



Home Office Circular 21 / 2009

A Change to the Misuse of Drugs Act 1971 : Control of GBL, 1,4-BD, BZP and related piperazine compounds, a further group of anabolic steroids and 2 non-steroidal agents, synthetic cannabinoid receptor agonists and oripavine

From: Crime and Policy Group (CPG) - Drug Strategy Unit

FOR MORE INFORMATION CONTACT:

Richard Mullins 020 7035 0463

Email: Richard.Mullins1@homeoffice.gsi.gov.uk

THIS CIRCULAR IS ADDRESSED TO:

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Broad Subject: Crime and Disorder

Sub Category: Drug offences

Dear Sir/Madam,

**MISUSE OF DRUGS ACT 1971 (AMENDMENT) ORDER 2009 (S.I. 2009/3209):
MISUSE OF DRUGS (DESIGNATION) (AMENDMENT) (ENGLAND, WALES
AND SCOTLAND) ORDER 2009 (S.I. 2009/3135); AND**

MISUSE OF DRUGS (AMENDMENT) (ENGLAND, WALES AND SCOTLAND) REGULATIONS 2009 (S.I. 2009/3136).

SUMMARY

1. This Circular draws attention to the contents of the above Statutory Instruments (SIs), S.I. 2009/3209, S.I. 2009/3135 and S.I. 2009/3136 which come into force on **23 December 2009**.

2. The Misuse of Drugs Act 1971 (Amendment) Order 2009 classifies the following drugs as controlled drugs under Schedule 2 to the Misuse of Drugs Act 1971:
 - (i) gamma-butyrolactone (GBL) and 1,4-butanediol (1,4-BD) in Part 3 of the Schedule as Class C drugs;
 - (ii) 1-benzylpiperazine (BZP) and a group of substituted piperazines in Part 3 of the Schedule as Class C drugs;
 - (iii) 15 anabolic steroids and 2 non-steroidal agents (growth promoters) in Part 3 of the Schedule as Class C drugs;
 - (iv) synthetic cannabinoid receptor agonists in Part 2 of the Schedule as Class B drugs; and
 - (v) oripavine in Part 3 of the Schedule as a Class C drug.

3. The Misuse of Drugs (Designation) (Amendment)(England, Wales and Scotland) Order 2009 designates GBL, 1,4-BD, BZP and a group of substituted piperazines (except two piperazines known as mCPP and CPCPP) and synthetic cannabinoid receptor agonists (excluding nabilone) as drugs to which section 7(4) of the Misuse of Drugs Act 1971 applies, essentially because they have no recognized medical use.

4. The Misuse of Drugs (Amendment) (England, Wales And Scotland) Regulations 2009 place each of the drugs specified in paragraph 2 above in the appropriate Schedule to the Misuse of Drugs Regulations 2001 (as amended) (save for GBL and 1,4-BD). BZP and the group of substituted piperazines (except mCPP and CPCPP) and the synthetic cannabinoid receptor agonists (excluding nabilone) are placed in Schedule 1; nabilone and oripavine are placed in Schedule 2; the other 2 substituted piperazines (mCPP and CPCPP)

are placed in Part 1 of Schedule 4 and the 15 anabolic steroids and 2 non-steroidal agents are placed in Part 2 of Schedule 4.

5. The codes for recording offences by the police and the courts for statistical purposes within the Home Office Recorded Crime and Ministry of Justice Court Appearance Database (CAD) – which includes cautions – for each of the drugs listed in paragraph 2 are set out in Annex A.

6. The SIs together with explanatory memorandums can found at <http://www.opsi.gov.uk>. They are also published by The Stationery Office. Telephone orders/General enquiries 0870 600 5522 or online at www.tso.co.uk/bookshop. A copy of this circular can be found at: www.circulars.homeoffice.gov.uk.

BACKGROUND

Summary Overview

7. The Misuse of Drugs Act 1971 (“the 1971 Act”) controls drugs that are “dangerous or otherwise harmful” under a 3-tier system of classification (A, B and C) which provides a framework within which criminal penalties are set with reference to the harm a drug has or is capable of having when misused and the type of illegal activity undertaken in regard to that drug. The control and classification of each of the drugs listed in paragraph 2 above is predicated on an assessment of their respective harms and in accordance with recommendations of the Advisory Council on the Misuse of Drugs.

8. The Misuse of Drugs Regulations 2001 (as amended) (S.I. 2001/3998) regulate the availability of those controlled drugs that have a recognised and legitimate use, by placing them in 1 of 5 schedules to the Regulations. The Schedule into which a drug is placed primarily dictates the extent to which it is lawful to import, export, produce, supply, administer and possess the drug and also imposes requirements around prescription writing, record keeping, labelling, destruction and safe custody.

Specific Drugs

Gamma-butyrolactone (GBL) and 1,4-butanediol (1,4-BD)

9. GBL and 1,4-BD are chemicals that have widespread legitimate uses (for example, in nail polish, paints and as industrial solvents) but are also misused. They are pro-drugs of the Class C drug gamma-hydroxybutyrate (GHB), meaning that when either substance is ingested it is rapidly converted to GHB. The effects and risks associated with their misuse are unconsciousness, a risk of death by intoxication and a dependence syndrome if used regularly. The risks are increased if combined with alcohol or other depressant substances. GBL and 1,4-BD are therefore to be controlled as Class C drugs.

10. GBL and 1,4-BD are not inserted into any Schedule to the 2001 Regulations. Instead, because of their legitimate uses, regulation 4B of the 2001 Regulations makes it lawful to import, export, produce, supply, offer to supply or possess these substances except where a person does so knowing or believing that they will be used for the purpose of human ingestion. The 2001 Regulations exempt these substances when used as flavouring in food with the intention that this legitimate use can continue where it is found in minute quantities in foodstuffs such as dairy products (eg. cheese flavourings, where the dosage of GBL present in the final foodstuff is approximately 0.0002%).

1-benzylpiperazine (BZP) and a group of substituted piperazines

11. BZP and a group of substituted piperazines (or related compounds) are synthetic drugs that stimulate the central nervous system with similar but less potent properties to amphetamine. The harms range from headaches and increased blood pressure to mood swings, confusion, and an association with grand mal seizures. They will be controlled as Class C drugs.

12. In addition to BZP, the generic definition used in the Misuse of Drugs Act 1971 (Amendment) Order 2009 subsumes the following piperazines :

1-(3-Chlorophenyl)piperazine (mCPP), 1-(4-Chlorophenyl)piperazine (pCPP), 1-(4-Fluorophenyl)piperazine (pFPP), 1-(3-Trifluoromethylphenyl)piperazine (TFMPP), 1-(3-Methylphenyl)piperazine (mMPP), 1-(4-Methylphenyl)piperazine (pMPP), 1-(4-

Methoxyphenyl)piperazine (pMeOPP), 1-(3-Chlorophenyl)-4-(3-chloropropyl)piperazine (CPCPP), 1,4-Dibenzylpiperazine (DBZP) and 1-Benzyl-4-methylpiperazine (BZMP).

13. They are placed in Schedule 1 to the 2001 Regulations as they have no recognised medicinal use, with the exception of mCPP and CPCPP which have a legitimate medical use, in the manufacture of antidepressant drugs. mCPP and CPCPP are therefore placed in Part 1 of Schedule 4 to the 2001 Regulations. Persons already authorised by the 2001 Regulations (e.g. doctors and pharmacists) or by a written Home Office authority to produce, supply or possess Schedule 4 Part 1 drugs will automatically be authorised in respect of these additional drugs. Import and export licences are required for the trade in Schedule 4 Part 1 substances but the regulation 15 prescription requirements (including handwriting) do not apply. Regulations 22, 23 (keeping and preservation of records), 26 (furnishing of information) and 27 (destruction) do apply. Schedule 4 Part 1 drugs are not subject to the statutory safe custody requirements.

15 anabolic steroids and 2 non-steroidal agents (growth promoters)

14. The control of a further 15 anabolic steroids and 2 non-steroidal agents (growth promoters) as Class C drugs updates the list of anabolic steroids (as well as 5 growth hormones) which are already controlled under the 1971 Act. When misused, these substances can have a range of physical and psychological harms.

15. The following anabolic steroids are controlled as Class C drugs: 5 α -Androstane-3,17-diol, Androst-4-ene-3,17-diol, 1-Androstenediol, 1-Androstenedione, 5-Androstenedione, Boldione, Danazol, Desoxymethyltestosterone, Gestrinone, 3-Hydroxy-5 α -androstan-17-one, 19-Norandrostenedione, 19-Norandrosterone, 19-Noretiocholanolone, Prostanazol and Tetrahydrogestrinone, along with the growth promoters Zeranol and Zilpaterol.

16. They are all placed in Part II of Schedule 4 to the 2001 Regulations. This means that a person is permitted to import or export such drugs without a licence where importation or exportation is for administration to himself and the drug is contained in a medicinal product. A person may also possess such drugs where they are contained in a medicinal product.

Regulations 22, 23 (keeping and preservation of records), 26 (furnishing of information) and 27 (destruction of the drugs only in presence of an authorised person) of the 2001 Regulations will apply to these drugs but they are not subject to the statutory safe custody requirements.

Synthetic cannabinoid receptor agonists

17. Synthetic cannabinoid receptor agonists (“synthetic cannabinoids”) are man-made chemicals that mimic the psychoactive effects of tetrahydrocannabinol (THC), the active ingredient in cannabis. They have been found in herbal smoking products such as ‘Spice’. The harms of the synthetic cannabinoids are broadly commensurate with those of cannabis and are therefore controlled as Class B drugs.

18. Consistent with the UK’s legislative approach to other synthetic drugs, the Misuse of Drugs Act 1971 (Amendment) Order 2009 controls synthetic cannabinoids using both specific and generic definitions with the intention that controls will capture a range of agonists and therefore both current and future foreseeable trends.

19. Synthetic cannabinoids are placed in Schedule 1 to the 2001 Regulations as they have no recognised medicinal use, with the exception of nabilone which is placed in Schedule 2 of the 2001 Regulations. A person or company wishing to produce, supply or possess nabilone will require an appropriate production, supply or possession licence from the Home Office unless they are otherwise permitted to carry out such activities under the 2001 Regulations. In relation to imports and exports, licences will also be required for each consignment imported and exported. As a Schedule 2 drug, nabilone is subject to the requirements under regulations 14 (documentation), 15 (prescription writing), 16 (supply on prescription), 18 (marking of containers), 19, 20, 21 and 23 (keeping and preservation of registers), 26 (furnishing of information) and 27 (destruction) of the 2001 Regulations. It is also subject to the requirements found in the Misuse of Drugs (Safe Custody) Regulations 1973.

Oripavine

20. Control of oripavine as a Class C drug under the 1971 Act is pursuant to the United Kingdom's obligations under the UN Single Convention on Narcotic Drugs 1961. Oripavine is found in poppy straw of the opium poppy and can be converted into thebaine (controlled under the 1971 Act as a Class A drug) and used in the production of semi-synthetic opiates such as hydrocodone and oxycodone.

21. Oripavine is placed in Schedule 2 to the 2001 Regulations. It is subject to the same requirements as nabilone as set out in paragraph 19 above.

Yours faithfully,

Angela Scrutton
Drug Strategy Unit
Home Office

OFFENCE RECORDING CODES

The codes for recording offences by the police and the courts for statistical purposes within the Home Office Recorded Crime and Ministry of Justice Court Appearance Database (CAD) – which includes cautions - are as follows :

Gamma-butyrolactone (GBL) and 1,4-butanediol (1,4-BD)

- 93/58 - Production of or being concerned in production of a controlled drug – Class C
- 93/63 - Supplying or offering to supply or being concerned in supplying or offering to supply a controlled drug – Class C
- 93/69 - Possession of a controlled drug – class C
- 93/75 - Possession of a controlled drug with intent to supply – class C
- 93/81 - Permitting premises to be used for unlawful purposes – class C

1-benzylpiperazine (BZP) and a group of substituted piperazines (“Piperazines including BZP”)

- 93/57 - Production of or being concerned in production of a controlled drug – Class C
- 93/64 - Supplying or offering to supply or being concerned in supplying or offering to supply a controlled drug – Class C
- 93/70 - Possession of a controlled drug – Class C
- 93/76 - Possession of a controlled drug with intent to supply – Class C
- 93/82 - Permitting premises to be used for unlawful purposes – Class C

Synthetic cannabinoid receptor agonists “Synthetic cannabinoid agonists”

- 92/22 - Production of or being concerned in production of a controlled drug – Class B
- 92/42 - Supplying or offering to supply or being concerned in supplying or offering to supply a controlled drug – Class B
- 92/62 - Possession of a controlled drug – Class B
- 92/82 - Possession of a controlled drug with intent to supply – Class B
- 93/22 - Permitting premises to be used for unlawful purposes – Class B

15 anabolic steroids and 2 non-steroidal agents (growth promoters)

These are to be placed under existing codes relating to anabolic steroids which are as follows :

- 92/27 - Production of or being concerned in production of a controlled drug – Class C
- 92/47 - Supplying or offering to supply or being concerned in supplying or offering to supply a controlled drug – Class C
- 92/67 - Possession of a controlled drug – Class C
- 92/87 - Possession of a controlled drug with intent to supply – Class C
- 93/27 - Permitting premises to be used for unlawful purposes – Class C

Oripavine

This is to be placed under existing code relating to “Other Class C” drugs as follows :

- 92/28 - Production of or being concerned in production of a controlled drug – Class C
- 92/48 - Supplying or offering to supply or being concerned in supplying or offering to supply a controlled drug – Class C
- 92/68 - Possession of a controlled drug – Class C
- 92/88 - Possession of a controlled drug with intent to supply – Class C
- 93/28 - Permitting premises to be used for unlawful purposes – Class C

Offences under S19(a) and 19(b) of the Criminal Justice (International Co-operation) Act 1990 will fall under the appropriate sub-classification code for either Class B or C drugs. Codes 77/54, 77/55, 77/57 and 77/58 refer.

Importation and Exportation offences under SS50(20, 930 & (50 and SS. 68(2) & (4)) of the Customs and Excise Management Act 1979 will fall under the appropriate sub-classification code for either Class B or C drugs. Codes 92/04, 92/05, 92/07 and 92/08 refer