

GUERNSEY STATUTORY INSTRUMENT

2018 NO. |

The Misuse of Drugs (Modification) Order, 2018

<i>Made</i>	10 th January, 2018
<i>Coming into operation</i>	1 st February, 2018
<i>Laid before the States</i>	, 2018

THE COMMITTEE FOR HEALTH & SOCIAL CARE, in exercise of the powers conferred on it by sections 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 orders: -

Amendment of the 1997 Ordinance.

1. The Misuse of Drugs (Bailiwick of Guernsey) Ordinance, 1997^c ("the Ordinance") is amended as follows.

^a Ordres en Conseil Vol. XXIV, p. 273; amended by Vol. XXVIII, p. 307; Vol. XXXI, pp. 47 and 278; Vol. XXXIII, p. 217; Vol. XXXIV, p. 172; Vol. XXXVI, p. 396; Order in Council Nos. III and No. VII of 2000; Nos. IV and XIII of 2006; Recueil d'Ordonnances Tome XX, p. 271; Tome XXII, p. 483; Tome XXIV, p. 477; Tome XXV, pp. 38 and 325; Ordinance No. XXXIII of 2003; No. XLIII of 2010; No. XXV of 2011; No. XXII of 2015; No. IX of 2016; 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; No. 93 of 2015.

^b Order in Council No. III of 2000.

^c Recueil d'Ordonnances Tome XXVII, p. 247; amended by Ordinance No. XXXIII of 2003; No. XXV of 2009; No. XXII of 2015; No. IX of 2016; 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; No. 93 of 2015.

2. Repeal section 3 of the Ordinance and replace it with the same section, but between subsection (1) and subsection (2) of that section, insert the following subsection –

"(1A) Nothing in subsection (1) excepts from section 2(1)(b) of the Law (which prohibits the exportation of controlled drugs) the exportation of a preparation of cannabidiol falling within paragraph 10 of Schedule 5 by a person in the course of a business carried on by the person."

3. Repeal section 7 of the Ordinance and replace it with the same section, but between subsection (2A) and subsection (3) of that section, insert the following subsection –

"(2B) Notwithstanding the provisions of section 3(1)(b) of the Law, any person may supply or offer to supply a preparation of cannabidiol falling within paragraph 10 of Schedule 5 to any other person who may lawfully have that drug in his possession."

4. Repeal Schedule 5 to the Ordinance and replace it with the same schedule, but immediately after paragraph 9 of that schedule, insert the following paragraph –

"10. Any preparation of cannabidiol which –

- (a) has its ingredients clearly labelled,
- (b) contains an aggregate of not more than 3% cannabiol or cannabiol derivatives relative to its cannabidiol content, by weight,
- (c) does not contain any other controlled drug,

- (d) has the matter in paragraph (b) attested to by an official certificate of analysis provided by –
 - (i) the States Analyst of the States of Guernsey, or
 - (ii) a laboratory accredited to the ISO/IEC 17025 standard for forensic analysis of cannabinol and cannabinol derivatives, and
- (e) does not contain any plant material visible to the naked eye."

Interpretation.

5. (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, re-enacted (with or without modification), extended or applied.

Citation.

6. This Order may be cited as the Misuse of Drugs (Modification) Order, 2018.

Commencement.

7. This Order comes into force on the 1st February, 2018.

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

Dated this 10th day of January 2018



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Deputy Heidi Soulsby

President of the Committee *for* Health & Social Care

For and on behalf of the Committee

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Misuse of Drugs (Bailiwick of Guernsey) Ordinance, 1997 ("**the Ordinance**") to except cannabidiol preparations of a specified description from various prohibitions in the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974 relating to import, export, possession, supply and administration of a controlled drug.

This Order inserts a new paragraph 10 in Schedule 5 to the Ordinance to describe these preparations. The preparations excepted are preparations of cannabidiol (CBD) containing an aggregate of not more than 3% cannabinol or cannabinol derivatives relative to CBD by weight (as attested to by an official certificate of analysis), not containing any other controlled drug, and not containing any herbal material visible to the naked eye.

Article 2 of this Order amends the Ordinance by inserting a new subsection (1A) in section 3 of the Ordinance, to disapply the exception from the export prohibition in the case of exportation of such cannabidiol preparations in the course of a business carried on by the exporter. Exportation in the course of business would require a licence to be issued by the Committee *for* Health & Social Care, in order to be exempt from the prohibition on exports.

Article 3 of this Order amends the Ordinance by inserting a new subsection (2B) in section 7 of the Ordinance, to permit any person to supply such cannabidiol preparations to any other person who may lawfully have that drug in his possession.

Article 4 of this Order amends the Ordinance by inserting the new paragraph 10 in Schedule 5 to the Ordinance.

Article 5 is the interpretation provision. Articles 6 and 7 are the citation and commencement provisions respectively.

As with other substances in Schedule 5, wholesale dealers and retail dealers of such CBD preparations are also required to keep invoices and similar records for two years, under section 22 of the Ordinance.

This Order will come into force on the 1st February, 2018.

