

Home Office Circular

A change to the Misuse of Drugs Act 1971 (1971 Act):

1. Permanent control of a third generation of synthetic cannabinoids as Class B drugs under Part 2 of Schedule 2 to the Misuse of Drugs Act 1971. This excludes those synthetic cannabinoids which are already controlled as Class B drugs, two other compounds which are already controlled as Class A drugs, and several other compounds that have legitimate medical uses; and
2. Permanent control of the anabolic steroid dienedione as a Class C drug under Part 3 of Schedule 2 to the Misuse of Drugs Act 1971.

Broad subject: Crime and disorder

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From: Crime, Policing and Fire Group (CPFG) – Drugs and Alcohol Unit

Sub category: Drug offences

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This circular is addressed to: Lord Chief Justice, Justices of the Supreme Court, President of the Queen's Bench Division, Master of the Rolls, Senior Presiding Judge, Lords Justices of Appeal, Chairman of the Judicial College, High Court Judges, Presiding Judges, Resident Judges, Crown Court Judges, District Judges (Magistrates' Courts), Chairmen of the Justices, Director of Public Prosecutions, HM Chief Inspector of Constabulary, Chief Officers of Police in England and Wales, Director General of the National Crime Agency, Police and Crime Commissioners in England and Wales, Mayor's Office for Policing and Crime, College of Policing, HM Revenue and Customs, Chief Crown Prosecutors, Attorney General's Office.

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Summary

This circular draws attention to the contents of the below Statutory Instruments (SIs): S.I. 2016/1109; S.I. 2016/1124; and S.I. 2016/1125, which come into force on 14 December 2016.

- The Misuse of Drugs Act 1971 (Amendment) Order 2016, S.I. 2016/1109
- The Misuse of Drugs (Designation)(Amendment)(England, Wales and Scotland) Order 2016, S.I 2016/1124
- The Misuse of Drugs (Amendment)(England, Wales and Scotland) Regulations 2016, S.I 2016/1125

The policy is to permanently control a further range of synthetic cannabinoids as Class B drugs and the steroid dienedione as a Class C drug under the Misuse of Drugs Act 1971 (“1971 Act”). The Advisory Council on the Misuse of Drugs (ACMD) has advised that these substances are sufficiently harmful when misused to warrant control under the 1971 Act.

The intended objectives are to restrict the availability of the compounds and their simple derivatives by suppliers 'self-regulating' and law enforcement activity against illicit production, supply and import/exportation and possession on commencement of drug control measures. Other intended objectives include deterring demand and misuse amongst the public, especially young people and young adults, while enabling the undertaking of activities involving one or more of these compounds under the Misuse of Drugs Regulations 2001.

Legislative Background

The Misuse of Drugs Act 1971 (1971 Act) controls drugs that are “dangerous or otherwise harmful”. Schedule 2 to the 1971 Act specifies these drugs and groups them in three categories – Part 1 lists drugs known as Class A drugs, Part 2 lists Class B drugs, and Part 3 lists Class C drugs. The three-tier system of classification (A, B and C) 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 classification of the drugs listed above is predicated on an assessment of their respective harms and in accordance with recommendations made by the ACMD.

The harms of the ‘third generation’ synthetic cannabinoids are reported to be similar to cannabis and other synthetic cannabinoids already controlled under the 1971 Act. ‘Third generation’ reflects the fact that these substances have been chemically modified in order to deliberately evade previous controls. There are no known legitimate or recognised uses of these compounds beyond research.

Dienedione is an anabolic steroid which has a number of physiological effects similar to those anabolic steroids already controlled as Class C drugs under the 1971 Act. These include anabolic effects (such as growth of skeletal muscle and bone) and androgenic effects (the differentiation, growth and maintenance of the reproductive system and sexual characteristics in males).

As appropriate, controls on these substances are extended to their simple derivatives - salts, stereoisomeric forms. Dienedione does not form esters or ethers.

Policy context

The ACMD has reported that these “third generation” synthetic cannabinoids affect the CB1 cannabinoid receptors in the brain and produce psychoactive effects similar to those produced by cannabis. Following the identification of such materials in smoking products, the Government subjected them to two tranches of controls under the 1971 Act. The first, which came into force at the end of 2009, was based around materials then known to be available as new psychoactive substances (NPS) and included a number of named compounds together with generic controls covering groups of materials related to those known to be in circulation in order to try to avoid simple ‘designer’ variants. A further generic definition came into effect in early 2013 and expanded control to include a broader range of ‘second generation’ materials, which had appeared between 2009 and 2012.

A “third generation” of synthetic cannabinoids, which are outside the scope of the 2012 and 2009 controls, subsequently entered the market and became widely available. They are known under many of the same brand names as previous generations, such as ‘Spice’ and ‘Black Mamba’ etc. As such, the ACMD issued advice on an additional generic definition to classify this further range of synthetic cannabinoids as Class B drugs under the 1971 Act and Schedule 1 drugs to the Misuse of Drugs Regulations 2001. In addition, these drugs will be ‘designated’ by order under section 7(4) of the 1971 Act and listed in Schedule 1 to the Misuse of Drugs (Designation) Order 2015.

Dienedione (estra-4,9-diene-3,17-dione) is also being permanently controlled as a Class C drug. Dienedione is an anabolic steroid. Anabolic steroids are synthetic substances which are related to the male sex hormones, particularly testosterone. These substances have a number of physiological effects, most notably anabolic effects (such as growth of skeletal muscle and bone) and androgenic effects (the differentiation, growth and maintenance of the reproductive system and sexual characteristics in males).

The ACMD considered the potential physical and social harms of dienedione and advised that these would be commensurate with other anabolic steroids. The ACMD has therefore recommended that dienedione be controlled under the Misuse of Drugs Act 1971 in Class C and as a Schedule 4 (IV) Part 2 substance under the Misuse of Drugs Regulations 2001, so as not to preclude theoretical legitimate use on prescription.

Misuse of Drugs Regulations 2001

The Misuse of Drugs Regulations 2001 ('2001 Regulations') regulate the legitimate access to drugs controlled under the 1971 Act. Such drugs are placed in one of five Schedules to the 2001 Regulations.

Drugs which have no recognised medicinal or legitimate uses beyond research are 'designated' and placed in Schedule 1 to the 2001 regulations which means they are subject to the strictest levels of controls. As a result, the 'third generation' of synthetic cannabinoids will be listed as Schedule 1 substances to the 2001 Regulations and designated as drugs to which section 7(4) of the 1971 Act applies.

Dienedione will be listed as a Schedule 4 (Part 2) substance to the 2001 Regulations, so as not to preclude theoretical legitimate use on prescription.

Glossary

Annex A

1971 Act	Misuse of Drugs Act 1971
NPS	New Psychoactive Substances
ACMD	Advisory Council on the Misuse of Drugs
2001 Regulations	The Misuse of Drugs Regulations 2001

Points of contact

Annex B

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Sources of further information

Annex B

<http://www.legislation.gov.uk/ukpga/1971/38/contents>

<https://www.gov.uk/government/publications/third-generation-synthetic-cannabinoids>

[https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/491846/ACMD_advice - Estra-4 9-diene-317-dione dienedione .pdf.](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/491846/ACMD_advice_-_Estra-4_9-diene-317-dione_dienedione_.pdf)

http://www.legislation.gov.uk/uksi/2001/3998/pdfs/uksi_20013998_en.pdf