

The Misuse of Drugs (Safe Custody) (Bailiwick of Guernsey) Ordinance, 1997

THE STATES, in pursuance of their Resolution of 29th March, 1989^a, and in exercise of the powers conferred upon them by sections 9 and 30 of the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974, as amended^b, hereby order:-

Interpretation.

1. (1) In this Ordinance, unless the context otherwise requires:

"**the Law**" means the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974;

"**prescription**" means a prescription issued by a medical practitioner for the medical treatment of a single individual, by a dentist for the dental treatment of a single individual, or by a veterinary surgeon for the purposes of animal treatment;

"**retail dealer**" means a person lawfully conducting a retail pharmacy business,

and other expressions have the same meanings as in the Law.

^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, Tome XX, p. 271; Tome XXII, p. 483; Tome XXIV, p. 477; Tome XXV, pp. 38 and 325; Order in Council No. XVI of 1995.

(2) In this Ordinance, unless the context otherwise requires, any reference to any other enactment is to that enactment as repealed and replaced, amended, extended or applied by or under any other enactment.

(3) The Interpretation (Guernsey) Law, 1948^c, as amended, shall apply to the interpretation of this Ordinance throughout the Bailiwick.

Certain drugs to be kept locked in safes etc.

2. (1) This section applies to the following premises:

- (a) any premises occupied by a retail dealer for the purposes of his business;
- (b) any premises occupied by a practitioner for the purposes of his professional practice;
- (c) any nursing home within the meaning of the Nursing Homes and Residential Homes (Guernsey) Law, 1976^d.

(2) Subject to subsection (3), the occupier and every person concerned in the management of any premises to which this section applies shall ensure that all controlled drugs (other than those specified in Schedule 1 to this Ordinance) on the premises are, so far as circumstances permit, kept in a locked safe, cabinet or room which is so constructed and maintained as to prevent unauthorised access to the drugs.

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

^d Ordres en Conseil, Vol. XXVI, p. 71.

(3) Subject to section 3, the relevant requirements of Schedule 2 to this Ordinance shall be complied with in relation to every safe, cabinet or room in which controlled drugs are kept in pursuance of subsection (2).

(4) It shall not be necessary to comply with the requirements of subsection (2) in respect of any controlled drug which is for the time being under the direct personal supervision of:

- (a) in the case of any premises falling within subsection (1)(a) or (b), a practitioner or a recognised pharmacist in respect of whom no direction under section 11(2) of the Law is for the time being in force; or
- (b) in the case of premises falling within subsection (1)(c), the person in charge of the premises or any member of his staff designated by him for the purpose.

Exemption from section 2(3) in certain circumstances

3. (1) Section 2(3) of this Ordinance shall not have effect in relation to a safe, cabinet or room situated in any premises occupied for the purposes of his business by a retail dealer or for the purposes of his professional practice by a practitioner ("the occupier") if a certificate under subsection (2) (a "certificate") in respect of that safe, cabinet or room is for the time being in force.

(2) On receiving written application in that behalf from the occupier, the Chief Officer of Police may:

- (a) cause the said premises and, in particular, any safe, cabinet or room in which controlled drugs are to be kept, to be inspected; and
- (b) if satisfied that, in all the circumstances of the case, the safes, cabinets or rooms in which controlled drugs (other than those specified in Schedule 1 to this Ordinance) are to be kept provide an adequate degree of security, issue a certificate in respect of those safes, cabinets or rooms.

(3) Every certificate shall specify:

- (a) every safe, cabinet or room to which the certificate relates; and
- (b) any conditions necessary to be observed if the safes, cabinets or rooms to which the certificate relates are to provide an adequate degree of security.

(4) Where a certificate is in force in respect of any safe, cabinet or room on any premises, the Chief Officer of Police may cause the premises to be inspected at any reasonable time for the purpose of ascertaining whether any conditions specified in the certificate are being observed and whether as a result of any change of circumstances the safes, cabinets and rooms to which the certificate relates have ceased to provide an adequate degree of security.

(5) A certificate may be cancelled by the Chief Officer of Police if it appears to him that:

- (a) there has been a breach of any condition specified in the certificate; or
- (b) as a result of any change of circumstances, the safes, cabinets and rooms to which the certificate relates no longer provide an adequate degree of security; or
- (c) the occupier has refused entry to any police officer acting in pursuance of subsection (4).

(6) A certificate shall, unless previously cancelled under subsection (5), remain in force for a period of one year from the date of its issue, but may from time to time be renewed for a further period of one year.

Certain drugs to be kept in a locked receptacle

4. (1) Where any controlled drug (other than a drug specified in Schedule 1 to this Ordinance) is kept otherwise than in a locked safe, cabinet or room which is so constructed and maintained as to prevent unauthorised access to the drug, any person to whom this section applies having possession of the drug shall ensure that, so far as circumstances permit, it is kept in a locked receptacle which can be opened only by him or by a person authorised by him.

(2) Subsection (1) applies to any person other than:

- (a) a person to whom the drug has been supplied by or on the prescription of a practitioner for his own treatment or that of another person or an animal; or
- (b) a person engaged in the business of a carrier when acting in the course of that business; or

- (c) a person engaged in the business of the States of Guernsey Post Office when acting in the course of that business.

Transitional provisions

5. Any certificate issued pursuant to section 21(2) of the Misuse of Drugs (Bailiwick of Guernsey) Ordinance, 1976^e ("the 1976 Ordinance") and in force immediately before the repeal of that Ordinance by the Misuse of Drugs (Bailiwick of Guernsey) Ordinance, 1997 shall continue in force for the same period of time as if the 1976 Ordinance had not been repealed and shall have effect as if it had been issued for the purposes of section 3(2) of this Ordinance.

Extent

6. This Ordinance shall apply throughout the Bailiwick.

Citation

7. This Ordinance may be cited as the Misuse of Drugs (Safe Custody) (Bailiwick of Guernsey) Ordinance, 1997.

Commencement

8. This Ordinance shall come into force on 1st June 1997.

^e Recueil d'Ordonnances, Tome XX, p. 272; Tome XXII, p. 480; Tome XXIV, p. 477; No. XIV of 1989; No. XXIII of 1991.

SCHEDULE 1

EXEMPTED DRUGS

1. Any controlled drug specified in Schedule 4 or 5 to the Misuse of Drugs (Bailiwick of Guernsey) Ordinance, 1994.

2. Any liquid preparation designed for administration otherwise than by injection which contains any of the following substances and products:

- (a) Amphetamine
- (b) Benzphetamine
- (c) Chlorphentermine
- (d) Fenethylamine
- (e) Mephentermine
- (f) Methaqualone
- (g) Methylamphetamine
- (h) Methylphenidate
- (i) Phenidmetrazine
- (j) Phenmetrazine
- (k) Pipradrol
- (l) Any stereoisomeric form of a substance specified in any of paragraphs (a) to (k) above.
- (m) Any salt of a substance specified in any of paragraphs (a) to (l) above.

3. Any of the following substances and products:

- (a) Any 5,5 disubstituted barbituric acid
- (b) Cathine

- (c) Ethchlorvynol
- (d) Ethinamate
- (e) Mazindol
- (f) Meprobamate
- (g) Methylphenobarbitone
- (h) Methyprylone
- (i) Pentazocine
- (j) Phentermine
- (k) Any stereoisomeric form of a substance specified in any of paragraphs (a) to (j) above.
- (l) Any salt of a substance specified in any of paragraphs (a) to (k) above.
- (m) Any preparation or other product containing a substance or product specified in any of paragraphs (a) to (l) above.

SCHEDULE 2

STRUCTURAL REQUIREMENTS IN RELATION TO SAFES, CABINETS AND ROOMS USED FOR KEEPING DRUGS

1. In this Schedule, the expression:

"**external wall**", in relation to any room, means a wall which forms part of the outside of the building in which the room is situated;

"**party wall**", in relation to any room, means a wall dividing the premises in which the room is situated from other premises under different occupation;

"**the Standard of 1963**" means the British Standard Specification for Thief Resistant Locks for Hinged Doors BS.3621 : 1963, as published on 6th May, 1963;

"**two-leaf door**" means a door having two leaves which either close on to each other or on to a central pillar, and the two leaves of any such door shall be treated for the purposes of this Schedule as a single door;

"**sheet steel**" means mild steel sheet being not lighter than 16 gauge.

Safes and Cabinets

2. (1) A safe or cabinet shall be constructed of:
 - (a) pressed and welded sheet steel; or

- (b) pressed and welded steel mesh; or
- (c) sheet steel or steel mesh welded upon an angle-iron frame of at least 25 millimetres (1 inch) by 25 millimetres (1 inch) section and of at least 5 millimetres (3/16 inch) thickness.

(2) The clearance between the door and jamb or, in the case of a two-leaf door, between the two leaves or each leaf and a central pillar shall not be greater than 3 millimetres (1/8 inch).

(3) Each door shall be fitted with an effective lock:

- (a) having at least 5 differing levers or, in the case of a pin and tumbler mechanism, at least 6 pins;
- (b) designed to permit at least 1000 effective key-differs independent of wards or any other fixed obstruction to the movement of the key; and
- (c) provided with a dead-bolt which is either of mild steel of at least 19 millimetres (3/4 inch) by 8 millimetres (5/16 inch) section or incorporates a suitable anti-cutting device and which has a total throw of at least 12 millimetres (1/2 inch).

(4) If the length of the vertical closing edge of a door exceeds 914 millimetres (3 feet) and the length of the horizontal edge exceeds 457 millimetres (18 inches) the door shall be fitted with two such locks as are specified in subparagraph (3) above, one situated at not more than one third of the length of the vertical closing edge from the top and the other at not more than one third from the

bottom, but otherwise the lock required by sub-paragraph (3) above shall be situated in the centre of the vertical closing edge.

(5) If a safe or cabinet is fitted with a two-leaf door, either:

- (a) the lock or locks required by sub-paragraphs (3) and (4) above shall be fitted with an integrated espagnolette bolt which is of at least 19 millimetres (3/4 inch) by 8 millimetres (5/16 inch) section and which has a total throw, at both the top and bottom, of at least 12 millimetres (1/2 inch); or
- (b) the second opening leaf shall be secured at the top and bottom by means of internal bolts of mild steel of at least 6 millimetres (1/4 inch) by 6 millimetres (1/4 inch) section or 6 millimetres (1/4 inch) diameter, each of which has a total throw of at least 12 millimetres (1/2 inch), the bolt handles being returnable into a holding recess.

(6) A safe or cabinet shall be rigidly and securely fixed to a wall or floor by means of at least two rag-bolts each passing through an internal anchor plate of mild steel which is of at least 3 millimetres (1/8 inch) thickness and which has a surface area of at least 19344 square millimetres (30 square inches).

(7) Nothing shall be displayed outside a safe or cabinet to indicate that drugs are kept inside it.

Rooms

3. (1) Each wall shall be securely attached to the floor, ceiling and adjacent walls and shall be constructed of:

- (a) bricks laid in cement mortar to at least 229 millimetres (9 inches) thickness or, if the joints are reinforced with metal reinforcing ties, to at least 115 millimetres of (4 1/2 inches) thickness; or
- (b) concrete (being solid concrete, reinforced concrete or dense concrete blocks laid in cement mortar) of at least 152 millimetres (6 inches) thickness, the joints being reinforced with metal reinforcing ties where concrete blocks are used; or
- (c) steel mesh fixed externally by welding upon angle-iron frames of at least 50 millimetres (2 inches) by 50 millimetres (2 inches) section and 6 millimetres (1/4 inch) thickness, having vertical members not more than 610 millimetres (2 feet) apart and horizontal members not more than 1220 millimetres (4 feet) apart; or
- (d) sheet steel fixed externally by welding, or bolting with steel bolts of not less than 12 millimetres (1/2 inch) diameter and at intervals of not more than 305 millimetres (1 foot), upon either angle-iron frames as specified in (c) above or timber frames of at least 50 millimetres (2 inches) by 100 millimetres (4 inches) section, having vertical and horizontal members spaced as specified in (c) above.

(2) If a party wall or, in the case of a room of which the floor level is less than 2440 millimetres (8 feet) above the external ground level, an external wall is used to form one of the walls of the room, that wall shall be reinforced internally by means of an additional wall which is constructed in accordance with the requirements of sub-paragraph (1) above.

(3) The floor shall be:

- (a) constructed of solid concrete or reinforced concrete;
or
- (b) covered internally with sheet steel or steel mesh, welded at all joints; or
- (c) otherwise so constructed that it cannot be readily penetrated from below.

(4) The ceiling shall be constructed of:

- (a) solid concrete or reinforced concrete as specified in sub-paragraph (1)(b) above; or
- (b) steel mesh fixed externally by welding upon angle-iron frames as specified in sub-paragraph (1)(c) above, the members of which shall not be more than 610 millimetres (2 feet) apart in one direction or more than 1220 millimetres (4 feet) apart in the other; or

- (c) sheet steel fixed externally by welding upon angle-iron frames as specified in sub-paragraph (1)(c) above, the members being spaced as specified in (b) above.

(5) Each door or, in the case of a stable-type door, each half-door shall be constructed of:

- (a) steel mesh fixed externally by welding upon angle-iron frames as specified in sub-paragraph (1)(c) above; or
- (b) sheet steel fixed externally by welding upon angle-iron frames as specified in sub-paragraph (1)(c) above, the members being spaced as specified therein; or
- (c) sheet steel fixed externally upon a hardwood frame of at least 50 millimetres (2 inches) by 75 millimetres (3 inches) to stiles, rails and braces or muntins by means of coach bolts at intervals of not more than 305 millimetres (1 foot) (the nuts whereof being on the inside of the door) and with non-withdrawable screws between the bolts at intervals not exceeding 100 millimetres (4 inches), the members of the frame being spaced as specified in sub-paragraph (1)(c) above; or
- (d) sheet steel fixed externally upon a solid timber core of at least 50 millimetres (2 inches) thickness.

(6) Each door or, in the case of a stable-type door, each half-door shall be fitted with an effective lock, being a single-sided dead lock having resistance to

manipulation and forcing sufficient to comply with the requirements of the Standard of 1963.

(7) If the room is fitted with a two-leaf door, the second opening leaf shall be secured top and bottom by means of:

- (a) an espagnolette bolt, operated only from within the room, with vertical fastening rods of mild steel of at least 16 millimetres (5/8 inch) by 16 millimetres (5/8 inch) section or 16 millimetres (5/8 inch) diameter; or
- (b) at least two internal tower bolts of mild steel of at least 16 millimetres (5/8 inch) diameter, designed to swivel into a secure holding recess when in the thrown position,

and in either case the bolt shall have a total throw at least 25 millimetres (1 inch) greater than the clearance between the door and the floor or lintel, as the case may be, the lower shooting hole being kept at all times free from obstruction.

(8) The closing frame of each doorway shall be constructed of:

- (a) an angle-iron frame as specified in sub-paragraph (1)(c) above; or
- (b) hardwood of at least 50 millimetres (2 inches) by 100 millimetres (4 inches) section, covered by sheet steel bolted through the timber at intervals not exceeding 457 millimetres (18 inches) by means of coach bolts

(the nuts whereof not being accessible from outside the room); or

- (c) pressed steel not lighter than 10 gauge welded at all joints.

(9) Each section of the closing frame of each doorway shall be fixed to the adjoining wall at intervals not exceeding 457 millimetres (18 inches) by means of:

- (a) where the wall is constructed of bricks, bent and tanged straps of wrought-iron, screwed or bolted to the frame and built into the brickwork;
- (b) where the wall is constructed of concrete, rag-bolts; or
- (c) where the wall is constructed of steel mesh or sheet steel, steel bolts or dowels of at least 12 millimetres (1/2 inch) diameter or welding to the framework or cladding of the room.

(10) Each glass window shall either be constructed of glass blocks not larger than 190 millimetres (7 1/2 inches) by 190 millimetres (7 1/2 inches) and of at least 80 millimetres (3 1/8 inches) thickness, set in a reinforced concrete frame having a reinforcing bar between every block, or be guarded by a grill consisting of:

- (a) panels of steel mesh fixed on angle-iron frames as specified in sub-paragraph (1)(c) above and fixed:

- (i) where the surrounding wall or ceiling is constructed of sheet steel on angle-iron frames, by welding to the sheet steel or framework at intervals not exceeding 305 millimetres (1 foot); or
 - (ii) where the surrounding wall is constructed of sheet steel on timber frames, by means of steel bolts of at least 12 millimetres (1/2 inch) diameter, bolted through the timber at intervals not exceeding 457 millimetres (18 inches); or
 - (iii) where the surrounding wall is constructed of bricks, by means of bent and tanged straps of wrought-iron screwed or bolted to the frame and built into the brickwork at intervals not exceeding 457 millimetres (18 inches); or
 - (iv) where the surrounding wall or ceiling is constructed of concrete, by means of rag-bolts at intervals not exceeding 457 millimetres (18 inches); or
- (b) vertical bars of solid mild steel of at least 25 millimetres (1 inch) by 25 millimetres (1 inch)

square section, having one of their diagonal axes in a plane parallel to that of the window aperture, spaced not more than 127 millimetres (5 inches) apart centre to centre with the outer bars not more than 75 millimetres (3 inches) from the reveals of the window, and running through and welded to flat mild steel horizontal guard-bars which:

- (i) are of at least 62 millimetres (2 1/2 inches) width and 9 millimetres (3/8 inch) thickness;
- (ii) are spaced not more than 762 millimetres (2 1/2 feet) apart, the upper and lower guard-bars being at a distance not exceeding 100 millimetres (4 inches) from the ends of the vertical bars and not exceeding 75 millimetres (3 inches) from the head and sill of the window;
- (iii) are welded at each end to steel brackets of at least 152 millimetres (6 inches) length, 62 millimetres (2 1/2 inches) width and 12 millimetres (1/2 inch) thickness fixed to the surrounding wall or ceiling, as the case may be, in the manner required by (a) above at a

distance of at least 152 millimetres (6 inches) from the reveals of the window;

- (iv) if more than 1830 millimetres (6 feet) in length, have the uppermost and lowermost of them fixed to the head and sill of the window at intervals not exceeding 1830 millimetres (6 feet), by means of angle-iron fixings of at least 50 millimetres (2 inches) by 50 millimetres (2 inches) section and 6 millimetres (1/4 inch) thickness welded to the guard-bars and fixed to the surrounding wall or ceiling, as the case may be, in the manner required by (a) above.

(11) Each service-hatch shall be guarded by a grille consisting of:

- (i) panels of steel mesh or sheet steel on angle-iron frames as specified in sub-paragraph (1)(c) above; or
- (ii) vertical bars of solid mild steel as specified in sub-paragraph (10)(b)(i) and (ii) above,

and the grille shall be secured at all times when the hatch is not in use in such a way as to be secure against removal from outside the room.

(12) Each aperture other than a window or service-hatch shall be guarded by a grille which satisfies the requirements of sub-paragraph (10)(a) or (b) above.

(13) Each shelf in a room shall be so situated as to prevent drugs placed upon it from being extracted from outside through any aperture.

(14) Nothing shall be displayed outside a room to indicate that drugs are kept in the room.

General

4. (1) Where sheet steel is used in the construction of a safe, cabinet or room, its edges shall be lapped inwards around the margins of apertures and around the edges of doors and service-hatch covers in such manner as to be inaccessible from the outside; and where sheet steel is fixed on a framework, it shall be so fixed as to prevent removal from outside the safe, cabinet or room of which the framework forms part.

(2) Any steel mesh used in the construction of a safe, cabinet or room shall be:

(a) welded steel mesh not lighter than 10 standard wire gauge having rectangular apertures not exceeding 75 millimetres (3 inches) by 12 millimetres (1/8 inch); or

(b) expanded steel not lighter than 12 gauge having diamond apertures not exceeding 44 millimetres (1 3/4 inches) by 19 millimetres (3/4 inch).

(3) Except where otherwise specified in this Schedule, the edges of each panel of sheet steel mesh used in the construction of a safe, cabinet or room shall be arc-welded to a steel frame along their entire length, or, in the absence of a steel frame, continuously arc-welded along the entire length of all joins.

(4) Each hinged door, half-door or leaf of a two-leaf door in a safe, cabinet or room shall be fitted with at least two hinges.

(5) If any part of the hinges of such a door, half-door or leaf of a two-leaf door is on the outside of the door, it shall be fitted:

(a) in the case of a safe or cabinet, with at least two dog-bolts of mild steel of similar gauge and dimensions to the frame of the safe or cabinet or an internal flange or rebate running the entire length of the door and so fitted as to prevent access without unlocking in the event of damage to the hinges;

(b) in the case of a room, with at least two dog-bolts of mild steel which:

(i) are of similar gauge and dimensions to the jamb and either project at least 16 millimetres (5/8 inch) into the jamb or are attached to the jamb and project to a similar extent into the frame of the door, where the closing frame of the

doorway is constructed of angle-iron;
or

- (ii) are of at least 50 millimetres (2 inches) width and 6 millimetres (1/4 inch) thickness and either project at least 16 millimetres (5/8 inch) in the jamb or are attached to the jamb and project to a similar extent into the edge of the door, where the closing frame of the doorway is constructed of timber or pressed steel.

(6) Each bar, grille or service-hatch cover and each lock, bolt assembly and other means of securing doors and service-hatch covers in a safe, cabinet or room shall be fitted internally,

(7) The bolt of each lock and each other bolt or catch securing the cover of any aperture in a safe, cabinet or room shall be protected against cutting or manipulation from outside.

(8) Each screw, bolt or other fixing device used in the construction of a safe, cabinet or room shall be such as to be incapable of being removed from outside and shall be of a strength at least equal to that of the component part which it fixes.