

The Misuse of Drugs (Modification) Order, 2015

Made 2nd September, 2015
Coming into operation 30th November, 2015
Laid before the States , 2015

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: -

Amendments to the 1974 Law.

1. The First Schedule to the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974 ("the Schedule") is amended in accordance with articles 2 and 3.

2. In paragraph 1(a) of Part I (Class A Drugs) of the Schedule -

- (a) immediately after "4-Cyano-1-methyl-4-phenylpiperidine", insert "1-Cyclohexyl-4-(1,2-diphenylethyl)piperazine (MT-45)", and
- (b) immediately after "4-Methyl-aminorex", insert "4-Methyl-5-(4-methylphenyl)-4,5-dihydrooxazol-2-amine or 4-methyl-5-(4-methylphenyl)-1,3-oxazolidin-2-imine, each of which is also known as 4,4'-DMAR".

^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; No. 5 of 2004; No. 42 of 2006; No. 20 of 2008; Nos. 22, 33 and 82 of 2010; No. 44 of 2012; No. 54 of 2013; No. 79 of 2014; see also Recueil d'Ordonnances Tome XXVII, p. 247; Ordres en Conseil Vol. XXIX, p. 207.

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

3. In paragraph 1(c) of Part I (Class A Drugs) of the Schedule, for "(1-(3,4-methylenedioxy)-*N*-hydroxypropan-2-amine", substitute "1-(3,4-methylenedioxyphenyl)-*N*-hydroxypropan-2-amine".

Amendments to the 1997 Ordinance.

4. The Misuse of Drugs (Bailiwick of Guernsey) Ordinance, 1997^c ("the Ordinance") is amended in accordance with articles 5 to 15.

5. In sections 5(4), 7(4), (5)(i) and (6), 9(1), (2), 12(5) and (6), 13(2) (except in paragraphs (a) and (b)(iii)), 14(1)(e) and (2), 16(1), 17(2), 20(4), 22(6), 23(1), (2) and (3), and 24(1), (3), (5) and (6) of the Ordinance, for "paragraph" in each place that the expression occurs, substitute "subsection".

6. In section 5(6) of the Ordinance, for "paragraphs", substitute "subsections".

7. Between section 5 and section 6 of the Ordinance, insert the following –

"Authority for Nurse Independent Prescribers and Pharmacist Independent Prescribers to prescribe.

6A. (1) Subject to subsection (2), a nurse independent prescriber or a pharmacist independent prescriber may prescribe any controlled drug specified in Schedule 2, 3, 4 or 5.

(2) Neither a nurse independent prescriber nor a pharmacist independent prescriber may prescribe any of the following substances to a person who the nurse independent prescriber or pharmacist independent prescriber considers, or has reasonable grounds to suspect, is addicted to any controlled drug listed in the Schedule to the Misuse of Drugs (Notification of and Supply to Addicts) (Bailiwick of Guernsey) Ordinance, 1997, except for the purpose of treating organic disease or injury –

^c 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; No. 42 of 2006; No. 20 of 2008; Nos. 22, 33, 82 and 98 of 2010; No. 44 of 2012; No. 79 of 2014.

- a) cocaine, any salt of cocaine, or any preparation or other product containing cocaine or any salt of cocaine,
- (b) diamorphine, any salt of diamorphine, or any preparation or other product containing diamorphine or any salt of diamorphine, or
- (c) dipipanone, any salt of dipipanone, or any preparation or other product containing dipipanone or any salt of dipipanone.

(3) For the purposes of subsection (2), a person is addicted to a controlled drug if, and only if, the person has as a result of repeated administration become so dependent upon that controlled drug that that person has an overpowering desire for the administration of it to be continued."

8. In section 7 of the Ordinance –

(a) for subsection (7)(b), substitute –

"(b) a registered nurse or a person specified in Schedule 6A may, when acting in their capacity as such, supply or offer to supply, under and in accordance with the terms of a Patient Group Direction, any drug specified in Schedule 5 or ketamine to a person who may lawfully have that drug in the person's possession, but this paragraph does not have effect in the case of ketamine or any preparation of ketamine which is designed for administration by injection and which is to be used for the purpose of treating a person who is addicted to a drug.", and

(b) immediately after subsection (7)(b), insert –

"(8) For the purposes of subsection (7)(b), a person is to be regarded as being addicted to a drug if, and

only if, the person has as a result of repeated administration become so dependent upon the drug that that person has an overpowering desire for the administration of it to be continued."

9. In section 13(1) of the Ordinance, omit "or temazepam or midazolam".

10. In section 13(2)(b)(iii) of the Ordinance, for "paragraph", substitute "subparagraph".

11. In section 14(5) of the Ordinance, omit "or temazepam".

12. In paragraph 1(a) of Schedule 1 to the Ordinance –

(a) immediately after "4-Bromo-2,5-dimethoxy- α -methylphenethylamine", insert "1-Cyclohexyl-4-(1,2-diphenylethyl)piperazine (MT-45)", and

(b) immediately after "4-Methyl-aminorex", insert "4-Methyl-5-(4-methylphenyl)-4,5-dihydrooxazol-2-amine or 4-methyl-5-(4-methylphenyl)-1,3-oxazolidin-2-imine, each of which is also known as 4,4'-DMAR".

13. In paragraph 1 of Schedule 2 to the Ordinance, after "Isomethadone" insert "Ketamine".

14. In the heading of Schedule 3 to the Ordinance, which specifies controlled drugs subject to the requirements of sections 12, 13 (except Temazepam and Midazolam), 14, 16, 20, 21, 22, 23 and 24, omit "(EXCEPT TEMAZEPM AND MIDAZOLAM)".

15. In paragraph 1 of Part 1 of Schedule 4 to the Ordinance, omit "Ketamine".

Interpretation.

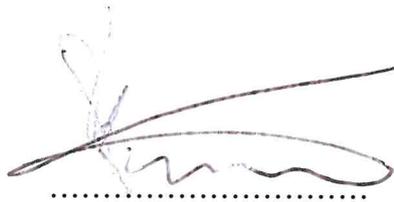
16. (1) The Interpretation (Guernsey) Law, 1948^d applies to the interpretation of this Order throughout the Bailiwick as it applies to the interpretation of a Guernsey enactment.

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

Citation and commencement.

17. This Order may be cited as the Misuse of Drugs (Modification) Order, 2015 and comes into force on the 30th November, 2015.

Dated this 2nd day of September 2015.

A handwritten signature in dark ink, appearing to read 'Paul A. Luxon', is written over a horizontal dotted line. The signature is fluid and cursive.

Deputy Paul A. Luxon
Minister of the Health and Social Services Department
For and on behalf of the Department.

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

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 2 of this Order bring a potent opioid known as MT-45 and a synthetic stimulant known as 4,4'-DMAR under control as Class A drugs under the Law.

Article 3 of this Order corrects the name of a substance listed in the First Schedule to the Law.

Articles 5 and 6 of this Order correct various references to "paragraph" and "paragraphs" in several provisions of the Ordinance. The correct references are to "subsection" and "subsections" respectively.

Article 7 of this Order inserts a new section 6A into the Ordinance, to authorise nurse independent prescribers and pharmacist independent prescribers to prescribe controlled drugs specified in Schedule 2, 3, 4 or 5. This new section 6A has been inserted into the Ordinance for consistency with the Prescription Only Medicines (Human) (Bailiwick of Guernsey) Ordinance, 2009.

Article 8 of this Order amends section 7 of the Ordinance to exempt ketamine from the restrictions on supplying or offering to supply controlled drugs, where this is done by specified healthcare professionals in accordance with the terms of a Patient Group Direction, except where the drug is administered for the purposes of treating addiction.

Articles 9 and 11 of this Order remove references to temazepam and midazolam in sections 13(1) and 14(5) of the Ordinance, so that these two controlled drugs are no longer exempt from requirements relating to the form of prescriptions.

Article 10 of this Order corrects the reference to "paragraph" in section 13(2)(b)(iii). The correct reference is to "subparagraph".

Article 12 of this Order inserts MT-45 and 4,4'-DMAR in Schedule 1 to the Ordinance. The schedule of the Ordinance in which a controlled drug is placed primarily affects the extent to which the drug can be lawfully imported, exported,

produced, supplied or possessed and dictates the record keeping, labelling and destruction requirements in relation to that drug. The controlled drugs placed in Schedule 1 to the Ordinance are those subject to the tightest controls.

Articles 13 and 15 of this Order move ketamine from Part 1 of Schedule 4 to the Ordinance to Schedule 2 to that Ordinance. This effectively tightens the legal controls on ketamine.

Article 14 of this Order amends the heading of Schedule 3 to the Ordinance to remove the reference to temazepam and midazolam being exempt from the requirements of section 13 of the Ordinance.

This Order will come into force on the 30th November, 2015.

