



STATUTORY INSTRUMENTS

**S.I. No. 558 of 2009**

---

EUROPEAN COMMUNITIES (CONTROL OF DRUG PRECURSORS)  
REGULATIONS 2009

**(Prn. A9/1900)**

S.I. No. 558 of 2009

EUROPEAN COMMUNITIES (CONTROL OF DRUG PRECURSORS)  
REGULATIONS 2009

I, MARY HARNEY, Minister for Health and Children, 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 full effect to Regulation (EC) No. 273/2004<sup>1</sup> of the European Parliament and of the Council of 11 February 2004 on drug precursors, Council Regulation (EC) No. 111/2005<sup>2</sup> of 22 December 2004 laying down rules for the monitoring of trade between the Community and third countries in drug precursors and Commission Regulation (EC) No. 1277/2005<sup>3</sup> of 27 July 2005 laying down implementing rules for Regulation (EC) No. 273/2004 of the European Parliament and of the Council on drug precursors and for Council Regulation (EC) No. 111/2005 laying down rules for the monitoring of trade between the Community and third countries in drug precursors, as amended by Commission Regulation (EC) No. 297/2009<sup>4</sup> of 8 April 2009, hereby make the following regulations:

## PART 1

## PRELIMINARY

1. These Regulations may be cited as the European Communities (Control of Drug Precursors) Regulations 2009.

2. (1) In these Regulations—

“Act of 1977” means the Misuse of Drugs Act 1977 (No. 12 of 1977), as amended by the Act of 1984 and the Act of 2006;

“Act of 1984” means the Misuse of Drugs Act 1984 (No. 18 of 1984);

“Act of 1995” means the Irish Medicines Board Act 1995 (No. 29 of 1995), as amended by the Act of 2006;

“Act of 2006” means Irish Medicines Board (Miscellaneous Provisions) Act 2006 (No. 3 of 2006);

“approved examiner” means:

(a) the State Chemist, or

<sup>1</sup>OJ L 47, 18.2.2004, p. 1.

<sup>2</sup>OJ L 22, 26.1.2005, p. 1.

<sup>3</sup>OJ L 202, 3.8.2005, p. 7.

<sup>4</sup>OJ L 95, 9.4.2009, p.13.

*Notice of the making of this Statutory Instrument was published in  
“Iris Oifigiúil” of 5th January, 2010.*

- (b) a public analyst appointed under section 10 of the Sale of Food and Drugs Act 1875 (38 & 39 Vic., c.63), or
- (c) a chemist or analyst appointed by the Minister as an approved examiner for the purposes of these Regulations;

“authorised officer” means an officer (including an officer of customs and excise) appointed in accordance with Regulation 23 of these Regulations;

“Board” means the Irish Medicines Board established by section 3 of the Act of 1995;

“Commissioners” means the Revenue Commissioners;

“EC Regulations” means Regulation 273/2004, Regulation 111/2005 and Regulation 1277/2005;

“Minister” means the Minister for Health and Children;

“official laboratory” means the State Laboratory, or a Public Analyst Laboratory, or the Forensic Science Laboratory, or such other laboratory as has been approved by the Minister for the purposes of these Regulations;

“Regulation 273/2004” means Regulation (EC) No. 273/2004 of the European Parliament and of the Council of 11 February 2004 on drug precursors;

“Regulation 111/2005” means Council Regulation (EC) No. 111/2005 of 22 December 2004 laying down rules for the monitoring of trade between the Community and third countries in drug precursors;

“Regulation 1277/2005” means Commission Regulation (EC) No. 1277/2005 of 27 July 2005 laying down implementing rules for Regulation (EC) No. 273/2004 of the European Parliament and of the Council on drug precursors and for Council Regulation (EC) No. 111/2005 laying down rules for the monitoring of trade between the Community and third countries in drug precursors, as amended by Commission Regulation (EC) No. 297/2009 of 8 April 2009;

“special licensed operators” means pharmacies, dispensaries of veterinary medicine, universities, public authorities (as defined by Article 12(2) of Regulation 1277/2005) or armed forces, having a valid and operative special licence issued in accordance with Article 3(2) of Regulation 273/2004;

“special registered operators” means pharmacies, dispensaries of veterinary medicine, universities, public authorities (as defined by Article 12(2) of Regulation 1277/2005) or armed forces, having a valid and operative registration in accordance with Article 3(6) of Regulation 273/2004.

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

- (3) (a) A reference in these Regulations to a Regulation is to a Regulation of these Regulations, unless it is indicated that reference to some other Regulations is intended.
- (b) A reference in these Regulations to a paragraph or subparagraph is to the paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended.
- (c) A reference in these Regulations to a Schedule is to a Schedule to these Regulations, unless it is indicated that reference to some other Regulations is intended.
3. (1) The Commissioners shall be a competent authority for the purposes of the following provisions of the EC Regulations:
- (a) Articles 4(3), 5, 8 and 10 of Regulation 273/2004,
- (b) Articles 4, 8, 9, 14, 26(1), 26(2) and 26(3) of Regulation 111/2005, and
- (c) Articles 16, 17, 18, 19 and 23 of Regulation 1277/2005.
- (2) The Board shall be a competent authority for the purposes of the following provisions of the EC Regulations:
- (a) Articles 3, 5, 8, 9, 10 and 13 of Regulation 273/2004,
- (b) Articles 4, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21, 24, 26(5) and 32 of Regulation 111/2005, and
- (c) Articles 3, 5, 7, 8, 9, 10, 11, 17, 18, 19, 21, 23, 25 and 26 of Regulation 1277/2005.
- (3) The Garda Síochána shall be a competent authority for the purposes of the following provisions of the EC Regulations:
- (a) Articles 4(3), 5, 8 and 10 of Regulation 273/2004,
- (b) Articles 4, 9, 26(2) and 26(3) of Regulation 111/2005, and
- (c) Articles 16, 17 and 19 of Regulation 1277/2005.

## PART 2

### REGULATION 273/2004

4. (1) An operator who fails to comply with Article 3(1) of Regulation 273/2004 shall be guilty of an offence.
- (2) An officer, appointed in accordance with Article 3(1) of Regulation 273/2004, shall be guilty of an offence if he or she fails to comply with Article 3(1) of Regulation 273/2004.

5. (1) An operator applying for a licence in accordance with Article 3(2) of Regulation 273/2004 and Article 5 of Regulation 1277/2005 shall be guilty of an offence, if the operator knowingly or recklessly provides false information in making such application.

(2) An operator shall be guilty of an offence if the operator possesses or places on the market scheduled substances of category 1 of Annex I to Regulation 273/2004 unless a licence has been granted to that operator in respect of the substance or substances, and the operation or operations, in question in accordance with Article 3 of Regulation 273/2004 and Article 7 of Regulation 1277/2005, and that licence is still valid and operative.

(3) An operator holding a valid operative licence issued in accordance with Article 3 of Regulation 273/2004 and Article 7 of Regulation 1277/2005, shall be guilty of an offence if the operator supplies scheduled substances of category 1 of Annex I to Regulation 273/2004 to a person—

(a) who does not hold a valid operative licence, issued in accordance with Article 3 of Regulation 273/2004 and Article 7 of Regulation 1277/2005, in respect of such substances, or a valid operative special licence, or

(b) who has not signed a customer declaration as provided for in Article 4(1) of Regulation 273/2004.

(4) A person applying for a special licence in accordance with Article 3(2) of Regulation 273/2004 shall be guilty of an offence, if the operator knowingly or recklessly provides false information in making such application.

(5) A special licensed operator shall be guilty of an offence if the operator uses precursors in a manner inconsistent with Article 3 of Regulation 273/2004 or in breach of the terms and conditions of the special licence issued.

(6) A person who may be entitled to become a special licensed operator in accordance with Article 3 of Regulation 273/2004 shall be guilty of an offence if it, he or she carries out activities for which a licence or special licence is required in accordance with Article 3, without such a licence.

(7) An operator, holding a licence issued in accordance with Regulation 273/2004, or a licence issued before the date of application of Regulation 273/2004, shall be guilty of an offence, if the operator fails to comply with Article 10(2) of Regulation 1277/2005.

(8) An operator, holding a licence issued in accordance with Regulation 273/2004, shall be guilty of an offence if the operator fails to inform the competent authority of any changes in information in accordance with Article 10(3) of Regulation 1277/2005.

(9) An operator, holding a licence issued in accordance with Regulation 273/2004, shall be guilty of an offence if the operator fails to return the licence,

when it is no longer valid, to the competent authority, as is required pursuant to Article 10(4) of Regulation 1277/2005.

6. (1) An operator who fails to comply with Article 3(6) of Regulation 273/2004 shall be guilty of an offence.

(2) A special registered operator shall be guilty of an offence if that operator uses precursors in a manner inconsistent with Article 3(6) of Regulation 273/2004.

(3) A person who may be entitled to become a special registered operator, in accordance with Article 3 of Regulation 273/2004, shall be guilty of an offence if it, he or she carries out activities for which a registration or special registration is required in accordance with Article 3, without having effected such registration.

(4) An operator or special registered operator purporting to register in accordance with Article 3(6) of Regulation 273/2004, shall be guilty of an offence, if that operator knowingly or recklessly provides false information in making such registration.

7. (1) An operator applying for a licence in accordance with Article 3 of Regulation 273/2004 and Article 5 of Regulation 1277/2005 shall pay a fee of €63.50 in respect of each class of substance to which the application relates.

(2) An operator registering or applying to effect a special registration in accordance with Article 3(6) of Regulation 273/2004, shall pay a fee of €63.50 in respect of such registration.

8. (1) An operator who fails to comply with Article 4 of Regulation 273/2004 shall be guilty of an offence.

(2) An operator shall be guilty of an offence, if the operator certifies a copy in purported compliance with Article 4(3) of Regulation 273/2004, where the document in question is not a true copy of the original declaration, or where no declaration was obtained.

(3) An operator supplying scheduled substances of category 1 of Annex I to Regulation 273/2004 shall be guilty of an offence, if the operator fails to ensure that a certified and stamped copy of any relevant declaration is provided so that it may thereafter accompany the substances in compliance with Article 4(3) of Regulation 273/2004.

(4) A person having possession of category 1 substances which ought to be accompanied by a copy of a declaration, or copies of declarations, in accordance with Article 4(3) of Regulation 273/2004 shall be guilty of an offence if such person is unable to produce such document or documents at the request of the competent authority.

(5) The customer who knowingly or recklessly makes a false declaration or statement for the purposes of Article 4 of Regulation 273/2004, or for the purposes of Article 6 of Regulation 273/2004 and Article 15 of Regulation 1277/2005, shall be guilty of an offence.

9. An operator shall be guilty of an offence if the operator fails to ensure that all transactions are documented, and all necessary records kept, in accordance with Article 5 of Regulation 273/2004.

10. An operator shall be guilty of an offence if the operator fails to ensure that labels, complying with Article 7 of Regulation 273/2004, are affixed to scheduled substances of categories 1 and 2 of Annex I to Regulation 273/2004 in accordance with Article 7 of Regulation 273/2004, before they are supplied.

11. (1) An operator shall be guilty of an offence if the operator fails to inform the competent authority of any unusual orders or transactions, or any other suspicious circumstances, in accordance with Article 8(1) of Regulation 273/2004.

(2) An operator shall be guilty of an offence if the operator fails to supply the competent authority with information required to be provided pursuant to Article 8(2) of Regulation 273/2004 and Article 17 of Regulation 1277/2005 within the timeframe specified in Article 19 of Regulation 1277/2005.

(3) An operator, affected by Regulation 273/2004, shall be guilty of an offence if the operator fails to inform the competent authority, in compliance with Article 19 of Regulation 1277/2005, where no operations have taken place.

### PART 3

#### REGULATION 111/2005

12. (1) An operator who fails to comply with Article 3 of Regulation 1277/2005 shall be guilty of an offence.

(2) An officer, appointed in accordance with Article 3 of Regulation 1277/2005, shall be guilty of an offence if he or she fails to comply with Article 4 of Regulation 1277/2005.

13. (1) An operator shall be guilty of an offence if the operator fails to ensure that all transactions are documented, and all necessary records kept, in accordance with Articles 3 and 4 of Regulation 111/2005.

(2) An operator shall be guilty of an offence if the operator fails to ensure that labels, complying with Article 5 of Regulation 111/2005, are affixed on any packaging containing scheduled substances in accordance with Article 5 of Regulation 111/2005.

14. (1) An operator applying for a licence in accordance with Article 6 of Regulation 111/2005 and Article 5 of Regulation 1277/2005 shall be guilty of an offence, if the operator knowingly or recklessly provides false information in making such application.

(2) An operator, obliged to obtain a licence in accordance with Article 6(1) of Regulation 111/2005, shall be guilty of an offence if the operator engages in import, export or intermediary activities involving scheduled substances listed in Category 1 of the Annex to Regulation 111/2005, unless a licence has been granted to that operator in respect of the substance or substances, and the operation or operations, in question in accordance with Article 6 of Regulation 111/2005, and that licence is still valid and operative.

(3) An operator, holding a licence issued in accordance with Regulation 111/2005, or a licence issued before the date of application of Regulation 111/2005, shall be guilty of an offence, if the operator fails to comply with Article 10(2) of Regulation 1277/2005.

(4) An operator, holding a licence issued in accordance with Regulation 111/2005, shall be guilty of an offence if the operator fails to inform the competent authority of any changes in information in accordance with Article 10(3) of Regulation 1277/2005.

(5) An operator, holding a licence issued in accordance with Regulation 111/2005, shall be guilty of an offence if the operator fails to return the licence, when it is no longer valid, to the competent authority, as is required pursuant to Article 10(4) of Regulation 1277/2005.

15. (1) An operator who fails to comply with Article 7 of Regulation 111/2005 shall be guilty of an offence.

(2) An operator purporting to register in accordance with Article 7 of Regulation 111/2005, shall be guilty of an offence, if the operator knowingly or recklessly provides false information in making such registration.

16. (1) An operator shall be guilty of an offence if the operator fails, upon request, to demonstrate licit purposes in accordance with Article 8 of Regulation 111/2005 and Article 16 of Regulation 1277/2005.

(2) An operator purporting to demonstrate licit purposes in accordance with Article 8 of Regulation 111/2005 and Article 16 of Regulation 1277/2005, shall be guilty of an offence, if the operator knowingly or recklessly provides false information in response to the request.

17. (1) An operator shall be guilty of an offence if the operator fails to inform the competent authority (or another competent authority) of any unusual orders or transactions, or any other suspicious circumstances, in accordance with Article 9(1) of Regulation 111/2005.

(2) An operator shall be guilty of an offence if the operator fails to supply the competent authority with information required to be provided pursuant to Article 9(2) of Regulation 111/2005 and Article 18 of Regulation 1277/2005, within the timeframe specified in Article 19 of Regulation 1277/2005.



(3) An operator, affected by Regulation 111/2005, shall be guilty of an offence if the operator fails to inform the competent authority, in compliance with Article 19 of Regulation 1277/2005, where no operations have taken place.

18. (1) An operator shall be guilty of an offence if the operator exports, or seeks or attempts to export, scheduled substances without having a valid operative export authorisation for the substances and quantities in question, where such an authorisation is required pursuant to Article 12 of Regulation 111/2005 and Article 22 of Regulation 1277/2005.

(2) An operator exporting, or seeking or attempting to export, scheduled substances shall be guilty of an offence if the operator—

(a) fails to comply with the procedure set down in Article 14 of Regulation 111/2005 and Article 23 of Regulation 1277/2005, or

(b) fails to comply with a requirement set down in Article 14 of Regulation 111/2005 or Article 23 of Regulation 1277/2005,

in circumstances where Article 14 of Regulation 111/2005 and Article 23 of Regulation 1277/2005 apply.

(3) An operator applying for an export authorisation in accordance with Article 13 of Regulation 111/2005 shall be guilty of an offence, if the operator knowingly or recklessly provides false information in making such application.

19. (1) An operator having a valid operative export authorisation by simplified procedure in accordance with Article 19 of Regulation 111/2005 and Articles 25, 26 and 27 of Regulation 1277/2005, shall be guilty of an offence if the operator fails to comply with the procedure set down in Article 27 of Regulation 1277/2005, or if he fails to comply with a requirement set down in Article 27 of Regulation 1277/2005.

(2) An operator applying for a simplified export authorisation in accordance with Article 26 of Regulation 1277/2005 shall be guilty of an offence, if the operator knowingly or recklessly provides false information in making such application.

20. (1) An operator shall be guilty of an offence if the operator imports, or seeks or attempts to import, scheduled substances without having a valid operative import authorisation for the substances and quantities in question, where such an authorisation is required pursuant to Article 20 of Regulation 111/2005.

(2) An operator importing, or attempting or seeking to import, scheduled substances shall be guilty of an offence if the operator—

(a) fails to comply with the procedure set down in Article 22 of Regulation 111/2005 and Article 23 of Regulation 1277/2005, or

(b) fails to comply with a requirement set down in Article 22 of Regulation 111/2005 or Article 23 of Regulation 1277/2005,

in circumstances where Article 22 of Regulation 111/2005 and Article 23 of Regulation 1277/2005 apply.

(3) An operator applying for an import authorisation in accordance with Article 21 of Regulation 111/2005 shall be guilty of an offence, if the operator knowingly or recklessly provides false information in making such application.

21. (1) An operator, applying for a licence in accordance with Article 6 of Regulation 111/2005 and Article 5 of Regulation 1277/2005, shall pay a fee of €63.50 in respect of each class of substance to which the application relates.

(2) An operator, registering in accordance with Article 7 of Regulation 111/2005, shall pay a fee of €63.50 in respect of such registration.

(3) An operator applying for an export or import authorisation, or a simplified export authorisation, shall pay a fee €63.50 in respect of each class of substance to which the application relates.

22. (1) Scheduled substances, which are prohibited from being imported or exported or are subject to any restriction on importation or exportation, are deemed to be so prohibited or restricted for the purposes of the Customs Consolidation Act 1876, the Customs Act 1956 and the Customs and Excise (Miscellaneous Provisions) Act 1988.

(2) Without prejudice to the provisions of Articles 11 to 25 and of paragraphs 2 and 3 of Article 26 of Regulation 111/2005, importation or exportation of scheduled substances shall be prohibited if there are reasonable grounds for suspecting that the substances are intended for the illicit manufacture of narcotic drugs or psychotropic substances.

#### PART 4

##### REGULATION 1277/2005

23. (1) An operator who fails to take adequate security measures in accordance with Article 6 of Regulation 1277/2005, shall be guilty of an offence.

(2) An operator who attempts to transfer a licence issued in accordance with the EC Regulations, in breach of Article 10(1) of Regulation 1277/2005, shall be guilty of an offence.

#### PART 5

##### ENFORCEMENT

24. (1) The enforcement of these Regulations and of the EC Regulations, shall be carried out in accordance with the provisions of these Regulations and the EC Regulations.

(2) These Regulations and the EC Regulations shall be enforced by the competent authorities.

(3) The Board and the Commissioners may appoint such and so many officers as they think fit to be authorised officers for the purposes of these Regulations.

(4) An authorised officer shall be furnished with a warrant of his or her appointment and when exercising a power conferred on him or her under these Regulations, he or she shall, if required by a person thereby affected, produce the warrant to that person for inspection.

(5) Without prejudice to the powers which an authorised officer appointed for the purposes of these Regulations, or a member of the Garda Síochána, may enjoy pursuant to other legislation, the authorised officer or member of the Garda Síochána, may also, subject to paragraphs (6) and (7), for the purpose of ensuring that these Regulations and the EC Regulations are being complied with, carry out all or any of the following acts—

- (a) at all reasonable times, enter and search a premises or vehicle or container of any class or description,
- (b) inspect any substance or product which is stored, or offered or kept for sale or supply at such premises, or in such vehicle or container,
- (c) require the production of, inspect and, if he or she thinks fit, take copies of any book, invoice, order, record, register, or other document or of any entry in any such book, invoice, order, record, register, or other document at such premises, or in such vehicle or container,
- (d) take any document which he or she has reasonable cause to believe to be a document which may be required as evidence in proceedings under these Regulations,
- (e) inspect and take copies, or samples of, labels used, or intended to be used on any relevant product, and
- (f) require any person carrying on, or who has carried on, an activity to which these Regulations relate, or any person currently or previously employed in connection with such an activity, to give to the officer or member such information or assistance as the officer or member may reasonably require for the purposes of these Regulations.

(6) An authorised officer or member of the Garda Síochána, shall not other than with the consent of the occupier enter a private dwelling unless he or she has obtained a warrant from the District Court under paragraph (9) authorising such entry.

(7) An authorised officer, or member of the Garda Síochána, for the purpose of exercising any of the powers conferred on him or her by paragraph (5), may require any other person, having authority to do so, to break open any container or package or to permit him or her to do so.

(8) Where an authorised officer or member of the Garda Síochána seizes any substance, article or document in the exercise of a power conferred on him or her by paragraph (5), he or she shall inform the person from whom it is seized.

(9) If a judge of the District Court is satisfied, on the sworn information of an authorised officer or a member of the Garda Síochána, that there are reasonable grounds to authorise entry into any premises referred to in paragraph (6), the judge may issue a warrant authorising such an authorised officer or member, accompanied, if appropriate, by other authorised officers or by another member or other members of the Garda Síochána, or both, at any time or times within one month from the date of issue of the warrant, on production of the warrant if requested, to enter those premises or part thereof and to exercise any of the powers conferred on such an authorised officer or member under this Regulation.

(10) A person shall not wilfully obstruct or interfere with the exercise of a power by an authorised officer or a member of the Garda Síochána, pursuant to this Regulation.

(11) A person shall not, without reasonable excuse, fail to comply with any request made by an authorised officer or a member of the Garda Síochána, under this Regulation.

(12) An authorised officer appointed pursuant to this Regulation may act on behalf of, and as an agent for, the competent authority which has appointed the officer, as the authority shall determine for the purposes of these Regulations.

25. (1) An authorised officer, or a member of the Garda Síochána, may, for the purposes of these Regulations and for the purposes of enforcing the EC Regulations, take without payment a sample of any relevant substance in the possession of an operator.

(2) An authorised officer, or a member of the Garda Síochána, may, for the purpose of taking a sample, open any receptacle.

(3) Where an authorised officer, or a member of the Garda Síochána, takes without payment a sample with the intention of having it analysed, he or she shall after taking the sample forthwith notify the operator of his or her intention of having the sample analysed.

26. (1) Where a sample is taken pursuant to these Regulations for the purpose of official analysis, and where the division of the sample is reasonably practicable, the authorised officer or member of the Garda Síochána concerned may divide the sample into three approximately equal parts each of which he or she shall mark in such a way as to identify it as a part of the sample taken by the officer or member. The authorised officer or member shall mark, seal and fasten each part in such a manner as its nature will permit, forward one part to the approved examiner in an official laboratory for analysis, give or send one part to the relevant operator and retain the third part.

(2) Where an authorised officer or a member of the Garda Síochána takes, for the purposes of official analysis, a sample contained in unopened containers and its division into parts—

- (a) is not reasonably practicable, or
- (b) might affect the composition or impede the proper analysis of the sample,

the provisions of paragraph (1) of this Regulation as regards the division of samples into parts shall be deemed to be complied with if the authorised officer or member of the Garda Síochána divides the containers into three lots and deals with each lot as if it were a sample as specified under paragraph (1) of this Regulation.

(3) In proceedings for an offence under these Regulations, the result of any test, examination or analysis of, or report on a sample taken pursuant to these Regulations, shall not be adduced unless before the proceedings were instituted the sample was divided as specified in paragraphs (1) and (2) of this Regulation. The part, package or container retained by the authorised officer or member of the Garda Síochána shall be produced at the hearing.

27. (1) The approved examiner or a person under his or her direction shall analyse as soon as possible any sample submitted to him or her in pursuance of these Regulations and the approved examiner shall certify to the person who submitted the sample to him or her the result of such analysis. The form of certificate set out in the Schedule to these Regulations or a certificate in like form shall be used.

(2) An official certificate given in accordance with paragraph (1) of this Regulation shall be *prima facie* evidence of the matters contained therein until the contrary is proved.

28. Where a sample is taken by an authorised officer or a member of the Garda Síochána in pursuance of these Regulations for analysis by an approved examiner, and where the operator requests in writing the results of such analysis the request shall be made to—

- (a) the Board, where the officer was appointed by the Board,
- (b) the Commissioners, where the officer was appointed by the Commissioners, or
- (c) the Garda Síochána, where the sample was taken by a member,

and the Board, or the Commissioners, or the Garda Síochána (as the case may be) shall comply with such request.

29. (1) An authorised officer or a member of the Garda Síochána may, for the purposes of these Regulations, seize, remove, detain or direct the withdrawal from the market of any relevant substances where the operator is suspected

by him or her to be in breach of the operator's obligations pursuant to the EC Regulations.

(2) An authorised officer or member of the Garda Síochána may, with the consent in writing of the operator, or in accordance with an order of a judge of the District Court under paragraph (4) of this Regulation, destroy or otherwise dispose of such substances.

(3) An authorised officer or member of the Garda Síochána who has seized, removed, detained or directed the withdrawal from the market of, substances in pursuance of the provisions of this Regulation may, on giving notice in writing to the operator of his or her intention to do so, apply to a judge of the District Court for an order directing that such substances be destroyed or otherwise disposed of.

(4) A judge of the District Court, to whom an application is made for an order under paragraph (3), may, if satisfied that—

- (a) the operator has failed to comply with the EC Regulations, and
- (b) it is appropriate in all the circumstances to do so,

order that the substances be destroyed or otherwise disposed of, after such period, not exceeding 14 days, as may be specified in such order, and the authorised officer or a member of the Garda Síochána shall destroy or dispose of them accordingly.

(5) Where the authorised officer or the member of the Garda Síochána, has neither applied for an order of the District Court pursuant to paragraph (3), nor obtained the consent of the operator to the destruction or disposal of the substances in accordance with paragraph (2), he or she shall not detain, or direct the detention of, the substances for a period exceeding 40 days.

30. (1) A person who fails to comply with these Regulations shall be guilty of an offence.

(2) Paragraph (1) shall not apply to an authorised officer or a member of the Garda Síochána acting in the course of his or her duties pursuant to these Regulations.

(3) A person who fails or refuses to comply with any request of an authorised officer or a member of the Garda Síochána made in accordance with these Regulations shall be guilty of an offence.

31. Where an offence under these Regulations is committed by a body corporate and is proved to have been so committed with the consent, connivance or approval of or to have been attributable to the wilful neglect on the part of any person, being a director, manager, secretary or other officer of the body corporate or a person who was purporting to act in any such capacity, that person, as well as the body corporate shall be guilty of an offence and shall be liable to be

proceeded against and punished as if he or she was guilty of the first mentioned offence.

32. (1) Any person who forges, or utters knowing it to be forged, a certificate of analysis or other document purporting to be issued, granted or given under these Regulations, or required for the purposes of these Regulations or the EC Regulations, (hereafter in this Regulation referred to as “a forged document”), is guilty of an offence.

(2) Any person who alters with intent to defraud or deceive, or who utters knowing it to be so altered, a certificate of analysis or other document issued, granted or given under these Regulations or the EC Regulations, or required for the purposes of these Regulations or the EC Regulations (hereafter in this Regulation referred to as “an altered document”), is guilty of an offence.

(3) Any person who, without lawful authority, has in his or her possession a forged document or an altered document is guilty of an offence.

(4) Any person who, with intent to defraud or deceive—

(a) tampers with anything so as to procure that any sample taken pursuant to these Regulations does not correctly represent the substance sampled, or

(b) tampers or interferes with any sample taken under these Regulations

is guilty of an offence.

33. (1) For the purposes of these Regulations, every contravention of a Regulation shall be deemed a separate contravention and every contravention of a paragraph or a subparagraph shall also be deemed to be a separate contravention and shall carry the same penalty as for a single contravention of any Regulation of these Regulations.

(2) For the purposes of these Regulations, every contravention of an Article of the EC Regulation shall be deemed a separate contravention, and every contravention of a paragraph or subparagraph of these Articles shall also be deemed to be a separate contravention and shall carry the same penalty as for a single contravention of any Regulation of these Regulations.

(3) A person who is guilty of an offence under these Regulations shall be liable—

(a) on summary conviction to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 12 months or both

(b) on conviction on indictment to a fine or to imprisonment for a term not exceeding 5 years or to both.

34. An offence under these Regulations may be prosecuted by—

- (a) the Board,
- (b) the Commissioners, or
- (c) the Garda Síochána.

35. In any proceedings for an offence under these Regulations and/or the EC Regulations, it shall be a good defence for a person charged to show that he or she reasonably believed that he or she had complied with these Regulations and the EC Regulations.

## PART 6

### REVOCATIONS, QUALIFICATIONS AND TRANSITIONAL ARRANGEMENTS

36. (1) The validity of any licences issued before the coming into force of these Regulations shall not be affected by these Regulations. Such licensees shall not be obliged to apply for new licences pursuant to the provisions of these Regulations until the earlier licences have expired according to the terms of the licences, the provisions of the legislation under which the licences were granted or pursuant to Article 10(2) of Regulation 1277/2005.

(2) Registrations established and customer declarations issued before the coming into force of these Regulations shall not be affected by these Regulations, where such registrations and declarations were made pursuant to the provisions referred to in Article 17(1) of Regulation 273/2004.

(3) An operator registered before the coming into force of these Regulations, in the circumstances referred to in paragraph (2), shall register in accordance with Article 3(6) of Regulation 273/2004, where there is any change in the particulars originally provided.

(4) Where an operator was, before the coming into force of these Regulations, entitled to possess, place on the market, import, or export or otherwise deal with precursors in accordance with the instruments referred to in Regulation 36, such an operator may continue to carry on such activity.

(5) Paragraph (4) shall cease to have effect on 1 April 2010.

37. (1) Subject to Regulation 36, the following instruments are hereby revoked-

- (a) European Communities (Monitoring of External Trade in Scheduled Substances) Regulations 1993 (S.I. No. 6 of 1993),
- (b) Misuse of Drugs (Scheduled Substances) Regulations 1993 (S.I. No. 338 of 1993),
- (c) Misuse of Drugs (Scheduled Substances) (Amendment) Regulations 2004 (S.I. No. 92 of 2004),



(d) Misuse of Drugs (Scheduled Substances) (Exemption) Order 2004 (S.I. No. 91 of 2004).

(2) The following instruments are hereby revoked—

(a) Misuse of Drugs Act, 1977 (Controlled Drugs) (Declaration No. 3) Order, 2003 (S.I. No. 43 of 2003),

(b) Misuse of Drugs Act, 1977 (Controlled Drugs) (Declaration No. 4) Order, 2004 (S.I. No. 78 of 2004).

38. (1) The Misuse of Drugs Act, 1977 (Controlled Drugs) (Declaration) Order, 1987 (S.I. No. 251 of 1987) is amended by the removal of “phenylacetone” from subparagraph (a) of paragraph 2 of the schedule to that instrument.

(2) The schedule to the Misuse of Drugs Act, 1977 (Controlled Drugs) (Declaration) Order, 1993 (S.I. No. 328 of 1993) is amended—

(a) by substituting for paragraph 5 the following—

“5. Any salt of a substance specified in any of paragraphs 1 to 4 of this Schedule.”;

(b) by substituting for paragraph 6 the following—

“6. Any preparation or other product containing any proportion of a substance or product specified in any of paragraphs 1 to 5 of this Schedule.”; and

(c) by deleting paragraphs 7 and 8.

**SCHEDULE**

FORM OF OFFICIAL CERTIFICATE TO BE GIVEN BY AN APPROVED EXAMINER TO AN  
AUTHORISED OFFICER OR MEMBER OF THE GARDA SÍOCHÁNA.

**European Communities  
(Control of Drug Precursors) Regulations 2009**

*Certificate of Analysis*

To<sup>(1)</sup> .....

I, the undersigned<sup>(2)</sup> .....

being an Approved Examiner for the purpose of the above Regulations certify  
that on

the.....day of..... 20.....

a sample marked<sup>(3)</sup> .....

Date.....

Number.....

Weight or Measure .....

was submitted to me by you and I certify that the sample was prepared and  
analysed/examined by me or under my direction<sup>(4)</sup>

and as a result I am of the opinion that<sup>(5)</sup>

Observations:<sup>(6)</sup>

I further certify that the sample has undergone no change which would affect  
my opinion/observations expressed above.

Certified by me this..... day of..... 20.....

at<sup>(7)</sup> .....

Name in BLOCK LETTERS.....

Status.....

Signature.....

.....

Official Stamp

## NOTES

- (1) Insert the name and address of the person submitting the sample for analysis.
- (2) Insert description (e.g. Public Analyst located at a Public Analyst Laboratory).
- (3) Insert particulars of marking (e.g. name, date etc.) and the weight or measure (this may be left unanswered if the sample cannot be conveniently weighed or measured or if the weight or measurement is not material to the result of analysis).
- (4) Indicate whether the approved examiner carried out the analysis himself or herself or whether it was carried out by another under the direction of the approved examiner.
- (5) Here the approved examiner should specify the result of the analysis having regard to the provisions of the EC Regulations.
- (6) Here the approved examiner may insert, at his or her discretion, his or her opinion whether the analysis indicates any addition, abstraction, deficiency or the presence of foreign matter or other defect and whether the composition or quality is thereby affected; any physical, chemical or other properties bearing on the composition or quality of the article; whether the article is injurious to health or unfit for human consumption; whether and in what respect a label and description relating to the sample is incorrect or misleading; and he or she may add any other observations as he or she may consider relevant.
- (7) Insert the name and address of the laboratory carrying out the analysis/examination.



GIVEN under my Official Seal,  
22 December 2009.

MARY HARNEY,  
Minister for Health and Children.

## EXPLANATORY NOTE

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

These Regulations are intended to give full effect to Regulation (EC) No. 273/2004 of the European Parliament and of the Council of 11 February 2004 on drug precursors, Council Regulation (EC) No. 111/2005 of 22 December 2004 laying down rules for the monitoring of trade between the Community and third countries in drug precursors and Commission Regulation (EC) No. 1277/2005 of 27 July 2005 laying down implementing rules for Regulation (EC) No. 273/2004 of the European Parliament and of the Council on drug precursors and for Council Regulation (EC) No. 111/2005 laying down rules for the monitoring of trade between the Community and third countries in drug precursors, as amended by Commission Regulation (EC) No. 297/2009 of 8 April 2009.

These Regulations may be cited as the European Communities (Control of Drug Precursors) Regulations 2009.

BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
Le ceannach díreach ón  
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,  
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,  
nó tríd an bpost ó  
FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,  
AONAD 20 PÁIRC MIONDÍOLA COIS LOCHA, CLÁR CHLAINNE MHUIRIS,  
CONTAE MHAIGH EO,  
(Teil: 01 - 6476834 nó 1890 213434; Fax: 094 - 9378964 nó 01 - 6476843)  
nó trí aon díoltóir leabhar.

---

DUBLIN  
PUBLISHED BY THE STATIONERY OFFICE  
To be purchased directly from the  
GOVERNMENT PUBLICATIONS SALE OFFICE  
SUN ALLIANCE HOUSE, MOLESWORTH STREET, DUBLIN 2,  
or by mail order from  
GOVERNMENT PUBLICATIONS, POSTAL TRADE SECTION,  
UNIT 20 LAKESIDE RETAIL PARK, CLAREMORRIS, CO. MAYO,  
(Tel: 01 - 6476834 or 1890 213434; Fax: 094 - 9378964 or 01 - 6476843)  
or through any bookseller.

---

€4.57

