

## SCHEDULES

### SCHEDULE 21

#### POISONS AND EXPLOSIVES PRECURSORS

##### *Establishment of common regulatory system*

4 For section 3 substitute—

##### **“3 Activities prohibited without a licence**

- (1) A member of the general public commits an offence if he or she does anything listed in subsection (2) without having a licence, or a recognised non-GB licence, to do that thing with respect to that substance.
- (2) The things are—
  - (a) importing a regulated substance,
  - (b) acquiring a regulated substance,
  - (c) possessing a regulated substance,
  - (d) using a regulated substance.
- (3) For the purposes of this section—
  - (a) “acquiring” means taking into your possession, custody or control,
  - (b) “importing” means bringing into Great Britain from a country or territory outside the United Kingdom,
  - (c) “member of the general public” means an individual who is acting (alone or with others) for purposes not connected with his or her trade, business or profession or the performance by him or her of a public function,
  - (d) “possessing” means having in your possession, custody or control, and
  - (e) “using” includes processing, formulating, storing, treating or mixing, including in the production of an article.
- (4) A member of the general public does not commit an offence under subsection (1) if the requirements of this section do not apply to his or her case by virtue of regulations made under section 9B.
- (5) This section does not apply to the possession or use of a regulated substance at any time before 3 March 2016.

##### **3A Supply of regulated substances**

- (1) A person commits an offence if the person supplies a regulated substance to a member of the general public without first verifying that the member of the general public has a licence, or a recognised non-GB licence, to acquire, possess and use that substance.

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- (2) In order to verify that someone has a licence or recognised non-GB licence, it is sufficient for these purposes to—
  - (a) inspect the person’s licence, and
  - (b) inspect the form of identification specified in that licence.
- (3) A person commits an offence if the person supplies a regulated substance to a member of the general public without first entering details of the transaction (or causing details of the transaction to be entered) in the licence, or recognised non-GB licence, of the member of the general public.
- (4) A person commits an offence if the person supplies a regulated substance to a member of the general public without first ensuring that a warning label is affixed to the packaging in which the substance is supplied.
- (5) A “warning label” is a label clearly indicating that it is an offence for members of the general public to acquire, possess or use the substance in question without a licence (or recognised non-GB licence).
- (6) A person does not commit an offence under subsection (1), (3) or (4) if the requirements of that subsection do not apply to the person’s case by virtue of regulations made under section 9B.
- (7) Before 3 March 2016, subsections (1) and (5) have effect as if the references to possession and use of the substance were omitted.
- (8) The Secretary of State may by regulations make provision modifying this section so far as it applies to any supplies that involve despatch of the substance to Northern Ireland or export of it from the United Kingdom.

### **3B Supply of regulated poisons other than by pharmacists**

- (1) A person commits an offence if the person supplies a regulated poison to a member of the general public other than in the circumstances described in subsection (2).
- (2) Those circumstances are—
  - (a) the person is lawfully conducting a retail pharmacy business,
  - (b) the supply is made on premises that are a registered pharmacy, and
  - (c) the supply is made by or under the supervision of a pharmacist.
- (3) A person commits an offence if the person supplies a regulated poison to a member of the general public without complying with the record-keeping requirements before delivering the poison.
- (4) The record-keeping requirements are—
  - (a) the person must make an entry (or cause an entry to be made) in a record to be kept by the person for the purposes of this subsection stating—
    - (i) the date of the supply,
    - (ii) the name and address of the member of the general public,
    - (iii) the name and quantity of the regulated poison supplied, and
    - (iv) the purposes for which it is stated by the member of the general public to be required, and

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- (b) the person must ensure that the member of the general public signs the entry.
- (5) A person does not commit an offence under subsection (1) or (3) if the requirements of that subsection do not apply to the person's case by virtue of regulations made under section 9B.

### **3C Reporting of suspicious transactions, disappearances and thefts**

- (1) A supplier must report any relevant transaction that it makes or proposes to make if the supplier has reasonable grounds for believing the transaction to be suspicious.
- (2) A “relevant transaction” is a transaction involving the supply of a regulated substance or a reportable substance to a customer, whether an end user or a customer higher up the supply chain and whether a business or a private customer.
- (3) A relevant transaction is “suspicious” if there are reasonable grounds for suspecting that the substance in question—
  - (a) if it is a regulated explosives precursor or reportable explosives precursor, is intended for the illicit manufacture of explosives, or
  - (b) if it is a regulated poison or a reportable poison, is intended for any illicit use.
- (4) In deciding whether there are reasonable grounds for suspecting such a thing, regard must be had to all the circumstances of the case, including in particular where the prospective customer—
  - (a) appears unclear about the intended use of the substance,
  - (b) appears unfamiliar with the intended use of the substance or cannot explain it plausibly,
  - (c) intends to buy substances in quantities, combinations or concentrations uncommon for private use,
  - (d) is unwilling to provide proof of identity or place of residence, or
  - (e) insists on using unusual methods of payment, including large amounts of cash.
- (5) A person carrying on a trade, business or profession that involves regulated substances or reportable substances must report the disappearance or theft of any such substances if the disappearance or theft—
  - (a) is from stocks in the person's possession, custody or control in Great Britain, and
  - (b) is significant.
- (6) In deciding whether a disappearance or theft is significant, regard must be had to whether the amount involved is unusual in all the circumstances of the case.
- (7) A duty under this section to “report” something is a duty to give notice of it to the Secretary of State in accordance with such requirements as may be specified by the Secretary of State by regulations made under this subsection.
- (8) A person who fails to comply with subsection (1) or (5) commits an offence.

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- (9) A person does not commit an offence under subsection (8) if the requirements of subsection (1) or, as the case may be, (5) do not apply to the person's case by virtue of regulations made under section 9B.”