



Misuse of Drugs Act 1971

1971 CHAPTER 38

Restrictions relating to controlled drugs etc.

3 Restriction of importation and exportation of controlled drugs.

- (1) Subject to subsection (2) below—
 - (a) the importation of a controlled drug; and
 - (b) the exportation of a controlled drug,are hereby prohibited.
- (2) Subsection (1) above does not apply—
 - (a) to the importation or exportation of a controlled drug which is for the time being excepted from paragraph (a) or, as the case may be, paragraph (b) of subsection (1) above by regulations under section 7 of this Act; or
 - (b) to the importation or exportation of a controlled drug under and in accordance with the terms of a licence issued by the Secretary of State and in compliance with any conditions attached thereto.

4 Restriction of production and supply of controlled drugs.

- (1) Subject to any regulations under section 7 of this Act for the time being in force, it shall not be lawful for a person—
 - (a) to produce a controlled drug; or
 - (b) to supply or offer to supply a controlled drug to another.
- (2) Subject to section 28 of this Act, it is an offence for a person—
 - (a) to produce a controlled drug in contravention of subsection (1) above; or
 - (b) to be concerned in the production of such a drug in contravention of that subsection by another.
- (3) Subject to section 28 of this Act, it is an offence for a person—
 - (a) to supply or offer to supply a controlled drug to another in contravention of subsection (1) above; or

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- (b) to be concerned in the supplying of such a drug to another in contravention of that subsection; or
- (c) to be concerned in the making to another in contravention of that subsection of an offer to supply such a drug.

Modifications etc. (not altering text)

- C1** S. 4(1)(a) excluded (1.2.2002) by S.I. 2001/3998, **regs. 4, 8(1), 9(1)** (with reg. 2(3))
- C2** S. 4(1)(b) excluded (1.2.2002) by S.I. 2001/3998, **regs. 6, 8(2)-(6), 9(2)-(6), 11(1)(2)** (with reg. 2(3))
- C3** S. 4(1)(b) excluded by S.I. 2001/3998, reg. 8(7)(8) (as inserted (15.10.2003) by Misuse of Drugs (Amendment) (No.3) Regulations 2003 (S.I. 2003/2429), **regs. 1, 2(5)**)
- C4** S. 4(1)(b) excluded by S.I. 2001/3998, reg. 9(7)(8) (as inserted (15.10.2003) by Misuse of Drugs (Amendment) (No.3) Regulations 2003 (S.I. 2003/2429), **regs. 1, 2(6)**)
- C5** S. 4(2)(3) saved by (E.W.) Criminal Law Act 1977 (c. 45), **Sch. 5 para. 1(2)(b)(i)(ii)** and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21), **Sch. 7B para. 1(2)(b)(i)(ii)**

5 Restriction of possession of controlled drugs.

- (1) Subject to any regulations under section 7 of this Act for the time being in force, it shall not be lawful for a person to have a controlled drug in his possession.
- (2) Subject to section 28 of this Act and to subsection (4) below, it is an offence for a person to have a controlled drug in his possession in contravention of subsection (1) above.
- (3) Subject to section 28 of this Act, it is an offence for a person to have a controlled drug in his possession, whether lawfully or not, with intent to supply it to another in contravention of section 4(1) of this Act.
- (4) In any proceedings for an offence under subsection (2) above in which it is proved that the accused had a controlled drug in his possession, it shall be a defence for him to prove—
 - (a) that, knowing or suspecting it to be a controlled drug, he took possession of it for the purpose of preventing another from committing or continuing to commit an offence in connection with that drug and that as soon as possible after taking possession of it he took all such steps as were reasonably open to him to destroy the drug or to deliver it into the custody of a person lawfully entitled to take custody of it; or
 - (b) that, knowing or suspecting it to be a controlled drug, he took possession of it for the purpose of delivering it into the custody of a person lawfully entitled to take custody of it and that as soon as possible after taking possession of it he took all such steps as were reasonably open to him to deliver it into the custody of such a person.
- [^{F1}(5) Subsection (4) above shall apply in the case of proceedings for an offence under section 19(1) of this Act consisting of an attempt to commit an offence under subsection (2) above as it applies in the case of proceedings for an offence under subsection (2), subject to the following modifications, that is to say—
 - (a) for the references to the accused having in his possession, and to his taking possession of, a controlled drug there shall be substituted respectively references to his attempting to get, and to his attempting to take, possession of such a drug; and

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- (b) in paragraphs (a) and (b) the words from “and that as soon as possible” onwards shall be omitted.]
- (6) Nothing in subsection (4) [^{F2}or (5)] above shall prejudice any defence which it is open to a person charged with an offence under this section to raise apart from that subsection.

Textual Amendments

- F1** S. 5(5) repealed (E.W.) by Criminal Attempts Act 1981 (c. 47, SIF 39:1), **Sch. Pt. I** and (N.I.) by S.I. 1983/1120 (N.I. 13), **Sch.**
- F2** Words repealed (E.W.) by Criminal Attempts Act 1981 (c. 47, SIF 39:1), **Sch. Pt. I** and (N.I.) by S.I. 1983/1120 (N.I. 13), **Sch.**

Modifications etc. (not altering text)

- C6** S. 5(1) excluded (1.2.2002) by S.I. 2001/3998, **regs. 4, 6(4)-(7), 10, 11(1)(2)** (with reg. 2(3))
- C7** S. 5(2)(3) saved by (E.W.) Criminal Law Act 1977 (c. 45), **Sch. 5 para. 1(2)(a)(b)(iii)** and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21), **Sch. 7B, para. 1(2)(a)(b)(iii)**

6 Restriction of cultivation of cannabis plant.

- (1) Subject to any regulations under section 7 of this Act for the time being in force, it shall not be lawful for a person to cultivate any plant of the genus *Cannabis*.
- (2) Subject to section 28 of this Act, it is an offence to cultivate any such plant in contravention subsection (1) above.

7 Authorisation of activities otherwise unlawful under foregoing provisions.

- (1) The Secretary of State may by regulations—
- except from section 3(1)(a) or (b), 4(1)(a) or (b) or 5(1) of this Act such controlled drugs as may be specified in the regulations; and
 - make such other provision as he thinks fit for the purpose of making it lawful for persons to do things which under any of the following provisions of this Act, that is to say sections 4(1), 5(1) and 6(1), it would otherwise be unlawful for them to do.
- (2) Without prejudice to the generality of paragraph (b) of subsection (1) above, regulations under that subsection authorising the doing of any such thing as is mentioned in that paragraph may in particular provide for the doing of that thing to be lawful—
- if it is done under and in accordance with the terms of a licence or other authority issued by the Secretary of State and in compliance with any conditions attached thereto; or
 - if it is done in compliance with such conditions as may be prescribed.
- (3) Subject to subsection (4) below, the Secretary of State shall so exercise his power to make regulations under subsection (1) above as to secure—
- that it is not unlawful under section 4(1) of this Act for a doctor, dentist, veterinary practitioner or veterinary surgeon, acting in his capacity as such, to prescribe, administer, manufacture, compound or supply a controlled drug, or for a pharmacist or a person lawfully conducting a retail pharmacy business,

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acting in either case in his capacity as such, to manufacture, compound or supply a controlled drug; and

- (b) that it is not unlawful under section 5(1) of this Act for a doctor, dentist, veterinary practitioner, veterinary surgeon, pharmacist or person lawfully conducting a retail pharmacy business to have a controlled drug in his possession for the purpose of acting in his capacity as such.

- (4) If in the case of any controlled drug the Secretary of State is of the opinion that it is in the public interest—

- (a) for production, supply and possession of that drug to be either wholly unlawful or unlawful except for purposes of research or other special purposes; or
(b) for it to be unlawful for practitioners, pharmacists and persons lawfully conducting retail pharmacy businesses to do in relation to that drug any of the things mentioned in subsection (3) above except under a licence or other authority issued by the Secretary of State,

he may by order designate that drug as a drug to which this subsection applies; and while there is in force an order under this subsection designating a controlled drug as one to which this subsection applies, subsection (3) above shall not apply as regards that drug.

- (5) Any order under subsection (4) above may be varied or revoked by a subsequent order thereunder.
- (6) The power to make orders under subsection (4) above shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) The Secretary of State shall not make any order under subsection (4) above except after consultation with or on the recommendation of the Advisory Council.
- (8) References in this section to a person's "doing" things include references to his having things in his possession.
- (9) In its application to Northern Ireland this section shall have effect as if for references to the Secretary of State there were substituted references to the Ministry of Home Affairs for Northern Ireland and as if for subsection (6) there were substituted—

“(6) Any order made under subsection (4) above by the Ministry of Home Affairs for Northern Ireland shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if it were a statutory instrument within the meaning of that Act.”

Modifications etc. (not altering text)

- C8** Functions of Ministry of Home Affairs for Northern Ireland transferred to Department of Health and Social Services for Northern Ireland by S.R. & O. (N.I.) 1973 No. 504, [Sch. 2 Pt. I](#)

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