**EXPLANATORY MEMORANDUM TO**

# THE MISUSE OF DRUGS (AMENDMENT NO.2) AND MISUSE OF DRUGS (SAFE CUSTODY) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2014

**2014 No. 158**

## 1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department of Health, Social Services and Public Safety for Northern Ireland to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2. The Statutory Rule is made under powers conferred by sections 7, 10, 22, and 31 of the Misuse of Drugs Act 1971. It will amend the Misuse of Drugs Regulations (Northern Ireland) 2002 and Misuse of Drugs (Safe Custody) (Northern Ireland) Regulations 1973 and is subject to the negative resolution procedure.

## 2. Purpose

2.1. The Statutory Rule will bring forward regulations to control tramadol, lisdexamphetamine, zaleplon, zopiclone, the NBOMe and benzofuran compounds.

## 3. Background

3.1. The Advisory Council on the Misuse of Drugs (ACMD) advice has been accepted that legislative amendments are made to warrant control under the 1971 Act of dangerous or otherwise harmful drugs.

3.2. The NBOMe compounds are highly potent hallucinogens which are regarded as alternatives to LSD. They are marketed as new psychoactive substances or legal alternatives to controlled drugs. The benzofuran compounds are related to the family of controlled drugs including ecstasy. These compounds were most commonly sold in samples of the 'legal high' brand name 'Benzo Fury' and marketed as legal alternatives to Class A drugs like cocaine and ecstasy. NBOMe and benzofuran compounds are to be inserted into Schedule 1 of the Misuse of Drugs Regulations (Northern Ireland) 2002.

3.3. Lisdexamphetamine is closely related to the Class B controlled drug dexamphetamine. When administered orally, lisdexamphetamine slowly converts to dexamphetamine in the body. Lisdexamphetamine is licensed by the Medicines and Healthcare products Regulatory Agency (MHRA) for the specialist treatment of Attention Deficit Hyperactive Disorder in adults where a patient does not respond to other medication. Due to its relative harms, the ACMD recommended that lisdexamphetamine should be subject to the increased regulatory requirements applicable to Schedule

2 drugs in the Misuse of Drugs Regulations (Northern Ireland) 2002 which would place it alongside dexamphetamine.

3.4. Zopiclone and zaleplon are sedatives closely related to the benzodiazepine family of drugs and zolpidem, controlled as Class C drugs. The ACMD recommended that zopiclone and zaleplon should be subject to the lightly regulated controls of Part 1 of Schedule 4 of Misuse of Drugs Regulations (Northern Ireland) 2002.

3.5. Tramadol is a pain reliever of significant medical use for treating moderate to severe pain. It has wide ranging applications, including treatment of chronic widespread cancer and muscle and bone pain. Due to its relative harms, the ACMD recommended that tramadol should be subject to the increased regulatory requirements in Schedule 3 of Misuse of Drugs Regulations (Northern Ireland) 2002.

3.6. As a Schedule 3 drug tramadol would ordinarily be subject to safe custody requirements. However, due to the large quantities of the various types, forms and strengths prescribed and dispensed, as an exception, tramadol is being exempted from these requirements. Tramadol is therefore added to the listed of drugs in Schedule 1 to the Misuse of Drugs (Safe Custody) (Northern Ireland) Regulations 1973. This avoids any impact from storage requirements on hospitals, pharmacies and businesses and so forth.

## 4. Consultation

4.1. ACMD consulted a range of experts before providing advice. The Home Office also issued a UK wide twelve week public consultation on the scheduling proposals in line with ACMD advice.

## 5. Equality Impact

5.1. Consideration has been given to compliance with section 75 of the Northern Ireland Act 1998. The outcome of the Equality Impact screening on the policy proposals is that no human rights engagements are anticipated as a result of the policy. A full EQIA was therefore not considered necessary.

## 6. Regulatory Impact

6.1. The legislation applies to small business but the impact will be minimal. The harm that can be done through misuse and diversion of these drugs is such that it is anticipated all businesses will comply with the new legislative requirements.

## 7. Financial Implications

7.1. The impact on businesses, charities or voluntary bodies relates to potential additional administrative costs for the pharmaceutical and chemical industry in respect of the NBOMe and benzofuran compounds, where there may be research use(s), and the medicines being controlled, although costs are likely to be minimal where existing licensing arrangements are suitable. For those businesses selling substances in the “legal highs” market, the potential harm is such that those trading in this market are expected to comply with the new legislative requirements or face the risk of prosecution.

## 8. Section 24 of the Northern Ireland Act 1998

8.1. These Regulations do not breach Section 24 of the Northern Ireland Act 1998, as they are not incompatible with any of the Convention rights or community law and they do not discriminate against a person on the grounds of religious belief or political opinion.

## 9. EU Implications

9.1. Not applicable.

## 10. Parity or Replicatory Measure

10.1. The provisions included in the regulations will bring Northern Ireland into line with measures introduced for England, Scotland and Wales from 10th June 2014.

## 11. Additional Information

11.1. Not applicable.