



UNITED NATIONS

E/NL.1995/15  
13 November 1995  
ENGLISH ONLY

## LAWS AND REGULATIONS

PROMULGATED TO GIVE EFFECT TO THE PROVISIONS OF  
THE INTERNATIONAL TREATIES ON NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

*In accordance with the relevant articles of the international treaties on narcotic drugs and psychotropic substances,  
the Secretary-General has the honour to communicate the following legislative texts.*

UNITED KINGDOM

Communicated by the Government of the United Kingdom

### NOTE BY THE SECRETARIAT

- (a) Some editing of texts may be done by the Secretariat in the interest of clarity. In this connection, words in square brackets [ ] have been added or changed by the Secretariat.
- (b) Only passages directly relevant to the control of narcotic drugs or psychotropic substances have been reproduced in this document. Non-relevant parts of laws and regulations have been deleted by the Secretariat; such deletions are indicated by [...].

THE CONTROLLED DRUGS (SUBSTANCES USEFUL FOR MANUFACTURE)  
REGULATIONS 1991  
AS AMENDED BY  
THE CONTROLLED DRUGS (SUBSTANCES USEFUL FOR MANUFACTURE)  
(AMENDMENT) REGULATIONS 1992

**1991 N° 1285 and 1992 N° 2914**

**DANGEROUS DRUGS**

**The Controlled Drugs (Substances Useful for Manufacture)  
Regulations 1991<sup>1</sup>, as amended by  
The Controlled Drugs (Substances Useful for Manufacture)  
(Amendment) Regulations 1992<sup>2</sup>**

In exercise of the powers conferred upon me by section 2(2) of the European Communities Act 1972 and by section 13 of the Criminal Justice (International Co-operation) Act 1990<sup>3</sup>, in accordance with regulation 1(2) below, I hereby make the following Regulations:

1. (1) These Regulations may be cited as the Controlled Drugs (Substances Useful for Manufacture) Regulations 1991 and shall come into force on 1st July 1991.

(2) These Regulations are made under section 2(2) of the 1972 Act and section 13 of the 1990 Act, subject to the following exceptions:

- (a) regulations 3 to 6 are made under section 2(2) of the 1972 Act alone; and
- (b) regulation 7 is made under section 13 of the 1990 Act alone.

2. In these Regulations:

"the 1972 Act" means the European Communities Act 1972;

"the 1979 Act" means the Customs and Excise Management Act 1979 ;

"the 1990 Act" means the Criminal Justice (International Co-operation) Act 1990;

"the Community Regulation" means Council Regulation (EEC) N° 3677/90, and "operator" has the same meaning as in that Regulation.

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<sup>1</sup> This Regulation was initially published as E/NL.1992/44

<sup>2</sup> The amendments entered into force on 1st January 1995

<sup>3</sup> E/NL.1990/17

3. Subject to regulations 4 and 6 below:

the obligations imposed on operators by Articles 2(2) and (3) of the Community Regulation and by virtue of regulation 5 below shall be treated as if they were requirements imposed on them by regulations made under section 13(1) of the 1990 Act.

4. In Article 4 of the Community Regulation:

the words "the competent authorities of the Member State" shall be taken as a reference to the Secretary of State.

5. (1) An operator who is concerned in an export, import or transit operation involving a scheduled substance shall ensure that he has the documentation required by Article 2(1) of the Community Regulation.

In this paragraph, "export", "import", "scheduled substance" and "transit" have the same meanings as in the Community Regulation.

(2) The obligations imposed by Article 2(4) of the Community Regulation shall be complied with by the operator mentioned in paragraph (1) of this regulation, and in that Article the words "the competent authorities" shall be taken as a reference to the Secretary of State.

5A. (1) An operator who is concerned in an export operation involving a scheduled substance in Category 1 of the Annex to the Community Regulation shall ensure that he has the authorisation required by Article 4 of that Regulation.

(2) An operator who is concerned in an export operation involving a scheduled substance in Category 2 of the Annex to the Community Regulation shall ensure that he has such authorisation as is required by Article 5 of that Regulation.

(3) An operator who is concerned in an export operation involving a scheduled substance in Category 3 of the Annex to the Community Regulation shall ensure that he has such authorisation, if any, as is required by Article 5a of that Regulation.

(4) For the purposes of section 68 of the 1979 Act (offences relating to exportation of prohibited or restricted goods) any scheduled substances shall be deemed to be exported contrary to a restriction for the time being in force with respect to it under these Regulations if it is exported without the requisite authorisation having been obtained.

- (5) In this regulation, "export" (except where it occurs in paragraph (4) above) and "scheduled substance" have the same meanings as in the Community Regulation, and in articles 4, 5 and 5a of the Community Regulation the words "the competent authorities" shall be taken as a reference to the Secretary of State.

5B. An operator who fails to comply with any of the requirements imposed by Article 2a of the Community Regulation is guilty of an offence and liable:

- (a) on summary conviction, to imprisonment for a term not exceeding 3 months or a fine not exceeding the statutory maximum or both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.

5C. (1) An operator who fails to comply with any of the requirements imposed by virtue of regulation 5A above is guilty of an offence and liable to the same penalties as an operator who is guilty of an offence under regulation 5B above.

- (2) The powers conferred by subsection (1) of section 23 of the Misuse of Drugs Act 1971<sup>4</sup> shall be exercisable also for the purposes of the execution of Articles 4, 5 and 5a of the Community Regulation and subsection (3) of that section (excluding paragraph (a)) shall apply also to the offence under paragraph (1) above, taking references in those subsections to controlled drugs as references to scheduled substances within the meaning of the Community Regulation.

5D. Any reference in regulations 5B and 5C above to an operator who fails to comply with the requirements mentioned in those regulations shall include an operator who, in purported compliance with any such requirement:

(a) furnishes information which he knows to be false in a material particular;

or

(b) recklessly furnishes information which is false in a material particular.

6. Where a person is convicted of an offence contrary to section 68 of the 1979 Act as a result of the application of regulation 5A above, or section 13(5) of the 1990 Act as a result of the application of regulation 3 above:

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<sup>4</sup> E/NL.1971/42

- (a) section 68(1) of the 1979 Act shall have effect as if after the word "greater" there were added the words "but not exceeding the statutory maximum";
- (b) section 68(3)(a) of the 1979 Act shall have effect as if after the word "greater" there were added the words "but not exceeding the statutory maximum", and for the words "6 months" there were substituted the words "3 months";
- (c) section 68(3)(b)(c) of the 1979 Act shall have effect as if for the words "7 years" there were substituted the words "2 years";
- (d) section 13(5)(a) of the 1990 Act shall have effect as if for the words "6 months" there were substituted the words "3 months".

7. A person who produces or supplies a scheduled substance specified in Table 1 in Schedule 2 to the 1990 Act shall:

- (a) make a record of each quantity of such scheduled substance produced or supplied by him, as the case may be; and
- (b) preserve all records made under this regulation for a period of not less than two years from the end of the calendar year in which the production or supply, as the case may be, took place.

In this regulation, "produce" and "supply" have the same meanings as in the Misuse of Drugs Act 1971.

Home Office

30th May 1991

*Kenneth Baker*  
One of Her Majesty's Principal Secretaries of State

## **EXPLANATORY NOTE TO THE 1991 REGULATIONS**

*(This note is not part of the Regulations)*

These Regulations, subject to one exception referred to below, implement Council Regulation (EEC) 3677/90 ("the Community Regulation"). The Community Regulation requires Member States to adopt within the framework of their domestic law the measures necessary to enable the competent authorities (in the United Kingdom, this phrase refers to the Secretary of State) to obtain information on any orders for or operations involving scheduled substances (substances useful for the manufacture of controlled drugs) and to enter operators' business premises to obtain evidence of irregularities. It also requires Member States to determine the penalties to be applied for infringement of the provisions of the Community Regulation.

The Community Regulation itself provides for the documentation, recording and labelling of scheduled substances. It also requires that the proposed exportation of certain scheduled substances is notified to the competent authorities in advance of such exportation.

These Regulations provide that requirements of the Community Regulation are to be treated 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 penalties for breaches of such Regulations. These Regulations therefore enable breaches of the Community Regulation to be investigated and penalised within the framework of the 1990 Act, except that the penalties for breaches of the Community Regulation are in certain respects lower than those provided for under the 1990 Act.

Regulation 7 of these Regulations does not implement the Community Regulation and is made under section 13(1) of the 1990 Act alone. It provides for the recording of the production and supply of scheduled substances. The penalty for breach of this regulation is that provided for under the 1990 Act.

## **EXPLANATORY NOTE TO THE 1992 REGULATIONS**

*(This note is not part of the Regulations)*

The principal purpose of these Regulations is to implement the amendments made to Council Regulation (EEC) 3677/90 ("the Community Regulation") by Council Regulation (EEC) 900/92.

The Community Regulation, as amended, includes provision requiring operators concerned in the export of scheduled substances (substances useful for the manufacture of controlled drugs) to obtain export authorisations in respect of such exports. The Community Regulation, by Article 6, requires Member States to adopt within the framework of their domestic law the measures necessary to enable the competent authorities (in the United Kingdom, this phrase refers to the Secretary of State) to obtain information on any orders for or orders involving scheduled substances and to enter operators' business premises in order to obtain evidence of irregularities. It also requires Member States to determine the penalties to be applied for infringement of the provisions of the Community Regulation.

These Regulations amend the Controlled Drugs (Substances Useful for Manufacture) Regulations 1991 (S.I.1991/1285). They provide that failure to obtain the requisite export authorisation (under Articles 4, 5 and 5a of the Community Regulation) constitutes an offence and set out the penalties applicable to such an offence. They also provide that the power conferred under section 23 of the Misuse of Drugs Act 1971 to enter and search premises in order to investigate suspected offences under that Act shall also be exercisable for the purposes of the execution of Articles 4, 5 and 5a of the Community Regulations.