



Misuse of Drugs Act 1971

1971 CHAPTER 38

Powers of Secretary of State for preventing misuse of controlled drugs

10 Power to make regulations for preventing misuse of controlled drugs

- (1) Subject to the provisions of this Act, the Secretary of State may by regulations make such provision as appears to him necessary or expedient for preventing the misuse of controlled drugs.
- (2) Without prejudice to the generality of subsection (1) above, regulations under this section may in particular make provision—
 - (a) for requiring precautions to be taken for the safe custody of controlled drugs;
 - (b) for imposing requirements as to the documentation of transactions involving controlled drugs, and for requiring copies of documents relating to such transactions to be furnished to the prescribed authority;
 - (c) for requiring the keeping of records and the furnishing of information with respect to controlled drugs in such circumstances and in such manner as may be prescribed;
 - (d) for the inspection of any precautions taken or records kept in pursuance of regulations under this section;
 - (e) as to the packaging and labelling of controlled drugs;
 - (f) for regulating the transport of controlled drugs and the methods used for destroying or otherwise disposing of such drugs when no longer required;
 - (g) for regulating the issue of prescriptions containing controlled drugs and the supply of controlled drugs on prescriptions, and for requiring persons issuing or dispensing prescriptions containing such drugs to furnish to the prescribed authority such information relating to those prescriptions as may be prescribed ;
 - (h) for requiring any doctor who attends a person who he considers, or has reasonable grounds to suspect, is addicted (within the meaning of the regulations) to controlled drugs of any description to furnish to the prescribed authority such particulars with respect to that person as may be prescribed;

- (i) for prohibiting any doctor from administering, supplying and authorising the administration and supply to persons so addicted, and from prescribing for such persons, such controlled drugs as may be prescribed, except under and in accordance with the terms of a licence issued by the Secretary of State in pursuance of the regulations.

11 Power to direct special precautions for safe custody of controlled drugs to be taken at certain premises

- (1) Without prejudice to any requirement imposed by regulations made in pursuance of section 10(2)(a) of this Act, the Secretary of State may by notice in writing served on the occupier of any premises on which controlled drugs are or are proposed to be kept give directions as to the taking of precautions or further precautions for the safe custody of any controlled drugs of a description specified in the notice which are kept on those premises.
- (2) It is an offence to contravene any directions given under subsection (1) above.

12 Directions prohibiting prescribing, supply etc. of controlled drugs by practitioners etc. convicted of certain offences

- (1) Where a person who is a practitioner or pharmacist has after the coming into operation of this subsection been convicted—
 - (a) of an offence under this Act or under the Dangerous Drugs Act 1965 or any enactment repealed by that Act; or
 - (b) of an offence under section 45, 56 or 304 of the Customs and Excise Act 1952 in connection with a prohibition of or restriction on importation or exportation of a controlled drug having effect by virtue of section 3 of this Act or which had effect by virtue of any provision contained in or repealed by the Dangerous Drags Act 1965,the Secretary of State may give a direction under subsection (2) below in respect of that person.
- (2) A direction under this subsection in respect of a person shall—
 - (a) if that person is a practitioner, be a direction prohibiting him from having in his possession, prescribing, administering, manufacturing, compounding and supplying and from authorising the administration and supply of such controlled drugs as may be specified in the direction;
 - (b) if that person is a pharmacist, be a direction prohibiting him from having in his possession, manufacturing, compounding and supplying and from supervising and controlling the manufacture, compounding and supply of such controlled drugs as may be specified in the direction.
- (3) The Secretary of State may at any time give a direction cancelling or suspending any direction given by him under subsection (2) above, or cancelling any direction of his under this subsection by which a direction so given is suspended.
- (4) The Secretary of State shall cause a copy of any direction given by him under this section to be served on the person to whom it applies, and shall cause notice of any such direction to be published in the London, Edinburgh and Belfast Gazettes.
- (5) A direction under this section shall take effect when a copy of it is served on the person to whom it applies.

- (6) It is an offence to contravene a direction given under subsection (2) above.
- (7) In section 80 of the Medicines Act 1968 (under which a body corporate carrying on a retail pharmacy business may be disqualified for the purposes of Part IV of that Act and have its premises removed from the register kept under section 75 of that Act, where that body or any member of the board of that body or any officer or any employee of that body is convicted of an offence under any of the relevant Acts as defined in subsection (5)), for the words " and this Act" in subsection (5) there shall be substituted the words " this Act and the Misuse of Drugs Act 1971 ".

13 Directions prohibiting prescribing, supply etc. of controlled drugs by practitioners in other cases

- (1) In the event of a contravention by a doctor of regulations made in pursuance of paragraph (h) or (i) of section 10(2) of this Act, or of the terms of a licence issued under regulations made in pursuance of the said paragraph (f), the Secretary of State may, subject to and in accordance with section 14 of this Act, give a direction in respect of the doctor concerned prohibiting him from prescribing, administering and supplying and from authorising the administration and supply of such controlled drugs as may be specified in the direction.
- (2) If the Secretary of State is of the opinion that a practitioner is or has after the coming into operation of this subsection been prescribing, administering or supplying or authorising the administration or supply of any controlled drugs in an irresponsible manner, the Secretary of State may, subject to and in accordance with section 14 or 15 of this Act, give a direction in respect of the practitioner concerned prohibiting him from prescribing, administering and supplying and from authorising the administration and supply of such controlled drugs as may be specified in the direction.
- (3) A contravention such as is mentioned in subsection (1) above does not as such constitute an offence, but it is an offence to contravene a direction given under subsection (1) or (2) above.

14 Investigation where grounds for a direction under s. 13 are considered to exist

- (1) If the Secretary of State considers that there are grounds for giving a direction under subsection (1) of section 13 of this Act on account of such a contravention by a doctor as is there mentioned, or for giving a direction under subsection (2) of that section on account of such conduct by a practitioner as is mentioned in the said subsection (2), he may refer the case to a tribunal constituted for the purpose in accordance with the following provisions of this Act; and it shall be the duty of the tribunal to consider the case and report on it to the Secretary of State.
- (2) In this Act " the respondent", in relation to a reference under this section, means the doctor or other practitioner in respect of whom the reference is made.
- (3) Where—
 - (a) in the case of a reference relating to the giving of a direction under the said subsection (1), the tribunal finds that there has been no such contravention as aforesaid by the respondent or finds that there has been such a contravention but does not recommend the giving of a direction under that subsection in respect of the respondent; or

Status: This is the original version (as it was originally enacted).

- (b) in the case of a reference relating to the giving of a direction under the said subsection (2), the tribunal finds that there has been no such conduct as aforesaid by the respondent or finds that there has been such conduct by the respondent but does not recommend the giving of a direction under the said subsection (2) in respect of him,
the Secretary of State shall cause notice to that effect to be served on the respondent.
- (4) Where the tribunal finds—
- (a) in the case of a reference relating to the giving of a direction under the said subsection (1), that there has been such a contravention as aforesaid by the respondent; or
- (b) in the case of a reference relating to the giving of a direction under the said subsection (2), that there has been such conduct as aforesaid by the respondent,
and considers that a direction under the subsection in question should be given in respect of him, the tribunal shall include in its report a recommendation to that effect indicating the controlled drugs which it considers should be specified in the direction or indicating that the direction should specify all controlled drugs.
- (5) Where the tribunal makes such a recommendation as aforesaid, the Secretary of State shall cause a notice to be served on the respondent stating whether or not he proposes to give a direction pursuant thereto, and where he does so propose the notice shall—
- (a) set out the terms of the proposed direction; and
- (b) inform the respondent that consideration will be given to any representations relating to the case which are made by him in writing to the Secretary of State within the period of twenty-eight days beginning with the date of service of the notice.
- (6) If any such representations are received by the Secretary of State within the period aforesaid, he shall refer the case to an advisory body constituted for the purpose in accordance with the following provisions of this Act; and it shall be the duty of the advisory body to consider the case and to advise the Secretary of State as to the exercise of his powers under subsection (7) below.
- (7) After the expiration of the said period of twenty-eight days and, in the case of a reference to an advisory body under subsection (6) above, after considering the advice of that body, the Secretary of State may either—
- (a) give in respect of the respondent a direction under subsection (1) or, as the case may be, subsection (2) of section 13 of this Act specifying all or any of the controlled drugs indicated in the recommendation of the tribunal; or
- (b) order that the case be referred back to the tribunal, or referred to another tribunal constituted as aforesaid ; or
- (c) order that no further proceedings under this section shall be taken in the case.
- (8) Where a case is referred or referred back to a tribunal in pursuance of subsection (7) above, the provisions of subsections (2) to (7) above shall apply as if the case had been referred to the tribunal in pursuance of subsection (1) above, and any finding, recommendation or advice previously made or given in respect of the case in pursuance of those provisions shall be disregarded.

15 Temporary directions under s. 13(2)

- (1) If the Secretary of State considers that there are grounds for giving a direction under subsection (2) of section 13 of this Act in respect of a practitioner on account of such conduct by him as is mentioned in that subsection and that the circumstances of the case require such a direction to be given with the minimum of delay, he may, subject to the following provisions of this section, give such a direction in respect of him by virtue of this section; and a direction under section 13(2) given by virtue of this section may specify such controlled drugs as the Secretary of State thinks fit.
- (2) Where the Secretary of State proposes to give such a direction as aforesaid by virtue of this section, he shall refer the case to a professional panel constituted for the purpose in accordance with the following provisions of this Act; and
 - (a) it shall be the duty of the panel, after affording the respondent an opportunity of appearing before and being heard by the panel, to consider the circumstances of the case, so far as known to it, and to report to the Secretary of State whether the information before the panel appears to it to afford reasonable grounds for thinking that there has been such conduct by the respondent as is mentioned in section 13(2) of this Act; and
 - (b) the Secretary of State shall not by virtue of this section give such a direction as aforesaid in respect of the respondent unless the panel reports that the information before it appears to it to afford reasonable grounds for so thinking.
- (3) In this Act " the respondent " relation to a reference under subsection (2) above, means the practitioner in respect of whom the reference is made.
- (4) Where the Secretary of State gives such a direction as aforesaid by virtue of this section he shall, if he has not already done so, forthwith refer the case to a tribunal in accordance with section 14(1) of this Act.
- (5) Subject to subsection (6) below, the period of operation of a direction under section 13(2) of this Act given by virtue of this section shall be a period of six weeks beginning with the date on which the direction takes effect.
- (6) Where a direction under section 13(2) of this Act has been given in respect of a person by virtue of this section and the case has been referred to a tribunal in accordance with section 14(1), the Secretary of State may from time to time, by notice in writing served on the person to whom the direction applies, extend or further extend the period of operation of the direction for a further twenty-eight days from the time when that period would otherwise expire, but shall not so extend or further extend that period without the consent of that tribunal, or, if the case has been referred to another tribunal in pursuance of section 14(7) of this Act, of that other tribunal.
- (7) A direction under section 13(2) of this Act given in respect of a person by virtue of this section shall (unless previously cancelled under section 16(3) of this Act) cease to have effect on the occurrence of any of the following events, that is to say—
 - (a) the service on that person of a notice under section 14(3) of this Act relating to his case;
 - (b) the service on that person of a notice under section 14(5) of this Act relating to his case stating that the Secretary of State does not propose to give a direction under section 13(2) of this Act pursuant to a recommendation of the tribunal that such a direction should be given;
 - (c) the service on that person of a copy of such a direction given in respect of him in pursuance of section 14(7) of this Act;

- (d) the making of an order by the Secretary of State in pursuance of section 14(7) that no further proceedings under section 14 shall be taken in the case;
- (e) the expiration of the period of operation of the direction under section 13(2) given by virtue of this section.

16 Provisions supplementary to ss. 14 and 15

- (1) The provisions of Schedule 3 to this Act shall have effect with respect to the constitution and procedure of any tribunal, advisory body or professional panel appointed for the purposes of section 14 or 15 of this Act, and with respect to the other matters there mentioned.
- (2) The Secretary of State shall cause a copy of any order or direction made or given by him in pursuance of section 14(7) of this Act or any direction given by him by virtue of the said section 15 to be served on the person to whom it applies and shall cause notice of any such direction, and a copy of any notice served under section 15(6) of this Act, to be published in the London, Edinburgh and Belfast Gazettes.
- (3) The Secretary of State may at any time give a direction—
 - (a) cancelling or suspending any direction given by him in pursuance of section 14(7) of this Act or cancelling any direction of his under this subsection by which a direction so given is suspended; or
 - (b) cancelling any direction given by him by virtue of section 15 of this Act, and shall cause a copy of any direction of his under this subsection to be served on the person to whom it applies and notice of it to be published as aforesaid.
- (4) A direction given under section 13(1) or (2) of this Act or under subsection (3) above shall take effect when a copy of it is served on the person to whom it applies.

17 Power to obtain information from doctors, pharmacists etc in certain circumstances

- (1) If it appears to the Secretary of State that there exists in any area in Great Britain a social problem caused by the extensive misuse of dangerous or otherwise harmful drugs in that area, he may by notice in writing served on any doctor or pharmacist practising in or in the vicinity of that area, or on any person carrying on a retail pharmacy business within the meaning of the Medicines Act 1968 at any premises situated in or in the vicinity of that area, require him to furnish to the Secretary of State, with respect to any such drugs specified in the notice and as regards any period so specified, such particulars as may be so specified relating to the quantities in which and the number and frequency of the occasions on which those drugs—
 - (a) in the case of a doctor, were prescribed, administered or supplied by him;
 - (b) in the case of a pharmacist, were supplied by him; or
 - (c) in the case of a person carrying on a retail pharmacy business, were supplied in the course of that business at any premises so situated which may be specified in the notice.
- (2) A notice under this section may require any such particulars to be furnished in such manner and within such time as may be specified in the notice and, if served on a pharmacist or person carrying on a retail pharmacy business, may require him to furnish the names and addresses of doctors on whose prescriptions any dangerous or otherwise harmful drugs to which the notice relates were supplied, but shall not require

any person to furnish any particulars relating to the identity of any person for or to whom any such drug has been prescribed, administered or supplied.

- (3) A person commits an offence if without reasonable excuse (proof of which shall lie on him) he fails to comply with any requirement to which he is subject by virtue of subsection (1) above.
- (4) A person commits an offence if in purported compliance with a requirement imposed under this section he gives any information which he knows to be false in a material particular or recklessly gives any information which is so false.
- (5) In its application to Northern Ireland this section shall have effect as if for the references to Great Britain and the Secretary of State there were substituted respectively references to Northern Ireland and the Ministry of Home Affairs for Northern Ireland.