

- (d) is picked for the purpose specified in paragraph (2)(b) and is held for and in accordance with the purpose in paragraph (2)(a), either by the person who picked it or by another person.
- (2) The purposes specified for the purposes of this paragraph are—
- (a) the purpose of delivering the fungus as soon as is reasonably practicable into the custody of a person lawfully entitled to take custody of it; and
- (b) the purpose of destroying the fungus as soon as is reasonably practicable.”.
- (3) In schedule 1, after “Etryptamine” insert “Fungus (of any kind) which contains psilocin or an ester of psilocin”.

Home Office
22nd June 2005

Paul Goggins
Parliamentary Under Secretary of State

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Misuse of Drugs Regulations 2001 (the 2001 Regulations). Regulation 2(2) inserts a new regulation 4A into the 2001 Regulations and provides that section 5(1) of the Misuse of Drugs Act 1971, which makes it unlawful for a person to have a controlled drug in his possession, will not apply to a fungus (of any kind) containing psilocin or an ester of psilocin (commonly known as magic mushrooms) in certain circumstances. When section 21 of the Drugs Act 2005 is brought into force, such a fungus will be a Class A drug. These Regulations will be brought into force on the same day that section 21 of the 2005 Act will be brought into force. Regulation 2(2) inserts a new regulation 4A into the 2001 Regulations which excepts from the offence of possession magic mushrooms in 4 scenarios. First, where the magic mushrooms are growing uncultivated. Second, where the magic mushrooms are picked by a person already in lawful possession of them, for example the landowner on whose land the mushrooms are growing, for the purpose of delivering them into the custody of a person who is lawfully entitled to take custody of them so long as the mushrooms remain in that person’s custody for and in accordance with that person. Third, where the magic mushrooms are picked, by anyone, for the purpose of either delivering them into the custody of a person who is lawfully entitled to take custody of them or destroying them as soon as is reasonably practicable and then held, whether by the person who picked them or by another, for and in accordance with the purpose of destroying them as soon as is reasonably practicable. Fourth, where the magic mushrooms are picked for the purpose of destruction as soon as is reasonably practicable and then held, whether by the person who picked them or by another, for and in accordance with the purpose of delivering them as soon as is reasonably practicable into the custody of a person who is lawfully entitled to take custody of them. Regulation 2(3) inserts a fungus containing psilocin or an ester of psilocin into Schedule 1 to the 2001 Regulations, enabling the Secretary of State to issue a licence under regulation 5 of the 2001 Regulations in respect of the production, supply, offer to supply or possession of those fungi.

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