STATUTORY RULES OF NORTHERN IRELAND

2002 No. 1

DANGEROUS DRUGS

The Misuse of Drugs Regulations (Northern Ireland) 2002

Made - - - -	*2nd January 2002*
Coming into operation	*1st February 2002*

The Department of Health, Social Services and Public Safety in exercise of the powers conferred by sections 7, 10, 22 and 31 of the Misuse of Drugs Act 1971(**1**), as adapted by section 38 of that Act and now vested in it(**2**) and of every other power enabling it in that behalf and after consultation with the Advisory Council on the Misuse of Drugs in accordance with section 31(3) of that Act, hereby makes the following regulations:—

Citation and commencement

1. These regulations may be cited as the Misuse of Drugs Regulations (Northern Ireland) 2002 and shall come into force on 1st February 2002.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(**3**) shall apply to these regulations as it applies to a measure of the Northern Ireland Assembly.

(2) In these regulations, unless the context otherwise requires—

"the Act" means the Misuse of Drugs Act 1971;

"authorised as a member of a group" means authorised by virtue of being a member of a class as respects which the Department has granted an authority under and for the purposes of regulation 8(3), 9(3) or 10(3) which is in force, and "his group authority", in relation to a person who is a member of such a class, means the authority so granted to that class;

"the Department" means the Department of Health, Social Services and Public Safety;

"document" has the same meaning as in Part I of the Civil Evidence Act (Northern Ireland) 1971(**4**);

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

(**1**) 1971 c. 38
(**2**) By S.R. & O. (N.I.) 1973 No. 504Art. 5(*a*)
(**3**) 1954 c. 33 (N.I.)
(**4**) 1971 c. 36 (N.I.)

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

(b) 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

(c) 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;

"health prescription" means a prescription issued by a doctor or a dentist under the National Health Service Act 1977(**5**), the National Health Service (Scotland) Act 1978(**6**), the Health and Personal Social Services (Northern Ireland) Order 1972(**7**) or the National Health Service (Isle of Man) Acts 1948 to 1979 (Acts of Tynwald) or upon a form issued by a local authority for use in connection with the health service of that authority;

"Health and Social Services Board" means a Health and Social Services Board established under the Health and Personal Social Services (Northern Ireland) Order 1972;

"installation manager" and "offshore installation" have the same meanings as in the Mineral Workings (Offshore Installations) Act 1971(**8**);

"master" and "seamen" have the same meanings as in the Merchant Shipping Act 1995(**9**);

"medicinal product" has the same meaning as in the Medicines Act 1968(**10**);

"officer of customs and excise" means an officer within the meaning of the Customs and Excise Management Act 1979(**11**);

"prescription" means a prescription issued by a doctor for the medical treatment of a single individual, by a dentist for the dental treatment of a single individual or by a veterinary surgeon or veterinary practitioner for the purposes of animal treatment;

"register" means a bound book and does not include any form of loose leaf register or card index;

"registered pharmacy" has the same meaning as in the Medicines Act 1968;

"retail dealer" means a person lawfully conducting a retail pharmacy business or a pharmacist engaged in supplying drugs to the public at a health centre within the meaning of the Medicines Act 1968;

"sister or acting sister" includes any male nurse occupying a similar position;

"wholesale dealer" means a person who carries on the business of selling drugs to persons who buy to sell again.

(2) In these regulations any reference to a regulation or schedule shall be construed as a reference to a regulation contained in these regulations or, as the case may be, to a schedule to these regulations, and any reference in a regulation or schedule to a paragraph shall be construed as a reference to a paragraph of that regulation or schedule.

(**5**) 1977 c. 49
(**6**) 1978 c. 29
(**7**) S.I. 1972/1265 (N.I. 14)
(**8**) 1971 c. 61
(**9**) 1995 c. 21
(**10**) 1968 c. 67
(**11**) 1979 c. 2

Specification of controlled drugs for purposes of regulations

3. Schedules 1 to 5 shall have effect for the purpose of specifying the controlled drugs to which certain provisions of these regulations apply.

Exceptions for drugs in Schedules 4 and 5 and poppy-straw

4.—(1) Section 3(1) of the Act (which prohibits the importation and exportation of controlled drugs) shall not have effect in relation to the drugs specified in Schedule 5.

(2) The application of section 3(1) of the Act, in so far as it creates an offence, and the application of sections 50(1) to (4), 68(2) and (3) or 170 of the Customs and Excise Management Act 1979, in so far as they apply in relation to a prohibition or restriction on importation or exportation having effect by virtue of section 3 of the Act, are hereby excluded in the case of importation or exportation by any person for administration to himself of any drug specified in Part II of Schedule 4 which is contained in a medicinal product.

(3) Section 5(1) of the Act (which prohibits the possession of controlled drugs) shall not have effect in relation to—

(a) any drug specified in Part II of Schedule 4 which is contained in a medicinal product;

(b) the drugs specified in Schedule 5.

(4) Sections 4(1) (which prohibits the production and supply of controlled drugs) and 5(1) of the Act shall not have effect in relation to poppy-straw.

(5) Sections 3(1), 4(1) and 5(1) of the Act shall not have effect in relation to any exempt product.

Licences to produce etc controlled drugs

5. Where any person is authorised by a licence of the Department issued under this regulation and for the time being in force to produce, supply, offer to supply or have in his possession any controlled drug, it shall not by virtue of section 4(1) or 5(1) of the Act be unlawful for that person to produce, supply, offer to supply or have in his possession that drug in accordance with the terms of the licence and in compliance with any conditions attached to the licence.

General authority to supply and possess

6.—(1) Notwithstanding the provisions of section 4(1)(*b*) of the Act, any person who is lawfully in possession of a controlled drug may supply that drug to the person from whom he obtained it.

(2) Notwithstanding the provisions of section 4(1)(*b*) of the Act, any person who has in his possession a drug specified in Schedule 2, 3, 4 or 5 which has been supplied by or on the prescription of a practitioner for the treatment of that person, or of a person whom he represents, may supply that drug to any doctor, dentist or pharmacist for the purpose of destruction.

(3) Notwithstanding the provisions of section 4(1)(*b*) of the Act, any person who is lawfully in possession of a drug specified in Schedule 2, 3, 4 or 5 which has been supplied by or on the prescription of a veterinary practitioner or veterinary surgeon for the treatment of animals may supply that drug to any veterinary practitioner, veterinary surgeon or pharmacist for the purpose of destruction.

(4) It shall not by virtue of section 4(1)(*b*) or 5(1) of the Act be unlawful for any person in respect of whom a licence has been granted and is in force under section 16(1) of the Wildlife (Northern Ireland) Order 1985(**12**) to supply, offer to supply or have in his possession any drug specified in Schedule 2 or 3 for the purposes for which that licence was granted.

(**12**) S.I. 1985/171 (N.I. 2)

(5) Notwithstanding the provisions of section 4(1)(*b*) of the Act, any of the persons specified in paragraph (7) may supply any controlled drug to any person who may lawfully have that drug in his possession.

(6) Notwithstanding the provisions of section 5(1) of the Act, any of the persons so specified may have any controlled drug in his possession.

(7) The persons referred to in paragraphs (5) and (6) are—

(a) a constable when acting in the course of his duty as such;

(b) a person engaged in the business of a carrier when acting in the course of that business;

(c) a person engaged in the business of the Post Office when acting in the course of that business;

(d) an officer of customs and excise when acting in the course of his duty as such;

(e) a person engaged in the work of any laboratory to which the drug has been sent for forensic examination when acting in the course of his duty as a person so engaged;

(f) a person engaged in conveying the drug to a person who may lawfully have that drug in his possession.

Administration of drugs in Schedules 2, 3, 4 and 5

7.—(1) Any person may administer to another any drug specified in Schedule 5.

(2) A doctor or dentist may administer to a patient any drug specified in Schedule 2, 3 or 4.

(3) Any person other than a doctor or dentist may administer to a patient, in accordance with the directions of a doctor or dentist, any drug specified in Schedule 2, 3 or 4.

Production and supply of drugs in Schedules 2 and 5

8.—(1) Notwithstanding the provisions of section 4(1)(*a*) of the Act—

(a) a practitioner or pharmacist, acting in his capacity as such, may manufacture or compound any drug specified in Schedule 2 or 5;

(b) a person lawfully conducting a retail pharmacy business and acting in his capacity as such may, at the registered pharmacy at which he carries on that business, manufacture or compound any drug specified in Schedule 2 or 5.

(2) Notwithstanding the provisions of section 4(1)(*b*) of the Act, any of the following persons, that is to say—

(a) a practitioner;

(b) a pharmacist;

(c) a person lawfully conducting a retail pharmacy business;

(d) the person in charge or acting person in charge of a hospital or nursing home which is wholly or mainly maintained by a public authority out of public funds or by a charity or by voluntary subscriptions;

(e) in the case of such a drug supplied to her by a person responsible for the dispensing and supply of medicines at the hospital or nursing home, the sister or acting sister for the time being in charge of a ward, theatre or other department in such a hospital or nursing home as aforesaid;

(f) a person who is in charge of a laboratory the recognised activities of which consist in, or include, the conduct of scientific education or research and which is attached to a university, university college or such a hospital as aforesaid or to any other institution approved for the purpose under this sub-paragraph by the Department;

(g) a public analyst appointed under section 27 of the Food Safety (Northern Ireland) Order 1991(**13**);

(h) a sampling officer within the meaning of Schedule 3 to the Medicines Act 1968;

(i) a person employed or engaged in connection with a scheme for testing the quality or amount of the drugs, preparations and appliances supplied under the Health and Personal Social Services (Northern Ireland) Order 1972 and the regulations made thereunder;

(j) a person authorised by the Department for the purposes of section 110 of the Medicines Act 1968,

may, when acting in his capacity as such, supply or offer to supply any drug specified in Schedule 2 or 5 to any person who may lawfully have that drug in his possession, except that nothing in this paragraph authorises—

(i) the person in charge or acting person in charge of a hospital or nursing home, having a pharmacist responsible for the dispensing and supply of medicines, to supply or offer to supply any drug; or

(ii) a sister or acting sister for the time being in charge of a ward, theatre or other department to supply any drug otherwise than for administration to a patient in that ward, theatre or department in accordance with the directions of a doctor or dentist.

(3) Notwithstanding the provisions of section 4(1)(*b*) of the Act, a person who is authorised as a member of a group may, under and in accordance with the terms of his group authority and in compliance with any conditions attached thereto, supply or offer to supply any drug specified in Schedule 2 or 5 to any person who may lawfully have that drug in his possession.

(4) Notwithstanding the provisions of section 4(1)(*b*) of the Act, a person who is authorised by a written authority issued by the Department under and for the purposes of this paragraph and for the time being in force may, at the premises specified in that authority and in compliance with any conditions so specified, supply or offer to supply any drug specified in Schedule 5 to any person who may lawfully have that drug in his possession.

(5) Notwithstanding the provisions of section 4(1)(*b*) of the Act—

(a) the owner of a ship, or the master of a ship which does not carry a doctor among the seamen employed in it; or

(b) the installation manager of an offshore installation,

may supply or offer to supply any drug specified in Schedule 2 or 5—

(i) for the purpose of compliance with any of the provisions specified in paragraph (6), to any person on that ship or installation;

(ii) to any person who may lawfully supply that drug to him;

(iii) to any constable for the purpose of the destruction of that drug.

(6) The provisions referred to in paragraph (5) are any provision of, or of any instrument which is in force under—

(a) the Mineral Workings (Offshore Installations) Act 1971;

(b) the Health and Safety at Work (Northern Ireland) Order 1978(**14**); or

(c) the Merchant Shipping Act 1995.

(**13**) S.I. 1991/762 (N.I. 7)
(**14**) S.I. 1978/1039 (N.I. 9)