EXPLANATORY MEMORANDUM TO

THE CONTROLLED DRUGS (DRUG PRECURSORS) (AMENDMENT AND REVOCATION) REGULATIONS 2026

2026 No. [XXXX]

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 Joint Committee on Statutory Instruments and 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 Andrew Lewis at the Home Office can be contacted by email at the following address with any queries regarding the instrument: Andrew.lewis5@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 amend deficiencies in the assimilated law relating to drug precursor chemicals (DPCs) which have arisen as a result of the Windsor Framework, to reflect the fact that the assimilated law applies only in Great Britain (GB), not the whole UK. This involves: adding ten DPCs and 14 esters (simple chemical variations) to the list of DPCs that are subject to monitoring and control in GB; ensuring the UK Government has the power to control other new DPCs in GB in the future; and making express statutory provision for issuing authorisations to move DPCs between GB and Northern Ireland (NI). The instrument will also ensure that the requirements to document and label DPCs and pass information about them to the authorities, and the criminal offences for not complying with those requirements, apply to the same list of DPCs.

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 NI.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales, Scotland and NI. There are, however, individual regulations which amend legislation applicable only in England, Wales and Scotland (regulations 5 to 8) or which apply only in NI (regulation 9).

5. Policy Context

What is being done and why?

5.1 DPCs have legitimate uses but are also used to make illicit drugs. In the UK, individuals and organisations storing, manufacturing, producing, processing, trading or distributing DPCs for legitimate purposes ('operators') are subject to a series of legal obligations. These obligations exist to minimise the risk that DPCs are diverted into illicit drug production, and therefore to reduce the resulting health and social harms. In practice, the obligations require operators to obtain Home Office licences and authorisations for specified activities, to document and label consignments of DPCs, and to provide specified information to public authorities (for example, notifying the National Crime Agency where there are circumstances suggesting a risk of diversion).

5.2 Since the end of the Implementation Period on 31 December 2020, which followed the UK's departure from the EU, the EU regulations that set out these legal obligations have continued to apply in NI under the Windsor Framework. In GB, a similar but modified version applies as assimilated law. This instrument corrects deficiencies identified within that assimilated law.

5.3 The first of those deficiencies is that, since the end of the Implementation Period, ministers have not had the power to control new DPCs in GB. This is because the power within the assimilated law to control new DPCs extends to the whole UK, not just to GB. As a result, ten DPCs and 14 esters (simple variations on a substance) which the EU has controlled during that time have been automatically controlled in NI but not in GB. Five of the ten (4-AP, 1-boc-4-AP, norfentanyl, 4-piperidone, 1-boc-4-piperidone) are used to make fentanyl; two (IMDPAM, MAMDPA, and seven esters of PMK glycidic acid) to make MDMA ('ecstasy'); and three (DEPAPD, EAPA, red phosphorus, and seven esters of BMK glycidic acid) to make amphetamine and methamphetamine. Three of these drugs fall within Class A of the Misuse of Drugs Act 1971 (amphetamine is in Class B).

5.4 This situation creates a number of issues. There are no legal obligations on operators in relation to the uncontrolled DPCs, increasing the likelihood that they may be diverted into illicit drug production. Criminal enterprises could choose to operate in GB because these substances are not subject to controls. Legitimate businesses face unnecessary complexity, as different substances are controlled in GB and NI. Finally, the UK has not controlled those five of the ten DPCs which it is required to do as a signatory to the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 ("the 1988 Convention"), under which those five have been scheduled. This instrument therefore adds the ten DPCs and 14 esters to the list of controlled substances in GB. It also prevents recurrence of this situation by giving ministers the power to control additional new DPCs in GB in the future, and also by making clear that the assimilated law regulations apply only in GB.

5.5 The second of the deficiencies within the assimilated law relates to the requirement for operators seeking to move DPCs between GB and NI to obtain authorisations from the Government, which is necessary under the 1988 Convention. Although such authorisations are currently issued in practice, there is no clear statutory mechanism for doing so. This instrument provides that mechanism, although it states that operators will not be required to pay fees to receive those authorisations.

5.6 This instrument also makes some amendments to the scope of the criminal offences which follow from not complying with some of the obligations on operators. The

obligations in GB and NI to document and label consignments of DPCs, and to provide information to the authorities about them, extend to the DPCs listed in the EU regulations and assimilated law. However, criminal offences for not complying with those obligations apply to a shorter list of DPCs. This makes it harder to prevent DPCs being diverted for use in illegal drugs and means the UK is not fully meeting its obligations under the 1988 Convention in relation to those DPCs which are scheduled under it. This instrument will therefore make the criminal offences apply to the same group of DPCs as the obligations.

5.7 The drugs which can be made with the DPCs which will be controlled in GB 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. They can be manufactured in different ways, but controlling these DPCs 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.

5.8 While the changes in this instrument are necessary to address current issues affecting legislation on DPCs as it affects the UK, the EU is considering changes to its regulations concerning DPCs which would affect NI directly and could lead ministers to consider legislative change in GB.[1] The situation will be kept under review.

What was the previous policy, how is this different?

5.9 Currently, the ten DPCs and 14 esters are not subject to any control mechanisms in GB, and any new DPCs controlled in the EU and NI in the future would also not be controlled in GB. The obligations on operators to document and label DPCs and to provide information to public authorities about them apply to a larger group of DPCs than the criminal offences for not complying with those obligations do. Finally, a clear mechanism to control the movement of DPCs between GB and NI is not provided for in legislation.

6. Legislative and Legal Context

How has the law changed?

6.1 The UK ratified the 1988 Convention in 1991, which led to its having to fulfil several obligations relating to DPCs. As an EU member state, the EU regulations which control trade both within the EU and between the EU and other third countries applied with direct effect in the UK and implemented almost all of the UK's obligations as a signatory to the 1988 Convention. Two delegated regulations issued by the European Commission made provision for implementing those two regulations. Those four regulations were implemented in domestic law by three domestic regulations: the Controlled Drugs (Drug Precursors) (Intra-Community Trade) Regulations 2008 implemented certain provisions of the EU regulations governing trade within the EU, the Controlled Drugs (Drug Precursors) (Community External Trade) Regulations 2008 implemented similar matters in relation to the EU regulations governing trade between the EU and third countries, and the Controlled Drugs (Drug Precursors) (Intra-Community Trade and Community External Trade) Regulations 2010 prescribed the levels of fees which operators have to pay for certain licences and authorisations.

[1] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2025%3A747%3AFIN&qid=1764917261576

6.2 After the end of the Implementation Period, the four EU instruments became part of UK domestic law as retained EU law under section 3 of the European Union (Withdrawal) Act 2018 ("the 2018 Act") and the three domestic instruments continued to have effect in UK law under section 2 of that Act. All of these instruments except the regulations governing fees were amended through the Law Enforcement and Security (Amendment) (EU Exit) Regulations 2019. This was principally to ensure that the legislative control regime for DPCs could continue to operate across the UK. Amendments made to the four EU regulations since the end of the Implementation Period continue to have direct effect in NI by virtue of Article 13(3) of the Windsor Framework.

6.3 Under section 5 of the Retained EU Law (Revocation and Reform) Act 2023 ("the 2023 Act"), the seven pieces of retained EU law became assimilated law. Section 14 of the 2023 Act allows ministers to make regulations which revoke assimilated law and replace it with provisions which they consider to be appropriate and to achieve the same or similar objectives, or to revoke assimilated law and make alternative provisions which they consider appropriate. Any regulations under section 14 must be made by no later than 23 June 2026. This instrument is made under those powers in section 14 to revoke, replace and make alternative provision in the seven sets of regulations.

Why was this approach taken to change the law?

6.4 The only other way to achieve all these policy objectives would be to make primary legislation, which after 23 June 2026 would have been the only option. In the interests of delivering these necessary policy changes as quickly as possible and not overburdening the parliamentary timetable, ministers have decided to use the powers in the 2023 Act while they remain extant.

7. Consultation

Summary of consultation outcome and methodology

7.1 As aspects of this policy (relating essentially to licensing) are devolved to NI, Ministers wrote to the Minister for Health in NI to seek his consent for the UK Parliament to legislate in those areas. The Minister responded to confirm that he was content for the UK Parliament to legislate.

7.2 Ministers have not consulted more widely on the content of this instrument because the instrument does not change the essential structure of the legislation for the control of DPCs and makes no significant substantive changes. The practical impact of the amendments on wider society is therefore expected to be low. In addition the EU has already assessed and controlled these DPCs, providing a strong rationale for extending equivalent controls to GB.

8. Applicable Guidance

8.1 The Home Office Drugs and Firearms Licensing Unit, which discharges some aspects of the DPC control regime on behalf of the Home Secretary, will update its guidance to DPC operators on the Gov.UK website when these changes come into force.[2] Since this will involve amendments to existing guidance rather than a bespoke new piece of guidance, to publish it in advance would likely cause confusion to operators as to the state of the law at the time. However, the Home Office will also proactively notify

[2] https://www.gov.uk/guidance/precursor-chemical-licensing

relevant trade bodies of the changes once Parliament has approved this instrument, before it comes into force.

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. The equivalent annual net direct cost to business is estimated to be -£15,000 (2026/27 Present Value). This is below the threshold of +/- £10 million above which an Impact Assessment is required. Instead, an Economic Note will be published alongside this Explanatory Memorandum. Impacts to business are minimal because the instrument relates to the expansion of existing regulatory standards, meaning the number of businesses incurring additional costs as a result of these changes is expected to be small. Overall, the Economic Note estimates these regulations will result in total costs of £290,000 and benefits of £120,000 across the 10-year appraisal period. The net present social value is estimated to be -£170,000 (2026/27 Present Value) across the 10-year appraisal period.

Impact on businesses, charities and voluntary bodies

9.2 The impact on businesses, charities or voluntary bodies is estimated to be small. Total costs to businesses over the 10-year appraisal period are estimated to be £150,000. This is because only one of the DPCs controlled by these regulations is known to have legitimate uses, meaning the effect on businesses is limited. The main costs for businesses include the licensing and administration costs associated with applying for new licences.

9.3 The legislation does impact small or micro businesses.

9.4 The impact on the public sector is also limited. Additional costs will be incurred by public bodies in familiarising themselves with these regulatory provisions. Home Office operational staff will also face additional demand for licence applications, incurring administrative costs. It is expected that the increase in licence application volumes will be small. Total costs to the public sector over the 10-year appraisal period are estimated to be £120,000.

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 organisations which apply for DPC licences and related documents from the Home Office.

10.2 As this instrument is only made under the relevant European Union Acts (as defined at 13.1), no review clause is required.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 Section 14(5) of the 2023 Act states that no provision may be made "in relation to a particular subject area unless the relevant national authority considers the overall effect of the changes made by it under this section (including changes made previously) in relation to that subject does not increase the regulatory burden". The

2023 Act defines "burden" as including a financial cost, an administrative inconvenience, an obstacle to trade or innovation, an obstacle to efficiency, productivity, or profitability, or a sanction (criminal or otherwise) which affects the carrying on of any lawful activity. This instrument does not require businesses to follow new processes or requirements. Existing processes and requirements will now apply to more DPCs than before. However, in most cases businesses will already have the necessary licences and authorisations, and we do not consider that the overall effect of the changes made by these provisions is to increase the regulatory burden.

11.2 This instrument is linked in practice to the Criminal Justice (International Co-operation) Act 1990 (Amendment) Order 2026, the draft for which is being laid at the same time as this instrument and which is the subject of the same Economic Note. That instrument adds several DPCs to Schedule 2 to the Criminal Justice (International Co-operation) Act 1990, which sets out those DPCs to which the criminal offence in section 12 of that Act applies. That instrument relates to the intentional use of DPCs to produce illicit drugs, whereas this instrument relates to DPCs' legitimate use.

11.3 Between 2021 (after the end of the Implementation Period) and July 2025 the Home Office on 127 occasions charged a £24 fee for authorisations to move DPCs between GB and NI, without a clear statutory basis. On identifying that fees had been charged without such a basis, the Home Office swiftly took steps to stop charging this fee to new applicants for those authorisations, with effect from 18 July 2025. For those applicants who were charged in that period, the Home Office is considering all options to provide a remedy, including the potential for refunds where appropriate. The total value is £3,048 over four and a half years. The Home Office will update Parliament further once it has reached a decision on how to proceed. There is a power in section 14(4)(e) of the 2023 Act to make provision for the charging of fees and this could have been relied upon to make provision to charge this fee in this instrument. However, ministers have decided not to do so, principally on the basis that the impediment to trade within the UK that it would represent outweighs the likely annual cost of c.£650 to the taxpayer.

12. European Convention on Human Rights

12.1 The Minister for Policing and Crime has made the following statement regarding Human Rights:
"In my view the provisions of the Controlled Drugs (Drug Precursors) (Amendment and Revocation) Regulations 2026 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is made under sections 14(2), (3), (4)(a), (b), (c) and (e) and (7) and 20(1)(a) of the Retained EU Law (Revocation and Reform) Act 2023 and therefore relates to the reform of assimilated law.