

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Sixth Delegated Legislation Committee

DRAFT MISUSE OF DRUGS ACT 1971
(AMENDMENT) ORDER 2016

Thursday 20 October 2016

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Monday 24 October 2016

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The Committee consisted of the following Members:

Chair: MR NIGEL EVANS

† Brown, Lyn (<i>West Ham</i>) (Lab)	† Offord, Dr Matthew (<i>Hendon</i>) (Con)
† Creasy, Stella (<i>Walthamstow</i>) (Lab/Co-op)	† Pursglove, Tom (<i>Corby</i>) (Con)
† Elphicke, Charlie (<i>Dover</i>) (Con)	Raab, Mr Dominic (<i>Esher and Walton</i>) (Con)
Hunt, Tristram (<i>Stoke-on-Trent Central</i>) (Lab)	Shuker, Mr Gavin (<i>Luton South</i>) (Lab/Co-op)
† Knight, Julian (<i>Solihull</i>) (Con)	† Tami, Mark (<i>Alyn and Deeside</i>) (Lab)
† Kyle, Peter (<i>Hove</i>) (Lab)	† Wheeler, Heather (<i>South Derbyshire</i>) (Con)
† Lefroy, Jeremy (<i>Stafford</i>) (Con)	† Williams, Craig (<i>Cardiff North</i>) (Con)
† McLaughlin, Anne (<i>Glasgow North East</i>) (SNP)	Clementine Brown, <i>Committee Clerk</i>
† Merriman, Huw (<i>Bexhill and Battle</i>) (Con)	† attended the Committee
† Newton, Sarah (<i>Parliamentary Under-Secretary of State for the Home Department</i>)	

The following also attended (Standing Order No. 118(2)):

Huq, Dr Rupa (*Ealing Central and Acton*) (Lab)

Sixth Delegated Legislation Committee

Thursday 20 October 2016

[MR NIGEL EVANS *in the Chair*]

Draft Misuse of Drugs Act 1971 (Amendment) Order 2016

11.30 am

The Parliamentary Under-Secretary of State for the Home Department (Sarah Newton): I beg to move,

That the Committee has considered the draft Misuse of Drugs Act 1971 (Amendment) Order 2016.

It is a great pleasure to serve under your chairmanship, Mr Evans. The draft order was laid in Parliament on 20 July. The expert advice from the Advisory Council on the Misuse of Drugs has been key to this draft order, which was prompted by the council's recommendations. The council's advice relates to a third generation of synthetic cannabinoids, a group of new psychoactive substances commonly known as Spice; and to dienedione, an anabolic steroid used for performance enhancement.

The order will amend the generic definition of the synthetic cannabinoids in the Misuse of Drugs Act 1971 to include the new group as class B drugs, and will control dienedione as a class C drug. That will make it an offence to produce, import, export, supply or offer to supply the drugs without a Home Office licence. Similarly to other anabolic steroids, dienedione will be exempted from the Act's possession offence to allow for its legitimate use on prescription.

As the Committee might expect, the cannabinoids in question are thought to pose similar harms to cannabis and other cannabinoids controlled under the 1971 Act. We have made specific exemptions in the order for cannabinoids used in medicinal products and some controlled drugs. There are no known legitimate or recognised uses of the remaining compounds, beyond potential research.

The ACMD advises that the potential physical and social harms of dienedione will be commensurate with those of other anabolic steroids, which, as Members will know, can alter growth and produce several effects on the reproductive system and sexual characteristics in men. The ACMD considers that the relevant substances are being or are likely to be misused, and that misuse is having, or at least capable of having, harmful effects sufficient to constitute a social problem. For those reasons, I have accepted the council's advice that the substances should be subject to the order.

In due course, we will make two further related negative statutory instruments to come into force at the same time as the order, adding dienedione and the third-generation synthetic cannabinoids to the appropriate schedules in the Misuse of Drugs Regulations 2001, as well as designating the synthetic cannabinoids as substances for which there is no recognised legitimate use outside of research.

It is only through a balanced approach towards reducing demand, restricting supply and building recovery that the Government can address the harms associated with drug misuse. However, we do expect the order to have a notable impact on the availability of the relevant substances

and to make it clear that their misuse poses an unacceptable risk to health if they are not placed under the controls of the 1971 Act. I commend the draft order to the Committee.

11.34 am

Lyn Brown (West Ham) (Lab): It is a real pleasure to serve under your chairmanship, Mr Evans. It might be cold outside, but there is a little warmth inside this room.

As I understand it, and as the Minister explained really well, the draft order will bring a range of cannabinoids and one anabolic steroid under the control of the Misuse of Drugs Act 1971. Its contents are in accordance with recommendations from the Advisory Council on the Misuse of Drugs, and it has been made after careful evaluation of the harmful societal impact of the substances.

Article 4 of the order will bring the anabolic steroid known as dienedione under permanent control as a class C drug. As we have heard, professional athletes are currently prohibited from using dienedione, as it is banned by the World Anti-Doping Agency as a performance-enhancing drug. UK Anti-Doping has an arrangement with the Advisory Council on the Misuse of Drugs. The arrangement is sensible, because substances that are manufactured to aid elite sports performance can become popular among amateur sportsmen and women. Sometimes these performance-enhancing substances can carry really significant health risks. We are pleased that the ACMD undertook a review of dienedione at the request of the doping agency in 2015 and that the advisory council recommends controlling the substance as a class C drug because it is similar to other anabolic steroids, which have been found to have a number of really harmful effects, including cardiovascular difficulties and liver dysfunction.

The advisory council notes that anabolic steroids pose a particular risk to the young people. They state that the drugs

“potentially disrupt the normal pattern of growth and behavioural maturation.”

The ACMD points out that controlling the substance may help to reduce both demand and supply, minimising the risk of health harms, as the Minister stated. Given that carefully crafted and evidence-based recommendation from the advisory council, Her Majesty's Opposition support the proposed controls on dienedione.

Article 3 of the order brings a range of third-generation synthetic cannabinoids under permanent control as class B substances. Synthetic cannabinoids are drugs that are designed to mimic the psychoactive effects of cannabis, as the Minister stated. Looking at past ACMD reports, there can be no doubt of the harm that these substances bring. Synthetic cannabinoids can produce severe adverse effects, including increased heart rate, panic attacks and convulsions. A number of users have visited A&E as a result of vomiting, hallucinations, and so on.

Early academic research suggests that users show evidence of acute withdrawal associated with cessation of long-term use of these products, suggesting dependence. The ACMD warns that there have been

“reports of psychosis and other psychiatric presentations associated with their use.”

The European Monitoring Centre for Drugs and Drug Addiction stated that

“their use has caused many serious poisonings and even deaths—sometimes these have manifested as outbreaks of mass poisonings.”

Given those harms, the Government have rightly moved to control synthetic cannabinoids substances in the past, as they did in both 2009 and 2012. However, the ACMD reported in November 2014 that since that action was taken, a third generation of synthetic cannabinoids, outside of the scope of controls, has entered the market and become widely available. In that report, a revised generic description of synthetic cannabinoids was put forward by the ACMD and accepted by Parliament under an order similar to this one.

This game of whack-a-mole, as I like to put it, has been going on between drug suppliers and the Government over synthetic cannabinoids, showing just why we needed legislation such as the Psychoactive Substances Act 2016, which introduced a ban on all substances that mimic the effects of controlled drugs. We hope that that Act, which came into force this year, will finally allow the Government to get one step ahead of the market and will significantly reduce the supply of these dangerous substances. May I also say, quite selfishly, that it might even reduce the number of statutory instruments before Parliament?

This is the first order to place new psychoactive substances under the control of the Misuse of Drugs Act 1971 that Parliament has been asked to affirm since the Psychoactive Substances Act came into force. The Opposition were clear during the passage of the Psychoactive Substances Act that it should not be used as an excuse not to place dangerous substances under the stricter controls provided for by the Misuse of Drugs Act, so we are pleased to see the order. However, although we welcome the controls brought by the Psychoactive Substances Act and by the order, we have always been clear that legislation can be effective only if there is a wider strategy to reduce the demand for harmful substances. That is particularly true for synthetic cannabinoids, which, as Mentor points out, have become prevalent among vulnerable groups such as street homeless communities and prisoners. Hon. Members who served on the Psychoactive Substances Bill Committee—some are in this Committee Room today—will remember well our debates on that issue. Such vulnerable groups are usually less responsive to changes in the legal status of substances and in greater need of targeted intervention programmes.

During the passage of the Psychoactive Substances Act, the Government appeared to agree with us. They promised that the Act would be rolled out alongside a comprehensive drug awareness and education strategy. The previous Minister, the right hon. Member for Hemel Hempstead (Mike Penning), wrote to me—he wrote to me quite a lot, actually—and made that pledge:

“Going forward, we are developing a strategic communications plan to support the implementation of the Bill in April 2016. In developing our plans, we are recognising the value of raising public awareness of the harms of drug misuse”.

The Act came into force on 26 May; here we are, five months later, and the Government have still not released the promised education and awareness strategy. All that has been produced is the “Resource pack for informal educators and practitioners” on the Home Office website, which directs people to existing Government services such as “Talk to Frank”. I am not going to reiterate our debate about “Talk to Frank”, because that would take way too long and because my concerns have been outlined on numerous occasions, but we reached a conclusion

across the Psychoactive Substances Bill Committee that the “Talk to Frank” service was frankly not doing what it needed to. I was expecting much more from the Government, and I know that drug charities were too. Perhaps the Government are planning to include a comprehensive education and awareness strategy for new psychoactive substances within their five-year reduction strategy, which was due to be published this summer but was not. Will the Minister explain why we have yet to see that strategy? Could she tell us when we will be able to see it, if the Government still intend to produce one?

I will push the Minister on one more point, which she did not cover in her speech. I am told that synthetic cannabinoids act on the same brain cell receptors as natural cannabis. People who suffer from multiple sclerosis and other such conditions may therefore be tempted to use such substances to alleviate their truly difficult and awful symptoms. I really have enormous sympathy for anyone suffering from multiple sclerosis who seeks the most effective pain relief available and who therefore seeks, in the absence of suitable prescribed products, to use substances available from local traders, shall we call them. Sufferers should not need to use illegal and unregulated substances that are in themselves harmful in order to have access to the medical benefits that are ascribed to cannabis.

Anne McLaughlin (Glasgow North East) (SNP): The Scottish National party passed a resolution at its conference last weekend that called for exactly what the hon. Lady is talking about: the decriminalisation of cannabis for medicinal purposes. I understand that that resolution had the backing of the First Minister of Scotland. It is interesting to note the direction of travel there. Having said that, the Scottish Government have control over health, but not over this issue. The hon. Lady, and any other Member who wishes to do so, may feel free to back the devolution of those powers, so that the Scottish Government can make those decisions. I support what she says about decriminalisation for medicinal purposes.

Lyn Brown: I was not going that far. Let me be really clear. I am not going that far; I am starting to tremble. THC is the active ingredient in cannabis. It is used effectively in a drug called Sativex. Sativex is already licensed in the UK to relieve the symptoms of conditions such as MS. The Minister may be aware that Sativex is not available on the NHS in England, due to the cost of the drug, whereas in Wales, Sativex is available to sufferers on prescription.

Sufferers of conditions such as MS—and, I am told, pain from some cancers that cannot be controlled by drugs that the NHS currently uses—should not suffer greater pain and difficulty just because they live, on this occasion only, on the wrong side of the border. We certainly do not want to push sufferers into unregulated, synthetic and potentially dangerous cannabinoid usage. This is something that the Government could and should get a grip of.

So while it is ultimately a decision for NICE, will the Minister talk to her colleagues in the Department of Health and try to get NICE to look at this again? To conclude, the Opposition support the order before us. The Advisory Council on the Misuse of Drugs has made clear recommendations that these substances should be controlled after evaluating the evidence that they

pose a societal risk. Legislation which controls substances will be successful only if it is part of an overall strategy to reduce demand for harmful substances.

The Government's failure to provide a comprehensive education and awareness strategy alongside psychoactive substances and the delay in publishing their five-year strategy to reduce drug harm suggest that they are not taking this component of reducing drug harms seriously enough. Let us face it, the people who are caught up in use of these harmful and addictive substances will suffer most from the Government's failure. It is very costly to pick up the pieces of blighted lives. Prevention, in this case as in most others, is much better than cure.

11.47 am

Jeremy Lefroy (Stafford) (Con): Thank you, Mr Evans. It is an honour to serve under your chairmanship. I welcome the Minister to her position. I want to endorse the point that the hon. Member for West Ham has made about education. I think it is extremely important, and I have no doubt that the Minister will respond in some detail.

The only other point I wish to make is about treatment. Treatment is absolutely vital. In Staffordshire and Stoke-on-Trent we are facing some difficult choices on treatment in the coming months. I know that my hon. Friend the Member for Burton, who has the wonderful Burton addiction centre in his constituency is very concerned about this, as are we all. All our constituents in Stoke-on-Trent and Staffordshire benefit from that excellent facility.

What conversations has the Minister been having with her counterparts at the Department of Health on the matter of drug and alcohol treatment?

11.48 am

Sarah Newton: I would like to thank the hon. Member for West Ham and my hon. Friend the Member for Stafford for their interesting contributions. I welcome the hon. Member for West Ham to her new position and look forward to working with her. She rightly says that this is an incredibly important area of policy. What could be more important for us as parliamentarians than keeping the communities we represent safe? I welcome the hon. Lady's support. As she says, new psychoactive substances have already cost too many lives. The Psychoactive Substances Act is sending out a clear message: this Government will take whatever action is necessary to keep our families and communities safe. These drugs are not legal or safe and we will not allow them to be sold in this country. The hon. Lady is quite right that it is a game of cat and mouse and the Psychoactive Substances Act 2016 enabled us to get ahead of the game.

But where drugs continue to emerge, which are sufficiently harmful to warrant control under the Misuse of Drugs Act, the Government have a duty to impose that higher regime of control, both to support enforcement in restricting the supply of these substances and to send out the message that these drugs are too harmful to be in circulation.

Our approach to drugs must continue to be proportionate, informed by evidence of harm and ACMD advice, and characterised by a balanced response. The ACMD's advice today is precisely that: it is proportionate

and appropriate to control these emerging drugs under the Misuse of Drugs Act 1971. We are acting on that advice and will continue to do so.

I would like to reassure everyone that the Government understand that the response to drugs needs to be broader than restricting supply through legislation. I have made it my priority to take action to prevent the harms caused by drug misuse. I have first-hand experience of working with drug users and understand the complexities that they as individuals have to overcome in their recovery process, before we can begin to consider the wider harms and costs to our families, friends and communities. I fully recognise the scale of the challenge.

As a Minister I have already seen a range of excellent work across the country, including in Durham where the police are working with local partners and charities, including the Centre for Change, to tackle the supply, to empower people to resist drugs and to put in place highly effective programmes to help them recover from their dependence. That is why it is so important to have a balanced drugs strategy.

I can assure the Committee that the Government are committed to publishing a new cross-Government drugs strategy and will do so soon. That will include new action to prevent the onset of drug use and its escalation at all ages through universal action, combined with more targeted action for individual people.

That includes placing much greater emphasis on building resilience. This is where I would like to go into more detail to answer the questions about the educational tools and resources that are available. Since the introduction of the Psychoactive Substances Act we have developed a range of new and specific resources.

Yesterday I was at the national conference, sponsored by Mentor-ADEPIS, of all of those involved in our country. It pulled together all the best evidence and practice available to educators, teachers, parents and people working with young offenders, right across the spectrum. It is worth noting that ADEPIS has been praised by the United Nations as an example of best practice.

We really are leading the world in this area. One only needs to look at the data that clearly show the number of people across all age groups, particularly young people, who are no longer tempted to take drugs. We have seen really good evidence and data to show that fewer people are taking drugs and, indeed, alcohol.

Of course, we are not complacent. The number of deaths from people misusing drugs is too high. One person dying from taking drugs is one too many. Although I am not at all complacent, it is worth noting the success and achievement of those involved in drug education, prevention and rehabilitation services.

"Talk to Frank", which came under some criticism from the hon. Member for West Ham, has been updated since the Psychoactive Substances Act. We do keep the databases and portals for the information and tools available regularly updated. We put evidence at the heart of everything that we do. It was interesting, when meeting the practitioners who are day in, day out on the front line of delivering this education in schools and a variety of settings, to hear the importance of using an evidence base.

Some things that we think, with very good intentions, will absolutely do the trick—for example, the short, sharp shock of ex-drug addicts or police officers going

into schools—do not always work. Enabling young people to be more resilient, to focus on their health and wellbeing, and to make risk assessments and manage their own risky behaviours produce a far more sustainable and effective result.

I hope that by elaborating that, I have reassured the Committee that there is a lot of very good work going on.

Lyn Brown: The Minister has clearly supported our position on personal, social, health and economic education in her short statement. I am grateful to her for that. I say gently, and with a smile on my face, I will be pressing her on that in future. Will she tell me, however, when the Government will actually produce the strategy?

Finally, the Minister was kind enough to nod and smile at me when I was talking about Sativex. It would be great if she could tell us, on the record, that she will talk to her colleagues in the Department of Health and NICE about making it available to patients in England.

Sarah Newton: The hon. Lady anticipated my next point, which was to address the concerns that a number of honourable colleagues have expressed to me this morning. First, however, I will come back to her on PSHE. It is incredibly important that young people are provided extremely good education in schools, not only so that they can make the most of all the great opportunities of 21st-century Britain, but so that they understand the considerable risks that come along with that, especially online. Given my ministerial portfolio, I look at things such as the sexualisation of children and what more we can do to enable young people to have appropriate, respectful sexual relationships, and I am fully aware of the need for comprehensive, age-appropriate education for young people.

Craig Williams (Cardiff North) (Con): I pay tribute to Mentor, which works in this area. As a Welsh MP, I am very aware, as I am sure the Minister is, of the devolution of education to three nations. Will she ensure that best practice in England and the other nations is shared, so that we may encourage cross-border working?

Sarah Newton: I am grateful to my hon. Friend for his intervention. He makes a good point. I am a passionate localist and think that communities working together often find the best solutions—better solutions than we find here in Westminster—but it is important to provide consistent, high-quality services and educational support by sharing best practice. I absolutely assure him that we will be doing that, and I will work with my colleagues in the Welsh Assembly, the Scottish Parliament and the Northern Ireland Assembly.

Coming on to issues relating to the decriminalisation of cannabis, I want to make it absolutely clear that the policy of the Government is not to decriminalise cannabis, which is clearly a very harmful—

Anne McLaughlin: Will the Minister give way?

Sarah Newton: I will answer the question. Cannabis is clearly a very harmful substance, and there is no evidence at all to support its decriminalisation. Moreover, we already have a very good regime that allows classified drugs to be used in scientific research and the development of medicinal substances—not only cannabis. I assure hon. Members that I have met with my colleagues over

in the Department of Health, and that my officials have been in touch with officials there to re-examine the existing regime to ensure that it is not preventing scientific research, or stopping pharmaceutical companies from asking for licences to use cannabis.

We have talked about one particular medicine today, but a whole range of research is in fact funded by the Department of Health, such as research into the use of cannabis in the treatment of not only cancer but Parkinson's disease. I have assured myself, through working with my colleagues, that the existing regime is fit for purpose and is producing beneficial effects. If at any stage scientists, researchers or medical researchers come to me with evidence that our regime is standing in the way of the positive use of listed substances that might have medicinal or positive effects, of course I will examine that evidence.

Lyn Brown: The Minister is being very generous in giving way and, I have to say, remarkably wonderful this morning, but may I press her on Sativex? She is right that our scientists have produced good, beneficial medicines from cannabis, THC and so on, but we need them to be available. It is no good them being available only to people in Wales, but not to people in England as well. I know that this is not part of her portfolio, but it would be great to have an ally pushing at the Department of Health and NICE to get those benefits available to all people in the United Kingdom.

Sarah Newton: I will also take the intervention of the hon. Member for Glasgow North East.

Anne McLaughlin: For the record, the Minister stated that the British Government had no intention of decriminalising cannabis, but neither I nor the Scottish National party was calling for that. The resolution that we passed specifically concerned medicinal purposes. I wanted to put that on the record again, in case there was any misunderstanding.

The Chair: Before I call the Minister, I point out that I will not allow a general debate on decriminalisation.

Sarah Newton: I appreciate the hon. Lady's clarification, because I am sure we can all agree that it is not right to decriminalise the use of cannabis in the way described, because we would have no control. Does she really think that it would be okay for people to get seeds to plant at home, even though they know nothing about the percentage of harmful effects in the resulting plants, and for that to be totally unregulated? People would be able to imbibe incredibly harmful and damaging substances. What we are doing is far better—scientists coming forward for a licence as necessary, as proven with drugs that have already been licensed, so we know that we can use cannabis in a properly controlled and experimental way, with the drugs then being made available.

I have absolute sympathy with people who have MS and other chronic and degenerative diseases—all of us who have constituents in that situation do. They are suffering terribly, but we want to ensure that they have safe medication and that they are looked after by doctors. I do not want to encourage DIY medicine, which could have potentially devastating and harmful effects.

[Sarah Newton]

I have raised Sativex with my colleagues. With that drug and so many others found by NICE not to be cost-effective on the NHS—there are other cancer treatments—the Department of Health is always in dialogue with NICE and with the pharmaceutical industry to bear down on the cost of such drugs, so that they become cost-effective and more people in Britain can benefit from them. I hope that that has answered the questions asked of me this morning.

I also want to pick up on what my hon. Friend the Member for Stafford said about recovery and how important it is. Of course prevention has to be better than a cure, and of course it is right that we focus on restricting supply of drugs and on encouraging young people and people of all ages not to take the drugs in the first place, because we know that the road to recovery can be difficult and that not everyone can reach that recovery. Tragically, too many people are still losing their lives. I have seen a lot of good partnership work all over the country and, when we publish our strategy, I hope that my hon. Friend will see that, right at the heart

of it, there is really good progress on how we will take forward recovery, building on good existing examples of partnership working from around the country. Our strategy will be out soon.

We have had a good debate and, Mr Evans, you have helpfully kept us on track. I hope that the case I have made this morning will help people to understand that legislative action is important, but that it is only one part of the Government's comprehensive approach to prevent people from taking drugs. Legislative action is, none the less, crucial, and I hope that the Committee agrees that I have made the case to protect the public by controlling those harmful drugs on the basis of the vital evidence provided by the ACMD. I recommend the draft order to the Committee.

Question put and agreed to.

Resolved,

That the Committee has considered the draft Misuse of Drugs Act 1971 (Amendment) Order 2016.

12.3 pm

Committee rose.