

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Second Delegated Legislation Committee

MISUSE OF DRUGS ACT 1971 (TEMPORARY  
CLASS DRUG) (NO. 2) ORDER 2015

*Monday 14 September 2015*

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**The Committee consisted of the following Members:**

*Chair:* GRAHAM STRINGER

- |  |  |
|--|--|
| † Allen, Heidi ( <i>South Cambridgeshire</i> ) (Con)                       | † Monaghan, Dr Paul ( <i>Caithness, Sutherland and Easter Ross</i> ) (SNP)   |
| † Burrowes, Mr David ( <i>Enfield, Southgate</i> ) (Con)                   | † Parish, Neil ( <i>Tiverton and Honiton</i> ) (Con)                         |
| Cameron, Dr Lisa ( <i>East Kilbride, Strathaven and Lesmahagow</i> ) (SNP) | † Penning, Mike ( <i>Minister for Policing, Crime and Criminal Justice</i> ) |
| † Elphicke, Charlie ( <i>Lord Commissioner of Her Majesty's Treasury</i> ) | † Quince, Will ( <i>Colchester</i> ) (Con)                                   |
| † Grant, Mrs Helen ( <i>Maidstone and The Weald</i> ) (Con)                | Smyth, Karin ( <i>Bristol South</i> ) (Lab)                                  |
| † Hart, Simon ( <i>Carmarthen West and South Pembrokeshire</i> ) (Con)     | Stevens, Jo ( <i>Cardiff Central</i> ) (Lab)                                 |
| † Johnson, Diana ( <i>Kingston upon Hull North</i> ) (Lab)                 | Streeting, Wes ( <i>Ilford North</i> ) (Lab)                                 |
| † Jones, Susan Elan ( <i>Clwyd South</i> ) (Lab)                           | † White, Chris ( <i>Warwick and Leamington</i> ) (Con)                       |
| † Lopresti, Jack ( <i>Filton and Bradley Stoke</i> ) (Con)                 | † Whitehead, Dr Alan ( <i>Southampton, Test</i> ) (Lab)                      |
|  | Glenn McKee, <i>Committee Clerk</i>  |
|  | † <b>attended the Committee</b>  |

## Second Delegated Legislation Committee

Monday 14 September 2015

[GRAHAM STRINGER *in the Chair*]

### Misuse of Drugs Act 1971 (Temporary Class Drug) (No. 2) Order 2015

4.30 pm

**The Minister for Policing, Crime and Criminal Justice (Mike Penning):** I beg to move,

That the Committee has considered the Misuse of Drugs Act 1971 (Temporary Class Drug) (No.2) Order 2015.

It is a pleasure to serve under your chairmanship, Mr Stringer. The document that we are considering is short, but it is very important. Its object is to protect people from the drugs that it mentions. I apologise for not having been able to bring the order sooner; both the shadow Minister and I would have liked that to have happened, but this has been the earliest opportunity. We want orders such as this to come forward as early as possible—in fact, to ensure that they become unnecessary as a result of the Psychoactive Substances Bill, which has already gone through the other place.

I place on the record my thanks to the Advisory Council on the Misuse of Drugs for its continuous support and advice, particularly on this order and the Psychoactive Substances Bill. The order controls seven methylphenidate-based compounds and relates to section 2A of the Misuse of Drugs Act 1971.

Perhaps it will be useful if I tell the Committee in layman's terms about the "legal high" we are discussing. It is often used as a substitute for cocaine and is injected directly into a vein or artery. I found out yesterday that, in a documentary that is being produced, a gentleman was filmed injecting the drug directly into the artery in his groin as a substitute for cocaine. The product is very dangerous. Initially, five compounds within this bracket were to be placed under the order, but since that time—when the previous Minister was in post—two others have been added. We now want to ban seven compounds.

The methylphenidate-based compounds are highly potent stimulants. One is marketed online as an alternative to cocaine. Harms include anxiety, paranoia, visible disturbance of the veins and arteries, chest pain and a strong urge to reuse—the compounds are highly addictive. They have become a dangerous problem in parts of the United Kingdom. Police in Scotland particularly asked for the order to be made as they had seen the use of and damage caused by the compounds increase hugely.

Since the temporary order has been in place, attendances at A and E in Scotland as a result of infections and overdoses from the compounds have dropped dramatically. We can see where the expert advice is telling us to go, and that is why the order needs to be agreed today.

**Mr David Burrows** (Enfield, Southgate) (Con): I welcome the order as well as the upcoming Psychoactive Substances Bill. There is no evidence of the Government's family impact test in the impact assessment. In future, it

would be good to include that test in such assessments. People will recognise that the issues the order raises have a significant impact on the family.

**Mike Penning:** My hon. Friend has made an important point. I was not aware that the family impact test was not in the assessment, but we should make sure that it is in all these assessments. We always assume that the impact is only on the individual, but the effect on families and loved ones is absolutely huge. My hon. Friend also mentioned the Psychoactive Substances Bill; we hope that that will receive its Second Reading before Christmas, after which this sort of statutory instrument will no longer be required. With that in mind, I hope the Committee will approve the order.

4.34 pm

**Diana Johnson** (Kingston upon Hull North) (Lab): It is a pleasure to serve under your chairmanship, Mr Stringer.

Let me start by thanking the Minister for setting out so clearly the purpose of the order before us. I have been coming along to Committees considering orders like this for five years now, and I would like to take this opportunity to thank him and his colleagues for the courtesy they have shown me over those five years by providing information and for the support that officials have given me when I have sought further information. As we live in uncertain times, I am not sure whether I will be speaking from this exact position again, so I wanted to put on record my thanks for that support from the Minister.

**Mike Penning:** I do not want to delay the Committee, but I thank the shadow Minister very much for her comments. I hope she will remain in place, because this issue is something she is passionate about, and that passion is something that all of us who come to this House should have. If she does not remain in place, I am sure that, whether from the Back Benches or wherever else she is, she will continue to get that support from my Department on the work she does in this area.

**Diana Johnson:** I am grateful to the Minister. I will certainly be taking an enormous amount of interest, in whatever capacity, to the Bill that said he would be introducing before Christmas.

The Opposition welcome the order before us. I do not wish to delay the Committee too long, but I want to ask some questions. This is the latest in a long line of statutory instruments that I have debated over the past five years, as the Government have struggled to keep pace with the explosion of new psychoactive substances. As with previous orders, we are today discussing a ban for a group of related compounds. What is unusual about today's order is that it introduces only a temporary ban. The Government promised that the introduction of temporary bans would transform the UK's response to new psychoactive substances. In fact, the power has been used only four times, while hundreds of new psychoactive substances have emerged on the UK market.

I want to emphasise, as the Minister did, the dangers of these drugs. I thoroughly support what he said about the result of taking these particular substances. It is important to highlight the review that was conducted

by the Advisory Council on the Misuse of Drugs. I am grateful for the work it does to assist us in making our decisions.

The types of dangers we are discussing today are not dissimilar to those associated with other new psychoactive substances that we have been discussing over the previous few years: a lack of control, a danger of overdosing, chest pain, paranoia and hypertension. However, it is particularly worrying to see reports that this drug is highly addictive, as the Minister said, with users frequently needing to re-dose, often with needles. Clearly this suggests that it poses a particular public health threat. It is of course tragic that the drug has been linked with a death, as set out in the accompanying documents.

I want to make three short points. First, I want to highlight the delays in taking action against these drugs. According to the European Monitoring Centre for Drugs and Drug Addiction, ethylphenidate was first identified in the UK in 2011. The EMCDDA's partner organisation in the UK is the National Poisons Information Service. That suggests that the drug was detected in hospital admissions as far back in 2011. The Advisory Council on the Misuse of Drugs report said that ethylphenidate was identified by surveys of online new psychoactive substances stores back in 2011, and it was first linked with a drugs death in the UK in 2013. I know that the Minister apologised for the delay in getting the order before us, but I wonder why it has taken so long to get to this point. Even if we take it from 2013, that is still two years.

There appear to have been delays at every stage of the process. Although the drug was first identified in the UK in 2011, it was not until 2014 that it was included in the UK's forensic early warning system report. It then took a further year for the ACMD to assess the evidence and six months from the ACMD making a recommendation to Parliament discussing a temporary ban. Denmark, Austria, Germany, Hungary, the US, Australia, Sweden, Turkey, Portugal and even Jersey have already acted to ban the drug. Given that the UK has the world's second largest legal highs market, can the Minister explain why he thinks it has taken so long to get to this point and why we appear to be so far behind those other countries?

The Minister referred to the new Psychoactive Substances Bill, which the Opposition fully support and have called for over a long period. It is coming to the House of Commons shortly. The Bill should address the issue of the supply of these drugs while their dangers are being evaluated. However, it will not address the serious shortage of capacity in the evaluation process. The Government need to consider that urgently. I would welcome the Minister's view on the capacity of the Advisory Council on the Misuse of Drugs to carry out its functions.

Secondly, I want to ask the Minister about analogue bans—a change in the drugs laws introduced in the last five years, supposedly to address the spread of new psychoactive substances. I would like to know why an analogue ban, covering all the derivatives of methylphenidate, was not introduced in 2012 when the Government did ban other substances, most notably desoxypipradrol. All the other substances that we are discussing today are linked to methylphenidate. Why was an analogue ban that would have stopped the spread of these new substances not pursued in 2012?

Finally, I turn to education and public awareness. The Government's efforts to control the supply of these drugs have been slow and I am concerned about the need to inform the public about the harms of legal highs. Sadly, people taking these drugs still think "legal" means safe. They are often taken in by heavy and misleading advertising from online and high-street head shops. Take, for example, the drugs we are discussing today. They are sold under generic street names such as "Gogaine" and "Burst". Previously, those names referred to other substances; as those were banned, the component substances were changed. The unsuspecting user does not know that. We have to address that huge lack of understanding among young people, who are often tempted to take these drugs.

In its report on drugs, the Home Affairs Committee said that prevention and education were given the least attention within the Government's drugs strategy. The expert panel on legal highs assembled by the Government last year, or early this year, called for a comprehensive strategy to increase public understanding. We need a clear national campaign and to consider again the issue of drugs education in schools. Public Health England should also put forward its views about how to tackle the issue.

There has not really been a proper attempt to engage with young people through social media, which are so important these days. In his response, the Minister will no doubt talk to me about the "Frank" website—all Ministers over the past five years have. Although that has its place, I do not think it is providing the full answer to how we educate young people on these issues. The Labour-led Welsh Government are going for a broader and more inclusive response to new psychoactive substances, looking at health and education messaging. I hope the Minister will be willing to consider the Welsh model and what can be learned from it. Finally, what work is being done to co-ordinate cross-departmental work on NPS as well as work with the Welsh, Scottish and Northern Irish Governments?

I am interested to hear what the Minister has to say on those three points. As I said at the beginning, the Opposition fully support the order.

4.43 pm

**Mike Penning:** I thank the shadow Minister for her support and the work that she has done over many years. If I do not answer all her questions fully this afternoon, I will write to her personally and copy in the other members of the Committee.

The hon. Lady is right to say that methylphenidate was identified under the forensic early warning system in 2011. It has been monitored by the ACMD since and has gained localised popularity as an injecting drug. The committee gave us that advice, which is why we have acted as we have today. I do not know exactly why it was not included back in 2012; I understand that a more descriptive answer is needed.

I am not going to say that "Frank" does for this area and the language around legal highs, although it does a lot of other work. We all get told we should not use the phrase "legal highs", but that is what the youngsters and others call these substances, so we should use language that others understand. A lot of people feel that the substances are safe because they are legal.

[Mike Penning]

Given the support of Her Majesty's Opposition, I hope the new legislation will be on the statute book by April, and it will mean that we are not playing catch-up anymore. The hon. Lady named several countries that are in advance of us on such orders, but there have been some 500 changes to drugs that we have banned—I am no scientist, but I understand that they have merely been tweaked. The new legislation will ban all psychoactive substances and we will then re-insert the ones we would like to have—for instance caffeine, without which I would not be able to survive for a day. We are learning a lot from the mistakes in Ireland as well as the positive things—I have visited Ireland and met with their scientists and Ministers. I also recently met the New Zealand justice Minister. New Zealand is going to adjust its legislation in the direction of what we are doing, because it introduced a partial ban, which makes things even more complicated.

The hon. Lady is absolutely right that we must ensure that the scientific experts have the capacity to do the work they are doing, and I have had assurances that

that is the case. She is also absolutely right that this work has to be done across Government. If necessary, I will set up an inter-ministerial group to bring in all the other Departments that have to come to the table on this issue, so that we can educate young people not just about psychoactive drugs, but about drugs in general, including those that they think are safe, such as cannabis. We know about the dangers of those sorts of drugs, but sadly there are a lot of people who want to legalise them. I would advise those people to go and talk to the experts about the damage they can do.

I accept the points that the hon. Lady has made: there is a lot of work to be done, but we are now stepping up to the plate. I hope this will be the last such order. We will have new legislation that will enable us to get ahead of the scientists who keep tweaking the formulae and damaging the lives of families and their loved ones in the most destructive way. With that in mind, I hope the Committee will agree to the order.

*Question put and agreed to.*

4.47 pm

*Committee rose.*