

ORDER IN COUNCIL

XVI
1995

ratifying a Projet de Loi

ENTITLED

The Misuse of Drugs (Amendment) (Bailiwick of Guernsey) Law, 1995

(Registered on the Records of the Island of Guernsey
on the 12th December, 1995.)



1995

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 12th day of December, 1995 before de Vic Graham Carey, Esquire, Deputy Bailiff; present:—Stanley Walter John Jehan, Leonard Arthur Moss, John Edward Morris, Charles Anthony Spensley, Kenneth John Rowe, Lawrence Oscar Ozanne, John Richard Rowe Henry, David Charles Lowe, Esquires, Mrs. Eileen May Glass, Laurence Lenfestey Guille, Derek Martin Le Page and Stephen Edward Francis Le Poidevin, Esquires, Jurats.

The Deputy Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 23rd day of November, 1995, approving and ratifying a *Projet de Loi* entitled “The Misuse of Drugs (Amendment) (Bailiwick of Guernsey) Law, 1995” THE COURT, after the reading of the said Order in Council and after having heard Her Majesty’s Comptroller thereon, ORDERED:—

1. That the said Order in Council be registered on the records of this Island, and
2. That an extract of this present Act, together with a copy of the said Order in Council, be sent by Her Majesty’s Greffier to the Clerk of the Court of Alderney and to the SÉNÉSCHAL of Sark for registration on the records of those Islands respectively of which Order in Council the tenor followeth:—

At the Court at Buckingham Palace

The 23rd day of November, 1995

PRESENT,

The Queen's Most Excellent Majesty in Council

WHEREAS, there was this day read at the Board a Report from the Right Honourable the Lords of the Committee of Council for the Affairs of Guernsey and Jersey dated the 14th day of November 1995 in the words following, viz.:—

“YOUR MAJESTY having been pleased, by Your General Order of Reference of the 22nd day of February 1952, to refer unto this Committee the humble Petition of the States of the Island of Guernsey setting forth:—

‘1. That, in pursuance of their Resolution of the 29th day of March 1989, the States of Deliberation at a meeting held on the 30th day of November 1994 approved a Bill or “Projet de Loi” entitled “The Misuse of Drugs (Amendment) (Bailiwick of Guernsey) Law, 1995”, and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto. 2. That the said Bill or “Projet de Loi” is as set forth in the Schedule hereunto annexed. And most humbly praying that Your Majesty might be graciously pleased to grant Your Royal Sanction to the Bill or “Projet de Loi” of the States of Guernsey entitled “The Misuse of Drugs (Amendment) (Bailiwick of Guernsey) Law, 1995”, and to order that the same shall have force of law in the Bailiwick of Guernsey.”:

“THE LORDS OF THE COMMITTEE, in obedience to Your Majesty’s said Order of Reference, have taken the said Petition and the said Projet de Loi into consideration and do this day agree humbly to report, as their opinion, to Your Majesty, that it may be advisable for Your Majesty to comply with the prayer of the said Petition and to approve of and ratify the said Projet de Loi.”

HER MAJESTY, having taken the said Report into consideration, is pleased, by and with the advice of Her Privy Council, to approve of and ratify the said Projet de Loi, and to order, and it it hereby ordered, that the same shall have the force of Law within the Bailiwick of Guernsey.

AND HER MAJESTY doth hereby further direct that this Order, and the said Projet de Loi (a copy whereof is hereunto annexed), be entered upon the Register of the Island of Guernsey and observed accordingly.

AND the Lieutenant Governor and Commander-in-Chief of the Island of Guernsey, the Bailiff and Jurats, and all other Her Majesty's Officers for the time being in the said Island, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

N. H. Nicholls

PROJET DE LOI

ENTITLED

The Misuse of Drugs (Amendment) (Bailiwick of Guernsey) Law, 1995

THE STATES, in pursuance of their Resolution of the 29th day of March, 1989(a), have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Bailiwick of Guernsey.

Amendment of 1974 Law

1. The Misuse of Drugs (Bailiwick of Guernsey) Law, 1974, as amended(b), is hereby amended as follows:-

- (a) in section 1(2), for the words "The States may by Ordinance" is substituted "The Board may by Order" and at the end of that subsection there are inserted the words "and may, for any of the foregoing purposes, repeal and replace with amendments the said Schedule or any Part thereof";
- (b) in section 1(3), for "Ordinance" substitute "Order";
- (c) after section 8 there is inserted the following additional section:-

"Prohibition of supply etc. of articles for administering or preparing controlled drugs"

8A. (1) A person who supplies or offers to supply any article which may be used or adapted to be used (whether by itself or in combination with another article or other articles) in the

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- (a) Article XIII of Billet d'État No. VII of 1989.
 - (b) Ordres en Conseil, Vol. XXIV, p. 273; Vol. XXVIII, p. 307; No. VI of 1988; No. XIII of 1991; No. V of 1992; Recueil d'Ordonnances, Vol. XX, p. 271; Vol. XXII, p. 483; Vol. XXIV, p. 477; No. XIII of 1989; No. XXII of 1991.

administration by any person of a controlled drug to himself or another, believing that the article (or the article as adapted) is to be so used in circumstances where the administration is unlawful, is guilty of an offence.

(2) It is not an offence under subsection (1) above to supply or offer to supply a hypodermic syringe, or any part of one.

(3) A person who supplies or offers to supply any article which may be used to prepare a controlled drug for administration by any person to himself or another believing that the article is to be so used in circumstances where the administration is unlawful is guilty of an offence.

(4) For the purposes of this section, any administration of a controlled drug is unlawful except -

(a) the administration by any person of a controlled drug to another in circumstances where the administration of the drug is not unlawful under section 3(1) of this Law, or

(b) the administration by any person of a controlled drug to himself in circumstances where having the controlled drug in his possession is not unlawful under section 4(1) of this Law.

(5) In this section, references to administration by any person of a controlled drug to himself include a reference to his administering it to himself with the assistance of another.”;

- (d) for the **First Schedule** there is substituted the Schedule set out in the Schedule hereto;
- (e) in the **Third Schedule(c)**:-
- (i) after the entry relating to section 8, there is inserted an additional entry as follows:-
 - (aa) in the first column insert "Section 8A";
 - (bb) in the second column insert "Prohibition of supply etc. of articles for administering or preparing controlled drugs.";
 - (cc) in the third column insert "Summary";
 - (dd) in the seventh column insert "12 months or three times level 5 on the uniform scale or both";
 - (ii) in the entry relating to section 16(3), for "£400" substitute "level 5 on the uniform scale";
 - (iii) for the expression "£2,000" wherever it appears, substitute "three times level 5 on the uniform scale";
 - (iv) for the expression "21 years" wherever it appears, substitute "life".

Citation

2. This Law may be cited as the Misuse of Drugs (Amendment) (Bailiwick of Guernsey) Law, 1995.

Commencement

3. This Law shall come into force 28 days after its registration on the records of the Island of Guernsey.

(c) The Third Schedule was substituted by Ordres en Conseil, No. VI of 1988.

SCHEDULE
"FIRST SCHEDULE
CONTROLLED DRUGS

Section 1(d)

Section 1

PART 1

CLASS A DRUGS

1. The following substances and products, namely:-

- (a) Acetorphine.
Alfentanil.
Allylprodine
Alphacetylmethadol.
Alphameprodine.
Alphamethadol.
Alphaprodine.
Anileridine.
Benzethidine.
Benzylmorphine (3-benzylmorphine).
Betacetylmethadol.
Betameprodine.
Betamethadol.
Betaprodine.
Bezitramide.
Bufotenine.
Cannabinol, except where contained in cannabis or cannabis resin.
Cannabinol derivatives.
Carfentanil.
Clonitazene.
Coca Leaf.
Cocaine.
Desomorphine.
Dextromoramide.
Diamorphine.
Diampromide.
Diethylthiambutene.
Difenoxin (1-(3-cyano-3,3-diphenylpropyl)-4-phenylpiperidine-4-carboxylic acid).
Dihydrocodeinone O-carboxymethyloxime.
Dihydromorphine.
Dimenoxadole.
Dimepheptanol.
Dimethylthiambutene.

Dioxaphetyl butyrate.
Diphenoxylate.
Dipipanone.
Drotebanol (3,4-dimethoxy-17-methylmorphinan-6 β ,14-diol).
Ecgonine, and any derivative of ecgonine which is convertible to ecgonine or to cocaine.
Ethylmethylthiambutene.
Eticyclidine.
Etonitazene.
Etorphine.
Etoxidine.
Fentanyl.
Furethidine.
Hydrocodone.
Hydromorphinol.
Hydromorphone.
Hydroxypethidine.
Isomethadone.
Ketobemidone.
Levomethorphan.
Levomoramide.
Levophenacymorphan.
Levorphanol.
Lofentanil.
Lysergamide.
Lysergide and other *N*-alkyl derivatives of lysergamide.
Mescaline.
Metazocine.
Methadone.
Methadyl acetate.
Methyldesorphine.
Methyldihydromorphine (6-methyldihydromorphine).
Metopon.
Morpheridine.
Morphine.
Morphine methobromide, morphine *N*-oxide and other pentavalent nitrogen morphine derivatives.
Myrophine.
Nicomorphine (3,6-dinicotinoylmorphine).
Noracymethadol.
Norlevorphanol.
Normethadone.
Normorphine.
Norpipanone.
Opium, whether raw, prepared or medicinal.
Oxycodone.

Oxymorphone.
 Pethidine.
 Phenadoxone.
 Phenampromide.
 Phenazocine.
 Phencyclidine.
 Phenomorphan.
 Phenoperidine.
 Piminodine.
 Piritramide.
 Poppy-straw and concentrate of poppy-straw.
 Proheptazine.
 Properidine (1-methyl-4-phenylpiperidine-4-carboxylic acid isopropyl ester).
 Psilocin.
 Racemethorphan.
 Racemoramide.
 Racemorphan.
 Rolicyclidine.
 Sufentanil.
 Tenocyclidine.
 Thebacon.
 Thebaine.
 Tilidate.
 Trimeperidine.
 4-Bromo-2,5-dimethoxy- α -methylphenethylamine.
 4-Cyano-2-dimethylamino-4,4-diphenylbutane.
 4-Cyano-1-methyl-4-phenylpiperidine.
N,N-Diethyltryptamine.
N,N-Dimethyltryptamine.
 2,5-Dimethoxy- α ,4-dimethylphenethylamine.
N-Hydroxy-tenamphetamine.
 1-Methyl-4-phenylpiperidine-4-carboxylic acid.
 2-Methyl-3-morpholino-1,1-diphenylpropanecarboxylic acid.
 4-Methyl-aminorex.
 4-Phenylpiperidine-4-carboxylic acid ethyl ester.

- (b) any compound (not being a compound for the time being specified in sub-paragraph (a) above) structurally derived from tryptamine or from a ring-hydroxy tryptamine by substitution at the nitrogen atom of the side-chain with one or more alkyl substituents but no other substituent;
- (c) any other compound (not being methoxyphenamine or a compound for the time being specified in sub-paragraph (a) above) structurally derived from phenethylamine, an *N*-alkylphenethylamine, α -methylphenethylamine, an *N*-alkyl- α -methylphenethylamine, α -ethylphenethylamine, or an *N*-alkyl- α -

ethylphenethylamine by substitution in the ring to any extent with alkyl, alkoxy, alkylenedioxy or halide substituents, whether or not further substituted in the ring by one or more other univalent substituents.

(d) any compound (not being a compound for the time being specified in subparagraph (a) above) structurally derived from fentanyl by modification in any of the following ways:

(i) by replacement of the phenyl portion of the phenethyl group by any heteromonocycle whether or not further substituted in the heterocycle;

(ii) by substitution in the phenethyl group with alkyl, alkenyl, alkoxy, hydroxy, halogeno, haloalkyl, amino or nitro groups;

(iii) by substitution in the piperidine ring with alkyl or alkenyl groups;

(iv) by substitution in the aniline ring with alkyl, alkoxy, alkylenedioxy, halogeno or haloalkyl groups;

(v) by substitution at the 4-position of the piperidine ring with any alkoxy-carbonyl or alkoxyalkyl or acyloxy group;

(vi) by replacement of the *N*-propionyl group by another acyl group;

(e) any compound (not being a compound for the time being specified in subparagraph (a) above) structurally derived from pethidine by modification in any of the following ways:

(i) by replacement of the 1-methyl group by an acyl, alkyl whether or not unsaturated, benzyl or phenethyl group, whether or not further substituted;

(ii) by substitution in the piperidine ring with alkyl or alkenyl groups or with a propano bridge, whether or not further substituted;

(iii) by substitution of the 4-phenyl ring with alkyl, alkoxy, aryloxy, halogeno or haloalkyl groups;

(iv) by replacement of the 4-ethoxycarbonyl by any other alkoxy-carbonyl or any alkoxyalkyl or acyloxy group;

(v) by formation of an *N*-oxide or of a quaternary base.

2. Any stereoisomeric form of a substance for the time being specified in paragraph 1 above not being dextromethorphan or dextrorphan.

3. Any ester or ether of a substance for the time being specified in paragraph 1 or 2 above not being a substance for the time being specified in Part II of this Schedule.

4. Any salt of a substance for the time being specified in any of paragraphs 1 to 3 above.
5. Any preparation or other product containing a substance or product for the time being specified in any of paragraphs 1 to 4 above.
6. Any preparation designed for administration by injection which includes a substance or product for the time being specified in any of paragraphs 1 to 3 of Part II of this Schedule.

PART II

CLASS B DRUGS

1. The following substances and products, namely:-
 - (a) Acetyldihydrocodeine.
Amphetamine.
Cannabis and cannabis resin.
Codeine.
Dihydrocodeine.
Ethylmorphine (3-ethylmorphine).
Glutethimide.
Lefetamine.
Mecloqualone.
Methaqualone.
Methylamphetamine
Methylphenidate.
Methylphenobarbitone.
Nicocodine.
Nicodicodine (6-nicotinoyldihydrocodeine).
Norcodeine.
Pentazocine.
Phenmetrazine.
Pholcodine.
Propiram.
 - (b) Any 5,5 disubstituted barbituric acid.
2. Any stereoisomeric form of a substance for the time being specified in paragraph 1 of this Part of this Schedule.
3. Any salt of a substance for the time being specified in paragraph 1 or 2 of this Part of this Schedule.
4. Any preparation or other product containing a substance or product for the time being specified in any of paragraphs 1 to 3 of this Part of this Schedule, not being a preparation falling within paragraph 6 of Part 1 of this Schedule.

PART III
CLASS C DRUGS

1. The following substances, namely:-

Benzphetamine.
Buprenorphine.
Cathine.
Cathinone.
Chlorphentermine.
Dextropropoxyphene.
Diethylpropion.
Ethchlorvynol.
Ethinamate.
Fenethylline.
Mazindol.
Mephentermine.
Meprobamate.
Methyprylone.
Phendimetrazine.
Phentermine.
Pipradrol.

2. Any stereoisomeric form of a substance for the time being specified in paragraph 1 of this Part of this Schedule, not being phenylpropanolamine.
3. Any salt of a substance for the time being specified in paragraph 1 or 2 of this Part of this Schedule.
4. Any preparation or other product containing a substance for the time being specified in any of paragraphs 1 to 3 of this Part of this Schedule.

PART IV

MEANING OF CERTAIN EXPRESSIONS USED IN THIS SCHEDULE

For the purposes of this Schedule the following expressions have meanings hereby respectively assigned to them, that is to say:-

"**cannabinol derivatives**" means the following substances, except where contained in cannabis or cannabis resin, namely, tetrahydro derivatives of cannabinol and 3-alkyl homologues of cannabinol or of its tetrahydro derivatives;

"**coca leaf**" means the leaf of any plant of the genus *Erythroxylon* from whose leaves cocaine can be extracted either directly or by chemical transformation;

"concentrate of poppy-straw" means the material produced when poppy-straw has entered into a process for the concentration of its alkaloids;

"medicinal opium" means raw opium which has undergone the process necessary to adapt it for medicinal use in accordance with the requirements of the European Pharmacopoeia, whether it is in the form of powder or is granulated or is in any other form, and whether it is or is not mixed with neutral substances.

"opium poppy" means the plant of the species *Papaver somniferum L*;

"poppy-straw" means all parts, except the seeds, of the opium poppy, after mowing;

"raw opium" includes powdered or granulated opium but does not include medicinal opium."