Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Control of Poisons and Explosives Precursors Regulations 2015. 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*

STATUTORY INSTRUMENTS

2015 No. 966

HEALTH AND SAFETY

The Control of Poisons and Explosives Precursors Regulations 2015

Made - - - - 27th March 2015

Laid before Parliament 27th March 2015
Coming into force with accordance with regulation 1(2) and (3)

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 3A(8), 4A(10), 7(1), 9B(1) and 10(1) of the Poisons Act 1972 [F1].

F1 1972 c.66. Sections 3A, 4A and 9B are inserted and sections 7 and 10 are substituted by Schedule 21 to the Deregulation Act 2015 (c. 20).

PART 1

PRELIMINARY

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Control of Poisons and Explosives Precursors Regulations 2015.

(2) Part 1 of these Regulations and regulations 3 and 4 come into force on 20th April 2015.

(3) Except as provided in paragraph (2), these Regulations come into force on 26th May 2015.

(4) In these Regulations, "the Act" means the Poisons Act 1972.

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PART 2

GENERAL PROVISIONS ABOUT REGULATED SUBSTANCES

Supplies of substances involving despatch to Northern Ireland or export from the UK: modification of section 3A of the Act

2.—(1) Section 3A of the Act, so far as it applies to the supply of a regulated substance involving despatch to Northern Ireland or export from the United Kingdom, is modified in accordance with this regulation.

(2) In the case of a person's supply of a regulated explosives precursor that involves despatch to Northern Ireland, references in section 3A of the Act to a licence, or to a recognised non-GB licence, are to be read as references to a licence issued or recognised under relevant Northern Ireland legislation (as defined by section 4B(4) of the Act).

(3) In the case of a person's supply of a regulated explosives precursor that involves export from the United Kingdom to another member State, references in section 3A of the Act to a licence, or to a recognised non-GB licence, are to be read as references to a licence issued or recognised in accordance with Article 7 of the EU Regulation by the member State where the person is acquiring the explosives precursor.

(4) Except as provided by paragraph (3), nothing in section 3A of the Act applies to the supply of a regulated substance involving export from the United Kingdom.

(5) In paragraph (3), "the EU Regulation" means Regulation (EU) No 98/2013 [F2]of the European Parliament and of the Council of 15th January 2013 on the marketing and use of explosives precursors.

F2 OJ No L39, 9.2.2013, p 1-11.

Applications in relation to licences under section 4A of the Act

3.—(1) An application under section 4A of the Act for the grant or amendment of a licence is valid only if it complies with this regulation.

(2) The application must—

(a) be made in a form and in a manner approved for that purpose by the Secretary of State,

(b) contain the information required by that form, and

(c) be accompanied by whatever further information or documentation the Secretary of State requires.

(3) The power of the Secretary of State to approve the manner in which applications may be made includes power to require all applications to be made, and all further information or documentation to be submitted, by electronic means.

(4) The Secretary of State must publish details of the forms and other matters approved or required from time to time for the purposes of paragraph (2).

(5) The applicant must—

(a) provide any additional information or documentation that the Secretary of State requests in order to decide the applicant's application,

(b) assist and co-operate as far as reasonably practicable with any investigations or checks that the Secretary of State thinks appropriate to carry out for that purpose, and

(c) do such other things as the Secretary of State may request for that purpose.

(6) The investigations and checks that the Secretary of State may carry out includes investigations and checks about (for example)—

(a) the applicant's physical or mental health, and

(b) the commission or alleged commission by the applicant of any offence (including cautions, or convictions, that are spent).

(7) The applicant, in making the application, is deemed to have consented to—

(a) the carrying out of any investigation or checks that the Secretary of State thinks it appropriate to carry out in order to decide the application[F3]... .

[F3](b) . . . . . .

[F4](8) . . . . . .

(9) The Secretary of State must notify the applicant of the Secretary of State's decision to grant or refuse the application as soon as reasonably practicable after the decision is taken.

(10) The notice under paragraph (9) must also inform the applicant of the right under regulation 4 to ask the Secretary of State to reconsider the decision.

(11) The Secretary of State may charge applicants a fee of the following amount—

(a) for applications for the grant of a licence, a fee of £39.50, and

(b) for applications to replace any lost, damaged or stolen licence, a fee of £25.

F3 Reg. 3(7)(b) and word omitted (25.5.2018) by virtue of Data Protection Act 2018 (c. 12), s. 212(1), **Sch. 19 para. 383(a)** (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)

F4 Reg. 3(8) omitted (25.5.2018) by virtue of Data Protection Act 2018 (c. 12), s. 212(1), **Sch. 19 para. 383(b)** (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)

Internal review of decisions with regard to licences under section 4A of the Act

4.—(1) This regulation applies if—

(a) the Secretary of State makes a relevant decision, and

(b) within 28 days beginning with the day on which the affected person is notified of the decision, the affected person asks the Secretary of State to reconsider the decision.

(2) The Secretary of State must carry out a review of the decision.

(3) Paragraphs (1) to (8) of regulation 3 apply to a request under this regulation as to an application under that regulation.

(4) On conclusion of the review, the Secretary of State must—

(a) confirm the relevant decision (whether on the same or different grounds),

(b) make whatever changes to the relevant decision the Secretary of State thinks fit, or

(c) revoke the relevant decision.

(5) Subsections (6) to (9) of section 4A of the Act (which make provision about decisions to grant or amend a licence under that section) apply to a decision under paragraph (4) above so far as relating to the grant or amendment of a licence as to a decision under that section.

(6) A "relevant" decision is a decision—

(a) to refuse an application for a licence,

(b) to grant an application for a licence subject to any terms or conditions,

(c) to refuse an application to amend a licence,

(d) to grant an application to amend a licence subject to any terms or conditions, or

(e) to vary, suspend or revoke a licence.

(7) The "affected person" is the applicant or, for a decision within paragraph (6)(e), the licence-holder.

PART 3

PROVISIONS APPLICABLE TO POISONS

Complete exemption for certain substances or articles

5. Nothing in the Act or in these Regulations applies to a regulated or reportable poison—

(a) so far as contained in a substance or article specified in Part 1 of the Schedule, or

(b) of a kind specified in the first column of the Table in Part 2 of the Schedule, so far as contained in, or used for a purpose described in, the corresponding entry in the second column of that Table.

Record-keeping requirements

6.—(1) A person who supplies a regulated poison to a trade, business or profession must comply with the record-keeping requirements before delivering the poison.

(2) Paragraph (1) does not apply where the supply is by way of wholesale dealing.

(3) For the purposes of paragraph (2), a person supplies a poison by way of wholesale dealing if the person sells the substance to a person who buys for the purpose of selling it again.

(4) The "record keeping requirements" are that the person must—

(a) make an entry (or cause an entry to be made) in a record to be kept by the person for the purposes of this regulation stating—

(i) the date of the supply,

(ii) the name and address of the trade, business or profession,

(iii) the name and quantity of the regulated poison supplied, and

(iv) the purposes for which it is stated by the trade, business or profession to be required, and

(b) ensure that the entry is signed by a person authorised on behalf of the trade, business or profession.

Sale of poisons to retailers

7.—(1) A regulated poison may be supplied by way of wholesale dealing to a retailer only if—

(a) the supplier has reasonable grounds for believing that the retailer is lawfully conducting a retail pharmacy business, or

(b) the supplier has received a statement signed by the retailer, or by a person authorised on behalf of the retailer, stating that the retailer does not intend to sell the poison on any premises used for, or in connection with, the retailer's business.

(2) For the purposes of paragraph (1), a person supplies a poison by way of wholesale dealing if the person sells the substance to a person who buys for the purpose of selling it again.

(3) In paragraph (1), "retailer" means a person who carries on a retail business.

Storage of poisons in retail premises etc.

8.—(1) A regulated poison or reportable poison may be stored in a retail shop, or in premises used in connection with a retail shop, only if—

(a) it is stored in a cupboard or drawer reserved solely for the storage of poisons,

(b) it is stored in a part of the premises that is partitioned off, or is otherwise separated from, the remainder of the premises and to which customers are not permitted to have access, or

(c) it is stored on a shelf reserved solely for the storage of poisons and no food or drink is kept directly under the shelf.

(2) Paragraph (1) is subject to paragraph (3) in the case of a poison to be used in agriculture, horticulture or forestry.

(3) The poison—

(a) may be stored in a cupboard or drawer only if reserved solely for the storage of poisons to be used in agriculture, horticulture or forestry;

(b) may not be stored in any part of premises in which food or drink is kept;

(c) may not be stored on any shelf.

Hydrogen cyanide: special precautions

9.—(1) Compressed hydrogen cyanide may only be supplied in a container that is labelled with the words: "Warning. This container holds poisonous gas and should only be opened and used by persons having expert knowledge of the precautions to be taken in its use".

(2) Paragraph (1) does not apply to the supply of compressed hydrogen cyanide for export from the United Kingdom.

Preservation of records

10. Any record kept for the purposes of the Act, or of these Regulations, must be retained for a period of three years from the date of the last entry made in the record.

James Brokenshire
Minister of State

Home Office