

The Misuse of Drugs (Modification No. 2) Order, 2010

Made 13th April, 2010
Coming into operation 16th April, 2010
Laid before the States , 2010

THE HEALTH AND SOCIAL SERVICES DEPARTMENT, in exercise of the powers conferred on it by sections 1(2), 6, 9, 21 and 30 of the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974^a, section 1(2) of the Misuse of Drugs (Amendment) (Bailiwick of Guernsey) Law, 2000^b and all other powers enabling it in that behalf, and having regard to the Resolution of the States of Deliberation of 29th November, 2006^c, hereby makes the following order: -

Amendment of First Schedule to 1974 Law.

1. Paragraph 1 of Part II of the First Schedule to the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974 is amended as follows -

- (a) in subparagraph (a), immediately after "Methcathinone", insert "4-methylmethcathinone", and
- (b) immediately after subparagraph (h), insert the following subparagraph –
 - "(i) Any compound (not being bupropion, diethylpropion, pyrovalerone or a compound

^a Ordres en Conseil Vol. XXIV, p. 273; amended by Vol. XXVIII, p. 307; Vol. XXXI, pp. 47 and 278; Orders in Council No. XIII of 1991; No. XVI of 1995; No.s III and VII of 2000; No.s IV and XIII of 2006; Recueil d'Ordonnances Tome XXIX, p 406; G.S.I. 2008 No. 20 and G.S.I 2010 No. 22.

^b Order in Council No. III of 2000.

^c Article XII of Billet d'État No. XVIII of 2006.

specified in subparagraph (a)) structurally derived from 2-amino-1-phenyl-1-propanone by modification in any of the following ways –

- (i) by substitution in the phenyl ring to any extent with alkyl, alkoxy, alkylendioxy, haloalkyl or halide substituents, whether or not further substituted in the phenyl ring by one or more other univalent substituents,
- (ii) by substitution at the 3-position with an alkyl substituent, or
- (iii) by substitution at the nitrogen atom with alkyl or dialkyl groups, or by inclusion of the nitrogen atom in a cyclic structure."

Amendment of 1997 Ordinance.

2. The Misuse of Drugs (Bailiwick of Guernsey) Ordinance, 1997^d is amended as set out in the Schedule.

Interpretation.

3. The provisions of the Interpretation (Guernsey) Law, 1948^e apply to the interpretation of this Order as they apply to a Guernsey enactment.

Citation.

4. This Order may be cited as the Misuse of Drugs (Modification No. 2) Order, 2010.

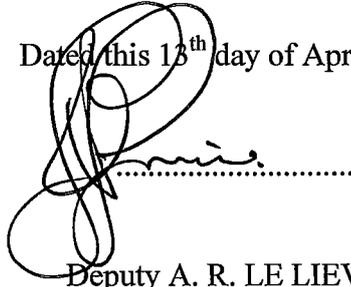
^d Recueil d'Ordonnances Tome XXVII, p. 247; amended by G.S.I. 2004 No. 4, 2006 No. 42 and 2008 No. 20; Ordinance No. XXV of 2009.

^e Ordres en Conseil Vol. XIII, p. 355.

Commencement.

5. This Order comes into force on the 16th of April, 2010.

Dated this 13th day of April 2010.

A handwritten signature in black ink, appearing to read 'A. R. Le Lievre', is written over a horizontal dotted line. The signature is stylized with large loops and a long horizontal stroke.

Deputy A. R. LE LIEVRE

Deputy Minister of the Health and Social Department

For and on behalf of the Department.

SCHEDULE

Article 2

AMENDMENTS TO THE MISUSE OF DRUGS (BAILIWICK OF GUERNSEY) ORDINANCE, 1997

PART I

Amendments

Provision	Amendment
Section 1(1)	For the definition of " register ", substitute the following definition – " register " excludes any form of loose leaf register or card index."
Section 1(1)	Insert, in the correct alphabetical order, the following definitions – " " anaesthetic assistant " has the same meaning as in the Prescription Only Medicines (Human) (Bailiwick of Guernsey) Ordinance, 2009; " authorised paramedic " means a person who is – (a) a registered paramedic, and (b) employed by an ambulance or rescue service approved by the Department; " the Department " means the States of Guernsey Health and Social Services Department".
Section 3(1)	For the expression "Schedules 4 and 5", substitute the expression "Schedule 5".
Section 6(2)	For the words "prescriber or dentist", substitute the words "prescriber, dentist or authorised paramedic".
New	Immediately after subsection (2) of section 7, insert the following

Provision	Amendment
section 7(2A)	subsection – "(2A) Notwithstanding the provisions of section 3(1)(b) of the Law, an authorised paramedic may, when acting in his capacity as such, supply or offer to supply to any person who may lawfully have that drug in his possession – (a) diazepam, (b) morphine sulphate injection (to a maximum of 20 mg), or (c) morphine sulphate oral."
Section 8(2)	For paragraph (g), substitute the following paragraph – "(g) the Chief Inspector or an additional inspector appointed under the Medicines (Human and Veterinary) (Bailiwick of Guernsey) Law, 2008,".
New section 8(2A)	Immediately after subsection (2) of section 8, insert the following subsection – "(2A) Notwithstanding the provisions of section 3(1)(b) of the Law, an authorised paramedic may, when acting in his capacity as such, supply or offer to supply to any person who may lawfully have that drug in his possession – (a) diazepam, (b) morphine sulphate injection (to a maximum of 20 mg), or (c) morphine sulphate oral."

Provision	Amendment
Section 9(1)	<p>Immediately after paragraph (b) of this subsection, insert the following paragraph –</p> <p style="padding-left: 40px;">"(ba) an authorised paramedic acting in his capacity as such may have in his possession a drug specified in section 7(2A) or 8(2A),".</p>
Section 13(1)	<p>For paragraphs (a) and (b), substitute the following paragraphs –</p> <p style="padding-left: 40px;">"(a) be in writing, indelible, dated, and signed by hand in the usual signature of the person issuing it;</p> <p style="padding-left: 40px;">(b) be in any form issued for this purpose, and include any unique identification number allocated to the person issuing the prescription, by –</p> <p style="padding-left: 80px;">(i) in the case of medical prescriptions, the States of Guernsey Social Security Department, and</p> <p style="padding-left: 80px;">(ii) in any other case, the States of Guernsey Health and Social Services Department,".</p>
Section 13(1)	<p>Immediately after paragraph (g), insert the following paragraph –</p> <p style="padding-left: 40px;">"(h) include a space to record the name and signature of the person collecting the drug concerned.".</p>
New section 13(4)	<p>Immediately after subsection (3) of section 13, insert the following subsection –</p> <p style="padding-left: 40px;">"(4) The Electronic Transactions (Guernsey) Law, 2000 applies to subsection (1) as if subsection (1) is a provision in a Guernsey enactment and, for the avoidance of doubt, a prescription does not fail to comply with the requirements of that subsection by reason only that it is printed or generated by</p>

Provision	Amendment
	electronic means."
Section 14(1)	Before the words "A person", insert the words "Subject to subsection (5),".
Section 14(1)(e) and (3)(a)	For the word "thirteen" in each paragraph, substitute the word "four".
New section 14(4) to (6)	<p>Immediately after subsection (3), insert the following subsections –</p> <p style="padding-left: 40px;">"(4) A person asked to supply on prescription a controlled drug specified in Schedule 2 must first ascertain whether the person collecting the drug is the patient, the patient's representative or a healthcare professional acting in his professional capacity on behalf of the patient; and –</p> <p style="padding-left: 80px;">(a) where that person is the patient or the patient's representative, he may –</p> <p style="padding-left: 120px;">(i) request evidence of that person's identity, in which case he must, if he obtains such evidence, record details of that evidence in the register kept under section 17, and</p> <p style="padding-left: 120px;">(ii) refuse to supply the drug if he is not satisfied as to the identity of that person,</p> <p style="padding-left: 80px;">(b) where that person is a healthcare professional acting in his professional capacity on behalf of the patient, he –</p> <p style="padding-left: 120px;">(i) must obtain that person's name and address, and</p>

Provision	Amendment
	<p>(ii) must, unless he is acquainted with that person, request evidence of that person's identity, in which case he must, if he obtains such evidence, record details of that evidence in the register kept under section 17, but</p> <p>(iii) may supply the drug even if he is not satisfied as to the identity of that person.</p> <p>(5) Nothing in subsection (1)(a) prevents a pharmacist supplying on prescription a controlled drug other than a drug specified in Schedule 4 or 5 or temazepam where paragraph (a) applies and the conditions in paragraph (b), and paragraph (c) (if applicable), are satisfied –</p> <p>(a) the prescription does not comply with the provisions of section 13 by reason only that–</p> <p>(i) it contains minor typographical errors or spelling mistakes, or</p> <p>(ii) in relation to section 13(1)(f), it specifies the total quantity of the preparation, the controlled drug, or the dosage units either in words or in figures but not both, and</p> <p>(b) having exercised due diligence, the pharmacist is satisfied on reasonable</p>

Provision	Amendment
	<p data-bbox="767 232 951 271">grounds that –</p> <ul style="list-style-type: none"> <li data-bbox="767 344 1259 383">(i) the prescription is genuine, and <li data-bbox="767 456 1332 607">(ii) he is supplying the drug in accordance with the intention of the person issuing the prescription, and <p data-bbox="671 680 1332 763">(c) in any case where paragraph (a)(i) applies, the pharmacist –</p> <ul style="list-style-type: none"> <li data-bbox="767 837 1332 1144">(i) amends the prescription in ink or otherwise indelibly to correct the minor typographical error or spelling mistake, or in any other way so that the prescription complies with regulation 13, and <li data-bbox="767 1218 1332 1413">(ii) marks the prescription so that the amendment he has made under subparagraph (i) is attributable to him. <p data-bbox="580 1503 919 1541">(6) In this regulation –</p> <p data-bbox="485 1615 1332 1973">"healthcare professional" means any medical practitioner, pharmacist, dentist, registered nurse, registered midwife, supplementary prescriber, anaesthetic assistant, registered occupational therapist, registered operating department practitioner, registered optometrist, registered orthoptist, registered orthotist and prosthetist, registered paramedic, registered physiotherapist, or registered radiographer,</p>

Provision	Amendment
	<p style="text-align: center;">"patient" means the person named in the prescription as the person to whom the drug is to be supplied, and</p> <p style="text-align: center;">"patient's representative" means a person sent by or on behalf of the patient (other than a healthcare professional acting in his professional capacity)."</p>
Section 17(1)	<p>Immediately after paragraph (b), insert the word "and" and the following paragraph –</p> <p style="text-align: center;">"(c) he shall keep a separate register or separate part of the register showing the running balance of stock in his possession of each drug specified in Schedule 1 or 2 and shall update this register or part of the register each time he makes an entry under paragraph (a)."</p>
Section 18(d)	For the words "ink or otherwise so as to be indelible", substitute the word "writing".
Section 18	<p>Renumber this section "18(1)" and insert the following subsection after the new subsection (1) –</p> <p style="text-align: center;">"(2) The Electronic Transactions (Guernsey) Law, 2000 applies to section 17 and subsection (1) as if they were provisions in a Guernsey enactment and, for the avoidance of doubt, a register does not fail to comply with the requirements of those provisions by reason only that it is in electronic form or it is generated by electronic means."</p>
Section 21(1), (2) and (3)	For the word "two" in each subsection, substitute the word "seven".
Section 23	<p>Immediately after subsection (2), insert the following subsection –</p> <p style="text-align: center;">"(2A) Once in each calendar year, every</p>

Provision	Amendment
	<p>practitioner and every person lawfully conducting a retail pharmacy business shall send a statement to the Department specifying, as at the date of the statement, –</p> <p style="text-align: center;">(a) the amount of stock in his possession of each drug specified in Schedule 1 or 2, and</p> <p style="text-align: center;">(b) the address of the premises where the stock is kept."</p>
Schedule 1, paragraph 1(a)	Immediately after "Methcathinone", insert "4-methcathinone".
Schedule 1, paragraph 1	<p>Immediately after subparagraph (l), insert the following subparagraph –</p> <p style="text-align: center;">"(m) Any compound (not being bupropion, diethylpropion, pyrovalerone or a compound specified in subparagraph (a)) structurally derived from 2-amino-1-phenyl-1-propanone by modification in any of the following ways –</p> <p style="text-align: center;">(i) by substitution in the phenyl ring to any extent with alkyl, alkoxy, alkylenedioxy, haloalkyl or halide substituents, whether or not further substituted in the phenyl ring by one or more other univalent substituents,</p> <p style="text-align: center;">(ii) by substitution at the 3-position with an alkyl substituent, or</p> <p style="text-align: center;">(iii) by substitution at the nitrogen atom with alkyl or dialkyl groups, or by inclusion of the nitrogen atom in a cyclic structure."</p>

Provision	Amendment
Schedule 6, Part II	For the form in this part, substitute the form set out in Part II below.

PART II

Form to substitute form in Part II of Schedule 6 to the Misuse of Drugs (Bailiwick of Guernsey) Ordinance, 1997

Date of transaction	Name and address of person or firm supplied			Amount supplied	Form in which supplied	Additional details if supplied on prescription	
	Name	Add.	Details of licence or authority to be in possession			Unique identification number of prescriber	Evidence of identity of collector of drug, if obtained (e.g. driving licence number)

EXPLANATORY NOTE

(This note is not part of the Order)

This Order inserts into the First Schedule to the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974 –

- 4-methylmethcathinone, more commonly known as Mephedrone, and
- any compound structurally derived from 2-amino-1-phenyl-1-propanone by modification (with named exemptions).

This Order makes these substances "Class B" controlled drugs, and also inserts these substances into Schedule 1 to the Misuse of Drugs (Bailiwick of Guernsey) Ordinance, 1997 ("**1997 Ordinance**"), as there is no known medicinal use for them.

In addition, this Order amends the 1997 Ordinance to generally give effect to a States Resolution made in November 2006.

This Order also amends section 3(1) of the 1997 Ordinance to clarify that there is no general exemption in relation to the importation or exportation of controlled drugs listed in Schedule 4 to that Ordinance. The only exemption (inserted by the Misuse of Drugs (Modification) Order, 2003) relates to the importation or exportation, by any person for administration to himself, of drugs listed in **Part II** of Schedule 4.

