

Poisons Act 1972 Consultation  
CBRNE S&T Unit  
5th Floor Peel Building  
2 Marsham Street  
London,  
SW1P 4DF

Adrian Simpson  
Policy Advisor – Retail Products  
British Retail Consortium  
100 Avebury Boulevard  
Milton Keynes  
MK9 1FH

1<sup>st</sup> March 2022

Dear Sir/Madam,

### **Amendment to the Poisons Act 1972 – Retail Sector Response**

Thank you for allowing us the opportunity to respond to this consultation.

#### **About the British Retail Consortium (BRC)**

As the trade association for retail businesses, our purpose is to make a positive difference to the retail industry and the customers it serves, today and in the future.

We tell the story of retail, work with our members to drive positive change and use our expertise and influence to create an economic and policy environment that enables retail businesses to thrive and consumers to benefit.

Membership comprises over 170 major retailers, whether operating physical stores, multichannel or pureplay online, plus thousands of smaller, independent retailers through several niche retail Trade Associations that are themselves members of BRC.

Our members deliver an estimated £180bn of retail sales and employ over 1.5 million employees.

#### **The BRC's Buying Community**

The BRC hosts a Buying Community. This community, comprising of over 700 retail professionals, works together to help retailers sell safe and compliant non-food products. It is the Buying Community that has put together this consultation response.

#### **Notes on the consultation response**

- As the BRC is a trade association and not a retailer, distributor, or manufacturer, we do not hold data on quantities or usage of the regulated explosives precursors (REPs), therefore the BRC has not answered any of the specific questions.
- Many of our members handle REPs, albeit in small, consumer quantities and not in industrial quantities.
- We have encouraged all members that handle REPs to respond individually and separately where appropriate.

## The Options

The BRC's discussion with our members focussed on the three options proposed for the amendments.

### *The Options*

**Option 1** is to make no changes at all.

**Option 2** is to strengthen and clarify measures within the legislation, but not change the substances and concentrations that members of the public can acquire, import, possess and use provided they have a valid licence. Option 2 includes measures surrounding supply chain notification, verification of professional users, 24-hour reporting for suspicious transactions, and online marketplace obligations.

**Option 3** introduces several new measures to increase security protections. These proposals aim to increase our ability to safeguard against terrorism and malicious activity by restricting access to chemicals of particular concern and increasing our ability to identify and act on suspicious transactions. We are seeking to understand the impact that these measures may have to ensure that any action taken is proportionate and does not place undue restrictions on those seeking to access explosives precursors and poisons for legitimate purposes.

Under this option the same amendments to clarify and strengthen the legislation listed under Option 2 apply, as well as introducing an **upper concentration threshold** to be applied to Explosives Precursors and Poisons Licences that are issued to members of the public. Option 3 also involves adding further substances to the lists of reportable and regulated precursors and poisons and adding new requirements around reporting suspicious transactions.

## The Retail Sector Position

### Operational Impact

- Generally, retailers feel that the three proposals are unlikely to have much impact on their operations.
- The retail sector feels that no change is needed to the current requirements
- Some retailers have approaches where till prompts alert a supervisor to the sale of products that contain REPs.

### 24-Hour Reporting

- There needs to be clarity on the rule around 24-hour reporting. Retailers understand the 24-hour timing will stem from a desire that incidents are reported as quickly as possible. However, it does present some operational issues.
- Firstly, if combined with providing customer data, that will involve more than 1 colleague being involved in generating reports for many retailers. Secondly, if a store raises a suspicious transaction on a Friday evening, Saturday morning etc, then currently that can't be reported until Monday morning at the earliest. To meet a 24-hour would require a new weekend working provision. So, achieving a 24-hour time scale is operationally challenging.

- The preferred options would be either:
  - (a) to report as soon as is practicably possible, or
  - (b) within 72 hours of determining a transaction is suspicious, which then covers the eventuality for any transactions which are raised on a Friday evening. Currently, Retailers understand the 24-hour deadline to be from when the data is interrogated.

### **Manufacturers Support**

- Manufacturers could support retailers by detailing which products contain REPs.

### **Sulphur**

- Sulphur is present in some products at very low concentrations. To avoid these being inadvertently caught in reporting, should there be a low level of sulphur (i.e., 1%) above which sulphur is reportable?

### **Supplier Reporting**

- If supplying a regulated or a reportable explosives precursor or poison to another supplier, they would need to inform their customer of the related restrictions or reporting obligations. Currently, a supplier might inform their customer by email, post, social media and in large organisations. There is any number of roles who could receive that information but not know what to do with it. Suggest there is a “best practice” approach to how this could work. For instance, the customer has a central email address and asks its supplier to send information to that email address.

We are happy for this response to be published.

Yours faithfully,

**Adrian Simpson**

Policy Advisor – Retail Products

British Retail Consortium