

Explanatory Memorandum

The Misuse of Drugs (Amendment) Regulations (Northern Ireland) 2011

S.R.2011 No 153

Background and Purpose of these Statutory Rules

1. These Statutory Rules (SRs) complement the Misuse of Drugs Act 1971 (Amendment) Order 2011 (“the 2011 Order”). Consequential amendments to the Misuse of Drugs (Designation) Order (Northern Ireland) 2001, and the Misuse of Drugs Regulations (Northern Ireland) 2002 are necessary as a result.
2. The 2011 Order classifies for control under Schedule 2 to the Misuse of Drugs Act 1971 (“the 1971 Act”) tapentadol and amineptine. Tapentadol is classified in part 1 of Schedule 2 as a Class A drug and amineptine is classified in Part 3 as a Class C drug. The 2011 Order also clarifies the legislation on *4- methylmethcathinone* also known as Mephedrone by subsuming this substance within the generic definition in paragraph 1(aa) of Part 2 of Schedule 2.
3. **The Misuse of Drugs (Designation) (Amendment) (Northern Ireland) Order 2011** (“the 2011 Designation Order”) removes *4- methylmethcathinone* from paragraphs 1(a) and (b) of Part 1 of the Schedule to the Misuse of Drugs (Designation) Order (Northern Ireland) 2001 (the 2001 Designation Order)-mephedrone will through fall within the generic definition in paragraph 1(q).
4. Due to a drafting error in Article 3 of the Misuse of Drugs (Designation) (Amendment) Order (Northern Ireland) 2010, the insertion of 4- Methylmethcathinone (wrongly spelt 4- Methylmecathinone), appeared as paragraphs (a) and (b) .Both paragraphs are therefore revoked to ensure 4-Methylmethcathinone (wrongly spelt 4-Methylmecathinone) is removed from paragraph 1(a) of Part 1 of the Schedule to the 2001 Order.
5. **The Misuse of Drugs (Amendment) (Northern Ireland) Regulations 2011** (the “2011 Regulations”) places tapentadol and amineptine in Schedule 2 to the Misuse of Drugs Regulations (Northern Ireland) 2002 (“the 2002 Regulations”) which means that it will be unlawful to possess, supply, produce, import or export the drugs except under authority derived from the 2002 Regulations.

Legislative Context

- 6 Tapentadol and amineptine have recognised legitimate uses and are placed in Schedule 2 to the 2002 Regulations which means that it is unlawful to possess, supply, produce, import or export the drugs specified in Schedule 2 to the 2002 Regulations except under authority provided under the Regulations. Tapentadol and amineptine are not currently available in the UK

Date Coming Into Operation

- 7 The date for the SRs to come into operation is the 28 March 2011 which will be keeping in parity with Great Britain (GB) who will be bringing their statutory instruments in on that date. The 21 day rule will be broken with both these statutory rules and I apologise for this, however, it is unavoidable due to the time constraint given for both these SRs.

Territorial Extent and Application

- 8 These Statutory Rules apply only to Northern Ireland

Equality

- 9 The DHSSPS screened the Statutory Rules for the purposes of section 75 of the Northern Ireland Act 1998 and concluded that a full Equality Impact Assessment was not necessary.

Policy Background

- 10 The Misuse of Drugs (Designation) (Amendment) Order (Northern Ireland) 2011 is made in exercise of powers conferred by sections 7(4) and (5) of the Misuse of Drugs Act 1971 as adapted by Section 7(9) of that Act.
- 11 The Misuse of Drugs (Amendment) Regulations (Northern Ireland) 2011 is made in exercise of powers conferred by sections 7, 10, 22 and 31 of the Misuse of Drugs Act 1971 as adapted by section 7 38 of that Act.

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