

# Marketing and use of explosives precursors

2010/0246(COD) - 15/01/2013 - Final act

**PURPOSE:** to reduce access by the general public to high-risk chemicals suitable for easy misuse in producing home-made explosives.

**LEGISLATIVE ACT:** Regulation (EU) No 98/2013 of the European Parliament and of the Council on the marketing and use of explosives precursors.

**CONTENT:** the Regulation aims to address the problem of the misuse of certain chemicals that are explosives precursors for the illicit manufacture of explosives, which could be used to carry out terrorist attacks. Some Member States had already enacted laws, regulations and administrative provisions, regarding the placing on the market, making available and possession of certain explosives precursors. However, **such laws are divergent and liable to cause barriers to trade** within the Union.

**Objective:** the Regulation aims to harmonise Member States' law in order to **improve the free movement of chemical substances and mixtures** within the internal market and, to the extent possible, to remove distortions of competition, while ensuring a high level of protection of the safety of the general public. The Regulation will also ensure an **increased level of security** in the entire European Union by creating a common framework for the access to certain explosives precursors.

**Scope:** the scope of the Regulation is limited to a short list of chemical substances and mixtures that are the sources of greatest concern. The Regulation contains two annexes listing:

- substances which shall not be made available to members of the general public on their own, or in mixtures or substances including them, except if the concentration is equal to or lower than the limit values set out in the text;
- substances on their own or in mixtures or in substances for which suspicious transactions shall be reported.

**Licensing regime and registration regime:** a Member State may maintain or establish a licensing regime allowing restricted explosives precursors to be made available to members of the general public, provided that the latter obtains a **licence for acquiring them** issued by a competent authority of the Member State where that restricted explosives precursor is going to be acquired, or used.

Since hydrogen peroxide, nitromethane and nitric acid are widely used for legitimate purposes by members of the general public, Member States may provide for access to those substances within a given range of concentrations by applying a **registration system** under this Regulation rather than a licensing system.

An economic operator who makes available a restricted explosives precursor to a member of the general public in accordance with the rules shall for each transaction require the presentation of a licence or keep a record of the transaction, in compliance with the regime established by the Member State where the restricted explosives precursor is made available.

**Labelling:** an economic operator who intends to make available restricted explosives precursors to a member of the general public, shall ensure that an **appropriate label** is affixed so that that the packaging clearly indicates that the acquisition, possession or use of that restricted explosives precursor by members of the general public is subject to restriction.

**Reporting of suspicious transactions, disappearances and thefts:** the Regulation establishes a system for reporting suspicious transactions involving the substances listed in the Annexes, or involving mixtures or substances containing them. Each Member State must set up one or more **national contact points** for the reporting of suspicious transactions.

ENTRY INTO FORCE: 1 March 2013.

APPLICATION: from 2 September 2014.

DELEGATED ACTS: the Commission may adopt delegated acts concerning changes of the limit values to the extent necessary to accommodate developments in the misuse of substances as explosives precursors. The power to adopt delegated acts shall be conferred on the Commission for a period of five years from 1 March 2013 (which may be tacitly extended for an identical period unless opposed by Parliament or Council.) The European Parliament or the Council may object to a delegated act within a period of 2 months from the date of notification (which may be extended for 2 months). If the European Parliament or the Council express objections, the delegated act will not enter into force.