



STATUTORY INSTRUMENTS.

**S.I. No. 611 of 2014**



EUROPEAN UNION (MARKETING AND USE OF EXPLOSIVES  
PRECURSORS) REGULATIONS 2014

EUROPEAN UNION (MARKETING AND USE OF EXPLOSIVES  
PRECURSORS) REGULATIONS 2014

I, FRANCES FITZGERALD, Minister for Justice and Equality, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving further effect to Regulation (EU) No 98/2013 of the European Parliament and of the Council of 15 January 2013<sup>1</sup> hereby make the following regulations:

*Citation and Commencement*

1. (1) These Regulations may be cited as the European Union (Marketing and Use of Explosives Precursors) Regulations 2014.

(2) Subject to paragraph (3), these Regulations shall come into operation on 31 December 2014.

(3) Regulation 5(2) shall come into operation on 3 March 2016.

*Definitions and construction*

2. (1) In these Regulations—

“Competent Authority” means—

- (a) the Superintendent of the Garda Síochána for the district in which the person applying for a Certificate ordinarily resides, or
- (b) in relation to an application made by a person outside of the State, the Superintendent of the Garda Síochána for the district in which the person applying for a Certificate intends to introduce into the State or acquire the restricted explosives precursor.

“EU Regulation” means 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;

“Garda Restricted Explosives Precursor Certificate” means a certificate issued under Regulation 7 which is in force (in these Regulations referred to as a “Certificate”);

“holder”, in relation to a Certificate, means a person to whom the Certificate is issued;

“national contact point” has the meaning assigned to it by Regulation 12.

<sup>1</sup>OJ L39, 9.2.2013, p. 1

*Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 6th January, 2015*

(2) A word or expression which is used in these Regulations and which is also used in the EU Regulation has, unless the context otherwise requires, the same meaning in these Regulations as it has in the EU Regulation.

*Restrictions on making restricted explosives precursors available to members of the general public*

3. (1) No person shall make available a restricted explosives precursor to a member of the general public, other than in accordance with paragraphs (2) and (3).

(2) An economic operator may make available a restricted explosives precursor to a person who is a member of the general public only where—

- (a) the economic operator is satisfied that the person concerned is the holder of a Certificate,
- (b) the person concerned produces the Certificate at the time of the transaction, and
- (c) the acquisition of the restricted explosives precursor by the person concerned is permitted under the Certificate.

(3) Where an economic operator makes a restricted explosives precursor available in accordance with paragraph (2), he or she shall record the transaction on the Certificate produced under paragraph (2)(b).

*Labelling*

4. (1) An economic operator who makes available to a member of the general public a restricted explosives precursor shall—

- (a) affix an appropriate label to the packaging in which the restricted explosives precursor is contained, or
- (b) where a label is already affixed to the packaging referred to in subparagraph (a), ensure that the label is an appropriate label.

(2) In paragraph (1) “appropriate label” means a label which clearly sets out, whether or not with other words, the words “Acquisition, possession or use by the general public is restricted”, or, in the Irish language “Tá srian le fáil, seilbh nó úsáid ag daoine den phobal”.

(3) The requirement under this Regulation is in addition to any other labelling requirements that are prescribed by law.

*Restrictions on members of the general public to acquire etc. restricted explosives precursors*

5. (1) A member of the general public shall not acquire or introduce into the State a restricted explosives precursor unless he or she is the holder of a Certificate that authorises such acquisition or, as the case may be, introduction into the State.

(2) A member of the general public shall not possess or use a restricted explosives precursor unless he or she is the holder of a Certificate that authorises such possession or, as the case may be, use.

*Application for Certificate*

6. (1) A member of the general public may apply to a Competent Authority for a Certificate.

(2) An application under paragraph (1) shall be in the form specified in Schedule 1 and shall be accompanied by a fee of €25.

(3) A person making an application under paragraph (1) shall not provide information which is false or misleading in a material particular, knowing the information to be so false or misleading.

*Consideration of application and issuing of Certificate*

7. (1) A Competent Authority shall, on receipt of an application made in accordance with Regulation 6, review the application.

(2) A Competent Authority may, for the purposes of making a determination in accordance with this Regulation, require further information from the applicant concerned and make such enquiries in relation to the application as it considers necessary.

(3) In considering an application, a Competent Authority shall take into account the following:

- (a) the intended use by the applicant of the restricted explosives precursor to which the application relates;
- (b) whether the applicant has a legitimate interest in acquiring, introducing into the State, possessing or, as the case may be, using the restricted explosives precursor;
- (c) the arrangements that are proposed to ensure that the restricted explosives precursor is stored securely;
- (d) whether the acquisition, introduction into the State, possession or, as the case may be, use of the restricted explosives precursor would pose a risk to public safety, public order or public security;
- (e) whether the applicant is a fit and proper person to acquire, introduce into the State, possess or, as the case may be, use the restricted explosives precursor;
- (f) any other circumstances which the Competent Authority considers relevant.

(4) A Competent Authority, having considered an application, shall—

- (a) issue a Certificate in respect of any or all of the restricted explosives precursors to which the application relates,
  - (b) issue a Certificate subject to conditions, or
  - (c) refuse a Certificate.
- (5) The conditions referred to in paragraph (4)(b) may include—
- (a) in relation to a restricted explosives precursor specified in the Certificate—
    - (i) the use to which it may be put,
    - (ii) the period in which it may be acquired, introduced into the State, possessed or, as the case may be, used,
    - (iii) the maximum amount that may be acquired, introduced into the State, possessed or, as the case may be, used,
    - (iv) the maximum concentration that may be acquired, introduced into the State, possessed or, as the case may be, used,
    - (v) the location in which it may be acquired, introduced into the State, possessed or, as the case may be, used, and
    - (vi) the conditions under which it may be stored,and
  - (b) such other condition that the Competent Authority considers necessary in the interests of public safety, public order, or public security.
- (6) Without prejudice to the generality of paragraph (4)(c), a Competent Authority shall refuse to issue a Certificate where he or she is of the view that—
- (a) the intended use by the applicant of the restricted explosives precursor to which the application relates is not legitimate,
  - (b) the applicant does not have a legitimate interest in acquiring, introducing into the State, possessing or, as the case may be, using the restricted explosives precursor which is the subject of the application,
  - (c) the proposed arrangements do not ensure that the restricted explosives precursor will be stored securely,
  - (d) the applicant will not comply with one or more of the conditions which the Competent Authority deems necessary,
  - (e) the acquisition, introduction into the State, possession or, as the case may be, use of the restricted explosives precursor would pose a risk to public safety, public order or public security, or

- (f) the applicant is not a fit and proper person to acquire, introduce into the State, possess or, as the case may be, use the restricted explosives precursor.
- (7) Where a Competent Authority having considered an application—
  - (a) refuses to issue a Certificate,
  - (b) refuses to issue a Certificate in respect of a particular restricted explosives precursor which was the subject of the application, or
  - (c) issues a Certificate which is subject to conditions,

he or she shall notify the applicant in writing of his or her decision and the reasons for it and shall inform the applicant of his or her right to appeal the decision under Regulation 11.

*Matters to be included in a Certificate*

8. (1) A Certificate shall be in the form specified in Schedule 2 and shall include the following particulars:

- (a) the name of the holder;
- (b) the restricted explosives precursor or restricted explosives precursors to which the Certificate relates;
- (c) whether the Certificate authorises—
  - (i) a single transaction, or
  - (ii) multiple transactions over a period not exceeding three years;
- (d) the conditions (if any) to which the Certificate is subject.

(2) A person to whom a Certificate is issued shall comply with the Certificate and any conditions to which it is subject.

*Production of documents*

9. (1) A holder of a Certificate shall produce the Certificate if so requested by—

- (a) a Government Inspector of Explosives,
- (b) an officer of Customs and Excise, or
- (c) a member of the Garda Síochána.

(2) A Competent Authority may, during the period in which the Certificate is in force, require the holder to demonstrate that the conditions to which the Certificate is subject continue to be complied with.

*Suspension or revocation of a Certificate*

10. (1) A Competent Authority may by notification in writing suspend or revoke any Certificate where the Competent Authority has reasonable grounds for believing that the holder—

- (a) has acquired, introduced into the State, possessed or, as the case may be, used a restricted explosives precursor otherwise than in accordance with his or her Certificate,
- (b) has failed to comply with a condition to which his or her Certificate is subject, or
- (c) is not a fit and proper person to acquire, introduce into the State, possess or, as the case may be, use the restricted explosives precursor or precursors concerned.

(2) A person whose Certificate is suspended or revoked pursuant to paragraph (1) shall return the Certificate as soon as practicable to the Competent Authority.

*Appeal*

11. (1) A person may appeal to the District Court against a decision of a Competent Authority to—

- (a) refuse to issue a Certificate to him or her,
- (b) refuse to issue a Certificate in respect of a particular restricted explosives precursor to him or her,
- (c) issue a Certificate which is subject to conditions to him or her, or
- (d) suspend or revoke a Certificate in respect of which he or she is a holder.

(2) An appeal under this Regulation shall state the grounds for the appeal and shall be lodged with the appropriate office of the District Court not later than 14 days from the date of the sending of notification under Regulation 7(7) or Regulation 10(1), as the case may be.

(3) An appeal under this Regulation shall be on notice to the Competent Authority concerned.

(4) Subject to any decision to the contrary by the District Court, the decision of the Competent Authority shall remain in force until the appeal is determined by the District Court.

(5) On hearing an appeal under this Regulation, the District Court may, in relation to the decision of the Competent Authority—

- (a) confirm or vary the decision,
- (b) allow the appeal,

- (c) make such other order as it considers appropriate.

*Suspicious transactions*

12. (1) An economic operator may refuse any transaction which he or she has reasonable grounds for believing is a suspicious transaction.

(2) An economic operator shall report as soon as practicable to the national contact point any suspicious transaction or attempted suspicious transaction involving—

- (a) a substance specified in Annex I or II of the EU Regulations, or
- (b) any mixture or substance containing one or more of the substances referred to in subparagraph (a), and the identity, where known, of the customer or potential customer (including an economic operator), as the case may be,

and

- (c) any significant disappearance or theft of a substance referred to in subparagraph (a) or a substance or mixture referred to in subparagraph (b).

(3) In deciding whether a transaction is a suspicious transaction, the economic operator shall have regard to all the circumstances, including whether the person seeking to purchase a substance referred to in paragraph (2)(a) or a substance or mixture referred to in paragraph (2)(b)—

- (a) appears unclear about the intended use of the substance or mixture,
- (b) appears unfamiliar with the intended use of the substance or mixture or cannot plausibly explain it,
- (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.

(4) In this Regulation, “national contact point” means the unit of the Garda Síochána known as Liaison and Protection.

(5) The Garda Síochána shall publish the telephone number, email address and such other contact details of the national contact point as it considers appropriate—

- (a) on its website, and
- (b) in such other manner as it considers appropriate.



*Offences and penalties*

13. (1) A person who contravenes Regulation 3, 4, 5, 6(3), 8(2), 9(1), 10(2) or 12(2) commits an offence and is liable—

- (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months, or to both, or
- (b) on conviction on indictment, to a fine not exceeding €20,000 or imprisonment for a term not exceeding 3 years or both.

(2) Where a person is convicted of an offence under these Regulations, the court may order the forfeiture to the Minister of any restricted explosives precursors to which the offence relates.

*Offences by bodies corporate*

14. (1) Where an offence under these Regulations is committed by a body corporate and it is proved that the offence was committed with the consent or connivance, or was attributable to any wilful neglect, of a person who was a director, manager, secretary or other officer of the body corporate, or a person purporting to act in that capacity, that person, as well as the body corporate, shall be guilty of an offence and may be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.

## SCHEDULE 1

*Regulation 6***Form of Application for a Garda Restricted Explosives Precursor Certificate**

<b>Section 1: Personal Details of Applicant (Note 1)</b>		
Surname:	Home Address:	
First Name:		
Middle Name:		
Gender:	County:	
Date of Birth:	Home Tel No:	
Occupation:	Business Tel No:	
Nationality:	E Mail or Fax No:	
	<b>Type of Certificate Required (Note 2)</b>	*
1	Single Acquisition, Possession or Use	
2	Multiple Acquisitions, Possession or Use	
3	Single Introduction into the State, Possession or Use	
4	Multiple Introductions into the State, Possession or Use	

\*Place 'X' in appropriate box

<b>Section 3: Restricted Explosives Precursors to be covered in this certificate: (Note 3)</b>		
<b>Commercial Name of Product and Chemical Name of Precursor (Attach schedule if necessary)</b>	<b>% Concentration</b>	<b>Maximum Quantity Kg / L</b>
<b>Section 4: Location of activity: (Note 4)</b>		
<b>Section 5: Purpose and Duration Required For: (Note 5)</b>		
<b>Section 6: Declaration (Note 6)</b>		
I declare that above information is true. I understand that my details may be held on Garda record in accordance with the law. I understand that I may be subject to further Garda enquiries if it is deemed necessary in order to decide on whether or not to grant this certificate. I will comply with all conditions that may be included on any Garda Restricted Explosives Precursor Certificate that may be issued to myself.		
Applicant's signature: _____		
Date of application: _____		

**Notes for filling out the Form**

1. Personal details: Note that the applicant must provide full current contact details
2. Type of Certificate Required: ‘Acquisition’ in this context is to obtain or purchase the substance from *within* the State, whereas ‘Introduction’ is to bring the substance *into* the State. ‘Single’ in this context permits the certificate to be used only once while ‘Multiple’ permits the certificate to be used on any number of occasions over a specified time period (see Note 4 also)
3. Restricted Explosives Precursors to be covered: Full details should be given including full commercial name of product and the chemical name of the restricted explosive precursors concerned e.g. “Bleach”, “Hydrogen Peroxide” and relevant concentration levels
4. Location of activity: If introducing, then name the place where the substance will enter the State. In all cases the location of the storage and other location(s) where the substances will be used should be provided.
5. Purpose Required for: Give full details of why you require the specified restricted explosives precursor. Applicant to indicate if required for a single use and if so the date required or if required for multiple use the dates from and to which it is required for up to a maximum of three years.
6. General: Application should be typed or written legibly. For persons resident in the State, it should be submitted to the Garda Superintendent of the Garda Division where the applicant ordinarily resides. For persons resident outside the State, the form should be submitted to the Garda Superintendent of the Garda Division in which the applicant intends to introduce the substance into the State or where the applicant intends to acquire the substance. The application form should be submitted at least 14 days in advance of the proposed acquisition or introduction to allow adequate time for processing.

## SCHEDULE 2

*Regulation 7*

Certificate Ref. No.....

**Garda Restricted Explosives Precursor Certificate**

In accordance with Regulation 7 of the European Union (Marketing and Use of Explosives Precursors) Regulations 2014, I the undersigned do hereby certify that the following person:

\_\_\_\_\_ of address: \_\_\_\_\_

\_\_\_\_\_ is authorised to acquire, introduce, possess or use, as specified in the type of certificate below the specific restricted explosives precursors as listed:

	<b>Type of Certificate</b>	*
1	Single Acquisition, Possession or Use	
2	Multiple Acquisitions, Possession or Use	
3	Single Introduction into the State, Possession or Use	
4	Multiple Introductions into the State, Possession or Use	

\*Place 'X' in appropriate box

<b>Location of activity</b> (If use and storage different include both locations):

<b>Restricted Explosives Precursors covered in this certificate:</b>		
Commercial Name and/or Chemical Name (Attach schedule if required)	% Concentration	Maximum Quantity Kg/L
<b>Purpose Required</b>		

<b>Special Conditions:</b>

Signed/Stamped: _____ Rank: _____
District: _____ Date: _____

Certificate expires on date: _____ This certificate continues until the date of expiry above (which can be up to a maximum of 3 years from the date of granting)
---

**Record of Acquisitions**

- To be used by the economic operator to record transaction(s) permitted on the Certificate
- Before completing any transaction, the economic operator must ensure that the holder of the Certificate is authorised to acquire, possess or use the restricted explosives precursor(s) concerned
- It is an offence not to record the transaction

Date	Commercial Name of Product	Actual Restricted Explosives Precursor & Concentration	Quantity (Kg/L)	Retailer Name and Location	Sales Assistant Name	Signature of Sales Assistant



GIVEN under my Official Seal,  
23 December, 2014.

FRANCES FITZGERALD  
Minister for Justice and Equality.

## EXPLANATORY NOTE

*(This note is not part of the Instrument and does not purport to be a legal interpretation)*

These Regulations give further effect to Regulation (EU) No. 98/2013 of the European Parliament and of the Council on the marketing and use of explosives precursors. (Explosives precursors are substances or mixtures which can be misused for the illicit manufacture of explosives).

The Regulations restrict the access by the general public (as defined within the EU Regulation) to certain chemical substances, of certain concentrations, by requiring a Garda Restricted Explosives Precursor Certificate for the introduction into the State, acquisition, possession or use of the substances listed in Annex I to the EU Regulation.

These Regulations outline the obligations of economic operators if intending to make these particular substances, above a certain concentration level, available to the general public.

These Regulations also require the reporting of any suspicious transactions, significant disappearances or theft of the substances listed in both Annex I and Annex II of the EU Regulation, to a designated Garda national contact point.

These Regulations set out the offences and penalties associated with a breach of these Regulations.

The Regulations come into operation on 31 December 2014.

BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
Le ceannach díreach ó  
FOILSEACHÁIN RIALTAIS,  
52 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2  
(Teil: 01 - 6476834 nó 1890 213434; Fax: 01 - 6476843)  
nó trí aon díoltóir leabhar.

---

DUBLIN  
PUBLISHED BY THE STATIONERY OFFICE  
To be purchased from  
GOVERNMENT PUBLICATIONS,  
52 ST. STEPHEN'S GREEN, DUBLIN 2.  
(Tel: 01 - 6476834 or 1890 213434; Fax: 01 - 6476843)  
or through any bookseller.

---

€2.54



Wt. (B31040). 285. 12/14. Clondalkin. Gr.30-15.