



# Misuse of Drugs Act 1971

## 1971 CHAPTER 38

### *The Advisory Council on the Misuse of Drugs*

#### **1 The Advisory Council on the Misuse of Drugs**

- (1) There shall be constituted in accordance with Schedule 1 to this Act an Advisory Council on the Misuse of Drugs (in this Act referred to as "the Advisory Council"); and the supplementary provisions contained in that Schedule shall have effect in relation to the Council.
- (2) It shall be the duty of the Advisory Council to keep under review the situation in the United Kingdom with respect to drugs which are being or appear to them likely to be misused and of which the misuse is having or appears to them capable of having harmful effects sufficient to constitute a social problem, and to give to any one or more of the Ministers, where either the Council consider it expedient to do so or they are consulted by the Minister or Ministers in question, advice on measures (whether or not involving alteration of the law) which in the opinion of the Council ought to be taken for preventing the misuse of such drugs or dealing with social problems connected with their misuse, and in particular on measures which in the opinion of the Council, ought to be taken—
  - (a) for restricting the availability of such drugs or supervising the arrangements for their supply;
  - (b) for enabling persons affected by the misuse of such drugs to obtain proper advice, and for securing the provision of proper facilities and services for the treatment, rehabilitation and after-care of such persons;
  - (c) for promoting co-operation between the various professional and community services which in the opinion of the Council have a part to play in dealing with social problems connected with the misuse of such drugs;
  - (d) for educating the public (and in particular the young) in the dangers of misusing such drugs, and for giving publicity to those dangers; and
  - (e) for promoting research into, or otherwise obtaining information about, any matter which in the opinion of the Council is of relevance for the purpose of preventing the misuse of such drugs or dealing with any social problem connected with their misuse.

- (3) It shall also be the duty of the Advisory Council to consider any matter relating to drug dependence or the misuse of drugs which may be referred to them by any one or more of the Ministers and to advise the Minister or Ministers in question thereon, and in particular to consider and advise the Secretary of State with respect to any communication referred by him to the Council, being a communication relating to the control of any dangerous or otherwise harmful drug made to Her Majesty's Government in the United Kingdom by any organisation or authority established by or under any treaty, convention or other agreement or arrangement to which that Government is for the time being a party.
- (4) In this section "the Ministers" means the Secretary of State for the Home Department, the Secretaries of State respectively concerned with health in England, Wales and Scotland, the Secretaries of State respectively concerned with education in England, Wales and Scotland, the Minister of Home Affairs for Northern Ireland, the Minister of Health and Social Services for Northern Ireland and the Minister of Education for Northern Ireland.

*Controlled drugs and their classification*

**2 Controlled drugs and their classification for purposes of this Act**

- (1) In this Act—
- (a) the expression "controlled drug" means any substance or product for the time being specified in Part I, II, or III of Schedule 2 to this Act; and
  - (b) the expressions "Class A drug", "Class B drug" and "Class C drug" mean any of the substances and products for the time being specified respectively in Part I, Part II and Part III of that Schedule;
- and the provisions of Part IV of that Schedule shall have effect with respect to the meanings of expressions used in that Schedule.
- (2) Her Majesty may by Order in Council make such amendments in Schedule 2 to this Act as may be requisite for the purpose of adding any substance or product to, or removing any substance or product from, any of Parts I to III of that Schedule, including amendments for securing that no substance or product is for the time being specified in a particular one of those Parts or for inserting any substance or product into any of those Parts in which no substance or product is for the time being specified.
- (3) An Order in Council under this section may amend Part IV of Schedule 2 to this Act, and may do so whether or not it amends any other Part of that Schedule.
- (4) An Order in Council under this section may be varied or revoked by a subsequent Order in Council thereunder.
- (5) No recommendation shall be made to Her Majesty in Council to make an Order under this section unless a draft of the Order has been laid before Parliament and approved by a resolution of each House of Parliament; and the Secretary of State shall not lay a draft of such an Order before Parliament except after consultation with or on the recommendation of the Advisory Council.

*Restrictions relating to controlled drugs etc.*

**3 Restriction of importation and exportation of controlled drugs**

- (1) Subject to subsection (2) below—
  - (a) the importation of a controlled drug; and
  - (b) the exportation of a controlled drug,are hereby prohibited.
- (2) Subsection (1) above does not apply—
  - (a) to the importation or exportation of a controlled drug which is for the time being excepted from paragraph (a) or, as the case may be, paragraph (b) of subsection (1) above by regulations under section 7 of this Act; or
  - (b) to the importation or exportation of a controlled drug under and in accordance with the terms of a licence issued by the Secretary of State and in compliance with any conditions attached thereto.

**4 Restriction of production and supply of controlled drugs**

- (1) Subject to any regulations under section 7 of this Act for the time being in force, it shall not be lawful for a person—
  - (a) to produce a controlled drug; or
  - (b) to supply or offer to supply a controlled drug to another.
- (2) Subject to section 28 of this Act, it is an offence for a person—
  - (a) to produce a controlled drug in contravention of subsection (1) above; or
  - (b) to be concerned in the production of such a drug in contravention of that subsection by another.
- (3) Subject to section 28 of this Act, it is an offence for a person—
  - (a) to supply or offer to supply a controlled drug to another in contravention of subsection (1) above; or
  - (b) to be concerned in the supplying of such a drug to another in contravention of that subsection; or
  - (c) to be concerned in the making to another in contravention of that subsection of an offer to supply such a drug.

**5 Restriction of possession of controlled drugs**

- (1) Subject to any regulations under section 7 of this Act for the time being in force, it shall not be lawful for a person to have a controlled drug in his possession.
- (2) Subject to section 28 of this Act and to subsection (4) below, it is an offence for a person to have a controlled drug in his possession in contravention of subsection (1) above.
- (3) Subject to section 28 of this Act, it is an offence for a person to have a controlled drug in his possession, whether lawfully or not, with intent to supply it to another in contravention of section 4(1) of this Act.

- (4) In any proceedings for an offence under subsection (2) above in which it is proved that the accused had a controlled drug in his possession, it shall be a defence for him to prove—
- (a) that, knowing or suspecting it to be a controlled drug, he took possession of it for the purpose of preventing another from committing or continuing to commit an offence in connection with that drug and that as soon as possible after taking possession of it he took all such steps as were reasonably open to him to destroy the drug or to deliver it into the custody of a person lawfully entitled to take custody of it; or
  - (b) that, knowing or suspecting it to be a controlled drug, he took possession of it for the purpose of delivering it into the custody of a person lawfully entitled to take custody of it and that as soon as possible after taking possession of it he took all such steps as were reasonably open to him to deliver it into the custody of such a person.
- (5) Subsection (4) above shall apply in the case of proceedings for an offence under section 19(1) of this Act consisting of an attempt to commit an offence under subsection (2) above as it applies in the case of proceedings for an offence under subsection (2), subject to the following modifications, that is to say—
- (a) for the references to the accused having in his possession, and to his taking possession of, a controlled drug there shall be substituted respectively references to his attempting to get, and to his attempting to take, possession of such a drug; and
  - (b) in paragraphs (a) and (b) the words from " and that as soon as possible" onwards shall be omitted.
- (6) Nothing in subsection (4) or (5) above shall prejudice any defence which it is open to a person charged with an offence under this section to raise apart from that subsection.

## **6 Restriction of cultivation of cannabis plant**

- (1) Subject to any regulations under section 7 of this Act for the time being in force, it shall not be lawful for a person to cultivate any plant of the genus *Cannabis*.
- (2) Subject to section 28 of this Act, it is an offence to cultivate any such plant in contravention of subsection (1) above.

## **7 Authorisation of activities otherwise unlawful under foregoing provisions**

- (1) The Secretary of State may by regulations—
- (a) except from section 3(1)(a) or (b), 4(1)(a) or (b) or 5(1) of this Act such controlled drugs as may be specified in the regulations; and
  - (b) make such other provision as he thinks fit for the purpose of making it lawful for persons to do things which under any of the following provisions of this Act, that is to say sections 4(1), 5(1) and 6(1), it would otherwise be unlawful for them to do.
- (2) Without prejudice to the generality of paragraph (b) of subsection (1) above, regulations under that subsection authorising the doing of any such thing as is mentioned in that paragraph may in particular provide for the doing of that thing to be lawful—

- (a) if it is done under and in accordance with the terms of a licence or other authority issued by the Secretary of State and in compliance with any conditions attached thereto; or
  - (b) if it is done in compliance with such conditions as may be prescribed.
- (3) Subject to subsection (4) below, the Secretary of State shall so exercise his power to make regulations under subsection (1) above as to secure—
- (a) that it is not unlawful under section 4(1) of this Act for a doctor, dentist, veterinary practitioner or veterinary surgeon, acting in his capacity as such, to prescribe, administer, manufacture, compound or supply a controlled drug, or for a pharmacist or a person lawfully conducting a retail pharmacy business, acting in either case in his capacity as such, to manufacture, compound or supply a controlled drug; and
  - (b) that it is not unlawful under section 5(1) of this Act for a doctor, dentist, veterinary practitioner, veterinary surgeon, pharmacist or person lawfully conducting a retail pharmacy business to have a controlled drug in his possession for the purpose of acting in his capacity as such.
- (4) If in the case of any controlled drug the Secretary of State is of the opinion that it is in the public interest—
- (a) for production, supply and possession of that drug to be either wholly unlawful or unlawful except for purposes of research or other special purposes; or
  - (b) for it to be unlawful for practitioners, pharmacists and persons lawfully conducting retail pharmacy businesses to do in relation to that drug any of the things mentioned in subsection (3) above except under a licence or other authority issued by the Secretary of State,
- he may by order designate that drug as a drug to which this subsection applies; and while there is in force an order under this subsection designating a controlled drug as one to which this subsection applies, subsection (3) above shall not apply as regards that drug.
- (5) Any order under subsection (4) above may be varied or revoked by a subsequent order thereunder.
- (6) The power to make orders under subsection (4) above shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) The Secretary of State shall not make any order under subsection (4) above except after consultation with or on the recommendation of the Advisory Council.
- (8) References in this section to a person's "doing" things include references to his having things in his possession.
- (9) In its application to Northern Ireland this section shall have effect as if for references to the Secretary of State there were substituted references to the Ministry of Home Affairs for Northern Ireland and as if for subsection (6) there were substituted—
- “(6) Any order made under subsection (4) above by the Ministry of Home Affairs for Northern Ireland shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if it were a statutory instrument within the meaning of that Act.”

*Miscellaneous offences involving controlled drugs etc.*

**8 Occupiers etc. of premises to be punishable for permitting certain activities to take place there**

A person commits an offence if, being the occupier or concerned in the management of any premises, he knowingly permits or suffers any of the following activities to take place on those premises, that is to say—

- (a) producing or attempting to produce a controlled drug in contravention of section 4(1) of this Act;
- (b) supplying or attempting to supply a controlled drug to another in contravention of section 4(1) of this Act, or offering to supply a controlled drug to another in contravention of section 4(1);
- (c) preparing opium for smoking;
- (d) smoking cannabis, cannabis resin or prepared opium.

**9 Prohibition of certain activities etc. relating to opium**

Subject to section 28 of this Act, it is an offence for a person—

- (a) to smoke or otherwise use prepared opium; or
- (b) to frequent a place used for the purpose of opium smoking; or
- (c) to have in his possession—
  - (i) any pipes or other utensils made or adapted for use in connection with the smoking of opium, being pipes or utensils which have been used by him or with his knowledge and permission in that connection or which he intends to use or permit others to use in that connection; or
  - (ii) any utensils which have been used by him or with his knowledge and permission in connection with the preparation of opium for smoking.

*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

(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

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

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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.

#### *Miscellaneous offences and powers*

### **18 Miscellaneous offences**

- (1) It is an offence for a person to contravene any regulations made under this Act other than regulations made in pursuance of section 10(2)(h) or (i).
- (2) It is an offence for a person to contravene a condition or other term of a licence issued under section 3 of this Act or of a licence or other authority issued under regulations made under this Act, not being a licence issued under regulations made in pursuance of section 10(2)(i).
- (3) A person commits an offence if, in purported compliance with any obligation to give information to which he is subject under or by virtue of regulations made under this Act, he gives any information which he knows to be false in a material particular or recklessly gives any information which is so false.
- (4) A person commits an offence if, for the purpose of obtaining, whether for himself or another, the issue or renewal of a licence or other authority under this Act or under any regulations made under this Act, he—
  - (a) makes any statement or gives any information which he knows to be false in a material particular or recklessly gives any information which is so false; or
  - (b) produces or otherwise makes use of any book, record or other document which to his knowledge contains any statement or information which he knows to be false in a material particular.

## **19 Attempts etc. to commit offences**

It is an offence for a person to attempt to commit an offence under any other provision of this Act or to incite or attempt to incite another to commit such an offence.

## **20 Assisting in or inducing commission outside United Kingdom of offence punishable under a corresponding law**

A person commits an offence if in the United Kingdom he assists in or induces the commission in any place outside the United Kingdom of an offence punishable under the provisions of a corresponding law in force in that place.

## **21 Offences by corporations**

Where any offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against accordingly.

## **22 Further powers to make regulations**

The Secretary of State may by regulations make provision—

- (a) for excluding in such cases as may be prescribed—
  - (i) the application of any provision of this Act which creates an offence; or
  - (ii) the application of any of the following provisions of the Customs and Excise Act 1952, that is to say sections 45(1), 56(2) and 304, 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 this Act;
- (b) for applying any of the provisions of sections 14 to 16 of this Act and Schedule 3 thereto, with such modifications (if any) as may be prescribed—
  - (i) in relation to any proposal by the Secretary of State to give a direction under section 12(2) of this Act; or
  - (ii) for such purposes of regulations under this Act as may be prescribed;
- (c) for the application of any of the provisions of this Act or regulations or orders thereunder to servants or agents of the Crown, subject to such exceptions, adaptations and modifications as may be prescribed.

### *Law enforcement and punishment of offences*

## **23 Powers to search and obtain evidence**

- (1) A constable or other person authorised in that behalf by a general or special order of the Secretary of State (or in Northern Ireland either of the Secretary of State or the Ministry of Home Affairs for Northern Ireland) shall, for the purposes of the execution of this Act, have power to enter the premises of a person carrying on business as a producer or supplier of any controlled drugs and to demand the production of, and to inspect, any books or documents relating to dealings in any such drugs and to inspect any stocks of any such drugs.

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

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- (2) If a constable has reasonable grounds to suspect that any person is in possession of a controlled drug in contravention of this Act or of any regulations made thereunder, the constable may—
- (a) search that person, and detain him for the purpose of searching him;
  - (b) search any vehicle or vessel in which the constable suspects that the drug may be found, and for that purpose require the person in control of the vehicle or vessel to stop it;
  - (c) seize and detain, for the purposes of proceedings under this Act, anything found in the course of the search which appears to the constable to be evidence of an offence under this Act.

In this subsection " vessel " includes a hovercraft within the meaning of the Hovercraft Act 1968; and nothing in this subsection shall prejudice any power of search or any power to seize or detain property which is exercisable by a constable apart from this subsection.

- (3) If a justice of the peace (or in Scotland a justice of the peace, a magistrate or a sheriff) is satisfied by information on oath that there is reasonable ground for suspecting—
- (a) that any controlled drugs are, in contravention of this Act or of any regulations made thereunder, in the possession of a person on any premises; or
  - (b) that a document directly or indirectly relating to, or connected with, a transaction or dealing which was, or an intended transaction or dealing which would if carried out be, an offence under this Act, or in the case of a transaction or dealing carried out or intended to be carried out in a place outside the United Kingdom, an offence against the provisions of a corresponding law in force in that place, is in the possession of a person on any premises,

he may grant a warrant authorising any constable acting for the police area in which the premises are situated at any time or times within one month from the date of the warrant, to enter, if need be by force, the premises named in the warrant, and to search the premises and any persons found therein and, if there is reasonable ground for suspecting that an offence under this Act has been committed in relation to any controlled drugs found on the premises or in the possession of any such persons, or that a document so found is such a document as is mentioned in paragraph (b) above, to seize and detain those drugs or that document, as the case may be.

- (4) A person commits an offence if he—
- (a) intentionally obstructs a person in the exercise of his powers under this section; or
  - (b) conceals from a person acting in the exercise of his powers under subsection (1) above any such books, documents, stocks or drugs as are mentioned in that subsection; or
  - (c) without reasonable excuse (proof of which shall lie on him) fails to produce any such books or documents as are so mentioned where their production is demanded by a person in the exercise of his powers under that subsection.
- (5) In its application to Northern Ireland subsection (3) above shall have effect as if the words " acting for the police area in which the premises are situated " were omitted.

## **24 Power of arrest**

- (1) A constable may arrest without warrant a person who has committed, or whom the constable, with reasonable cause, suspects to have committed, an offence under this Act, if—
  - (a) he, with reasonable cause, believes that that person will abscond unless arrested; or
  - (b) the name and address of that person are unknown to, and cannot be ascertained by, him; or
  - (c) he is not satisfied that a name and address furnished by that person as his name and address are true.
- (2) This section shall not prejudice any power of arrest conferred by law apart from this section.

## **25 Prosecution and punishment of offences**

- (1) Schedule 4 to this Act shall have effect, in accordance with subsection (2) below, with respect to the way in which offences under this Act are punishable on conviction.
- (2) In relation to an offence under a provision of this Act specified in the first column of the Schedule (the general nature of the offence being described in the second column)—
  - (a) the third column shows whether the offence is punishable on summary conviction or on indictment or in either way;
  - (b) the fourth, fifth and sixth columns show respectively the punishments which may be imposed on a person convicted of the offence in the way specified in relation thereto in the third column (that is to say, summarily or on indictment) according to whether the controlled drug in relation to which the offence was committed was a Class A drug, a Class B drug or a Class C drug; and
  - (c) the seventh column shows the punishments which may be imposed on a person convicted of the offence in the way specified in relation thereto in the third column (that is to say, summarily or on indictment), whether or not the offence was committed in relation to a controlled drug and, if it was so committed, irrespective of whether the drug was a Class A drug, a Class B drug or a Class C drug; and in the fourth, fifth, sixth and seventh columns a reference to a period gives the maximum term of imprisonment and a reference to a sum of money the maximum fine.
- (3) An offence under section 19 of this Act shall be punishable on summary conviction, on indictment or in either way according to whether, under Schedule 4 to this Act, the substantive offence is punishable on summary conviction, on indictment or in either way; and the punishments which may be imposed on a person convicted of an offence under that section are the same as those which, under that Schedule, may be imposed on a person convicted of the substantive offence.

In this subsection " the substantive offence " means the offence under this Act to which the attempt or, as the case may be, the incitement or attempted incitement mentioned in section 19 was directed.

- (4) Notwithstanding anything in section 104 of the Magistrates' Courts Act 1952, a magistrates' court in England and Wales may try an information for an offence under this Act if the information was laid at any time within twelve months, from the commission of the offence.

- (5) Notwithstanding anything in section 23 of the Summary Jurisdiction (Scotland) Act 1954 (limitation of time for proceedings in statutory offences) summary proceedings in Scotland for an offence under this Act may be commenced at any time within twelve months from the time when the offence was committed, and subsection (2) of the said section 23 shall apply for the purposes of this subsection as it applies for the purposes of that section.
- (6) Notwithstanding anything in section 34 of the Magistrates' Courts Act (Northern Ireland) 1964, a magistrates' court in Northern Ireland may hear and determine a complaint for an offence under this Act if the complaint was made at any time within twelve months from the commission of the offence.

## **26 Increase of penalties for certain offences under Customs and Excise Act 1952**

- (1) In relation to an offence in connection with a prohibition or restriction on importation or exportation having effect by virtue of section 3 of this Act, the following provisions of the Customs and Excise Act 1952, that is to say section 45(1) (improper importation), section 56(2) (improper exportation) and section 304 (fraudulent evasion of prohibition or restriction affecting goods) shall have effect subject to the modifications specified in whichever of subsections (2) and (3) below is applicable in the case of that offence.
- (2) Where the controlled drug constituting the goods in respect of which the offence was committed was a Class A drug or a Class B drug, the said section 45(1), 56(2) or 304, as the case may be, shall have effect as if for the words from " shall be liable " to " or to both " there were substituted the following words, that is to say—

“shall be liable—

  - (a) on summary conviction, to a penalty of three times the value of the goods or £400, whichever is the greater, or to imprisonment for a term not exceeding 12 months, or to both;
  - (b) on conviction on indictment, to a pecuniary penalty of such amount as the court may determine, or to imprisonment for a term not exceeding 14 years, or to both”,

so however that nothing in this subsection shall be taken to affect the liability of any person to detention under the said subsection 45(1), 56(2) or 304.
- (3) Where the controlled drug constituting the goods in respect of which the offence was committed was a Class C drug, the said section 45(1), 56(2) or 304, as the case may be, shall have effect as if for the words " imprisonment for a term not exceeding two years " there were substituted the words " imprisonment for a term not exceeding five years
- (4) Section 283(2)(a) of the Customs and Excise Act 1952 (mode of trial of offences punishable with imprisonment for two years) shall have effect as if after the words " two years " there were inserted the words " or more
- (5) Without prejudice to the powers of any court on an appeal, section 286(2) of the Customs and Excise Act 1952 (power of court to mitigate pecuniary penalty) shall not apply in the case of a pecuniary penalty imposed on conviction on indictment by virtue of subsection (2) above.
- (6) In its application to Scotland subsection (5) above shall have effect as if for the reference to section 286(2) of the Customs and Excise Act 1952 there were substituted



a reference to paragraph (5) of section 43 of the Summary Jurisdiction (Scotland) Act 1908 as applied by section 77(4) of the said Act of 1908.

## **27 Forfeiture**

- (1) Subject to subsection (2) below, the court by or before which a person is convicted of an offence under this Act may order anything shown to the satisfaction of the court to relate to the offence, to be forfeited and either destroyed or dealt with in such other manner as the court may order.
- (2) The court shall not order anything to be forfeited under this section, where a person claiming to be the owner of or otherwise interested in it applies to be heard by the court, unless an opportunity has been given to him to show cause why the order should not be made.

### *Miscellaneous and supplementary provisions*

## **28 Proof of lack of knowledge etc. to be a defence in proceedings for certain offences**

- (1) This section applies to offences under any of the following provisions of this Act, that is to say section 4(2) and (3), section 5(2) and (3), section 6(2) and section 9.
- (2) Subject to subsection (3) below, in any proceedings for an offence to which this section applies it shall be a defence for the accused to prove that he neither knew nor suspected nor had reason to suspect the existence of some fact alleged by the prosecution which it is necessary for the prosecution to prove if he is to be convicted of the offence charged.
- (3) Where in any proceedings for an offence to which this section applies it is necessary, if the accused is to be convicted of the offence charged, for the prosecution to prove that some substance or product involved in the alleged offence was the controlled drug which the prosecution alleges it to have been, and it is proved that the substance or product in question was that controlled drug, the accused—
  - (a) shall not be acquitted of the offence charged by reason only of proving that he neither knew nor suspected nor had reason to suspect that the substance or product in question was the particular controlled drug alleged; but
  - (b) shall be acquitted thereof—
    - (i) if he proves that he neither believed nor suspected nor had reason to suspect that the substance or product in question was a controlled drug; or
    - (ii) if he proves that he believed the substance or product in question to be a controlled drug, or a controlled drug of a description, such that, if it had in fact been that controlled drug or a controlled drug of that description, he would not at the material time have been committing any offence to which this section applies.
- (4) Nothing in this section shall prejudice any defence which it is open to a person charged with an offence to which this section applies to raise apart from this section.

## 29 Service of documents

- (1) Any notice or other document required or authorised by any provision of this Act to be served on any person may be served on him either by delivering it to him or by leaving it at his proper address or by sending it by post.
- (2) Any notice or other document so required or authorised to be served on a body corporate shall be duly served if it is served on the secretary or clerk of that body.
- (3) For the purposes of this section, and of section 26 of the Interpretation Act 1889 in its application to this section, the proper address of any person shall, in the case of the secretary or clerk of a body corporate, be that of the registered or principal office of that body, and in any other case shall be the last address of the person to be served which is known to the Secretary of State.
- (4) Where any of the following documents, that is to say—
  - (a) a notice under section 11(1) or section 15(6) of this Act; or
  - (b) a copy of a direction given under section 12(2), section 13(1) or (2) or section 16(3) of this Act,

is served by sending it by registered post or by the recorded delivery service, service thereof shall be deemed to have been effected at the time when the letter containing it would be delivered in the ordinary course of post; and so much of section 26 of the Interpretation Act 1889 as relates to the time when service by post is deemed to have been effected shall not apply to such a document if it is served by so sending it.

## 30 Licences and authorities

A licence or other authority issued by the Secretary of State for purposes of this Act or of regulations made under this Act may be, to any degree, general or specific, may be issued on such terms and subject to such conditions (including, in the case of a licence, the payment of a prescribed fee) as the Secretary of State thinks proper, and may be modified or revoked by him at any time.

## 31 General provisions as to regulations

- (1) Regulations made by the Secretary of State under any provision of this Act—
  - (a) may make different provision in relation to different controlled drugs, different classes of persons, different provisions of this Act or other different cases or circumstances; and
  - (b) may make the opinion, consent or approval of a prescribed authority or of any person authorised in a prescribed manner material for purposes of any provision of the regulations; and
  - (c) may contain such supplementary, incidental and transitional provisions as appear expedient to the Secretary of State.
- (2) Any power of the Secretary of State to make regulations under this Act shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) The Secretary of State shall not make any regulations under this Act except after consultation with the Advisory Council.

- (4) In its application to Northern Ireland this section shall have effect as if for references to the Secretary of State there were substituted references to the Ministry of Home Affairs for Northern Ireland and as if for subsection (2) there were substituted—

“(2) Any regulations made under this Act by the Ministry of Home Affairs for Northern Ireland shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were a statutory instrument within the meaning of that Act.”

### **32 Research**

The Secretary of State may conduct or assist in conducting research into any matter relating to the misuse of dangerous or otherwise harmful drugs.

### **33 Amendment of Extradition Act 1870**

The Extradition Act 1870 shall have effect as if conspiring to commit any offence against any enactment for the time being in force relating to dangerous drugs were included in the list of crimes in Schedule 1 to that Act.

### **34 Amendment of Matrimonial Proceedings (Magistrates' Courts) Act 1960**

In the definition of " drug addict" contained in section 16(1) of the Matrimonial Proceedings (Magistrates' Courts) Act 1960, for the words from " any drug " to " applies " there shall be substituted the words " any controlled drug within the meaning of the Misuse of Drugs Act 1971 " .

### **35 Financial provisions**

There shall be defrayed out of moneys provided by Parliament—

- (a) any expenses incurred by the Secretary of State under or in consequence of the provisions of this Act other than section 32; and
- (b) any expenses incurred by the Secretary of State with the consent of the Treasury for the purposes of his functions under that section.

### **36 Meaning of " corresponding law and evidence of certain matters by certificate**

- (1) In this Act the expression "corresponding law" means a law stated in a certificate purporting to be issued by or on behalf of the government of a country outside the United Kingdom to be a law providing for the control and regulation in that country of the production, supply, use, export and import of drugs and other substances in accordance with the provisions of the Single Convention on Narcotic Drugs signed at New York on 30th March 1961 or a law providing for the control and regulation in that country of the production, supply, use, export and import of dangerous or otherwise harmful drugs in pursuance of any treaty, convention or other agreement or arrangement to which the government of that country and Her Majesty's Government in the United Kingdom are for the time being parties.
- (2) A statement in any such certificate as aforesaid to the effect that any facts constitute an offence against the law mentioned in the certificate shall be evidence, and in Scotland sufficient evidence, of the matters stated.

### 37 Interpretation

- (1) In this Act, except in so far as the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:—

" the Advisory Council " means the Advisory Council on the Misuse of Drugs established under this Act;

" cannabis " (except in the expression " cannabis resin ") means the flowering or fruiting tops of any plant of the genus *Cannabis* from which the resin has not been extracted, by whatever name they may be designated;

" cannabis resin " means the separated resin, whether crude or purified, obtained from any plant of the genus *Cannabis*;

" contravention " includes failure to comply, and " contravene " has a corresponding meaning;

" controlled drug " has the meaning assigned by section 2 of this Act;

" corresponding law " has the meaning assigned by section 36(1) of this Act;

" dentist " means a person registered in the dentists register under the Dentists Act 1957;

" doctor " means a fully registered person within the meaning of the Medical Acts 1956 to 1969 ;

" enactment " includes an enactment of the Parliament of Northern Ireland;

" person lawfully conducting a retail pharmacy business ", subject to subsection (5) below, means a person lawfully conducting such a business in accordance with section 69 of the Medicines Act 1968 ;

" pharmacist " has the same meaning as in the Medicines Act 1968;

" practitioner " (except in the expression " veterinary practitioner") means a doctor, dentist, veterinary practitioner or veterinary surgeon;

" prepared opium " means opium prepared for smoking and includes dross and any other residues remaining after opium has been smoked;

" prescribed " means prescribed by regulations made by the Secretary of State under this Act;

" produce ", where the reference is to producing a controlled drug, means producing it by manufacture, cultivation or any other method, and " production " has a corresponding meaning;

" supplying " includes distributing;

" veterinary practitioner " means a person registered in the supplementary veterinary register kept under section 8 of the Veterinary Surgeons Act 1966;

" veterinary surgeon " means a person registered in the register of veterinary surgeons kept under section 2 of the Veterinary Surgeons Act 1966.

- (2) References in this Act to misusing a drug are references to misusing it by taking it; and the reference in the foregoing provision to the taking of a drug is a reference to the taking of it by a human being toy way of any form of self-administration, whether or not involving assistance by another.
- (3) For the purposes of this Act the things which a person has in his possession shall be taken to include any thing subject to his control which is in the custody of another.
- (4) Except in so far as the context otherwise requires, any reference in this Act to an enactment shall be construed as a reference to that enactment as amended or extended by or under any other enactment.

- (5) So long as sections 8 to 10 of the Pharmacy and Poisons Act 1933 remain in force, this Act in its application to Great Britain shall have effect as if for the definition of "person lawfully conducting a retail pharmacy business" in subsection (1) above there were substituted—

“ person lawfully conducting a retail pharmacy business ' means an authorised seller of poisons within the meaning of the Pharmacy and Poisons Act 1933 ;”

and so long as sections 16 to 18 of the Medicines, Pharmacy and Poisons Act (Northern Ireland) 1945 remain in force, this Act in its application to Northern Ireland shall have effect as if for the definition of "person lawfully conducting a retail pharmacy business" in subsection (1) above there were substituted—

“ person lawfully conducting a retail pharmacy business ' means an authorised seller of poisons within the meaning of the Medicines, Pharmacy and Poisons Act (Northern Ireland) 1945 ;”

### **38 Special provisions as to Northern Ireland**

- (1) In the application of this Act to Northern Ireland, for any reference to the Secretary of State (except in sections 1, 2, 7, 17, 23(1), 31, 35, 39(3) and 40(3) and Schedules 1 and 3) there shall be substituted a reference to the Ministry of Home Affairs for Northern Ireland.
- (2) Nothing in this Act shall authorise any department of the Government of Northern Ireland to incur any expenses attributable to the provisions of this Act until provision has been made by the Parliament of Northern Ireland for those expenses to be defrayed out of moneys provided by that Parliament; and no expenditure shall be incurred by the Ministry of Home Affairs for Northern Ireland for the purposes of its functions under section 32 of this Act except with the consent of the Ministry of Finance for Northern Ireland.
- (3) This Act shall be deemed for the purposes of section 6 of the Government of Ireland Act 1920 to have' been passed before the day appointed for the purposes of that section.
- (4) Without prejudice to section 37(4) of this Act, any reference in this Act to an enactment of the Parliament of Northern Ireland includes a reference to any enactment re-enacting it with or without modifications.

### **39 Savings and transitional provisions, repeals, and power to amend local enactments**

- (1) The savings and transitional provisions contained in Schedule 5 to this Act shall have effect.
- (2) The enactments mentioned in Schedule 6 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (3) The Secretary of State may by order made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament repeal or amend any provision in any local Act, including an Act confirming a provisional order, or in any instrument in the nature of a local enactment under any Act, where it appears to him that that provision is inconsistent with, or has become unnecessary or requires modification in consequence of, any provision of this Act.

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

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#### **40 Short title, extent and commencement**

- (1) This Act may be cited as the Misuse of Drugs Act 1971.
- (2) This Act extends to Northern Ireland.
- (3) This Act shall come into operation on such day as the Secretary of State may by order made by statutory instrument appoint, and different dates may be appointed under this subsection for different purposes.