EXPLANATORY MEMORANDUM TO

THE MISUSE OF DRUGS (DESIGNATION) (ENGLAND, WALES AND SCOTLAND) ORDER 2015

2015 No. 704

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument consolidates the Misuse of Drugs (Designation) Order 2001 ("the 2001 Order") and the thirteen instruments that have amended the 2001 Order.

3. Matters of special interest to the Joint Committee on Statutory Instruments

None.

4. Legislative Context

4.1 The Misuse of Drugs Act 1971 ("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 a drug has or is capable of having when misused and the type of illegal activity undertaken in regard to that drug.

4.2 Section 7(3) of the 1971 Act requires the Secretary of State to make regulations to allow drugs controlled under the 1971 Act to be used for medicinal purposes. Section 7(3) does not apply to any drug designated by order under section 7(4) of the 1971 Act, essentially as a drug with no recognised medicinal use. Drugs designated as ones to which section 7(4) apply are currently listed in Part 1 of the Misuse of Drugs (Designation) Order 2001 ("the 2001 Designation Order") and are only made available for use in research or other special purpose under a Home Office licence. Part 2 of the 2001 Designation Order lists drugs to which section 7(4) of the 1971 Act does not apply.

5. Territorial Extent and Application

5.1 This instrument applies to England, Wales and Scotland.

6. European Convention on Human Rights

6.1 As the instruments are subject to the negative resolution procedure and do not amend primary legislation, no statement is required.

7. Policy background

- ***What is being done and why***

7.1 The 2001 Designation Order came into force on 1 February 2002. Since then a number of amendments have been made to the Order, mainly by insertion of new drugs to Part 1 or 2 of the Order. This has left the 2001 Designation Order fragmented and difficult to access. A concise copy of the 2001 Designation Order, with the various statutory instruments that have amended it over the last fourteen years, is currently not publicly available unless accessed through subscription websites.

7.2 The total number of statutory instruments (13) which have amended the 2001 Designation Order are being consolidated into a single concise document to provide ease of reference, clarity and use for the public and partners in the research sector. The consolidated order will be made available on the government website at www.legislation.gov.uk.

8. Consultation outcome

8.1 The Home Office has consulted with the Advisory Council on the Misuse of Drugs as required under the 1971 Act.

9. Guidance

9.1 The consolidation of these instruments will be communicated to key stakeholders and the wider public. The Home Office will issue a circular with legislative guidance primarily for law enforcement authorities and the courts.

10. Impact

10.1 There is no impact from the consolidation of these instruments as no regulatory provisions are being amended through this exercise.

11. Regulating small business

11.1 The consolidation of these instruments will have no impact on small business besides the benefit of having the provisions in single document for ease of reference.

12. Monitoring & review

12.1 The consolidation of these instruments does not introduce new legislation and therefore monitoring or review beyond what already occurs for the existing provisions will not be required.

13. Contact

13.1 Des Niimoi at the Home Office, tel: 020 7035 3533 or e-mail: Desmond.Niimoi@homeoffice.gsi.gov.uk, can answer any queries regarding the instrument.