EXPLANATORY MEMORANDUM

The Misuse of Drugs (Amendment No. 2) Regulations (Northern Ireland) 2024

S.R. 2024 No. 222

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department of Health to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2 The Statutory Rule is made under sections 7, 10, 22 and 31 of the Misuse of Drugs Act 1971 (the 1971 Act) as adapted by sections 7(9), 31(4) and 38 of that Act and now vested in it and after consultation with the Advisory Council on the Misuse of Drugs in accordance with section 31(3) of that Act.

1.3 These Regulations are subject to negative resolution before the Northern Ireland Assembly.

2. Purpose of the Regulations

2.1 The purpose this Statutory Rule is to place twenty-one substances (four acyl piperazine opioids, two chemically bridged acyl piperazine derivatives, 15 benzodiazepines and related compounds) and that of a broader range of 2-benzyl benzimidazole variants (nitazenes), into Schedule 1 to the Misuse of Drugs Regulations (Northern Ireland) 2002 ("the principle Regulations").

2.2 The Statutory Rule adds an additional common name and the full International Union of Pure and Applied Chemistry ("IUPAC") name to the entry for methoxyphenidine, which is already included in Schedule 1 to the principle Regulations. It also adds a substance (xylazine) into Part 1 of Schedule 4 to the principle Regulations to allow for its lawful possession and supply due to its legitimate use as a veterinary medicine in the UK.

2.3 The Schedule in which a controlled drug is placed affects the extent to which the drug can be lawfully imported, exported, produced, supplied or possessed and dictates the controls that the drug is subject to, such as the record-keeping, labelling and destruction requirements in relation to that drug.

2.4 The controlled drugs placed in Schedule 1 to the principle Regulations are those subject to the tightest controls, requiring a licence from the Department of Health in order to access such drugs. The controlled drugs placed in Part 1 of Schedule 4 to the principle Regulations are also subject to controls (albeit less strict than those for controlled drugs placed in Schedule 1 to the principle Regulations), such as record-keeping, furnishing of information and destruction of drugs.

3. Background and Legislative Context

3.1 The 1971 Act controls drugs that are "dangerous or otherwise harmful". Schedule 2 to the 1971 Act specifies these drugs and groups them in three categories – Part 1 lists drugs known as Class A drugs, Part 2 lists Class B drugs and Part 3 lists Class C drugs. The three-tier system of classification (A, B and C) provides a framework within which criminal penalties are set with reference to the harm that

a drug has, or is capable of having when misused, and the type of illegal activity undertaken with regards to that drug.

3.2 The Advisory Council on the Misuse of Drugs (ACMD) makes recommendations to Government on the control of dangerous or otherwise harmful drugs, including classification and scheduling under the 1971 Act and its subsequent Misuse of Drugs Regulations. The control of these substances is predicated on an assessment of their respective harms, and in accordance with recommendations made by the ACMD.

3.3 The UK Government recently introduced an amending Order entitled the Misuse of Drugs Act 1971 (Amendment) (No. 2) Order 2024 to amend the 1971 Act to:

- bring four acyl piperazine opioids and two chemically bridged acyl piperazine derivatives under control as Class A drugs under the 1971 Act;
- bring a range of 2-benzyl benzimidazole variants under control as Class A drugs under the 1971 Act by use of a generic definition, excluding those which are already controlled under the 1971 Act as Class A drugs;
- add an additional common name and the full International Union of Pure and Applied Chemistry name to the entry for methoxyphenidine, which is already controlled as a Class B drug under the 1971 Act; and
- bring fifteen novel benzodiazepines and related compounds, and xylazine under control as Class C drugs under the 1971 Act.

4. Consultation

Following consultation with the ACMD, the affirmative Order, the Misuse of Drugs Act 1971 (Amendment) (No. 2) Order 2024, was made in UK Parliament on 18th December 2024 and will come into operation on 15th January 2025. The explanatory memorandum to the Misuse of Drugs Act 1971 (Amendment) (No. 2) Order 2024, which is published alongside it on www.legislation.gov.uk[1], sets out the full policy background including links to the ACMD reports with its full advice.

4.1 These regulations complement the Misuse of Drugs Act 1971 (Amendment) (No. 2) Order 2024 by scheduling the substances controlled by that Order and implementing recommendations made by the ACMD, by adding twenty-one substances (four acyl piperazine opioids, two chemically bridged acyl piperazine derivatives, 15 benzodiazepines and related compounds) and that of a broader definition for 2-benzyl benzimidazole (nitazenes), into Schedule 1, and one substance (xylazine) into Part 1 of Schedule 4 to the principle Regulations in order to control and define the classes of person who are authorised to supply and possess those substances while acting in their professional capacity whilst also laying down the conditions under which these activities may be carried out in Northern Ireland.

4.2 An additional common name and the full International Union of Pure and Applied Chemistry ("IUPAC") name to the entry for methoxyphenidine, which is already

[1] Explanatory Memorandum to the Misuse of Drugs Act 1971 (Amendment No. 2) Order 2024

included in Schedule 1 to the principle Regulations is also added to the principle Regulations.

4.3 The ACMD reports on these substances are available on GOV.UK at the following links:

- https://www.gov.uk/government/publications/acmd-advice-on-acyl-piperazine-opioids-including-2-methyl-ap-237/acmd-advice-on-acyl-piperazine-opioids-including-2-methyl-ap-237-accessible;
- https://www.gov.uk/government/publications/uncontrolled-novel-benzodiazepines-2024-update/cover-letter-from-acmd-recently-encountered-uncontrolled-novel-benzodiazepines-and-related-compounds-2024-update-accessible-version;
- https://www.gov.uk/government/publications/acmd-advice-on-2-benzyl-benzimidazole-and-piperidine-benzimidazolone-opioids/fourth-addendum-to-acmd-report-on-the-use-and-harms-of-2-benzyl-benzimidazole-nitazene-and-piperidine-benzimidazolone-brorphine-like-opioids; and
- https://www.gov.uk/government/publications/use-and-harms-of-xylazine-medetomidine-and-detomidine.

5. Equality impact

5.1 The Department of Health has concluded that the proposed amendments will not have a significant impact on equality of opportunity for any group referred to in section 75 of the Northern Ireland Act 1998 and a full Equality Impact Assessment has not been considered necessary.

6. Regulatory impact

6.1 It is not anticipated that these Regulations will have any adverse impact on business, charities, social economy or voluntary bodies.

7. Financial implications

7.1 None anticipated.

8. Section 24 of the Northern Ireland Act 1998

8.1 The Department of Health has considered section 24 of the Northern Ireland Act 1998 and is satisfied that these Regulations are not incompatible with any of the Convention rights; are not incompatible with Community law; do not discriminate against a person or class of person on the grounds of religious belief or political opinion; and do not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. EU implications

9.1 There are no anticipated EU implications as a result of these amendments.

10. Parity or Replicatory Measure

10.1 The provisions included in the Statutory Rule seek to replicate similar amendments to the Misuse of Drugs Regulations 2001 which are being taken forward by the Home Office and will ensure that the legislative arrangements in Northern Ireland will be in line with GB.

11. Additional information

11.1 Not applicable