2012 No. 168

DANGEROUS DRUGS

The Misuse of Drugs (Amendment) Regulations (Northern Ireland) 2012

Made - - - -	*18th April 2012*
Coming into operation -	*10th May 2012*

The Department of Health, Social Services and Public Safety makes the following Regulations in exercise of the powers conferred by sections 7, 10, 22 and 31 of the Misuse of Drugs Act 1971(**a**) as adapted by section 38 of that Act and now vested in it(**b**).

In accordance with section 31(3) of that Act, it has consulted with the Advisory Council on the Misuse of Drugs.

Citation and commencement

1. These Regulations may be cited as the Misuse of Drugs (Amendment) Regulations (Northern Ireland) 2012 and shall come into operation on 10th May 2012.

Interpretation

2.—(1) In these Regulations, the "2002 Regulations" means the Misuse of Drugs Regulations (Northern Ireland) 2002(**c**).

(2) The Interpretation Act (Northern Ireland) 1954(**d**) shall apply to these Regulations as it applies to an Act of the Assembly.

Amendment of the 2002 regulations

3. The 2002 Regulations shall be amended as follows.

Amendment of regulation 2

4. In regulation 2(1) (interpretation)—

(a) omit the definition of "medicinal product";

(**a**) 1971 c.38

(**b**) The powers of the Ministry of Home Affairs for Northern Ireland were transferred to the Department of Health and Social Services by S.R & O. (N.I).1973 No 504, Article 5(a) of and Part 2 of Schedule 2. The Department of Health and Social Services was later renamed Department of Health, Social Services and Public Safety by Article 3(6) of S.I 1999/238(N.I.1)

(**c**) S.R. 2002 No 1:The relevant amending Regulations are S.R.2003 Nos 314,324 and 420, S.R.2005 Nos 119,360 and 564,S.R.2006 Nos. 44,214,264 and 334, S.R.2007 No 348,S.R.2009 Nos 390 and 397, S.R.2010 Nos 147 and 247,S.R.2011 No 153

(**d**) 1954 c.33 (N.I)

(b) after the definition of "patient group direction" insert the following definition—

""pharmacist independent prescriber" has the same meaning as the Prescription Only Medicines (Human Use) Order 1997(**a**), and such a person may only prescribe controlled drugs in accordance with regulation 6B;" and

(c) in the definition of "prescription", after "by a nurse independent prescriber for the medical treatment of a single individual,", insert "by a pharmacist independent prescriber for the medical treatment of a single individual,".

Amendment of regulation 4

5. In regulation 4 (exceptions for drugs in Schedules 4 and 5 and poppy-straw)—

(a) in paragraph (2) for "by any person for administration to himself of any drug specified in Part II of Schedule 4 which is contained in a medicinal product" substitute "which is carried out in person for administration to that person of any drug specified in Part II of Schedule 4"; and

(b) in paragraph (3)(a) omit "which is contained in a medicinal product".

Amendment of regulation 6

6. In regulation 6(2) (general authority to supply and possess)—

(a) after "a registered nurse," insert "a pharmacist independent prescriber,"; and

(b) after "a person specified in Schedule 8" insert "acting in accordance with a patient group direction".

Amendment of regulation 6A

7. In regulation 6A(2)(d) (supply of articles for administering or preparing controlled drugs) after "clinical management plan" insert—

"; and

(e) a nurse independent prescriber".

Amendment of regulation 6B

8. For regulation 6B (authority for nurse independent prescribers to prescribe) substitute—

"**6B**. Authority for Nurse Independent Prescribers and Pharmacist Independent Prescribers to prescribe"

(1) Subject to paragraph (2) of this regulation, a nurse independent prescriber or a pharmacist independent prescriber may prescribe any controlled drug specified in Schedule 2, 3, 4 or 5.

(2) Neither a nurse independent prescriber nor a pharmacist independent prescriber may prescribe any of the following substances to a person he considers, or has reasonable grounds to suspect, is addicted to any controlled drug listed in the Schedule to the Misuse of Drugs (Supply to Addicts) Regulations 1973(**b**) save for the purpose of treating organic disease or injury:

(a) cocaine, any salt of cocaine, and any preparation or other product containing cocaine or any salt of cocaine;

(b) diamorphine, any salt of diamorphine, and any preparation or other product containing diamorphine or any salt of diamorphine;

(c) dipipanone, any salt of dipipanone, and any preparation or other product containing dipipanone or any salt of dipipanone.

(**a**) SI 1997/1830, amended by SI 2006/915; there are other amending instruments but none is relevant.
(**b**) S.R & O (N.I) No.180 amended by S.R 1984 No.17 and S.R. 2005 No.564.

(3) For the purposes of paragraph (2) a person is addicted to a controlled drug if, and only if, he has as a result of repeated administration become so dependent upon that controlled drug that he has an overpowering desire for the administration of it to be continued.

Amendment of regulation 7

9. In regulation 7 (administration of drugs in Schedules 2, 3, 4 and 5)—

(a) in paragraph (3) after "any drug specified in Schedule 2, 3 or 4" insert ", and for these purposes the circumstances in which a person is to be regarded as administering in accordance with the directions of a doctor or dentist include where that person is acting in accordance with a patient group direction";

(b) for paragraph (4) substitute—

"(4) Notwithstanding the provisions of paragraph (3), a nurse independent prescriber or a pharmacist independent prescriber may administer to a patient, without the directions of a doctor or dentist, any controlled drug which such nurse independent prescriber or such pharmacist independent prescriber may prescribe under regulation 6B provided it is administered for a purpose for which it may be prescribed under that regulation.";

(c) for paragraph (5) substitute—

"(5) Notwithstanding the provisions of paragraph (3), any person may administer to a patient in accordance with the specific directions of a nurse independent prescriber or a pharmacist independent prescriber any controlled drug which such nurse independent prescriber or such pharmacist independent prescriber may prescribe under regulation 6B provided it is administered for a purpose for which it may be prescribed under that regulation."

Amendment of regulation 8

10. In regulation 8 (production and supply of drugs in Schedules 2 and 5)—

(a) in paragraph (1)(b) after "Schedule 2 or 5" insert—

";

(c) a nurse independent prescriber acting in his capacity as such, or a supplementary prescriber acting under and in accordance with the terms of a clinical management plan, may compound any drug specified in Schedule 2 or 5 for the purposes of administration in accordance with regulation 7;

(d) any person acting in accordance with the written directions of a doctor, a dentist, a nurse independent prescriber, a pharmacist independent prescriber, or a supplementary prescriber acting under and in accordance with the terms of a clinical management plan, may compound any drug specified in Schedule 2 or 5 for the purposes of administration in accordance with regulation 7".

(b) in paragraph (2)(k)(ii) after "nurse independent prescriber" insert "or a pharmacist independent prescriber";

(c) in paragraph (2)(k)(iii) after "nurse independent prescriber" insert "or a pharmacist independent prescriber";

(d) for paragraph (2A) substitute—

"(2A) The directions given by a nurse independent prescriber or a pharmacist independent prescriber referred to in paragraph (2)(k)(ii) and (iii) shall relate only to a controlled drug which such nurse independent prescriber or such pharmacist independent prescriber may prescribe under regulation 6B and a purpose for which it may be prescribed under that regulation.";

(e) for paragraph (7) substitute—

"(7) Notwithstanding the provisions of section 4(1)(b) of the Act, a nurse independent prescriber may, when acting in his capacity as such, supply or offer to supply any

controlled drug specified in Schedule 2 or 5 to any person who may lawfully have any of those drugs in his possession provided it is supplied or offered in circumstances where he may prescribe it under regulation 6B."; and

(f) in paragraph (8)(a)—

(i) after "a registered nurse" insert "or a pharmacist"; and

(ii) for the words "for the treatment of cardiac pain to a person admitted as a patient to a coronary care unit or an accident and emergency department of a hospital" substitute the words "or morphine where administration of such drugs is required for the immediate, necessary treatment of sick or injured persons".

Amendment of regulation 9

11. In regulation 9 (production and supply of drugs in Schedules 3 and 4)—

(a) in paragraph (1)(c) after "Schedule 3 or 4" insert—

";

(d) a nurse independent prescriber acting in his capacity as such, or a supplementary prescriber acting under and in accordance with the terms of a clinical management plan, may compound any drug specified in Schedule 3 or 4 for the purposes of administration in accordance with regulation 7;

(e) any person acting in accordance with the written directions of a doctor, a dentist, a nurse independent prescriber, a pharmacist independent prescriber, or a supplementary prescriber acting under and in accordance with the terms of a clinical management plan, may compound any drug specified in Schedule 3 or 4 for the purposes of administration in accordance with regulation 7".

(b) in paragraph (3) omit "which is contained in a medicinal product";

(c) in paragraph (3)(ii) after "nurse independent prescriber" insert "or a pharmacist independent prescriber";

(d) in paragraph (3)(iii) after "nurse independent prescriber" insert "or a pharmacist independent prescriber";

(e) for paragraph (3A) substitute—

"(3A) The directions given by a nurse independent prescriber or a pharmacist independent prescriber referred to in paragraph (3)(d)(ii) and (iii) shall relate only to a controlled drug which such nurse independent prescriber or such pharmacist independent prescriber may prescribe under regulation 6B and a purpose for which it may be prescribed under that regulation.";

(f) in paragraph (5) omit "which is contained in a medicinal product"; and

(g) for paragraph (7) substitute—

"(7) Notwithstanding the provisions of section 4(1)(b) of the Act, a nurse independent prescriber may, when acting in his capacity as such, supply or offer to supply any controlled drug specified in Schedule 3 or 4 to any person who may lawfully have any of those drugs in his possession provided it is supplied or offered in circumstances where he may prescribe it under regulation 6B."

Amendment of regulation 10

12. In regulation 10 (possession of drugs in Schedules 2, 3 and 4)—

(a) in paragraph (1)(d) omit "which is contained in a medicinal product";

(b) for paragraph (1)(e) substitute—

"(e) a person specified in regulation 8(7), regulation 8(8)(a), regulation 9(7) or regulation 9(8) may have in his possession any drug specified in those regulations in accordance with the conditions specified in those regulations,";

(c) in paragraph (2) for "or a nurse independent prescriber, except that this paragraph shall not have effect in the case of a person to whom the drug has been supplied by or on the prescription of a doctor, a supplementary prescriber or a nurse independent prescriber" substitute ", a nurse independent prescriber or a pharmacist independent prescriber, except that this paragraph shall not have effect in the case of a person to whom the drug has been supplied by or on the prescription of a doctor, a supplementary prescriber, a nurse independent prescriber, a pharmacist independent prescriber or a person specified in Schedule 8 acting in accordance with a patient group direction"; and

(d) in paragraph (2)(a) for "or another nurse independent prescriber and failed to disclose that fact to the first mentioned doctor, supplementary prescriber or nurse independent prescriber" substitute ", another nurse independent prescriber, another pharmacist independent prescriber or another person specified in Schedule 8 acting in accordance with a patient group direction and failed to disclose that fact to the first mentioned doctor, supplementary prescriber, nurse independent prescriber, pharmacist independent prescriber or person specified in Schedule 8 acting in accordance with a patient group direction".

Amendment of regulation 14

13. In regulation 14(4)(g) (documents to be obtained by supplier of controlled drugs) after "supplementary prescriber" insert—

";

(h) a nurse independent prescriber;

(i) a pharmacist independent prescriber".

Amendment of regulation 18

14. For regulation 18(2)(d) (marking of bottles and other containers) substitute—

"(d) the supply of a controlled drug by or on the prescription of a practitioner, a supplementary prescriber, a nurse independent prescriber or a pharmacist independent prescriber;".

Amendment of regulation 26

15. In regulation 26(2) (furnishing of information with respect to controlled drugs) after "supplementary prescriber" insert—

";

(j) a nurse independent prescriber".

Amendment of Schedule 4

16. For the heading of Part II of Schedule 4 substitute "Controlled Drugs Excepted From the Prohibition on Possession; Excluded from the Application of Offences Arising from the Prohibition on Importation and Exportation when Carried Out in Person for Administration to That Person; and Subject to the Requirements of Regulations 22, 23, 26 and 27".

Amendment of Schedule 8

17. For the reference note at the head of Schedule 8 substitute "Regulations 6(2), 8(8), 9(8) and 10(2)" and in paragraph 1 after "prosthetist" insert—

";

(k) a pharmacist".

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 18th April 2012

(L.S.)

Christine Jendoubi
A senior officer of the Department of Health, Social Services and Public Safety

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Misuse of Drugs Regulations (Northern Ireland) 2002 (the "2002 Regulations") to allow a nurse independent prescriber and a pharmacist independent prescriber (defined in regulation 2(1) of the 2002 Regulations, as amended by regulation 4(b)) to prescribe, possess, supply, offer to supply, administer and give directions for the administration of any controlled drug specified in Schedules 2 to 5 of the 2002 Regulations, but not in relation to cocaine, diamorphine or dipipanone as regards persons addicted to these drugs otherwise than for the purpose of treating organic disease or injury suffered by such persons. The amendments also allow a nurse independent prescriber and a pharmacist independent prescriber to supply certain articles for administering or preparing controlled drugs.

Regulation 8(1)(c) and (d) of the 2002 Regulations (inserted by regulation 10(a)) provides for specified persons to compound any drug specified in Schedule 2 or 5 to the 2002 Regulations for the purposes of administration of that drug in accordance with regulation 7 of the 2002 Regulations, and regulation 9(1)(d) and (e) of the 2002 Regulations (inserted by regulation 11(a)) provides for such compounding in relation to any drug specified in Schedule 3 or 4. Regulation 11(1)(e) of the 2002 Regulations (substituted by regulation 12(b)) allows a person specified in regulations 8(7), 8(8)(a), 9(7) or 9(8) to have in his possession any drug specified in those regulations in accordance with conditions specified in those regulations.

Regulation 13 includes a nurse independent prescriber and a pharmacist independent prescriber within the list of persons in regulation 14(4) of the 2002 Regulations in relation to documentation to be obtained by the supplier of a controlled drug in the circumstances set out in regulation 15. Regulation 14 amends regulation 18 of the 2002 Regulations to the effect that the requirement in regulation 18(1) concerning marking of bottles and other containers does not apply in relation to the supply of a controlled drug by or on the prescription of a nurse independent prescriber or a pharmacist independent prescriber. Regulation 15 amends regulation 26 of the 2002 Regulations to include a nurse independent prescriber within the list of persons in regulation 26(2) in relation to the furnishing of information with respect to controlled drugs.

Regulation 5(a) amends regulation 4(2) of the 2002 Regulations to provide that the application of the provisions referred to in regulation 4(2) are excluded only where a person himself carries out the importation or exportation of the drug specified in Part II of Schedule 4 to the 2002 Regulations. The requirement for such a drug to be contained in a medicinal product is omitted from regulation 4(2) of the 2002 Regulations, as amended by regulation 5(a), and regulations 5(b), 11(a) and (e) and 12(a) make similar amendments. The definition of 'medicinal product' is omitted from regulation 2(1) of the 2002 Regulations, as amended by regulation 4(a).

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STATUTORY RULES OF NORTHERN IRELAND

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The Misuse of Drugs (Amendment) Regulations (Northern Ireland) 2012

ISBN 978-0-337-98779-3

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£5.75

N5363 04/2012 425363T 19585