

Scheduling of narcotic drugs (controlled substances) in Sweden (Updated May 2011)

This text is intended for informational purposes only. For legal issues, please refer to Swedish original law texts, administrative statutes, court cases etc.

Historical background

Narcotic drugs (controlled substances, “narcotics”; Swedish: narkotika) have been under special control in Sweden since 1923, when the first Narcotics Ordinance (Swedish: Narkotikaförordning) was enacted. With the growing non-medical use of pharmaceutical drugs in the 1940s, special provisions were enacted for the control of synthetic CNS stimulants, such as amphetamine and phenmetrazine. They were brought under control as narcotics in 1959. For long periods, Sweden has been at the forefront in the scheduling of new substances, such as LSD (1966), khat (*Catha edulis*, 1989) and in recent years a number of synthetic cathinones (such as mephedrone, 2009, and butylone, 2010). The United Nations International Convention on Psychotropic Substances (1971) was adopted partially as a result of Swedish diplomatic efforts in the late 1960s to establish international control of amphetamines and related substances, which at that time had become widely abused in Sweden. In the preparatory work, Dr. Nils Bejerot played a central role by putting together a profound documentation of the dependence-producing and injurious effects of this class of drugs (see e.g. Bejerot, 1970, pp. 76 ff.).

In 1962 a new Swedish Narcotics Ordinance (SFS 1962:704) was enacted, having certain penal provisions on unlawful sale etc.

Narcotic Drugs (Punishments) Act

The Narcotic Drugs (Punishments) Act (sometimes also translated as The Narcotic Drugs Act; Swedish: Narkotikastrafflagen, SFS 1968:64) was enacted in 1968 to counter the growing threat from organized drug crime. The penal provisions for unlawful acts involving narcotic drugs were transferred to this act, and the maximum sentence was increased to 4 years imprisonment. It was changed in 1969 and 1972 to increase the maximum sentences (finally to 10 years imprisonment). The law was rewritten in 1981 to cover a wider range of unlawful activities (e.g. knowingly transporting money from unlawful drug transactions). Most recently, it was amended in 1988 and 1993 to give police legal authority to perform drug tests as a way of proving unlawful use of narcotic drugs (upon a certain level of suspicion).

The Narcotic Drugs (Punishments) Act is also the legal basis for scheduling of narcotic drugs in Sweden. Any other law related to narcotic drugs is subsidiary to it. The relevant section (8 §) has the following wording:

Section 8

As used in this Act, the term “narcotics” refers to any pharmaceutical substance or goods injurious to health having dependence-producing properties or euphorising effects or goods which easily could be transformed into goods with such properties or effects and which

1. on that basis are subject to control according to an international agreement to which Sweden is adhering, or
2. have been declared by the Government to be regarded as narcotics according to the law.

Other laws related to domestic control of narcotic drugs

The Narcotic Drugs Control Act (Swedish: Lag om kontroll av narkotika, SFS 1992:860) regulates the legal trade and use of drugs, e.g. in the pharmaceutical industry and the medical services. It also regulates drug precursors (Swedish: narkotikaprekursorer).

The Narcotic Drugs Control Ordinance (Swedish: Förordning om kontroll av narkotika, SFS 1994:1554) is the statutory instrument to supplement the Narcotic Drugs Control Act. Drugs scheduled by Government decision are listed in an (updated) attachment to this Ordinance.

The new Act on destruction of certain substances of abuse being injurious to health (Swedish: Lagen om förstörande av vissa hälsofarliga missbrukssubstanser; SFS 2011:111, in force 1 April 2011) authorizes a public prosecutor to seize and order the destruction of certain substances. The substances covered by the Act are goods which (1) have been decided by the Government to be scheduled as narcotic drugs or as goods injurious to health or (2) through an international convention to which Sweden is adhering but where the scheduling has not entered force or (3) substances which can be presumed to become scheduled as narcotic drugs or goods injurious to health. The drugs covered by the two first criteria can be inferred by reading the announcements in the Swedish Code of Statutes (Svensk Författningssamling, SFS) or the Statutes from the Medical Products Agency (Läkemedelsverkets föreskrifter, LVFS). The last group (3) can to some extent be inferred from a list published by the Swedish National Institute for Public Health (FHI) listing substances currently under investigation to be scheduled (see: <http://www.fhi.se/Documents/Vart-uppdrag/andt/narkotika/substanser-under-utredning-110505.pdf>). The list is to be continuously updated.

The purpose of the law is to empower the criminal justice system to stop new drugs from entering the market before their classification has entered legal force. There are no penal provisions in this law. This means that the person owning the substance may risk losing their property but will not risk punishment.

Schedules

The drugs scheduled by Government decision are listed as an attachment 1 to the Narcotic Drugs Control Ordinance. See this link <https://lagen.nu/1992:1554>. (Bilaga = attachment.) The spelling is Swedish (with a few exceptions), but it conforms closely to the International Scientific Vocabulary (ISV).

The Swedish Medical Products Agency (Swedish: Läkemedelsverket, LV) is statute-bound to publish in their LVFS series the schedules of all drugs under narcotics control (SFS 2011:134, 3 §). LV also publishes a (consolidated) listing of all narcotic drugs scheduled in Sweden. The drugs having an additional LVFS listing in parenthesis have been scheduled (or rescheduled) in recent years; the year of scheduling (or rescheduling) can be inferred from this:

http://www.lakemedelsverket.se/upload/lvfs/konsoliderade/LVFS_1997_12_konsoliderad_tom_2011_2.pdf

Every narcotic drug is assigned to one of five schedules in the LVFS (I – V) according to their use in medicine and their risk for dependence. Schedule I lists the drugs not permitted for medical use, such as cannabis, heroin, katha (*Catha edulis*) and LSD.

Channels for scheduling narcotic drugs

In Sweden there are three channels for scheduling a dependence-producing substance as a “narcotic” within the meaning of the Narcotic Drugs (Punishments) Act:

1. A decision by the United Nations (or in rare cases by the European Union) puts a substance under international control. Then, LV directly adds it to its schedules (LVFS). This has recently been the case with oripavine, scheduled by the UN under the 1961 Single Convention on Narcotic Drugs.
2. A substance which has been used, is being used or has the potential to be used as a medicinal (pharmaceutical) preparation is evaluated by the LV, based on evidence of abuse and dependence liability. An initiative is presented to the Swedish Government (Regeringen), which will then come to a decision within a few weeks. This has been the case with e.g. ketamine (2005) and recently with O-desmetyltramadol (2011). The substance is added to the (updated) attachment of the Narcotic Drugs Control Ordinance and published in the Swedish Code of Statutes (SFS) and the LVFS. The decision must be communicated with the European Commission. There is no need to involve Parliament (Riksdagen) in the scheduling of a narcotic drug.

3. Substances which have no previous use in medicine are investigated by the Swedish National Institute of Public Health (Swedish: Statens folkhälsoinstitut, FHI). The procedure is then the same as for LV. FHI is, however, at the disadvantage of generally having less background information about abuse and dependence liabilities of the specific substances to be considered, as many of them have only been available on the drug market and subject to abuse for a short time. Input to FHI comes from i.a. customs, police and hospital experience with new (unscheduled) substances.

Monitoring and intelligence systems

Several institutions monitor the Swedish and international drug markets for new substances or modes of abuse. This provides input for Government decisions to schedule new drugs as narcotics in Sweden.

CAN (Centralförbundet för Alkohol- och Narkotikaupplysning; Swedish Council for Information on Alcohol and Other Drugs) is a semiofficial body for drug education. It also has a report system (CRD) for monitoring new drugs in Sweden. *CAN* surveys drug abuse in various populations and publishes an annual report on the domestic drug situation. It has one of the largest specialized drug libraries in Europe.

FHI (Statens folkhälsoinstitut; Swedish National Institute of Public Health) is entrusted with the task of assessing new non-medical drugs and making formal proposals to the Government to have the substances scheduled as narcotic drugs.

LV (Läkemedelsverket; Swedish Medical Products Agency) monitors the medical sector to assess medicinal (pharmaceutical) drugs to be scheduled as narcotic drugs.

NADIS is a network for interagency information exchange on new drugs. It functions as a reference group to FHI and LV in the collecting of information to serve as a basis for initiatives to Government on scheduling. The government agency providing administrative support to *NADIS* is FHI.

RKP (Rikskriminalpolisen; Swedish National Criminal Police) is a division of the Swedish National Police Board (Rikspolisstyrelsen, RPS). *RKP* coordinates intelligence gathering and crime investigation related to major crime and cross-border crime. It has a very active internet drugs intelligence group, which provides early warning about new drugs with abuse potential.

SCI (Svenska Carnegie Institutet; Swedish Carnegie Institute) is a private foundation devoted to research primarily on drugs and related problems. Through its research programme "Particularly dangerous drugs" it assesses new drugs in order to provide scientific background information to prosecutors and courts in drug cases.

Current moves towards scheduling

A list of drugs classified as narcotic drugs after 1 January 2006 is enclosed as attachment.

A list of substances under consideration to possibly be scheduled as narcotic drugs or good injurious to health has recently been published by FHI:

<http://www.fhi.se/Documents/Vart-uppdrag/and/narkotika/substanser-under-utredning-110505.pdf>. The list is expected to be updated continuously.

No generic (analogue) or effect-based definitions to be expected

The rapid spread of new drugs in Sweden has caused experts and media to discuss the introduction of generic (analogue) or effect-based definitions of narcotic drugs. If enacted, such a definition (or such an amendment of the current definition) would enable the courts to declare a new substance to be a narcotic drug within the meaning of the Narcotic Drugs (Punishments) Act, even if the drug has not been formally scheduled in advance of the particular court case involving the drug.

The issue was briefly addressed by a Government Commission on drugs (SOU 2008:120). The Commission did, however, not put forward any proposal on the matter. Neither was the issue raised in the recent Government Bill to the Swedish Riksdag (prop. 2010/11:4). An effect-based definition is, nevertheless, used for the legal control of hormonal doping agents (Swedish: dopningsmedel). There, criteria based on pharmacological effects are used for assessing whether or not of a substance falls within the scope of the law. FHI has published a list of about 60 substances, which they consider to be doping agents within the meaning of the law, and it would be highly unlikely that a Swedish court would overrule that. The FHI list can be found here:

<http://www.fhi.se/Documents/Vart-uppdrag/dopning/Dopnfrtkn%206%20100521.pdf>.

A note on terminology and translations

There are no official (i.e. Government-issued) translations into English of Swedish laws and ordinances related to drug control. Some texts have been translated more than once, using different terminology. The differences are obvious in the translations on the Swedish concept "hälsofarliga varor". This occurs in the definition of narcotic drugs according to the Narcotic Drugs (Punishments) Act (SFS 1968:64), the Act on prohibition of certain goods injurious to health (SFS 1999:42), and the new Act on destruction of certain substances of abuse being injurious to health (SFS 2011:111). The concept can be translated as "goods injurious to health" or "goods hazardous to health".

References

Some methodological issues related to monitoring new drugs have been analyzed in my book (Hartelius, 2008A).

Bättre kontroll av missbruksmedel [Improved Control of Substances of Abuse; Swedish], SOU 2008:120, Stockholm: Fritzes.

Bejerot N (1970): *Addiction and Society*, Springfield (IL): Ch. Thomas.

Brottsförebyggande Rådet [Swedish National Council for Crime Prevention] (1990): *Current Swedish Legislation on Narcotics and Psychotropic Substances*, BRÅ Report 1990:2, Stockholm: Allmänna Förlaget. (Please note the changes to Section 2 of the Narcotic Drugs (Punishments) Act after the publication of the translation.)

Hartelius J (2008A): *Ett nytt fokus på narkotikamissbruket [A New Focus on Drug Abuse; Swedish]*, Stockholm: Hjalmarson & Högberg.

Hartelius (2008B): *Narcotic Drug Control Policy in Sweden – The Postwar Experience*, Stockholm: FRI.

Abbreviations

CAN	Centralförbundet för Alkohol- och Narkotikaupplysning	The Swedish Council for Information on Alcohol and Other Drugs
FHI	Statens folkhälsoinstitut	National Institute for Public Health
LV	Läkemedelsverket	Medical Products Agency
LVFS	Läkemedelsverkets föreskrifter	Statutes from the Medical Products Agency
RKP	Rikskriminalpolisen	Swedish National Criminal Police
RPS	Rikspolisstyrelsen	Swedish National Police Board
SCI	Svenska Carnegie Institutet	Swedish Carnegie Institute
SFS	Svensk Författningssamling	Swedish Code of Statutes
SOU	Statens offentliga utredningar	Swedish Government Commission Report Series

Web services

CAN: www.can.se (mainly Swedish; some information in English; excellent library services).

FHI: www.fhi.se (mainly Swedish, very short summaries in English on narcotic drugs).

Lagen nu: www.lagen.nu (semiofficial and well administered database of laws and statutes; Swedish only).

LV: www.lakemedelsverket.se or www.mpa.se (mainly Swedish, very short outline in English on narcotic drugs).

RPS: www.polisen.se (mainly Swedish; some information in English).

Attachment

Drugs scheduled as narcotics in Sweden from 1 January 2006.

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Substance	Date of legal force	Statute
bromo-dragonfly (BDF)	2008-01-01	SFS 2007:878
butylone	2010-02-01	SFS 2009:1581
CP 47,497-C6 ("Spice") CP 47,497-C7 ("Spice") CP 47,497-C8 ("Spice") CP 47,497-C9 ("Spice")	2009-09-15	SFS 2009:917
dextromethorphan (DXM)	2008-09-01	SFS 2008:728
DOC	2007-05-15	SFS 2007:157
DOI	2007-05-15	SFS 2007:157
flephedrone	2010-10-01	SFS 2010:1085
1-(2-fluorophenyl)-2-(methylamino)propan-1-one ("flephedron variety")	2010-10-01	SFS 2010:1085
1-(3-fluorophenyl)-2-(methylamino)propan-1-one ("flephedron variety")	2010-10-01	SFS 2010:1085
4-fluoramphetamine	2009-06-08	SFS 2009:379
HU-210 ("Spice")	2009-09-15	SFS 2009: 917
JWH-018 ("Spice") JWH-073 ("Spice")	2009-09-15	SFS 2009: 917
JWH-081 ("Spice") JWH-200 ("Spice") JWH-250 ("Spice") JWH-398 ("Spice")	2010-09-21	SFS 2010:1083
MDPV	2010-02-01	SFS 2009:1581
mephedrone	2009-05-25	SFS 2009:316
methedron	2009-12-09	SFS 2009:1026
methylone	2010-09-21	SFS 2010:1083
naphyrone	2010-10-01	SFS 2010:1085
N-bensylpiperazine	2010-09-21	SFS 2010:1083
N-ethylcathinone	2010-10-01	SFS 2010:1085
O-desmethyltramadol	2011-05-05	SFS 2011:309
oripavine	2008-02-03	LVFS 2007:14 (UN*)
phenazepam	2008-09-15	SFS 2008:743
tapentadol	2010-09-01	SFS 2010:1081
tramadol	2007-12-01	SFS 2007:747

* UN Commission on Narcotic Drugs. "Decision 50/1: Inclusion of oripavine in Schedule I of the Single Convention on Narcotic Drugs of 1961 and that Convention as amended by the 1972 Protocol." *Report on the fiftieth session*. Document E/CN.7/2007/16, p 52. Geneva, United Nations Office on Drugs and Crime, 2007.

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