EXPLANATORY MEMORANDUM

The Misuse of Drugs (Designation) (Amendment) Order (Northern Ireland) 2021

S.R. 2021 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 section 7(4) and (5) of the Misuse of Drugs Act 1971 (the 1971 Act) as adapted by section 7(9) of that Act and now vested in it and after consultation with the Advisory Council on the Misuse of Drugs in accordance with section 7(7) of that Act.

1.3 This Order is subject to negative resolution before the Northern Ireland Assembly.

2. Purpose of the Regulations

2.1 The purpose this Statutory Rule is to add three benzodiazepine drugs, those being the compounds known as flualprazolam, flunitrazolam and norfludiazepam, to Part 1 of Schedule 1 to the Misuse of Drugs (Designation) Order (Northern Ireland) 2001 ("the 2001 Order") for the purposes of designating them as controlled substances which have no known legitimate medicinal use in Northern Ireland.

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 control of the benzodiazepines flualprazolam, flunitrazolam and norfludiazepam is predicated on an assessment of their respective harms, and in accordance with recommendations made by the Advisory Council on the Misuse of Drugs ('ACMD').

3.3 The ACMD report published on 29 April 2020 states that adverse effects of benzodiazepines include drowsiness, psychomotor impairment, unsteadiness and incoordination, memory loss and confusion. Higher doses may cause loss of consciousness and respiratory depression, especially if used in combination with alcohol or other sedatives. Owing to the greater prevalence of flualprazolam, flunitrazolam and norfludiazepam than the other ten benzodiazepines listed in the report, the ACMD has recommended that those three compounds should be controlled as Class C drugs under the 1971 Act[1].

[1] A review of the evidence of use and harms of novel benzodiazepines (publishing.service.gov.uk)

3.4 The affirmative Order, the Misuse of Drugs Act 1971 (Amendment) Order 2021 was laid before UK Parliament on 25 March 2021 bringing three benzodiazepines, being the compounds known as flualprazolam, flunitrazolam and norfludiazepam, under control as Class C drugs under the 1971 Act.

4. Consultation

4.1 This Order further implements the recommendations made by the ACMD by adding flualprazolam, flunitrazolam and norfludiazepam to Part 1 of Schedule 1 to the 2001 Order to designate these as controlled substances which have no known legitimate medicinal use in Northern Ireland. The UK Government has consulted with representatives from the research community as part of the review undertaken on the adverse effects of benzodiazepines.

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 this Order 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 this Order is not incompatible with any of the Convention rights; is not incompatible with Community law; does not discriminate against a person or class of person on the grounds of religious belief or political opinion; and does 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 amendments to the Misuse of Drugs (Designation) (England, Wales and Scotland) Order 2015 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