Submission from Mr Jim Allister KC MP on the draft Controlled Drugs (Drug Precursors) (Amendment and Revocation) Regulations 2026

I write regarding The Controlled Drugs (Drug Precursors) (Amendment and Revocation) Regulations 2026, mindful of your terms of reference:

'3 (a): That the regulations are politically or legally important, or raise issues of public policy likely to interest the House.'

3 (d) that the explanatory material laid in support provides insufficient information to gain a clear understanding about the instrument's policy objective and intended implementation;

The explanatory memorandum explains that the Controlled Drugs (Drug Precursors) (Amendment and Revocation) Regulations 2026 pertain to England, Wales and Scotland but not Northern Ireland because the law in Northern Ireland has already been updated by the European Union which makes the law for this part of the UK. For example, see para 5.2.

'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.'

While it is clear from the Explanatory Memorandum that the Controlled Drugs (Drug Precursors) (Amendment and Revocation) Regulations update the GB legislation, it is not clear whether this means that GB law has been updated such that it has been brought into full alignment with the law imposed on NI, or whether, while updated, the law in GB does not seek to follow that in NI in every respect such that divergence in this area of law will remain.

In this context it is important that the Explanatory Memorandum is clear about:

i) What provisions in the Controlled Drugs (Drug Precursors) (Amendment and Revocation) Regulations 2026 introduce changes to make the law in GB the same as that in NI?

ii) What provisions in the Controlled Drugs (Drug Precursors) (Amendment and Revocation) Regulations 2026, if any, keep the law in GB different from that in NI?

iii) The extent to which, if any, the relevant law in Northern Ireland will be different from that in GB on account of the fact it contains provisions that are neither applied by the Controlled Drugs (Drug Precursors) (Amendment and Revocation) Regulations 2026 nor any other piece of legislation.

Explanatory Memorandum does not provide clarity on these important points and should be amended to do so.

The division of the UK by the Irish Sea border, defined by the Windsor Framework, which constrains the reach of these regulations to England, Wales and Scotland, is a controversial matter of great political and legal importance in the context of which the Explanatory Notes must be clear about its effect and any potential divergence.

Yours sincerely

Jim Allister KC MP

3 March 2026

Response from the Home Office

Q: What provisions in the CD Regulations introduce changes to make the law in GB the same as that in NI?

A: Regulations 5(7), 5(8) and 6(24) would result in the ten DPCs and 14 esters listed in paragraph 5.3 of the Explanatory Memorandum being controlled in GB, as they are currently in NI.

Q: What, if any, provisions in the CD Regulations leave the GB law in this area different from that in NI? If there are any, please specify what these areas of difference are and why this position is appropriate.

A: Other than those DPCs and esters which are not currently controlled, the law in GB and NI is substantively the same. A number of changes were made to the assimilated law as it applies in GB by the Law Enforcement and Security (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/742) to address deficiencies arising out of EU Exit. These amendments mostly involved making necessary technical changes (for example, replacing reference to a responsibility of the European Commission with reference to a responsibility of the Secretary of State) and removing provisions which did not make sense outside an EU context (for example, requirements to communicate certain matters to the Commission and the establishment of a European database on drug precursors (see Articles 13 and 13a of Regulation (EC) No 273/2004)). While it would not be appropriate to reverse those changes to assimilated law in GB, the CD Regulations do not introduce any further divergence between NI and GB.

Q: Is it possible that the NI and GB regimes will diverge in the future, for example if the EU makes changes that are reflected in NI law as a result of the Windsor Framework that are not mirrored in GB, or the UK Government makes changes in GB that are not mirrored in EU law? Or is

the Government's intent to keep the regimes consistent? Either way, please explain why this approach is appropriate.

A: The Government's general approach is that the regimes should remain consistent, for example in order to reduce complexity for business and to prevent criminals regarding GB as a place in which it is advantageous to them to produce illicit drugs.

As set out in paragraph 5.8 of the Explanatory Memorandum for the CD Regulations, we anticipate that the EU will make changes to the rules governing the control of DPCs in its territory and, by extension, NI. If Ministers were not to introduce equivalent changes in GB, the regimes would diverge.

The Home Office provided an explanatory memorandum to the Northern Ireland Scrutiny Committee and to the Northern Ireland Assembly's Democratic Scrutiny Committee on the European Commission's initial proposal for legislative change. That document can be found here: https://www.gov.uk/government/publications/em-on-monitoring-and-controlling-drug-precursors-com-2025747

Paragraphs 36 and 37 state:

> *"…The Government will closely review the changes the EU is proposing and consider further once the shape of the final Regulation is clear.*
>
> *If the Government decides it wishes to take a similar approach, it will be necessary to introduce new legislation to enable the adoption within GB domestic legislation of the measures in the proposed new EU Regulations, particularly given the proposed changes to the DPC categories. The Government will look to minimise regulatory divergence, but the mechanism for doing so would be subject to the regulations under the 2023 Act being made and the final text of the EU proposal being confirmed."*

9 March 2026