

Problem Drug Use Bill

[AS INTRODUCED]

CONTENTS

Problem drug use as a health issue

- 1 Government approach and departmental responsibility
- 2 Declaration of public health emergency

The Misuse of Drugs Act 1971

- 3 Classification of drugs
- 4 Decriminalisation of the possession of small quantities of drugs
- 5 Responses to recommendations of the Advisory Council
- 6 Review of the Misuse of Drugs Act 1971

Measures to support people who use drugs

- 7 Safer drug consumption facilities
- 8 Welfare conditionality and sanctions, and people who use drugs
- 9 Destigmatisation of drug use
- 10 Amendment of equality legislation

Final provisions

- 11 Financial provisions
- 12 Regulations
- 13 Extent, commencement and short title

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B I L L

TO

Require the Secretary of State to declare problem drug use a public health emergency; to require the Secretary of State to review the effects of welfare sanctions on people who use drugs; to make the Department for Health and Social Care the lead department for drugs policy; to require the Secretary of State to respond publicly to recommendations of the Advisory Council on the Misuse of Drugs; to amend the classification of drugs in the Misuse of Drugs Act 1971; to make provision for safe drug consumption facilities; to decriminalise the possession of small quantities of drugs for personal use; to make provision about the stigmatisation of problem drug use; to amend the Equality Act 2010 to recognise drug dependence as a health condition; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Problem drug use as a health issue

1 Government approach and departmental responsibility

- (1) The principle of the cross-Government approach to drugs policy is that problem drug use is primarily a health issue, not a criminal justice issue (“the health issue principle”). 5
- (2) In accordance with the health issue principle, the Prime Minister must, as soon as reasonably practicable—
 - (a) make the Department for Health and Social Care the lead department for drugs policy in England,
 - (b) lay before Parliament a report on the steps that will be taken to transfer responsibilities to that Department, and 10
 - (c) commence a review of devolution and drugs in light of that transfer and in accordance with subsection (3).
- (3) The review of devolution and drugs must consider—
 - (a) steps to transfer responsibility for drugs policy to the devolved administrations in a manner consistent with the health issue principle and the transfers of responsibilities in England subsection (2), and 15

- (b) the consistency of the devolution settlement, including the specific reservation of the misuse of drugs under paragraph B1 of Part II of Schedule 5 of the Scotland Act 1998, with the health principle and any associated recommendations for change.
- (4) In undertaking that review, the Prime Minister must consult – 5
 - (a) the Scottish Ministers,
 - (b) the Welsh Ministers, and
 - (c) the Department of Health in Northern Ireland.
- (5) A report on the findings of the review must be laid before Parliament before the end of the period of 180 days beginning with the day on which this section comes into force. 10

2 Declaration of public health emergency

- (1) The Secretary of State must, as soon as reasonably practicable, declare that problem drug use in the United Kingdom is a public health emergency.
- (2) The Secretary of State must, before the end of the period of 90 days beginning with the day on which this section comes into force, lay before Parliament a report on the steps the Government intends to take in accordance with that emergency. 15

The Misuse of Drugs Act 1971

3 Classification of drugs 20

- (1) The Misuse of Drugs Act 1971 is amended as follows.
- (2) In section 2 (controlled drugs and their classification), after subsection (2) insert –
 - “(2A) In exercising powers under subsection (2), the primary consideration of the Secretary of State must be the harm caused by a drug, including in comparison with other controlled drugs.” 25
- (3) After section 2 insert –

“2ZA Review of classifications

- (1) The Secretary of State must conduct a review of the structure and utility of the system of classification of drugs under this Act and, where appropriate, make recommendations for change. 30
- (2) That review must consider the appropriateness of classifications of controlled drugs given the harm caused by them, including relative to other controlled drugs and other substances.
- (3) In subsection (2), “harm” includes harm to – 35
 - (a) people who use drugs;
 - (b) other persons as a consequence of the use of drugs;
 - (c) communities;

- (d) the economy.
- (4) The review must seek to ensure that the classification system does not disproportionately punish persons who suffer as a direct consequence of drug use, including their own.
- (5) The review must consider the possibility of establishing a new category of drugs subject to regulated availability for non-medical use. 5
- (6) In undertaking the review, the Secretary of State must consult—
 - (a) the Advisory Council;
 - (b) the Scottish Ministers;
 - (c) the Welsh Ministers; 10
 - (d) the Northern Ireland Department of Health.
- (7) The Secretary of State must, as soon as is reasonably practicable, lay before Parliament—
 - (a) a report on the review, and
 - (b) draft Orders in Council under this section to give effect to any changes in classification recommended by the review.” 15

4 Decriminalisation of the possession of small quantities of drugs

- (1) The Misuse of Drugs Act 1971 is amended as follows.
- (2) In section 5 (restriction of possession of controlled drug), at the end of subsection (1) insert— 20
 - “unless it is for personal use and of a quantity equivalent to no more than 10 daily doses”.
- (3) At the end of section 5 insert—
 - “(7) The Secretary of State must, by regulations, make provision for and maintain a schedule setting out the quantities of controlled drugs that are equivalent to 10 daily doses for the purposes of subsection (1). 25
 - (8) The content of those regulations must reflect any advice given by the Advisory Council.”

5 Responses to recommendations of the Advisory Council

- (1) The Misuse of Drugs Act 1971 is amended as follows. 30
- (2) In section 1 (The Advisory Council on the Misuse of Drugs), after subsection (2) insert—
 - “(2A) If the Advisory Council advises under subsection (2) that a measure ought to be taken the Secretary of State must, before the end of the period of 90 days beginning with the day on which that advice is given, lay before Parliament a report setting out the Government’s response to the advice.” 35

6 Review of the Misuse of Drugs Act 1971

- (1) The Secretary of State must conduct a review of the Misuse of Drugs Act 1971 and the wider associated legislative framework around drug use.
- (2) The review must take into account—
 - (a) the effects of the amendments to the Misuse of Drugs Act 1971 made by this Act; 5
 - (b) the health issue principle under section 1(1).
- (3) In undertaking the review, the Secretary of State must consult—
 - (a) the Advisory Council on the Misuse of Drugs;
 - (b) the Scottish Ministers; 10
 - (c) the Welsh Ministers;
 - (d) the Northern Ireland Department of Health.
- (4) The Secretary of State must, before the end of the period of 9 months beginning with the day on which this section comes into force, lay before Parliament a report on the review, including any proposals for legislative change. 15

Measures to support people who use drugs

7 Safer drug consumption facilities

- (1) The Secretary of State must by regulations provide for one or more pilots of safer drug consumption facilities. 20
- (2) In this section, a “safer drug consumption facility” is a place designed to prevent accidental overdoses where people who use drugs can bring drugs to consume in a safe environment, with access to sterile equipment and medically-trained staff at hand to deal with complications.
- (3) Regulations under this section may, in such cases as may be prescribed— 25
 - (a) exclude in the application of any provision of any Act which creates an offence;
 - (b) make provision disapplying a common law offence;
 - (c) provide that no cause of action in civil proceedings may apply in relation to a person to which subsection (4) applies. 30
- (4) This subsection applies to—
 - (a) a person using drugs in a safer consumption facility in accordance with the regulations;
 - (b) a staff member of a safer consumption facility in the reasonable conduct of their professional duties, including in the provision of articles for administering or preparing drugs; 35
 - (c) a person involved in the establishment, accommodation or management of a safer drug consumption facility in the reasonable conduct of their duties in that position;
 - (d) a person travelling to or from a safer drug consumption facility for one or more of the purposes listed in paragraphs (a) to (c). 40

8 Welfare conditionality and sanctions, and people who use drugs

- (1) The Secretary of State must undertake a review of the effects of welfare conditionality and associated sanctions on people who use drugs.
- (2) That review must consider –
 - (a) whether a more supportive approach to welfare conditionality would be more appropriate for such people; 5
 - (b) the possible effects of easing conditionality requirements for people who are dependent on drugs;
 - (c) the effects of both conditionality requirements and sanctions associated with such requirements on – 10
 - (i) people who are dependent on drugs, and
 - (ii) people seeking to recover from problem drug use;
 - (d) the extent to which sanctions on such people achieve their objectives;
 - (e) the Government's proposed response to any problems identified.
- (3) In undertaking the review the Secretary of State must consult the Scottish Ministers on the delivery of welfare in Scotland. 15
- (4) The Secretary of State must lay before Parliament a report on the review before the end of the period of one year beginning with the day on which this section comes into force.

9 Destigmatisation of drug use 20

- (1) Organisations that are relevant public bodies must prepare a statement on measures taken to destigmatise drug use for each financial year of the organisation.
- (2) An organisation is a relevant public body if it is –
 - (a) a Government department; 25
 - (b) a local authority;
 - (c) a police force;
 - (d) a National Health Service organisation; or
 - (e) any other public body that may be prescribed by the Secretary of State in regulations. 30
- (3) A statement under this section must, for the financial year –
 - (a) set out the steps the public body has taken –
 - (i) to promote drug use as a public health rather than a criminal justice issue; 35
 - (ii) to discourage the social judgement and shaming of people who use drugs;
 - (iii) to acknowledge the underlying causes of problem drug use, or
 - (b) state that the public body has taken no such steps.
- (4) If the public body has a website, it must publish the statement on that website. 40

- (5) If the public body does not have a website, it must provide a copy of a statement under this section to anyone who makes a written request for one, and must do so before the end of the period of 30 days beginning with the day on which the request is received.
- (6) The Secretary of State may issue guidance on information to be included in statements under this section. 5

10 Amendment of equality legislation

- (1) Part 1 of Schedule 1 (determination of disability) of the Equality Act 2010 is amended in accordance with subsections (2) and (3).
- (2) In paragraph 1 (impairment), after “may” insert “subject to paragraph 1A”. 10
- (3) After paragraph 1, insert—
 “1A Addiction to alcohol, nicotine, a controlled drug, a prescription drug or any other substance is an impairment for the purposes of this Act.”
- (4) The Equality Act 2010 (Disability) Regulations 2010 (S.I. 2010/2128) are amended in accordance with subsection (4). 15
- (5) Leave out regulation 3 (addictions).

Final provisions

11 Financial provisions

- The following are to be paid out of money provided by Parliament—* 20
- (a) *any expenditure incurred under or by virtue of this Act by a Minister of the Crown, a person holding office under Her Majesty or a government department, and*
- (b) *any increase attributable to this Act in the sums payable under any other Act out of money so provided.* 25

12 Regulations

- (1) Regulations under this Act are to be made by statutory instrument.
- (2) A power to make regulations under any provision of this Act includes power to make—
- (a) consequential, supplementary, incidental, transitional or saving provision; 30
- (b) different provision for different purposes or areas.
- (3) A statutory instrument containing regulations under section 7 may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament. 35
- (4) A statutory instrument containing regulations under section 9 is subject to annulment in pursuance of a resolution of either House of Parliament.

13 Extent, commencement and short title

- (1) This Act extends to England and Wales, Scotland and Northern Ireland.
- (2) Subject to subsection (3), this Act comes into force on the day on which it is passed.
- (3) Sections 3 and 4 comes into force at the end of the period of 30 days beginning with the day on which this Act is passed.
- (4) This Act may be cited as the Problem Drug Use Act 2021.

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