

Austrian implementation of main aspects of the Regulation (EU) 2019/1148 on the marketing and use of explosives precursors, amending Regulation (EC) No 1907/2006 and repealing Regulation (EU) No 98/2013

The Regulation (EU) 2019/1148 on the marketing and use of explosives precursors establishes new regulations concerning the making available, introduction, possession and use of restricted explosives precursors. For this purpose it was necessary to amend the Austrian Chemical Act (Chemikaliengesetz 1996) and the Criminal Intelligence Service Austria Act (Bundeskriminalamt-Gesetz 2002).

The illicit manufacture of explosives should be made more difficult by laying down concentration limit values for certain explosives precursors. Members of the general public are not allowed to acquire, introduce, possess or use those explosives precursors at concentrations above the limit values of Annex I, column 2. Nitric acid, Hydrogen peroxide, sulphuric acid and nitromethane may be used for legitimate and demonstrable needed purposes by members of the general public. Therefore Austria decided to provide access to those substances within a given range of concentrations by establishing a licensing regime allowing restricted explosives precursors to be made available to or to be introduced, possessed or used by members of the general public. Austria established a licensing regime according to Article 5 (3) in conjunction with Annex I for

- Nitric acid in concentrations above 3 % w/w up to the limit value of 10 % w/w
- Hydrogen peroxide in concentrations above 12 % w/w up to the limit value of 35 % w/w
- Sulphuric acid in concentrations above 15 % w/w up to the limit value of 40 % w/w
- Nitromethane in concentrations above 16 % w/w up to the limit value of 100 % w/w.

Members of the general public who have a legitimate interest in acquiring, possessing and using those explosives precursors may apply in person for a license in conjunction with an opinion of a legally sworn and certified chemical expert at the locally competent authority. The chemical expert's opinion assesses the availability of the restricted explosives precursor at lower concentrations or alternative substances or procedures with a similar effect, if there is a demonstrable need for the restricted explosives precursor and if the amount of restricted explosives precursor is in line with the applied use. The district administrative authority shall take into account the assessment of the chemical expert, the legitimacy of the intended use of the restricted explosives precursor, the liability of the applicant as well as storage arrangements.

Austria does not recognise licences issued by other Member States.

Introduction: Where a member of the general public intends to introduce restricted explosive precursors into the Austrian territory, the member of the

general public has to apply for a license at the locally competent authority and carry along that license during that act of bringing a substance into the Austrian territory.

Suspicious transactions involving the substances listed in the Annexes, or involving mixtures or substances containing them have to be reported to the Austrian national contact point

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email: Precursor@bmi.gv.at

Penalties: Penalties in § 71 (1) No. 35 to 40 as well as in § 71a of the Austrian Chemicals Act were adapted to the new EU regulation (see BGBl. I Nr. 140/2020 amending the Chemicals Act).

Enclosed:

Austrian Chemicals Act 1996 (BGBl. I Nr. 53/1997), consolidated version.

Amendment: BGBl. I Nr. 140/2020.