EXPLANATORY MEMORANDUM TO

THE MISUSE OF DRUGS (DESIGNATION) (AMENDMENT NO.2) ORDER (NORTHERN IRELAND) 2014

2014 No. 159

1. Introduction

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

1.2. The Statutory Rule is made under powers conferred by section 7(4) of the Misuse of Drugs Act 1971. This Order amends the Misuse of Drugs (Designation) Order (Northern Ireland) 2001 and is subject to the negative resolution procedure.

2. Purpose

2.1. The main purpose of the Order is to designate the groups of NBOMe and benzofuran compounds as drugs to which section 7(4) of the 1971 Act applies and be placed in Schedule 1.

3. Background

3.1. The Advisory Council on the Misuse of Drugs (ACMD) advice has been accepted that legislative amendments are made to warrant control under the 1971 Act of dangerous or otherwise harmful drugs.

3.2. The NBOMe compounds are highly potent hallucinogens which are regarded as alternatives to LSD. They are marketed as new psychoactive substances or legal alternatives to controlled drugs. The benzofuran compounds are related to the family of controlled drugs including ecstasy. These compounds were most commonly sold in samples of the 'legal high' brand name 'Benzo Fury' and marketed as legal alternatives to Class A drugs like cocaine and ecstasy. NBOMe and benzofuran compounds are to be inserted into Schedule 1 of the Misuse of Drugs (Designation) Order (Northern Ireland) 2001 as drugs to which section 7(4) of the Misuse of Drugs Act 1971 Act applies. This is because they have no recognised medicinal use beyond potential research use.

4. Consultation

4.1. ACMD consulted a range of experts before providing advice. The Home Office also issued a UK wide twelve week public consultation on the scheduling proposals in line with ACMD advice.

5. Equality Impact

5.1. Consideration has been given to compliance with section 75 of the Northern Ireland Act 1998. The outcome of the Equality Impact screening on the policy proposals is that no human rights engagements are

anticipated as a result of the policy. A full EQIA was therefore not considered necessary.

6. Regulatory Impact

6.1. The legislation applies to small business but the impact will be minimal. The harm that can be done through misuse and diversion of these drugs is such that it is anticipated all businesses will comply with the new legislative requirements.

7. Financial Implications

7.1. The impact on businesses, charities or voluntary bodies relates to potential additional administrative costs for the pharmaceutical and chemical industry in respect of the NBOMe and benzofuran compounds, where there may be research use(s), and the medicines being controlled, although costs are likely to be minimal where existing licensing arrangements are suitable. For those businesses selling substances in the "legal highs" market, the potential harm is such that those trading in this market are expected to comply with the new legislative requirements or face the risk of prosecution.

8. Section 24 of the Northern Ireland Act 1998

8.1. These Regulations do not breach Section 24 of the Northern Ireland Act 1998, as they are not incompatible with any of the Convention rights or community law and they do not discriminate against a person on the grounds of religious belief or political opinion.

9. EU Implications

9.1. Not applicable.

10. Parity or Replicatory Measure

10.1. The provisions included in the Order will bring Northern Ireland into line with measures introduced for England, Scotland and Wales from 10th June 2014.

11. Additional Information

11.1. Not applicable.