

The Misuse of Drugs (Modification) Order, 2020

Made , 2020
Coming into operation , 2020
Laid before the States , 2020

THE COMMITTEE FOR HEALTH & SOCIAL CARE, in exercise of the powers conferred on it by sections 1(2), 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: -

Amendments to the 1974 Law.

1. The Misuse of Drugs (Bailiwick of Guernsey) Law, 1974 ("the Law") is amended as follows.

2. In Part II of the First Schedule to the Law, immediately after paragraph 1(hd), insert the following subparagraph -

^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 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; No. 78 of 2019.

^b Order in Council No. III of 2000.

"(he) any compound (not being a compound for the time being specified in any of subparagraphs (d), (e), (f), (g), (ha), (hb) or (hc)) structurally related to 1-pentyl-3-(1-naphthoyl)indole (JWH-018), in that the four substructures, that is to say the indole ring, the pentyl substituent, the carbonyl linking group and the naphthyl ring, are linked together in a similar manner, whether or not any of the substructures have been modified, and whether or not substituted in any of the linked substructures with a benzyl or phenyl group and whether or not such compound is further substituted to any extent with alkyl, alkenyl, alkoxy, halide, haloalkyl or cyano substituents and, where any of the substructures have been modified, the modifications of the substructures are limited to any of the following —

- (i) replacement of the indole ring with indane, indene, indazole, pyrrole, pyrazole, imidazole, benzimidazole, pyrrolo[2,3-b]pyridine, pyrrolo[3,2-c]pyridine or pyrazolo[3,4-b]pyridine,
- (ii) replacement of the pentyl substituent with alkyl, alkenyl, benzyl, cycloalkylmethyl, cycloalkylethyl, (N-methylpiperidin-2-yl)methyl, 2-(4-morpholinyl)ethyl or (tetrahydropyran-4-yl)methyl,
- (iii) replacement of the carbonyl linking group with an ethanone, carboxamide, carboxylate, methylene bridge or methine group, or
- (iv) replacement of the 1-naphthyl ring with 2-naphthyl, phenyl, benzyl, adamantyl, cycloalkyl, cycloalkylmethyl, cycloalkylethyl, bicyclo[2.2.1]heptanyl, 1,2,3,4-tetrahydronaphthyl, quinolinyl, isoquinolinyl, 1-amino-1-

oxopropan-2-yl, 1-hydroxy-1-oxopropan-2-yl, piperidinyl, morpholinyl, pyrrolidinyl, tetrahydropyranyl or piperazinyl,".

Amendments to the 1997 Ordinance.

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

4. In section 1(1) of the Ordinance –

(a) in the definition of "**cannabis-based product for medicinal use in humans**", for "paragraph 10 of Schedule 2", substitute "paragraph 11 of Schedule 2, paragraph 5 of Part I of Schedule 4 or paragraph 11 of Schedule 5",

(b) insert, in the appropriate alphabetical order, the following definition –

""**exempt product**" means a preparation or other product consisting of one or more component parts, any of which contains a controlled drug, where–

(a) the preparation or other product is not designed for administration of the controlled drug to a human being or animal,

^c Recueil d'Ordonnances Tome XXVII, p. 247; amended by Ordinance No. XXXIII of 2003; No. XXV of 2009; 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; Nos. 1, 10 and 36 of 2018; Nos. 67 and 78 of 2019.

- (b) the preparation or other product is used, or intended to be used, only as analytical reference material by an authorised analyst,
 - (c) the controlled drug in any component part is packaged in such a form, or in combination with other active or inert substances in such a manner, that it cannot be recovered by readily applicable means or in a yield which constitutes a risk to health, and
 - (d) no one component part of the product or preparation contains more than one milligram of the controlled drug or one microgram in the case of lysergide or any other N-alkyl derivative of lysergamide," and
- (c) delete the definition of "specialist medical practitioner".

5. Immediately after section 3B of the Ordinance, insert the following section –

"Exceptions for exempt products.

3C. Sections 2(1), 3(1) and 4(1) of the Law have no effect in relation to any exempt product."

6. In section 5 of the Ordinance –

- (a) in subsection (1), immediately after "the Law", insert "or section 14A(2) of this Ordinance",
- (b) immediately after subsection (2), insert the following subsection –

"(2A) Notwithstanding the provisions of section 14A(2) of this Ordinance, any person who is lawfully in possession of a cannabis-based product for medicinal use in humans ordered in compliance with section 14A(1) of this Ordinance may supply that drug to any medical practitioner, dentist or pharmacist for the purpose of its destruction.", and

- (c) in subsection (4), after "the Law", insert "or section 14A(2) of this Ordinance".

7. In sections 6(3A) and 9(2A) of the Ordinance, delete "specialist" in each place where the word occurs.

8. In section 12(7) of the Ordinance, immediately after paragraph (b), insert "or" and the following paragraph –

- "(c) any exempt product."

9. In section 14A of the Ordinance –

- (a) in subsection (1), for "that product is –" and paragraphs (a) and (b), substitute "–" and the following paragraphs –

- "(a) that product is a special medicinal product that is for use in accordance with a prescription or direction of a medical practitioner, or

- (b) the person holds a licence for the importation of that product issued by the Committee for Health & Social Care under section 2(2)(b) of the Law.",

(b) in subsection (2), for "-" and paragraphs (a) and (b), substitute—

"is pursuant to an order that complies with subsection (1), and the supply –

(a) is under and in accordance with a licence issued under section 4 of this Ordinance, or

(b) in the case of a product that is a special medicinal product, is for use in accordance with a prescription or direction of a medical practitioner.", and

(c) in subsection (5), delete the definitions relating to "marketing authorisation" and "specialist medical practitioner" respectively.

10. In section 16(2) of the Ordinance, immediately after paragraph (c), insert "or" and the following paragraph –

"(d) any exempt product."

11. Immediately after section 22 of the Ordinance, insert the following section –

"Exempt products.

22A. Nothing in sections 17 to 22 shall have effect in relation to any exempt product."

12. In Schedule 1 to the Ordinance, in paragraph 1(a), for "Cannabinol derivatives, not being dronabinol or its stereoisomers", substitute –

"Cannabinol derivatives, not being—

- (i) dronabinol or its stereoisomers,
- (ii) a medicinal cannabinoid product of the kind specified in paragraph 11 of Schedule 2,
- (iii) the formulation specified in paragraph 5 of Part I of Schedule 4, or
- (iv) the formulation specified in paragraph 11 of Schedule 5".

13. In Schedule 2 to the Ordinance –

- (a) delete paragraph 10, and
- (b) in paragraph 11, for "–" and subparagraphs (a) and (b), substitute "with a marketing authorisation (within the meaning given by section 136(1) of the Medicines (Human and Veterinary) (Bailiwick of Guernsey) Law, 2008) other than a product to which paragraph 5 of Part I of Schedule 4 or paragraph 11 of Schedule 5 applies."

14. In Schedule 2A to the Ordinance –

- (a) in paragraph (1)(b) and (c), delete "specialist" in each place where the word occurs,
- (b) in paragraph (2) –
 - (i) delete "specialist" in each place where the word occurs, and

(ii) in subparagraph (b), delete "under a contract for services agreed between the person and the Committee", and

(c) in paragraph (4), delete "specialist".

15. In Part I of Schedule 4 to the Ordinance, immediately after paragraph 4, insert the following paragraph –

"5. A liquid formulation--

(a) containing a botanical extract of cannabis –

(i) with a concentration of not more than 30 milligrams of cannabidiol per millilitre, and not more than 30 milligrams of delta-9-tetrahydrocannabinol per millilitre, and

(ii) where the ratio of cannabidiol to delta-9-tetrahydrocannabinol is between 0.7 and 1.3,

(b) which is dispensed through a metered dose pump as a mucosal mouth spray, and

(c) which was approved for marketing by the Medicines and Healthcare products Regulatory Agency of the United Kingdom ("the MHRA") on the 16th June, 2010."

16. In Schedule 5 to the Ordinance, immediately after paragraph 10, insert the following paragraph –

"11. A liquid formulation –

(a) containing cannabidiol obtained by extraction and purification from cannabis,

(b) where the concentration of –

(i) delta-9-tetrahydrocannabinol is not more than

- 0.1milligram per millilitre, and
- (ii) cannabidiol is 95-105 milligrams per millilitre,
 - (c) which is presented in a bottle, as an oral solution for oral administration, and
 - (d) which was approved for marketing by the European Commission on 19th September 2019."

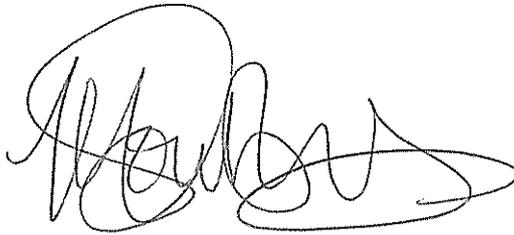
Citation.

- 17. This Order may be cited as the Misuse of Drugs (Modification) Order, 2020.

Commencement.

- 18. This Order comes into force on the 28th September, 2020.

Dated this 25th day of September 2020



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

Article 2 updates the list of synthetic cannabinoids in Part II (Class B drugs) of the First Schedule to the Law. It inserts in that part a generic definition of synthetic cannabinoids in line with the amendment to the UK Misuse of Drugs Act 1971 made by the Misuse of Drugs Act 1971 (Amendment) Order 2019 (UK S.I. No. 1323 of 2019).

Article 4 inserts a definition of "**exempt product**" (essentially analytical reference materials used by authorised analysts) and amends the definition of "**cannabis-based product for medicinal use in humans**" in section 1(1) of the Ordinance to exclude products with a marketing authorisation.

Article 5 inserts a new section 3C in the Ordinance to disapply offences in the Law relating to importation, exportation, production, supply and possession of controlled drugs from exempt products.

Article 6 amends section 5 of the Ordinance to exempt supply by or to any person lawfully in possession of a cannabis-based medicinal product, from offences relating to supply in section 3(1)(b) of the Law *and* section 14A(2) of the Ordinance. These exemptions apply only in specific circumstances, e.g. a carrier or Guernsey Post supplying the product to a person who may lawfully possess the product (for example in accordance with a licence issued by the Committee).

Article 7 amends sections 6(3A) and 9(2A) of the Ordinance to refer to "medical practitioner" instead of "specialist medical practitioner" in connection with a prescription or direction given under section 14A(1) of the Ordinance.

Article 8 amends section 12 of the Ordinance to exempt suppliers of exempt products from the requirement to obtain documents when supplying those products to any person.

Article 9 amends section 14A of the Ordinance to allow Bailiwick-registered medical practitioners (who may or may not be specialist medical practitioners) to prescribe or direct the use of a cannabis-based medicinal product without giving prior notice to the Committee for Health & Social Care. Further, the amendment allows the Committee to issue a licence for the importation and supply of a cannabis-based medicinal product for human use, even if it is *not* prescribed (or directed) by such a practitioner. Finally, the amendment also removes references to marketing authorisations as products with a marketing authorisation are now excluded from the definition of "**cannabis-based medicinal product for human use**".

Article 10 amends section 16 of the Ordinance to exempt suppliers of exempt products from being required to supply those products in containers marked or labelled with details such as the amount, dosage units or percentages of its controlled drug components.

Article 11 inserts a new section 22A in the Ordinance to exclude exempt products from requirements in the Ordinance relating to the keeping of records and registers.

Article 12 amends Schedule 1 to the Ordinance to exclude the medicinal product known as Sativex, the medicinal product known as Epidiolex, and any other medicinal cannabinoid product with a marketing authorisation from the reference to cannabinol derivatives in paragraph 1(a) of the schedule.

Article 13 amends Schedule 2 to the Ordinance to remove the medicinal product known as Sativex from the schedule, and to substitute the reference to medicinal cannabinoid products in paragraph 11 of that schedule with a reference to any medicinal cannabinoid product with a marketing authorisation, other than Sativex (which will now be listed in Schedule 4 to the Ordinance) and Epidiolex (which will now be listed in Schedule 5 to the Ordinance).

Article 14 amends Schedule 2A to the Ordinance as a consequence of the amendments made to section 14A of the Ordinance.

Article 15 inserts Sativex in Schedule 4 to the Ordinance.

Article 16 inserts Epidiolex in Schedule 5 to the Ordinance.

This Order will come into force on the 28th September, 2020.