives precursors as listed in Annex 1 or 2 of the regulation that deviates from what would normally be expected.

Indicators of suspicious behaviour include when a customer:

- Appears nervous or avoids questions, or is not a regular type of customer,
- Attempts to purchase an unusual amount of a product or unusual combinations of products,
- Is not familiar with the regular use(s) of the product(s), nor with the handling instructions,
- Is not willing to share what he/she plans to use the product(s) for,
- Refuses alternative products or products with a lower (but for the proposed use sufficient) concentration,
- Insists on paying cash, especially large amounts
- Refuses to provide his/her name, address or phone number, or identification documents when requested,
- Requests special packaging or delivery of the product(s).

Companies are required to report details about any behaviour that they find suspicious (not only the 8 examples above) and that may be of importance to prevent misuse of explosives precursors. You should also report those disappearances and thefts that are significant and/or unusual for your business or that cannot be easily explained.

All businesses will need to familiarise themselves with the regulations on suspicious transaction and significant loss reporting. The impact assessment assumes that this will take approximately 1 hour per staff member per business.

All businesses will need to check which of their products are affected. The impact assessment assumes that this will take approximately 2 hours per business.

Annex 1 (above concentration) retailers will need to familiarise themselves with the new regulations. The impact assessment assumes that this will take approximately half a day (3.5 hours) per staff member per business.

Annex 1 (above concentration) retailers will need to check what concentration their products are to determine what regulations will affect them. The impact assessment assumes that this will take approximately 2 hours per business.

The impact assessment assumes that it will take 15 minutes per day to check the licences of home users.

Option 4 allows the general public to purchase Group B, Annex 1 chemicals by entering personal details into a register at the point of sale. The impact assessment assumes that this will take approximately 10 minutes per day per business.

We are also consulting on the option of licensing general public use of Part 1 poisons. One option would be to offer a multi-purpose licence that can be used for both Annex 1 chemicals and Part 1 poisons.

Internet sales

Internet sales would also be affected by the regulations. Online retailers that sell Annex 1 chemicals above the concentration thresholds will need to ensure that they are selling to businesses (Option 2) or the licensed/registered general public (Option 3/4). It is assumed that it would not be a significant cost to change the fields in their online ordering form to request a licence number or request details of registration (Option 3/4). The private delivery service will also be requested to ensure that the recipient possesses the necessary documents (for a business, this could be VAT receipts, for a licensed user, this would be the licence).

Labelling

All businesses will need to label Annex 1 chemicals above the concentration thresholds. It has been assumed that as long as manufacturers/formulators are made aware of the requirement in good time before the regulation comes into force, the costs of adding a single line of text to a label would be negligible.

If you are a home user of the affected chemicals or a member of the general public please use the response form in Annex A.

If you are representing a business please use the response form at Annex B.

Annex A: Response form for Home Users

The Department may, in accordance with the Code of Practice on Access to Government Information, make available, on public request, individual responses.

The closing date for this consultation is 6 January 2014.

Name:
Organisation: (if applicable):
Address:

Please return completed forms to:

Explosives Precursors and Poisons Regulation Consultation
Home Office, CBRNE unit, 5th Floor Peel Building, 2 Marsham Street, London SW1P 4DF

Email: **precursorsandpoisons@homeoffice.x.gsi.gov.uk**

We are about to ask you some questions about your home uses for the Annex 1 (above conc.) chemicals. This will help to ensure that we are aware of all the home uses of these chemicals.

**Q1: Which above concentration Annex 1 chemicals do you use?
(please tick all that apply)**

Hydrogen peroxide (above 12% w/w)	
Nitromethane (above 30% w/w)	
Nitric acid (above 3% w/w)	
Potassium Chlorate (above 40% w/w)	
Potassium Perchlorate (above 40% w/w)	
Sodium Chlorate (above 40% w/w)	
Sodium Perchlorate (above 40% w/w)	

Q2: Which of the following best describes your use of Annex 1 (above conc.) chemicals? (Select all that apply.)

Model engines (nitromethane above 12% w/w)	
Swimming pool cleaner (hydrogen peroxide above 30% w/w)	
Jewellery cleaner (nitric acid above 3% w/w)	
Cosmetic product (hydrogen peroxide above 12% w/w)	
Other (please specify the activity, chemical and concentration below)	

Activity(ies), chemical(s) and concentration(s)

We are now going to ask you some questions about the substances you use at home. This will help us to understand the demand for these chemicals in order to estimate the impact of these regulations.

Q3: What quantity of each Annex 1 (above concentration) chemical you selected above do you use per year? (Please tick below.)

Annex 1 Substance	Quantity per year				
	0-500ml	501- 1000ml	1001- 2000ml	2001ml – 5000ml	above 5000ml
Hydrogen peroxide (above 12% w/w)	0-500ml	501- 1000ml	1001- 2000ml	2001ml – 5000ml	above 5000ml
Nitromethane (above 30% w/w)	0-5L	5.1 – 10L	10.1-20L	20.1- 30L	above 30L
Nitric acid (above 3% w/w)	0-100ml	101-250ml	251-500ml	501-1000ml	Above 1000ml
Potassium Chlorate (above 40% w/w)	0-100g,	101-500g	501-1000g	1001-2000g	above 2000g
Potassium Perchlorate (above 40% w/w)	0-100g	101-500g	501-1000g	1001-2000g	Above 2000g
Sodium Chlorate (above 40% w/w)	0-100g	101-500g	501-1000g	1001- 2000g	above 2000g
Sodium Perchlorate (above 40% w/w)	0-100g	101-500g	501-1000g	1001-2000g	Above 2000g

If you are aware of precise quantities, please specify in the space below including reference to the chemical(s) you use.

Chemical and precise amount:

Q4: How much do you spend on these chemicals per year? (Please tick below)

Hydrogen peroxide (above 12% w/w)	N/A	£1-15	£16-30	£31-45	above £45
Nitromethane (above 30% w/w)	N/A	£1-20	£21-40	£41-60	above £60
Nitric acid (above 3% w/w)	N/A	£1-10	£11-20	£21-30	above £30
Potassium Chlorate (above 40% w/w)	N/A	£1-10	£11-20	£21-30	above £30
Potassium Perchlorate (above 40% w/w)	N/A	£1-10	£11-20	£21-30	above £30
Sodium Chlorate (above 40% w/w)	N/A	£1-10	£11-20	£21-30	above £30
Sodium Perchlorate (above 40% w/w)	N/A	£1-10	£11-20	£21-30	above £30

If you are aware of precise costs, please specify in the space below including reference to the chemical(s) you use.

Chemical and precise amount:

Q5: Could you use alternatives to the Annex 1 (above concentration) chemicals?

Yes	
No	

Q6: Please list the alternatives you could use below.

Chemical and use:

Q7: Does the alternative that you could use cost more or less than the Annex 1 (above concentration) chemicals?

Cost significantly more	
Cost a little more	
Cost the same	
Cost a little less	
Cost significantly less	
Don't know	

Q8: Please use the space below to explain your answer.

Q9: Would you continue to purchase the annex 1 chemicals selected above if a licence was required?

Yes	
No	
Don't know	

Q10: Please use the space below to explain your answer.

Q11: What is the maximum you would pay for a licence before you are deterred from applying?

£0	
£1-£10	
£11-20	
£21-£40	
£41-£60	
£61-80	
£80+	

We are also consulting on the option of licensing general public use of Part 1 poisons. One option would be to offer a multi-purpose licence that can be used for both Annex 1 chemicals and Annex 1 explosives precursors.

Q12: Do you also purchase Part 1 poisons? (See the Consultation on proposed changes to the Poisons Act 1972, Poisons Rules 1982, Poisons List 1982 and associated amendments.)

Yes	
No	

Q13: Do you agree or disagree that the options set out below will ensure the policy objectives are met? (Please tick the relevant boxes below.)

	Agree	Neither agree nor disagree	Disagree	Don't know
Option 1: Do nothing				
Option 2: Ban sales of Annex 1 chemicals above the concentration limits to the general public				
Option 3: Allow the general public to purchase, use and possess Annex 1 chemicals above the concentration limits if they hold a valid licence				
Option 4 a): Allow the general public to purchase, use and possess Group A of the Annex 1 chemicals above the concentration limits with a licence, and Group B by entering personal details into a register at the point of sale. Above the concentration limits for Group B, the sale to the general public would be banned.				
Option 4 b): As Option 4 a), but purchase, use and possession of Group B chemicals above the concentration limits will be licensed instead of banned.				
Other				

Q14: Please use the space below to explain your answer.

Q15: Please rank these options in your order of preference:

	First preference	Second Preference	Third preference	Fourth preference	Fifth preference
Option 1					
Option 2					
Option 3					
Option 4a					
Option 4b					

Q16: Please use the space below to explain your answer.

Q17: Please provide us with any other detail that you would like us to consider as part of this consultation which has not been covered by the questions above?

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- You may be contacted by a Home Office official for your feedback on this consultation and to discuss your answers in more detail.

Annex B: Response form for businesses

The Department may, in accordance with the Code of Practice on Access to Government Information, make available, on public request, individual responses.

The closing date for this consultation is 6 January 2014.

Name:

Organisation: (if applicable):

Address:

Please return completed forms to:

Explosives Precursors and Poisons Regulation Consultation
Home Office, CBRNE unit, 5th Floor Peel Building, 2 Marsham Street, London SW1P 4DF

Email: **precursorsandpoisons@homeoffice.x.gsi.gov.uk**

We are about to ask you some questions about your business. This will help us to understand the type and number of businesses who may be affected by these regulations.

Q1: How would you classify your business? (Please tick all that apply)

Producer

Formulator

Wholesaler

Retailer

Online Distributor

Other

Please use the space below to explain your answer.

Q2: Which of the Annex 1 and 2 chemicals do you sell, produce or formulate? (Tick all that apply.)

Hydrogen peroxide	
Nitromethane	
Nitric acid	
Potassium Chlorate	
Potassium Perchlorate	
Sodium Chlorate	
Sodium Perchlorate	
Hexamine	
Sulphuric acid	
Acetone	
Potassium nitrate	
Sodium nitrate	
Calcium nitrate	
Calcium ammonium nitrate	
Ammonium nitrate	
None of the above	

Q3: If you are a professional user of these chemicals, would you readily be able to provide one of the forms of documentation listed in the business to business section on page 6?

Yes	
No	
Don't know	
Not a professional user	

Q4: Please use the space below to explain your answer

Q5: Do you agree or disagree that the guidance on suspicious transaction reporting described on page 6 is easy to understand?

Stongly agree	
Tend to agree	
Neither agree nor disagree	
Tend to disagree	
Strongly disagree	
Don't know	

Q6: Please use the space below to explain your answer

Q7: Do you agree or disagree that this guidance would be easy to put into practice?

Stongly agree	
Tend to agree	
Neither agree nor disagree	
Tend to disagree	
Strongly disagree	
Don't know	

Q8: Please use the space below to explain your answer.

Q9: Do you think our estimation of the time required for affected businesses to familiarise themselves with the new suspicious transaction reporting requirements of 1 hour is:

Too long	
About right	
Too short	
Don't know	

Q10: Please use the space below to explain your answer including an estimate of the time you think familiarisation might take?

Q11: Do you think the estimated time of 2 hours required for affected businesses to check which of their products are affected is:

Too long	
About right	
Too short	
Don't know	

Q12: Please use the space below to explain your answer, including an estimate of the time you think checking might take

Q13: Would the suspicious transaction reporting requirements deter you from selling Annex 1 or 2 substances?

Yes	
No	
Don't know	

We are now going to ask you about the substances you supply. This will help us to assess the impact of the proposals we need to understand the size and value of the market affected.

Q14: What product(s) do you sell or use that would be affected by Annex 1 of the regulations? (Select all that apply)

Hydrogen peroxide (above 12% w/w)	
Nitromethane (above 30% w/w)	
Nitric acid (above 3% w/w)	
Potassium Chlorate (above 40% w/w)	
Potassium Perchlorate (above 40% w/w)	
Sodium Chlorate (above 40% w/w)	
Sodium Perchlorate (above 40% w/w)	

Q15: How would you classify your business?

Q16: At what concentrations do you sell or use the substances in annex 1 selected above?

Hydrogen peroxide (above 12% w/w)	
Nitromethane (above 30% w/w)	
Nitric acid (above 3% w/w)	
Potassium Chlorate (above 40% w/w)	
Potassium Perchlorate (above 40% w/w)	
Sodium Chlorate (above 40% w/w)	
Sodium Perchlorate (above 40% w/w)	

Q17: At what volumes per item do you sell or use the substances in Annex 1 selected above?

Hydrogen peroxide (above 12% w/w)	
Nitromethane (above 30% w/w)	
Nitric acid (above 3% w/w)	
Potassium Chlorate (above 40% w/w)	
Potassium Perchlorate (above 40% w/w)	
Sodium Chlorate (above 40% w/w)	
Sodium Perchlorate (above 40% w/w)	

Q18: If you are happy to share this information, what is your estimated revenue from sales to the general public of Annex 1 (above concentration) chemicals? Please give details for each chemical.

Q19: For what home use purpose do you sell Annex 1 (above concentration) chemicals?

Model engines	
Swimming pool	
Jewellery making	
Cosmetic product	
Other	
Don't know	

Q20: Please specify the activity, chemical and concentration.

Q21: Do you think the estimated time of 3.5 hours required for affected Annex 1 (above concentration) retailers to familiarise themselves with the new licensing requirements is:

Too long	
About right	
Too short	
Don't know	

Q22: Please use the space below to explain your answer.

Q23: Do you think the estimated time required for affected suppliers to check which of their products are affected at 2 hours is:

Too long	
About right	
Too short	
Don't know	

Q24: Please use the space below to explain your answer.

Q25: Do you agree or disagree with the assumption that there will not be a significant cost to online retailers to update their online application forms?

Agree	
Don't know	
Disagree	

Q26: Please use the space below to explain your answer.

Q27: Do you agree or disagree with the assumption that a private delivery service will **not** incur a significant cost in having to check for the necessary documents described in the internet sales section on page 7?

Agree	
Don't know	
Disagree	

Q28: Please use the space below to explain your answer.

Q29: Do you agree or disagree you agree that the costs of adding a single line of text to a label **would** be negligible if businesses are given good notice?

Agree	
Don't know	
Disagree	

Q30: Please use the space below to explain your answer.

Q31: Do you agree or disagree that that the need to apply for a licence will deter home users from purchasing your product(s)?

Agree	
Don't know	
Disagree	

Q32: Please use the space below to explain your answer

Q33: Do you agree or disagree that the requirement for home users to have a licence would deter you from selling to the general public?

Agree	
Don't know	
Disagree	

Q34: Please use the space below to explain your answer

Q35: Do you think the estimated time of 15 minutes per day required for affected businesses to check the licences of home users is:

Too long	
About right	
Too short	
Don't know	
N/A	

Q36: Please use the space below to explain your answer.

Q37: Do you think the estimated time of 10 minutes per day required for affected businesses to register sales is:

Too long	
About right	
Too short	
Don't know	
N/A	

Q38: Please use the space below to explain your answer.

Q39: Do you also sell Part 1 poisons? (Please see the Consultation on proposed changes to the Poisons Act 1972, Poisons Rules 1982, Poisons List 1982 and associated amendments.)

Yes	
No	

Q40: Do you agree or disagree that the options set out below will ensure the policy objectives are met:

	Agree	Neither agree nor disagree	Disagree	Don't know
Option 1: Do nothing				
Option 2: Ban sales of Annex 1 chemicals above the concentration limits to the general public				
Option 3: Allow the general public to purchase, use and possess Annex 1 chemicals above the concentration limits if they hold a valid licence				
Option 4 a): Allow the general public to purchase, use and possess Group A of the Annex 1 chemicals above the concentration limits with a licence, and Group B by entering personal details into a register at the point of sale. Above the concentration limits for Group B, the sale to the general public would be banned.				
Option 4 b): As Option 4 a), but general public purchase, use and possession of Group B chemicals above the concentration limits will be licensed instead of banned.				
Other				

Q41: Please use the space below to explain your answer

Q42: Please rank the options in your order of preference:

	First preference	Second Preference	Third preference	Fourth preference	Fifth preference
Option 1					
Option 2					
Option 3					
Option 4a					
Option 4b					

Q43: Please use the space below to explain your answer

Q44: Please provide us with any other detail that you would like us to consider as part of this consultation which has not been covered by the questions above

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