
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Misuse of Drugs Regulations (Northern Ireland) 2002 (“the 2002 Regulations”). Regulation 3(2) inserts a new regulation 4A into the 2002 Regulations and provides that section 5(1) of the Misuse of Drugs Act 1971, which makes it unlawful for a person to have a controlled drug in his possession, will not apply to a fungus (of any kind) containing psilocin or an ester of psilocin (commonly known as magic mushrooms) in certain circumstances. With section 21 of the Drugs Act 2005 being brought into force on 18th July 2005, such a fungus is now a Class A drug. Regulation 3(2) inserts a new regulation 4A into the 2002 Regulations which excepts from the offence of possession magic mushrooms in four scenarios. First, where the magic mushrooms are growing uncultivated. Second, where the magic mushrooms are picked by a person already in lawful possession of them, for example the landowner on whose land the mushrooms are growing, for the purpose of delivering them into the custody of a person who is lawfully entitled to take custody of them so long as the mushrooms remain in that person’s custody for and in accordance with that purpose. Third, where the magic mushrooms are picked, by anyone, for the purpose of either delivering them into the custody of a person who is lawfully entitled to take custody of them or destroying them as soon as is reasonably practicable and then held, whether by the person who picked them or by another, for and in accordance with the purpose of destroying them as soon as is reasonably practicable. Fourth, where the magic mushrooms are picked for the purpose of destruction as soon as is reasonably practicable and then held, whether by the person who picked them or by another, for and in accordance with the purpose of delivering them as soon as is reasonably practicable into the custody of a person who is lawfully entitled to take custody of them. Regulation 3(3) inserts a fungus containing psilocin or an ester of psilocin into Schedule 1 to the 2002 Regulations, enabling the Department of Health, Social Services and Public Safety to issue a licence under regulation 5 of the 2002 Regulations in respect of the production, supply, offer to supply or possession of those fungi.