

The Misuse of Drugs (Modification) Order, 2012

Made 28th August, 2012
Coming into operation 1st October, 2012
Laid before the States , 2012

THE HEALTH AND SOCIAL SERVICES DEPARTMENT, in exercise of the powers conferred on it by sections 1, 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, hereby makes the following order: -

Amendment of the 1974 Law.

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

- (a) by substituting the full stop with a comma at the end of paragraph 1(j) of Part II,
- (b) by inserting, immediately after paragraph 1(j) of Part II, the following subparagraph -

^a Ordres en Conseil Vol. XXIV, p. 273; as amended by Vol. XXVIII, p. 307; Vol. XXXI, pp. 47 and 278; Vol. XXXIII, p. 217; Vol. XXXIV, p. 172; Vol. XXXVI, p. 396; Vol. XL, pp. 34 and 131; Order in Council No. IV of 2006; No. XIII of 2006; Recueil d'Ordonnances Tome XX, p. 271; Tome XXII, p. 483; Tome XXIV, p. 477; Tome XXV, pp. 38 and 325; Tome XXIX, p. 406; Ordinance No. XLIII of 2010 and No. XXV of 2011; G.S.I. No. 19 of 1997; G.S.I. No. 5 of 2004; G.S.I. No. 42 of 2006; G.S.I. No. 20 of 2008; G.S.I. No. 22 of 2010; G.S.I. No. 33 of 2010; G.S.I. No. 82 of 2010; see also Recueil d'Ordonnances Tome XXVII, p. 247.

^b Ordres en Conseil Vol. XL, p. 34.

- "(k) any compound (not being pipradrol) structurally derived from piperidine, pyrrolidine, azepane, morpholine or pyridine by substitution at a ring carbon atom with a diphenylmethyl group, whether or not the compound is further modified in any of the following ways, that is to say –
 - (i) by substitution in any of the phenyl rings to any extent with alkyl, alkoxy, haloalkyl or halide groups,
 - (ii) by substitution at the methyl carbon atom with an alkyl, hydroxyalkyl or hydroxy group,
 - (iii) by substitution at the ring nitrogen atom with an alkyl, alkenyl, haloalkyl or hydroxyalkyl group."
- (c) by substituting, for the expression "paragraph 1(c)" in paragraph 5 of Part II, the expression "paragraph 1(c) or (k)",
- (d) by omitting "Pipradrol" from paragraph 1(a) of Part III,
- (e) by inserting in paragraph 1(a) of Part III –
 - (i) immediately after "Estazolam", "Etizolam", and
 - (ii) immediately after "Pemoline", "Phenazepam", and
- (f) by inserting in paragraph 1(b) of Part III, immediately after "Oxymetholone", "Pipradrol".

Amendment of the 1997 Ordinance.

2. The 1997 Ordinance is amended as follows.

3. Section 3 of the 1997 Ordinance is amended by substituting, for subsection (2), the following subsection –

"(2) Section 4(1) of the Law (which prohibits the possession of controlled drugs) shall not have effect in relation to the drugs specified in Schedule 5."

4. Section 8(7) of the 1997 Ordinance is amended –

(a) by deleting the words "any drug specified in Schedule 4 or" the first time they occur, and

(b) by deleting paragraph (a).

5. Section 9(1) of the 1997 Ordinance is amended by inserting, immediately after paragraph (c), the following paragraph –

"(d) a person specified in section 8(3)(b) or (c) may have in his possession any drug specified in Part I of Schedule 4 which is contained in a medicinal product,".

6. Section 9(2), (3) and (5)(a) and (b) of the 1997 Ordinance is amended by substituting, for the expression "Schedule 2 or 3" in each place it occurs, the expression "Schedule 2, 3 or 4".

7. Schedule 1 to the 1997 Ordinance is amended –

(a) by substituting, for the reference to section 3 adjacent to the title "SCHEDULE 1", a reference to sections 2, 17, 23 and 24,

(b) by substituting the full stop with a comma at the end of paragraph 1(n) of Part II, and

(c) by inserting, immediately after paragraph 1(n) of Part II, the following subparagraph –

"(o) any compound (not being pipradrol) structurally derived from piperidine, pyrrolidine, azepane, morpholine or pyridine by substitution at a ring carbon atom with a diphenylmethyl group, whether or not the compound is further modified in any of the following ways, that is to say –

(i) by substitution in any of the phenyl rings to any extent with alkyl, alkoxy, haloalkyl or halide groups,

(ii) by substitution at the methyl carbon atom with an alkyl, hydroxyalkyl or hydroxy group,

(iii) by substitution at the ring nitrogen atom with an alkyl, alkenyl, haloalkyl or hydroxyalkyl group."

8. Schedule 2 to the 1997 Ordinance is amended by substituting, for the reference to sections 5, 6, 7, 9, 17(1)(b), 19, and 24(4) adjacent to the title "SCHEDULE 2", a reference to sections 2, 5, 6, 7, 9, 14, 17, 19, 23 and 24 and Schedule 1.

9. Schedule 3 to the 1997 Ordinance is amended –

- (a) by substituting, for the reference to sections 8, 9, 12(7)(b), 18(2)(b), 20 and 22 adjacent to the title "SCHEDULE 3", a reference to sections 2, 5, 6, 8, 9, 12, 16, 20, 22 and 24, and
- (b) by inserting, immediately after paragraph 1(b), the following subparagraph –
 - "(c) any ester or ether of pipradrol."

10. Schedule 4 to the 1997 Ordinance is amended –

- (a) by substituting, for the reference to sections 3, 8, 13(1), 14, and 20(3) adjacent to the title "SCHEDULE 4", a reference to sections 2, 5, 6, 8, 9, 12, 13, 14, 16, 20 and 24 and Schedule 1,
- (b) by inserting, after the title "SCHEDULE 4", the heading "CONTROLLED DRUGS SUBJECT TO THE REQUIREMENTS OF SECTIONS 20, 21, 23 AND 24",
- (c) by deleting the cross-headings immediately after the titles "PART I" and "PART II" respectively, and
- (d) by inserting in paragraph 1 of Part I –
 - (i) immediately after "Estazolam", "Etizolam", and
 - (ii) immediately after "Pemoline", "Phenazepam".

11. Schedule 5 to the 1997 Ordinance is amended –

- (a) by substituting, for the reference to sections 3, 6, 7(5) and 22 adjacent to the title "SCHEDULE 5", a reference

to sections 2, 3, 5, 6, 7, 12, 13, 14, 16 and 22 and Schedules I, II, III and IV, and

(b) by repealing paragraph 2 of that Schedule.

12. Schedule 6A to the 1997 Ordinance is amended by substituting, for the reference to sections 7(7) and 8(7) adjacent to the title "SCHEDULE 6A", a reference to sections 5, 6, 7 and 8.

Interpretation.

13. (1) In this Order, "1997 Ordinance" means Misuse of Drugs (Bailiwick of Guernsey) Ordinance, 1997^e.

(2) The Interpretation (Guernsey) Law, 1948^d applies to the interpretation of this Order throughout the Bailiwick as it applies to the interpretation of a Guernsey enactment.

(3) A reference to an enactment is to that enactment as from time to time amended, repealed and replaced, extended or applied by or under any other enactment.

Citation.

14. This Order may be cited as the Misuse of Drugs (Modification) Order, 2012.

Commencement.

15. This Order comes into force on the 1st of October, 2012.

^e Recueil d'Ordonnances Tome XXVII, p. 247; as amended by Tome XXIX, p. 406 and Tome XXXIII, p. 555; G.S.I. No. 5 of 2004; G.S.I. No. 42 of 2006; G.S.I. No. 20 of 2008; G.S.I. No. 22 of 2010; G.S.I. No. 33 of 2010; G.S.I. No. 82 of 2010; G.S.I. No. 98 of 2010.

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

Dated this 28th day of August, 2012.



Deputy A. H. ADAM

Minister of the Health and Social Services Department

For and on behalf of the Department.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974 ("the Law") and the Misuse of Drugs (Bailiwick of Guernsey) Ordinance, 1997 ("the Ordinance").

Article 1 of this Order adds Desoxypipradrol and its derivatives (other than Pipradrol) to the list of Class B controlled drugs, and adds Etizolam and Phenazepam to the list of Class C controlled drugs under the Law. Pipradrol remains a Class C controlled drug.

Article 3 of this Order removes the general exemption permitting the possession of drugs in Schedule 4 to the Ordinance. When this exemption is removed, a person can be prosecuted for possession of Schedule 4 drugs unless he can prove that another exception or exemption in the Law or the Ordinance applies to the circumstances of his possession. This means that a prosecution can be brought not only for sale and supply, but also for mere possession, of a Schedule 4 drug.

Article 4 of this Order removes the exemption which allows a registered nurse or person specified in Schedule 6A (e.g. registered midwives, anaesthetic assistants) to supply a Schedule 4 drug in accordance with a patient group direction.

Article 5 reinstates the specific exemption which allows persons in charge of a hospital or nursing home, or the sister in charge of a ward or theatre, etc., to possess drugs in Part I of Schedule 4 to the Ordinance. This exemption was in force before the Misuse of Drugs (Modification No. 4) Order, 2010.

Article 6 reinstates a number of specific exemptions which allows other persons with legitimate reasons to possess any drugs in Schedule 4 to the Ordinance. These exemptions were in force before the Misuse of Drugs (Modification No. 4) Order, 2010.

Articles 7 to 12 set out several amendments to the headings of schedules to the Ordinance and related references to provisions in the Ordinance, in order to reflect more accurately the relevant provisions of the Ordinance.

Article 7 also adds Desoxypipradrol and its derivatives (other than Pipradrol) to Schedule 1 to the Ordinance.

Article 9 also adds esters and ethers of Pipradrol to Schedule 3 to the Ordinance.

Article 10 also adds both Etizolam and Phenazepam to Part I of Schedule 4 to the Ordinance.

Article 11 also removes from Schedule 5 to the Ordinance the paragraph relating to minimal concentrations of cocaine.

This Order will come into force on the 1st October, 2012.