EXPLANATORY MEMORANDUM TO

THE CRIMINAL JUSTICE (INTERNATIONAL CO-OPERATION) ACT 1990 (AMENDMENT) ORDER 2026

2026 No. 589

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Home Office and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Secondary Legislation Scrutiny Committee.

2. Declaration

2.1 Sarah Jones MP, Minister for Policing and Crime, at the Home Office confirms that this Explanatory Memorandum meets the required standard.

2.2 Marcus Starling, Deputy Director for the Drugs and Alcohol Unit, at the Home Office confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Sam Hardy at the Home Office can be contacted by email at the following address with any queries regarding the instrument: Sam.Hardy@homeoffice.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument will add 12 new drug precursor chemicals (DPCs) and eight esters (simple chemical variations) each of two of those DPCs to the list of DPCs which it is a criminal offence to manufacture or supply if the defendant knows, or suspects, that the substance is to be used in or for the unlawful production of a controlled drug. This will ensure clear implementation of some of the controls on DPCs in the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 ("the 1988 Convention").

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales, Scotland and Northern Ireland.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales, Scotland and Northern Ireland.

5. Policy Context

What is being done and why?

5.1 DPCs are substances which can be legitimately stored, manufactured, produced, processed, traded or distributed by organisations in the chemical, pharmaceutical, manufacturing and other industries or for research purposes. Those activities generally require licences or authorisations granted by the Home Office. DPCs can also be used to make illicit drugs such as fentanyl, methamphetamine and amphetamine.

5.2 The UK ratified the 1988 Convention in 1991. This required the UK to fulfil several obligations relating to DPCs. One of those is to establish as criminal offences the manufacture, transport or distribution of the DPCs controlled by the 1988 Convention, if the person knows that the substance is to be used in or for the illicit cultivation, production or manufacture of narcotic drugs or psychotropic substances. Section 12 of the Criminal Justice (International Co-operation) Act 1990 ("the 1990 Act") fulfils that obligation, by making it a criminal offence to manufacture or supply a substance which is listed in Schedule 2 to the 1990 Act, if the defendant knew or suspected that the substance was to be used in or for the unlawful production of a controlled drug. The maximum sentences are 14 years' imprisonment, a fine, or both.

5.3 When the 1990 Act came into force 12 DPCs (and associated salts) had been listed in the 1988 Convention. Schedule 2 to the 1990 Act therefore contained all of them. Between 1992 and 2000 eleven further substances and (in most cases) associated salts were added to the 1988 Convention, and these were subsequently added to Schedule 2. Between 2014 and 2024 12 further DPCs and 16 esters were added to the 1988 Convention, but these were not added to Schedule 2. The reason for this omission is not known.

5.4 The purpose of this instrument is to ensure the UK's compliance with the 1988 Convention and to prevent the use of DPCs to produce drugs which cause health and social harms. This instrument therefore adds those 12 DPCs and 16 esters to Schedule 2. Seven of the 12 (4-AP, 1-boc-4-AP, norfentanyl, 1-boc-4-piperidone, 4-piperidone, ANPP, NPP) are used to make fentanyl, four (BMK glycidic acid [as well as its eight esters], MAPA, APAA and APAAN) to make amphetamine and methamphetamine, and one (PMK glycidic acid [as well as its eight esters]) to make MDMA ('ecstasy'). Three of those drugs are in Class A of the Misuse of Drugs Act 1971 (amphetamine is in Class B).

5.5 Updating Schedule 2 with these substances ensures clear implementation of DPC controls in the 1988 Convention. It provides clarity for law enforcement as to the appropriate criminal offences under the 1990 Act. Finally, Parliament's intention when passing the 1990 Act was that the inclusion of substances in Schedule 2 should be the mechanism for fulfilling the UK's obligations under the 1988 Convention, hence updating Schedule 2 respects that intention.

5.6 The drugs which can be made with these DPCs cause serious harms in the UK. Fentanyl, amphetamine and MDMA were mentioned 60, 111 and 78 times, respectively, on death certificates for deaths registered in England and Wales in 2024. These drugs can be manufactured in different ways, but making these DPCs subject to the section 12 offence is an important way to tackle their misuse. There is a lack of data available on seizures of DPCs in the UK, but global data on seizures can convey their prevalence. For example, in 2023, 5,453 litres of Benzyl Methyl Ketone ('BMK' – a key precursor to amphetamine/methamphetamine) and 571 litres of Piperidone Methyl Ketone ('PMK' – a key precursor to ecstasy) were seized in the EU.

What was the previous policy, how is this different?

5.7 Currently, it is not a specific offence to manufacture or supply 12 DPCs and 16 esters if the defendant knew or suspected they were to be used to make controlled drugs. This instrument would make those activities a specific offence for the 12 DPCs and 16 esters.

6. Legislative and Legal Context

How has the law changed?

6.1 This instrument amends Schedule 2 to the 1990 Act by including the 12 DPCs and eight esters each for two of those DPCs, which have been controlled at various times since 2014 under the 1988 Convention. It relies on powers in section 12(5) of the 1990 Act, which allow His Majesty by Order in Council to make changes to Schedule 2. A new DPC may be added only if it appears to His Majesty to be frequently used in or for the unlawful production of a controlled drug, or if it has been added to the 1988 Convention. All the DPCs and esters added by this instrument fall within the latter criterion.

6.2 The list of substances in Schedule 2 applies not only to section 12 of the 1990 Act, but also to any regulations made under section 13. Section 13 allows the Secretary of State to make regulations which, in relation to the substances in Schedule 2, impose requirements as to the documentation of transactions, require the keeping of records and the furnishing of information, deal with the labelling of consignments and allow for the inspection of records kept pursuant to the regulations. However, those matters are dealt with under EU regulations which apply directly in Northern Ireland (NI) under the Windsor Framework, and in the equivalent assimilated law instruments in Great Britain (GB). There are therefore no extant regulations made directly under section 13, and the Government has no plans to make any.

6.3 Substances within Schedule 2 are split between Table I and Table II. The criteria for placing substances within one or the other table are not defined in legislation. However, debates on the Bill which became the 1990 Act make clear that Table I was intended for chemicals used to manufacture controlled drugs and that Table II was for chemicals which are used as reagents or solvents in the manufacturing process.[1] None of the substances being added to Schedule 2 is known to have uses which would entail inclusion in Table II, hence they are all being added to Table I. There is in any case no distinction between Tables I and II with respect to section 12 of the Act, but only with respect to section 13. Hence, as above, no practical differences currently flow from the inclusion of these substances in Table I rather than II.

Why was this approach taken to change the law?

6.4 Updating Schedule 2 to the 1990 Act will clearly signal the UK's compliance with the obligation in Article 3(1)(a)(iv) of the 1988 Convention for state parties to establish criminal offences under domestic legislation and to give greater clarity to law enforcement agencies. This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 The Government has not consulted on the content of this instrument as it does not change the legal framework for the criminalisation of manufacture and supply of DPCs for the deliberate purpose of producing controlled drugs. It also has no effect on those making legitimate use of DPCs.

[1] https://hansard.parliament.uk/Lords/1989-12-12/debates/922c5fb6-2ee6-4236-b8b6-763e347dd2ea/CriminalJustice(InternationalCo-Operation)BillHl, column 1219.

7.2 While the provisions in the 1990 Act are reserved, devolved governments have been informed of the UK Government's intention to amend Schedule 2 to the 1990 Act to update it with the revisions outlined above.

8. Applicable Guidance

8.1 The Home Office will ensure that law enforcement agencies are informed of the new substances which are to be subject to the offence in section 12 of the 1990 Act. No guidance is required in this case, as this instrument does not affect those who are making legitimate use of DPCs.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because the level of impact on businesses is low. Instead, an Economic Note will be published alongside this Explanatory Memorandum which accounts for both this instrument and The Controlled Drugs (Drug Precursors) (Amendment and Revocation) Regulations 2026 ('the 2026 Regulations'). The only costs resulting from the instrument are familiarisation costs to the public sector. These are estimated to be around £12,000 over the 10-year appraisal period (2026/27 PV) and cover this instrument and the 2026 Regulations. There are no impacts to business as a result of this measure. This instrument is also not expected to have an impact on the criminal justice system as data show there have been no criminal justice proceedings brought against any person in relation to the relevant provisions in the 1990 Act in the last five years.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because this instrument deals only with the deliberate illicit use of DPCs.

9.3 The order does not impact small or micro businesses.

9.4 The impact on the public sector is limited. Additional costs will be incurred by public bodies in familiarising themselves with this instrument. These familiarisation costs are expected to be £12,000 (2026/27 Present Value) over the appraisal period.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is continuous engagement with law enforcement organisations about the use of these measures.

10.2 The instrument does not include a statutory review clause, as it is not a qualifying activity as defined in the Small Business, Enterprise and Employment Act 2015.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 This instrument deals with a similar subject to the 2026 Regulations, which are being laid at the same time as this instrument and which are the subject of the same Economic Note. The 2026 Regulations amend several pieces of assimilated law relating to the control and monitoring of DPCs and address legislative deficiencies arising from the Windsor Framework. Whereas the 2026 Regulations deal with the

obligations on those making legitimate use of DPCs, this instrument deals with those making illicit use of DPCs.

11.2 This instrument amends primary legislation. It makes amendments to Schedule 2 to the 1990 Act. Schedule 2 lists those substances which apply to the criminal offence set out in section 12 to that Act. The instrument uses powers in section 12(5) to add a number of substances to the list in Schedule 2.

12. European Convention on Human Rights

12.1 The Minister for Crime and Policing has made the following statement about Human Rights:
"In my view the provisions of the Criminal Justice (International Co-operation) Act 1990 (Amendment) Order 2026 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").