



Home Office

Guidance for Pharmacies selling non-medicinal poisons to the general public

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1. INTRODUCTION: HOW THE LAW HAS CHANGED

1. On 26 May 2015 the following changes were made to the Poisons Act (1972). The new law strengthens the control of chemicals that can be used to cause harm while still allowing members of the general public with a legitimate need to continue their activities.
 - **Licensing of Regulated Poisons and Explosives Precursors:** The changes in law mean that a member of the general public can only purchase regulated poisons with a valid licence. Business to Business sales and substances restricted to professional users are exempt from the licensing requirements.
 - **Labelling:** Pharmacies are required to label regulated poisons and explosives precursors that are intended for sale to the general public stating that '*Acquisition, possession or use by the general public is restricted*'.
 - **Suspicious Transaction Reporting:** Retailers of reportable poisons and explosives precursors above the current concentration thresholds are required to report suspicious transactions and significant losses and thefts to the Anti-Terrorism hotline. This requirement covers business to business sales, wholesale transactions and the sale of products for home use.
 - **Removal of Registration Requirements:** Retailers of products containing reportable poisons are no longer required to obtain a licence and register with their local authority.
 - **Enforcement:** The Police are responsible for enforcing the changes in law and a new set of offences has been created. The General Pharmaceutical Council will continue in their role as the pharmacy regulator and inspectorate body.
2. This guidance is non-statutory but provides advice on how registered pharmacies can best approach these changes in law. It is supplementary to the legislation and should complement current codes of conduct. If a pharmacist has any doubts about the new regime they should consult their legal advisors or the pharmacy regulator. This guidance is intended for pharmacists and pharmacy staff in England, Scotland and Wales. It may also be of use to representative associations, law enforcement, local authorities and elected members.
3. The changes to the Poisons Act 1972 have been incorporated provisions from the EU regulation on the Marketing and Use of Explosives Precursors creating a cohesive set of controls for poisons and explosive precursor chemicals.

2. NEW REQUIREMENTS FOR PART 1 POISONS

Background

4. From 26 May 2015 a member of the public wanting to purchase a regulated poison for home use will need to present a valid licence and photographic ID. The licensing requirement also applies to substances on Annex 1 of the EU regulation on the Marketing and Use of Explosives Precursors (regulated explosives precursors).
5. The licencing regime does not apply to business to business transactions, products that are already restricted by law to professional users i.e. metallic phosphides or substances that are banned from sale in the UK under existing EU regulations. The purpose of the new restrictions is to strengthen the control of harmful substances to the general public.
6. A member of the general public wishing to obtain a licence will need to complete an online application form which can be accessed via the Gov.uk website. An explosives precursors and poisons licence will cost the applicant £39.50 and be valid for up to 3 years. The applicant will be required to provide personal information including their current address, date of birth and details of a photographic ID and detail the type and volume of the poison they intend to purchase and its intended use.
7. The applicant will also be required to undergo background criminal and health suitability checks. The checks have been modelled on the process used by the National Firearms Licensing Management System and will be carried out by the Home Office and police.
8. The Home Office is the competent authority with responsibility for processing and issuing the licence. The licence will be issued once the Home Office has made a final assessment on the suitability of the applicant to use, store and possess these chemicals. If a licence application is refused, the applicant has the right to appeal the decision.

Making a Sale

9. If a member of the public wishes to purchase a regulated poison you should:
 - Ask the purchaser for their licence and a valid and associated form photographic ID - valid types of photographic ID refers to a current **UK or EEA passport; biometric residence permit; or UK drivers licence** only (all other forms of photographic ID are not permitted);
 - Check whether the licence and photographic ID matches the purchaser;
 - Check whether the customer is permitted to use, store or possess the substance they are attempting to obtain – the licence will specify which substances they are licensed to purchase.
 - Check whether the customer has exceeded the volume of the substance they are licensed to purchase – a record of previous transactions should be listed on the reverse of the licence certificate.
 - Once you are satisfied that the above steps have been taken, you should record the details of the sale on the licence.
 - Record the details of the sale in a Poisons Register.

10. During the sale you may wish to engage the customer in conversation about their intended use for the product. While this is not a requirement it may help you to determine the legitimacy of the purchase and verify the intended use.
11. A list of regulated poisons is attached at Annex A.

Refusing a Sale

12. You must refuse the sale of a regulated poison to a member of the general public if:
 - The purchaser is unable to provide both a valid licence and photographic ID at the point of purchase;
 - The licence has been tampered/altered in some way or you suspect that the documents presented are false;
 - The licence is out of date and no longer valid;
 - The licence and photographic ID presented does not belong to the purchaser;
 - Third party sales are not permitted under any circumstances;
 - The purchaser is attempting to obtain a substance that is not listed on their licence certificate; or
 - The purchaser is exceeding their allowance of the substance they are attempting to purchase – the licence restricts the amount that the licence holder can purchase.
13. You may wish to contact other pharmacies in the area to inform them of the refused sale and/or record the details in a refusal log for future reference. This is up to the discretion of the pharmacy and there is no legal requirement for you to do so.
14. In the instance of a refused sale or any general enquiries about the sale of regulated poisons you should:
 - Explain that if they wish to buy any of the regulated poisons or explosives precursors they need to apply to the Home Office for a licence.
 - Direct them to the gov.uk web-site where they will find the application form and guidance.
 - Explain that it is now a criminal offence for a member of the general public to use, possess or acquire a restricted regulated poison above the concentration threshold without a valid licence.
 - Highlight that products containing high concentrations of **hydrogen peroxide; nitro methane; nitric acid; sodium or potassium perchlorate; and sodium or potassium chlorate** are also restricted in this way.
 - Explain that the licensing requirement does not apply to products that are already restricted to professional use only e.g. metallic phosphides.
15. If you have grounds to believe that the purchaser is acting suspiciously or you possess information that the individual has made a previous attempt to obtain a regulated product without a valid licence you should report the incident to the Anti-Terrorist hotline on **0800 789321**.

Labelling

16. Pharmacies that sell regulated poisons to the general public are required to ensure that the restriction is clearly indicated on the product by affixing an appropriate label. The product label should say that

'Acquisition, possession or use by the general public is restricted'.

3. SUSPICIOUS TRANSACTION REPORTING

Background

17. Businesses (including wholesalers and pharmacies) that sell regulated and reportable poisons and explosives precursors to a member of the general public or professional users are required to report any suspicious transactions and significant losses and thefts to the police.
18. The idea has been used in the UK since the 1990s on a voluntary basis through awareness raising and industry codes of conduct. It is designed to alert the authorities to suspicious behaviours related to sales of hazardous substances throughout the supply chain. Suspicious transaction reporting has also been used successfully by the FBI in the United States, Australian Federal Police and Police forces in other EU member states.

Defining a Suspicious Transaction

19. The term 'suspicious transaction' is, by its very nature, subjective. Whether or not a transaction is suspicious should be judged on a case by case basis and based on your professional experience. Law enforcement will take the subjective nature of this requirement into account during the course of any investigation.

A suspicious transaction is any transaction concerning the substances and mixtures, or products containing the substances or mixtures listed at Schedule 1A of the Poisons Act (1972), including transactions involving professional users, and business to business sales where there are reasonable grounds for suspecting the substance or mixture is intended for the illicit manufacture of explosives, the illicit manufacture of drugs or for the purpose of causing harm to the general public.

20. The below list of indicators is not exhaustive, but may be seen as a reference list, helpful for the purpose of identifying potential suspicious transactions.
 - You are aware that the customer has previously been refused from purchasing a regulated or reportable product;
 - The customer has presented a stolen licence, or has altered the licence in some way;
 - The customer is not familiar with the regular use(s) of the product(s), nor with the handling instructions;
 - The customer refuses alternative products or products with a lower (but for the proposed use sufficient) concentration;
 - Insists on paying cash, especially large amounts; and
 - Requests packaging or delivery methods that deviate from what would be ordinary, advised, or expected.

Reporting a Suspicious Transaction

21. You should report the details of the sale to the anti-terrorist hotline on **0800 789321**. Police counter-terrorism specialists would then decide whether to take further action.

22. You should also report disappearances and thefts that are significant and/or unusual during the course of your business or that cannot be easily explained.
23. You are under no legal obligation to maintain written records of any suspicious transactions, significant disappearances and thefts but doing so may assist law enforcement in the course of any police investigation into the incident.
24. A suspicious transaction reporting template is attached at Annex B.
25. Failure to report a suspicious transaction, significant loss or theft is an offence liable to a substantial fine or, in the most serious cases, imprisonment. However, enforcement action is only likely to be used in the most severe cases and should not deter you from selling these substances to the general public. This requirement should complement your existing codes of conduct and be treated as an extra protection against products that can, in the wrong hands, be used to cause harm.
26. Further information on suspicious transaction reporting can be found at <https://www.gov.uk/government/publications/supplying-explosives-precursors>.

4. ENFORCEMENT

Background

27. The Police are responsible for enforcing the new regime for explosives precursors and poisons. The General Pharmaceutical Council will continue to have a role in inspecting pharmacies and associated pharmacy premises.
28. The changes in law mean that Trading Standards Officers no longer have the power to inspect premises holding non-medicinal poisonous products and are no longer required to assess the eligibility of businesses intending to sell these materials.

Offences and Penalties

29. The new laws create the following criminal offences:
 - Offence 1: Importation, acquisition, possession or use of a regulated substance by a member of the general public without a valid licence.
 - Offence 2: Sale or supply of a regulated substance to a member of the general public by a person without first verifying that the member of the general public has a valid licence.
 - Offence 3: Failure by an economic operator to report suspicious transactions, significant disappearances or thefts of either a regulated substance or a reportable substance.
 - Offence 4: Failure by the economic operator to ensure a warning label is affixed to the packaging in which a regulated substance is supplied to a member of the general public.

Counter Terrorism Security Advisors

30. Counter Terrorism Security Advisors, who are embedded in local police forces throughout the UK, will be able to provide practical advice on the steps you can take to comply with the new requirements.

Annex A - Part 1 Poisons

Name of substance	Retailled to general public and potential uses
Aluminium phosphide	No
Arsenic; its compounds (other than those specified in List 2)	No
Barium, salts of, (other than compounds specified in List 2	Yes – home made experiments.
Bromomethane	No
Chloropicrin	No
Fluoroacetic acid; its salts; fluoracetamide	No
Hydrogen cyanide; metal cyanides, other than ferrocyanides and ferricyanides	Yes - Metal cleaning, electroplating.
Lead acetates; compound of lead with acids from fixed oils	Yes - Hobbies: painting, soldering, target shooting, pottery.
Magnesium phosphide	No
Mercury, compounds of, the following: - nitrates of mercury ; mercuric cyanide oxides; mercuric thiocyanate; ammonium mercuric chlorides; potassium mercuric iodides; organic compounds of mercury which contain a methyl group directly linked to the mercury atom	No
Oxalic acid	Yes - Stain removal, leather tanning, bee keeping and general purpose cleaning.
Phenols (phenol; phenolic isomers of the following cresols, xylenols, monoethylphenols) except in substances containing less than 60% weight in weight	No

of phenols; compounds of phenols with metal, except in substances containing less than the equivalent of 60% weight in weight, of phenols	
Phosphorus yellow	No
Strychnine; its salts in quaternary compounds	No
Thallium, salts of	No

Annex B – Suspicious Transaction Reporting Template

Product	
Person	Male <input type="checkbox"/> Female <input type="checkbox"/> Description: Approximate. Age: Height: Build:
ID	Name: Address:
Comments	
Sales person	