



# Misuse of Drugs Act 1971

## 1971 CHAPTER 38

### *Law enforcement and punishment of offences*

#### **23 Powers to search and obtain evidence**

- (1) A constable or other person authorised in that behalf by a general or special order of the Secretary of State (or in Northern Ireland either of the Secretary of State or the Ministry of Home Affairs for Northern Ireland) shall, for the purposes of the execution of this Act, have power to enter the premises of a person carrying on business as a producer or supplier of any controlled drugs and to demand the production of, and to inspect, any books or documents relating to dealings in any such drugs and to inspect any stocks of any such drugs.
- (2) If a constable has reasonable grounds to suspect that any person is in possession of a controlled drug in contravention of this Act or of any regulations made thereunder, the constable may—
  - (a) search that person, and detain him for the purpose of searching him;
  - (b) search any vehicle or vessel in which the constable suspects that the drug may be found, and for that purpose require the person in control of the vehicle or vessel to stop it;
  - (c) seize and detain, for the purposes of proceedings under this Act, anything found in the course of the search which appears to the constable to be evidence of an offence under this Act.

In this subsection " vessel " includes a hovercraft within the meaning of the Hovercraft Act 1968; and nothing in this subsection shall prejudice any power of search or any power to seize or detain property which is exercisable by a constable apart from this subsection.

- (3) If a justice of the peace (or in Scotland a justice of the peace, a magistrate or a sheriff) is satisfied by information on oath that there is reasonable ground for suspecting—
  - (a) that any controlled drugs are, in contravention of this Act or of any regulations made thereunder, in the possession of a person on any premises; or
  - (b) that a document directly or indirectly relating to, or connected with, a transaction or dealing which was, or an intended transaction or dealing which

would if carried out be, an offence under this Act, or in the case of a transaction or dealing carried out or intended to be carried out in a place outside the United Kingdom, an offence against the provisions of a corresponding law in force in that place, is in the possession of a person on any premises,

he may grant a warrant authorising any constable acting for the police area in which the premises are situated at any time or times within one month from the date of the warrant, to enter, if need be by force, the premises named in the warrant, and to search the premises and any persons found therein and, if there is reasonable ground for suspecting that an offence under this Act has been committed in relation to any controlled drugs found on the premises or in the possession of any such persons, or that a document so found is such a document as is mentioned in paragraph (b) above, to seize and detain those drugs or that document, as the case may be.

- (4) A person commits an offence if he—
- (a) intentionally obstructs a person in the exercise of his powers under this section; or
  - (b) conceals from a person acting in the exercise of his powers under subsection (1) above any such books, documents, stocks or drugs as are mentioned in that subsection; or
  - (c) without reasonable excuse (proof of which shall lie on him) fails to produce any such books or documents as are so mentioned where their production is demanded by a person in the exercise of his powers under that subsection.
- (5) In its application to Northern Ireland subsection (3) above shall have effect as if the words " acting for the police area in which the premises are situated " were omitted.

## 24 Power of arrest

- (1) A constable may arrest without warrant a person who has committed, or whom the constable, with reasonable cause, suspects to have committed, an offence under this Act, if—
- (a) he, with reasonable cause, believes that that person will abscond unless arrested; or
  - (b) the name and address of that person are unknown to, and cannot be ascertained by, him; or
  - (c) he is not satisfied that a name and address furnished by that person as his name and address are true.
- (2) This section shall not prejudice any power of arrest conferred by law apart from this section.

## 25 Prosecution and punishment of offences

- (1) Schedule 4 to this Act shall have effect, in accordance with subsection (2) below, with respect to the way in which offences under this Act are punishable on conviction.
- (2) In relation to an offence under a provision of this Act specified in the first column of the Schedule (the general nature of the offence being described in the second column)—
- (a) the third column shows whether the offence is punishable on summary conviction or on indictment or in either way;
  - (b) the fourth, fifth and sixth columns show respectively the punishments which may be imposed on a person convicted of the offence in the way specified in

relation thereto in the third column (that is to say, summarily or on indictment) according to whether the controlled drug in relation to which the offence was committed was a Class A drug, a Class B drug or a Class C drug; and

- (c) the seventh column shows the punishments which may be imposed on a person convicted of the offence in the way specified in relation thereto in the third column (that is to say, summarily or on indictment), whether or not the offence was committed in relation to a controlled drug and, if it was so committed, irrespective of whether the drug was a Class A drug, a Class B drug or a Class C drug; and in the fourth, fifth, sixth and seventh columns a reference to a period gives the maximum term of imprisonment and a reference to a sum of money the maximum fine.

- (3) An offence under section 19 of this Act shall be punishable on summary conviction, on indictment or in either way according to whether, under Schedule 4 to this Act, the substantive offence is punishable on summary conviction, on indictment or in either way; and the punishments which may be imposed on a person convicted of an offence under that section are the same as those which, under that Schedule, may be imposed on a person convicted of the substantive offence.

In this subsection " the substantive offence " means the offence under this Act to which the attempt or, as the case may be, the incitement or attempted incitement mentioned in section 19 was directed.

- (4) Notwithstanding anything in section 104 of the Magistrates' Courts Act 1952, a magistrates' court in England and Wales may try an information for an offence under this Act if the information was laid at any time within twelve months, from the commission of the offence.
- (5) Notwithstanding anything in section 23 of the Summary Jurisdiction (Scotland) Act 1954 (limitation of time for proceedings in statutory offences) summary proceedings in Scotland for an offence under this Act may be commenced at any time within twelve months from the time when the offence was committed, and subsection (2) of the said section 23 shall apply for the purposes of this subsection as it applies for the purposes of that section.
- (6) Notwithstanding anything in section 34 of the Magistrates' Courts Act (Northern Ireland) 1964, a magistrates' court in Northern Ireland may hear and determine a complaint for an offence under this Act if the complaint was made at any time within twelve months from the commission of the offence.

## **26 Increase of penalties for certain offences under Customs and Excise Act 1952**

- (1) In relation to an offence in connection with a prohibition or restriction on importation or exportation having effect by virtue of section 3 of this Act, the following provisions of the Customs and Excise Act 1952, that is to say section 45(1) (improper importation), section 56(2) (improper exportation) and section 304 (fraudulent evasion of prohibition or restriction affecting goods) shall have effect subject to the modifications specified in whichever of subsections (2) and (3) below is applicable in the case of that offence.
- (2) Where the controlled drug constituting the goods in respect of which the offence was committed was a Class A drug or a Class B drug, the said section 45(1), 56(2) or 304, as the case may be, shall have effect as if for the words from " shall be liable " to " or to both " there were substituted the following words, that is to say—

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*Status: This is the original version (as it was originally enacted).*

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“shall be liable—

- (a) on summary conviction, to a penalty of three times the value of the goods or £400, whichever is the greater, or to imprisonment for a term not exceeding 12 months, or to both;
- (b) on conviction on indictment, to a pecuniary penalty of such amount as the court may determine, or to imprisonment for a term not exceeding 14 years, or to both”;

so however that nothing in this subsection shall be taken to affect the liability of any person to detention under the said subsection 45(1), 56(2) or 304.

- (3) Where the controlled drug constituting the goods in respect of which the offence was committed was a Class C drug, the said section 45(1), 56(2) or 304, as the case may be, shall have effect as if for the words " imprisonment for a term not exceeding two years " there were substituted the words " imprisonment for a term not exceeding five years
- (4) Section 283(2)(a) of the Customs and Excise Act 1952 (mode of trial of offences punishable with imprisonment for two years) shall have effect as if after the words " two years " there were inserted the words " or more
- (5) Without prejudice to the powers of any court on an appeal, section 286(2) of the Customs and Excise Act 1952 (power of court to mitigate pecuniary penalty) shall not apply in the case of a pecuniary penalty imposed on conviction on indictment by virtue of subsection (2) above.
- (6) In its application to Scotland subsection (5) above shall have effect as if for the reference to section 286(2) of the Customs and Excise Act 1952 there were substituted a reference to paragraph (5) of section 43 of the Summary Jurisdiction (Scotland) Act 1908 as applied by section 77(4) of the said Act of 1908.

## **27 Forfeiture**

- (1) Subject to subsection (2) below, the court by or before which a person is convicted of an offence under this Act may order anything shown to the satisfaction of the court to relate to the offence, to be forfeited and either destroyed or dealt with in such other manner as the court may order.
- (2) The court shall not order anything to be forfeited under this section, where a person claiming to be the owner of or otherwise interested in it applies to be heard by the court, unless an opportunity has been given to him to show cause why the order should not be made.