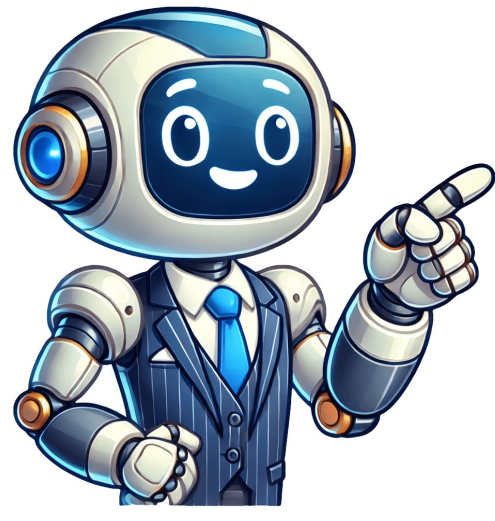


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This guidance outlines key points in relation to the. This legislation concerns the most serious offending specific to explosives that the CPS is likely to prosecute. This guidance also identifies alternative offences to consider.Explosives-related offending which may be terrorist in nature should be considered in conjunction with Counter Terrorism Division: see the Referrals, Approvals and Notifications prosecution guidance. Explosives-related incidents which are being investigated by the Health and Safety Executive should consider the Relationships with Other Prosecuting Authorities prosecution guidance.Evidential considerationsWhen considering the legislation and authorities concerning the offences in sections 2, 3 and 4 ESA 1883, prosecutors should in particular note the following.Explosive substanceSection 9 of the ESA 1883 provides the definition of “explosive substance”. This includes “any materials for making any explosive substance; also any apparatus, machine, implement, or materials used, or intended to be used, or adapted for causing, or aiding in causing, any explosion in or with any explosive substance; also any part of any such apparatus, machine, or implement.” “Explosive” is not defined in the legislation.InR v Wheatley[1979] 1 WLR 144 it was held that “explosive” for the purposes of the 1883 Act should be construed in light of the meaning provided for by section 3 of the Explosives Act 1875:“...gunpowder, nitroglycerine, dynamite, gun-cotton, blasting powders, fulminate of mercury or of other metals, coloured fires and every other substance, whether similar to those above mentioned or not, used or manufactured with a view to producing a practical effect by explosion or a pyrotechnic effect; and includes fog-signals, fireworks, fuzes, rockets, percussion caps, detonators, cartridges, ammunition of all description, and every adaptation or preparation of an explosive as above defined.”The court in R v Bouch [1982] 3 WLR 673 confirmed that a petrol bomb (a bottle containing petrol with a wick) was an explosive substance.Alternative offences, set out below, provide for their own definition of what an “explosive” (or other prohibited article) is.Expert evidenceExpert evidence is almost always required to prove that the article in question was an explosive substance. Evidence from Explosive Ordnance Disposal personnel is likely to address this requirement, but it may come from any expert. For ESA 1883 cases this evidence should address the elements of the offence explicitly. For section 2, for instance, it should address whether the substance was explosive, and also, whether it could cause an explosion of a nature likely to endanger life or to cause serious injury to property. Expert evidence should also address, where necessary, whether an explosion (as opposed to combustion or some other form of reaction) has taken place. Care is required particularly with petrol bombs which may explode or combust, and with incendiary devices which are designed to cause fire. The Law Officers, who must consent to ESA 1883 prosecutions, must have reliable and admissible evidence addressing the relevant elements of the offence when considering a CPS application for consent. When a prosecutor is applying the threshold test, as with all threshold test cases, five contentions must be met. In relation to evidence of an explosive or explosion, prosecutors are reminded that they need to address why there are reasonable grounds to suspect the person to be charged has committed the offence, and what further evidence will become available within a reasonable time.Expert evidence should only seek to assist with specialist knowledge and information outside the knowledge of the tribunal of fact. Proof of the offence may come, in part, from what non-expert witnesses have observed. Highly exceptionally it may come solely from non-expert witnesses where it is established that an expert cannot assist with specialist knowledge and information and where the non-expert evidence provides sufficient evidence for a realistic prospect of conviction. Prosecutors should make clear in such highly exceptional cases the position as to expert evidence in their application for consent, liaising with the AGO as appropriate prior to submission of the application. Consent applications must explain the prosecutor’s position on the question of expert evidence. In threshold test cases, this includes on what basis it is said there are reasonable grounds to suspect the person to be charged has committed the offence alleged, and what further evidence is likely to be available within a reasonable time. This will ordinarily involve providing at least preliminary expert evidence with the application.Lawful objectIn R v Copeland [2020] UKSC 8 the Supreme Court held that personal experimentation or self-education could be regarded as a “lawful object” for the purposes of the defence contained in section 4 ESA 1883. When the prosecution proves circumstances which give rise to a reasonable suspicion that the making, possession or control of an explosive substance is not for a lawful object, the defendant must prove a lawful object on the balance of probabilities. Lawful means any object which is not made unlawful by common law or statute. The prosecution may seek to show that this was not in fact the defendant’s object, or that it was not the defendant’s sole object and that the defendant’s object as correctly understood included an unlawful element. If the defendant knows or is reckless as to the risk of injury or damage from experimentation then an ostensibly lawful object is tainted by the unlawfulness inherent in it.In R v Flint, R v Holmes [2020] EWCA Crim 1266 the Court of Appeal emphasised this “...given the obvious risks with using explosive substances, any experimentation involving them which gives rise to a risk of harm to other people or their property, or other unlawfulness such as causing a public nuisance, will not be capable of coming within the scope of the lawful object defence.”When reviewing a case where the defence of lawful object on the basis of personal experimentation, self-education or similar, prosecutors should consider the evidence:the risk of harm to persons or property from the possession of explosives, whether or not this materialisedas to whether the explosives were detonated and if so whether any public nuisance was causedwhether the explosives were handled and stored responsibly and with care or whether their storage was hazardouswhether the explosives were inert or inherently unstablethe proximity or other persons or property not belonging to the suspect to the explosivesany other evidence relevant to whether the ostensibly lawful object is tainted by unlawfulnessPublic interest considerationsThe ESA 1883 offences are serious: all carry a maximum penalty of life imprisonment. If there is sufficient evidence to prosecute, it is likely that a prosecution will be in the public interest. However, the public interest factors in the Code must be considered. Further guidance on relevant considerations can be found in other prosecution guidance, including Mental Health – suspects and defendants and Children as suspects and defendants.As to explosives offences in general, prosecutors should consider whether or not the conduct causes a clear risk to public safety. If so, . A prosecution may not be required in cases where there has been a technical contravention, through oversight or misunderstanding, and in the absence of a risk to public safety.Selection of chargesWhen applying section 6 of the Code for Crown Prosecutors, prosecutors may wish to consider the following, in particular when considering which charges reflect the seriousness and extent of the offending, give the court adequate powers to sentence and enables the case to be presented in a clear and simple way.For more serious offending:consider ESA 1883 charges or charges contrary to section 28, 29, 30 or 64 Offences Against the Person Act 1861 (explosives offending involving grievous bodily harm, caused or intended – or other intent contrary to the Act)consider ESA 1883 of the Criminal Damage Act 1971 (intended or reckless endangerment of life) for the most serious offending directed at property.The offence under section 2 of the 1883 Act is wider than the Offences Against the Persons Act offences becauseit covers damage to property, risk of serious injury and risk to life“likely” is an objective test rather than the mens rea for intent or recklessnessThis applies to non-terrorist offending. Potential Terrorism Act offences would fall to the Counter Terrorism Division to consider.For offending of a less serious nature:for explosive precursors, see sections 3A to 3C Poisons Act 1972 (maximum penalty on indictment 2 years’ imprisonment but penalties vary depending on the provision)for fireworks, see the Fireworks Act 2003 and Fireworks Regulations 2004 (summary only offences)for throwing/discharging a firework in a public place, see section 80 Explosive Substances Act 1875 (financial penalty only)for offending involving the possession, making or storage of explosive substances, see the Manufacture and Storage of Explosives Regulations 2005 and the Explosives Regulations 2014 made under the Health and Safety at Work Act 1974 – see section 33 for offences and note the CPS role may depend on whether the Health and Safety Executive or the police investigatefor the possession of fireworks at a musical event, see section 134 of the Policing Act 2017 (summary only offence).Consent to prosecuteThe Attorney General’s consent to prosecute is required for ESA 1883 prosecutions. See the Consent to Prosecute prosecution guidance. A senior paramedic has warned that so-called legal highs are leaving ambulance services baffled when it comes to treating casualties.Sarah Harrison said the complex make-up of the substances is leaving staff playing “catch-up” in the battle to develop effective treatments.A BBC investigation has discovered some products did not contain the precise ingredients listed on their packaging.Police incidents involving legal highs have more than doubled in two years.Officers from 32 forces in England attended 3,807 incidents in 2014 - up from 1,431 the previous year, according to data compiled by the think tank the Centre for Social Justice, externalMs Harrison, an advanced paramedic for North West Ambulance Service, said health workers are also seeing a surge in the number of people falling ill after taking legal highs, officially classed as new psychoactive substances (NPS) She said: “We have no drugs that counteract the effects of the substances that people are taking, and that’s what’s causing a lot of the problems.”A lot of the time we are not aware what substance they have taken and what combination, or even what the substance is because they come with different names and different street names.”So we are having to just deal with the medical effects and treat the patient at the time.” New restrictions on poisons and explosive substances have come into effect from Sunday 1 October, strengthening existing controls for poisons and chemicals which could be used to make explosives. Under these changes, there will be stricter requirements on reporting suspicious activity, including new obligations for online marketplaces. Customer information, such as photo identification, will be recorded when selling regulated materials to business users. Additional substances have also been added to the list of regulated poisons, including 2,4 Dinitrophenol, also known as DNP, which has taken the lives of many young people in the UK. Other substances to be added include zinc phosphide and hexamine, often used in fireworks. This will mean it will be a criminal offence to sell these substances to members of the public without a valid licence. Security Minister Tom Tugendhat said: “The deaths of dozens of young people at the hands of criminals selling chemicals like DNP is a tragedy. These new measures will help prevent dangerous controlled substances from falling into the wrong hands. These measures come on the back of the devastating Manchester Arena attack in 2017, and the government’s commitment to look at whether current laws went far enough to protect the public. The changes will come into force through the updates to the Poisons Act 1972. Food Standards Agency (FSA) Head of National Food Crime Unit Andrew Quinn said: “DNP can, and does, kill. This is why we strongly support the Home Office on the reclassification of DNP as a poison as well as the police on tackling criminals who supply this killer chemical. British Retail Consortium (BRC) Retail Products Advisor Adrian Simpson said: “Retailers play an important part in spotting any suspicious activity from customers when buying particular chemical products, and will take additional steps to verify legitimacy of a purchase through ID checks. We welcome these new strengthened measures - retailers are vital in protecting the public by ensuring that all changes are clearly communicated to their customers. They will provide additional information online to explain the risks associated with certain products. The government continues to regularly work with online marketplaces to ensure that they are aware of the harms of chemicals and poisons and can identify and take down potentially unlawful listings as quickly as possible. The Poisons Act 1972 already sets out controls of chemicals which can be used to make explosives and poisons, restricting the general public’s access to the most dangerous materials. It permits a licensing regime for the purchase and use of regulated substances where there is a legitimate need and no safer alternative. Newly reportable explosives precursors: Newly reportable poisons: Metal sulfides and polysulfides Metal phosphides Sodium hypochlorite solutions (above 6% available Cl). Newly regulated precursors: Hexamine Hydrochloric acid (over 10% w/w) Phosphoric acid (over 30% w/w) Ammonium nitrate (over 16% N) Newly regulated poisons: Aluminium sulfide Sodium sulfide Calcium sulfide Magnesium sulfide Calcium phosphide Zinc phosphide Arsenic compounds Mercury compounds 2,4- dinitrophenol (DNP) and compounds including sodium dinitrophenolate After several years, I have decided to bite the bullet, and get the Cherry bomb conversion done to the Chim, after a recommendation from a chap at the last Mid Essex meet I have used Pipecraft in Basildon, and just wanted to show my appreciation by posting a huge praise for Dean at Pipecraft , fantastic job, completed in 2 hours, even after he checked the rest of the system out, replacing and tightening some bolts in places!!!! plenty on Pops and Bangs, and a HUGE grin on my face!!!! Should have done it years ago, not sure what the neighbours will think though!!!! Steve Plant it well away from anywhere you park your car. Our neighbour has one overhanging our parking space, so I spend 6 months of the year parking at the other end of the car park in a visitors place, as it is either dropping blossom, dead leaves, aphids or sap. I’m sure they are very pretty, but we have even contemplated buying our neighbours house if it ever came on the market, just so we could chop the tree down. Three more people have been taken ill after taking legal highs ‘Annihilation’ and ‘Cherry Bombs’.This means five people in total have been effected, two of whom are in hospital in a serious condition.Police put out a warning yesterday after dealing with two cases where people collapsed after taking the psychoactive substance in Rochdale . One is in an induced coma in hospital.Now they have revealed three more people have had a bad reaction after taking legal highs. One, aged 34, is in a serious condition. Two others received medical treatment before leaving of their own accord.It is believed they all took ‘Annihilation’ or a similar substance ‘Cherry Bombs’. Police say the so-called ‘legal highs’ could be lethal - and are urging people not to take them.Anyone who has taken them should call 999 immediately. What is the ‘Annihilation’ legal high?Officers say the drug can cause profuse sweating, a racing heartbeat, extreme muscle tension, delirious ranting and very high body temperature.Anyone showing signs of any of the symptoms should be put in the recovery position and await assistance from paramedics.Police were first called to Drake Street in Rochdale town centre at around 11am on Friday following reports a 33-year-old man had collapsed.His friends told officers he had been taking legal highs.Medics put the man in an induced coma and he remains in a serious condition in intensive care.Officers were called to Drake Street later in the day - at the junction of Oldham Road - after a 39-year-old man collapsed.He is believed to have taken a legal high before losing consciousness at around 2.20pm. The man received medical attention before leaving of his own accord. A short time later they were called to the Drake Street area after a third man was affected. He was also treated before leaving.Then on Saturday morning it emerged there were two more cases. Urgent warning over legal high Annihilation as man left in coma after taking the drugDetective Sergeant Louise Ashurst of GMP’s Rochdale Borough said: “Since the events of yesterday, three more people have fallen ill after taking so called ‘legal highs’, further highlighting a worrying trend that more people are taking these dangerous substances.”They might not be illegal but they are very dangerous and can cause you serious harm and we currently have two men in hospital in a very serious condition.”Read more: Former pupil at elite British boarding school dies at age 27 after battling addiction to legal highs“We believe that some of the substances that are being taken are called ‘Annihilation’ or ‘Cherry Bombs’ which might make them sound appealing but the potential consequences make taking them not worth it.”We would urge everybody to think about the effect that these ‘legal highs’ can have on your health and not take them.”If you have or you think one of your friends may have taken them then please seek medical attention urgently.”Anyone with information about where the drug may have come from is asked to call police on 101 - or Crimestoppers, anonymously, on 0800 555 111.For help or advice on all drugs - including ‘legal highs’ - Talk to Frank 0800 777 6600 or visit talktofrank.com. A packet of the Annihilation legal high(Image: Police Collect)The legal highs Annihilation and Cherry Bombs have left three more people ill - after two men were left in a serious condition from the drugs.Police put out a warning yesterday after dealing with two cases where people collapsed after taking the psychoactive substance in Rochdale.One is in an induced coma in hospital. Now they have revealed three more people have had a bad reaction after taking legal highs.One, aged 34, is in a serious condition. Two others received medical treatment before leaving of their own accord.It is believed they all took ‘Annihilation’ or a similar substance ‘Cherry Bombs’.Police say the so-called ‘legal highs’ could be lethal - and are urging people not to take them.Anyone who has taken them should call 999 immediately, reports Manchester Evening News .Officers say the drug can cause profuse sweating, a racing heartbeat, extreme muscle tension, delirious ranting and very high body temperature.Anyone showing signs of any of the symptoms should be put in the recovery position and await assistance from paramedics.Police were called to reports of a collapsed man on Drake Street on Friday morningPolice were first called to Drake Street in Rochdale town centre at around 11am on Friday following reports a 33-year-old man had collapsed.His friends told officers he had been taking legal highs.Medics put the man in an induced coma and he remains in a serious condition in intensive care.Read more: ‘Smoking 20 joints of legal highs a day made me think I was infested with fleas and being spied on’Officers were called to Drake Street later in the day - at the junction of Oldham Road - after a 39-year-old man collapsed.He is believed to have taken a legal high before losing consciousness at around 2.20pm. The man received medical attention before leaving of his own accord.A short time later they were called to the Drake Street area after a third man was affected. He was also treated before leaving.Then on Saturday morning it emerged there were two more cases.While the drugs are not illegal police have warned they are potentially dangerousDetective Sergeant Louise Ashurst of GMP’s Rochdale Borough said: “Since the events of yesterday, three more people have fallen ill after taking so called ‘legal highs’, further highlighting a worrying trend that more people are taking these dangerous substances.”They might not be illegal but they are very dangerous and can cause you serious harm and we currently have two men in hospital in a very serious condition.”Read more: Former pupil at elite British boarding school dies at age 27 after battling addiction to legal highs“We believe that some of the substances that are being taken are called ‘Annihilation’ or ‘Cherry Bombs’ which might make them sound appealing but the potential consequences make taking them not worth it. Police said symptoms to watch out for include: profuse sweatingracing heartbeat extreme muscle tensiodelirious rantingvery high body temperatureThe BBC is not responsible for the content of external sites. Try nationwide, speedy & Hss as well Cherry bombs are often used in a system designed to maximize the flow of gasses and allow as much sound as possible to go through. For example, some of them use partial cut-off systems which allow some of the gasses from the engine to bypass the catalytic converter, increasing the volume. Are cherry bombs exhaust illegal UK? Rusted out mufflers or exhaust with holes - ILLEGAL. After market mufflers, sometimes called “glass packs” or “cherry bombs” can be an issue also for they may produce “a sharp popping or crackling sound”. Will a Cherry Bomb make my car louder? Registered. Muffler delete will be louder... the Cherry bomb will create a deeper but a little quieter sound. Can you fit a Cherry Bomb exhaust? The Cherry Bomb brand and glasspack-style mufflers have been around for decades, and they continue to be popular. They deliver a great sound and good performance at a decent price. Installing one is not difficult, if you know your way around power tools and vehicles. Do cherry bombs add horsepower? Cherry Bomb began manufacturing the Cherry Bomb Glasspack in 1968. With less backpressure, the muffler increased horsepower and produced an unmistakable sound that embodied the power under the hood. Getting more of the spent exhaust gasses out of it will improve an engine’s power and efficiency. Will a cherry bomb pass inspection? So as long as you install or get it installed properly with no leaks / loose fittings, it’ll pass inspection. Do you have to declare a cherry bomb exhaust? AFAIK there is no type approval for individual car exhaust pipe parts. So you can make your own or use whatever. Thus a Cherry Bomb won’t in and of itself be illegal. So long as it meets the prevailing rules on noise levels you can use what you like. Whats louder glasspack or straight pipe? The shorter glasspacks are much louder than the long ones for obvious reasons. I would stay away from straight pipes. It’s just my opinion but they sound like crap most of the time. If you really want loud you might look at getting rid of the catalytic converters as they absorb lots of sound. Does a glasspack affect gas mileage? Any kind of muffler you put on that makes your truck louder will hurt your fuel economy. You are always romping on the gas to hear it! But I’ve had 2 trucks with glasspacks and have never noticed any change either way with the mileage. Why do Glasspacks pop? The loud sound of the engine is negated by the same loud sound produced by an ordinary muffler. But this creates negative pressure on the engine. The glasspack muffler reduces the pressure on the engine by dissipating the pressure of the loud sound waves out through a sleeve of glass particles. Is a glasspack legal? Is it now illegal to install an aftermarket exhaust system on my vehicle? The sale and installation of an aftermarket exhaust system remains legal in California so long as it does not exceed a sound level of 95-decibels when tested under SAE J1492 and complies with all other exhaust and safety laws and regulations. Is Cherry bombing your car illegal? Are Cherry Bomb exhausts legal? AFAIK there is no type approval for individual car exhaust pipe parts. So you can make your own or use whatever. Thus a Cherry Bomb won’t in and of itself be illegal.