



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 [^{F1}or by provision made in a temporary class drug order by virtue of section 7A] ; 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.

Textual Amendments

- F1** Words in s. 3(2)(a) inserted (15.11.2011) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 17 para. 4](#); S.I. 2011/2515, art. 3(g)

4 Restriction of production and supply of controlled drugs.

- (1) Subject to any regulations under section 7 of this Act [^{F2}, or any provision made in a temporary class drug order by virtue of section 7A,] 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—

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- (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
 - (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.

Textual Amendments

- F2** Words in s. 4(1) inserted (15.11.2011) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 17 para. 5](#); S.I. 2011/2515, art. 3(g)

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(1)(b) excluded by S.I. 2001/3998, [reg. 8\(7\)](#) (as substituted (14.11.2005) by [Misuse of Drugs and the Misuse of Drugs \(Supply to Addicts\) \(amendment\) Regulations 2005 \(S.I. 2005/2864\)](#), [regs. 1\(1\), 7](#))
- C6** S. 4(1)(b) excluded by S.I. 2001/3998, [reg. 8\(7\)](#) (as substituted (14.11.2005) by [Misuse of Drugs and the Misuse of Drugs \(Supply to Addicts\) \(amendment\) Regulations 2005 \(S.I. 2005/2864\)](#), [regs. 1\(1\), 8](#))
- C7** 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\(2\)\(b\)\(i\)\(ii\)](#)

[^{F3}4A] Aggravation of offence of supply of controlled drug

- [^{F4}(1) [^{F5}Subsections (2) to (8) apply] if—
- (a) a court [^{F6}in Scotland or Northern Ireland] is considering the seriousness of an offence under section 4(3) of this Act, and
 - (b) at the time the offence was committed the offender had attained the age of 18.
- (2) If either of the following conditions is met the court—
- (a) must treat the fact that the condition is met as an aggravating factor (that is to say, a factor that increases the seriousness of the offence), and
 - (b) must state in open court that the offence is so aggravated.
- (3) The first condition is that the offence was committed on or in the vicinity of school premises at a relevant time.
- (4) The second condition is that in connection with the commission of the offence the offender used a courier who, at the time the offence was committed, was under the age of 18.

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- (5) In subsection (3), a relevant time is—
- (a) any time when the school premises are in use by persons under the age of 18;
 - (b) one hour before the start and one hour after the end of any such time.
- (6) For the purposes of subsection (4), a person uses a courier in connection with an offence under section 4(3) of this Act if he causes or permits another person (the courier)—
- (a) to deliver a controlled drug to a third person, or
 - (b) to deliver a drug related consideration to himself or a third person.
- (7) For the purposes of subsection (6), a drug related consideration is a consideration of any description which—
- (a) is obtained in connection with the supply of a controlled drug, or
 - (b) is intended to be used in connection with obtaining a controlled drug.]
- (8) In this section—
- “school premises” means land used for the purposes of a school excluding any land occupied solely as a dwelling by a person employed at the school; and
- “school” has the same meaning—
- (a) in England and Wales, as in section 4 of the Education Act 1996;
 - (b) in Scotland, as in section 135(1) of the Education (Scotland) Act 1980;
 - (c) in Northern Ireland, as in Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986.

[For the requirement for a court in England and Wales considering the seriousness of ^{F7}(9) an offence under section 4(3) of this Act to treat certain matters as aggravating factors, see section 71 of the Sentencing Code.]]

Textual Amendments

- F3** S. 4A inserted (1.1.2006) by [Drugs Act 2005 \(c. 17\)](#), **ss. 1, 24(3)** (with s. 1(2)); S.I. 2005/3053, art. 3(a)
- F4** S. 4A(1)-(7) repealed (E.W.) (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 29** (with ss. 413(4), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F5** Words in s. 4A(1) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 27(2)(a)** (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F6** Words in s. 4A(1)(a) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 27(2)(b)** (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F7** S. 4A(9) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 27(3)** (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2

Modifications etc. (not altering text)

- C8** S. 4A modified in part (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2)(3) and 2020 c. 17, ss. 2, 416)) by [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\)](#), **ss. 1, 5(2)(3)**; S.I. 2012/1236, reg. 2

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.

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- (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.

[^{F8}(2A) Subsections (1) and (2) do not apply in relation to a temporary class drug.]

- (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.

[^{F9}(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
- (b) in paragraphs (a) and (b) the words from “and that as soon as possible” onwards shall be omitted.]

- (6) Nothing in subsection (4) [^{F10}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

- F8** S. 5(2A) inserted (15.11.2011) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 17 para. 6](#); S.I. 2011/2515, art. 3(g)
- F9** 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.](#)
- F10** 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)

- C9** S. 5(1) excluded (1.2.2002) by S.I. 2001/3998, [regs. 4, 6\(4\)-\(7\), 10, 11\(1\)\(2\)](#) (with [reg. 2\(3\)](#))

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C10 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—
 - (a) 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
 - (b) 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—
 - (a) 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
 - (b) 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—
 - (a) 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, 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,

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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.”

[^{F11}(10) In this section a reference to “controlled drugs” does not include a reference to temporary class drugs (see instead section 7A).]

Textual Amendments

F11 S. 7(10) inserted (15.11.2011) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 17 para. 7](#); S.I. 2011/2515, art. 3(g)

Modifications etc. (not altering text)

C11 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](#)

[^{F12}7A Temporary class drug orders: power to make further provision

- (1) This section applies if a temporary class drug order specifies a substance or product as a drug subject to temporary control.
- (2) The order may—
 - (a) include provision for the exception of the drug from the application of section 3(1)(a) or (b) or 4(1)(a) or (b),
 - (b) make such other provision as the Secretary of State thinks fit for the purpose of making it lawful for persons to do things in respect of the drug which under section 4(1) it would otherwise be unlawful for them to do,
 - (c) provide for circumstances in which a person's possession of the drug is to be treated as excepted possession for the purposes of this Act, and

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- (d) include any provision in relation to the drug of a kind that could be made in regulations under section 10 or 22 if the drug were a Class A drug, a Class B drug or a Class C drug (but ignoring section 31(3)).
- (3) Provision under subsection (2) may take the form of applying (with or without modifications) any provision made in regulations under section 7(1), 10 or 22.
- (4) Provision under subsection (2)(b) may (in particular) provide for the doing of something to be lawful if it is done—
 - (a) in circumstances mentioned in section 7(2)(a), or
 - (b) in compliance with such conditions as may be prescribed by virtue of section 7(2)(b).
- (5) Section 7(8) applies for the purposes of this section.
- (6) Section 31(1) (general provision as to regulations) applies in relation to a temporary class drug order that contains provision made by virtue of this section as it applies to regulations under this Act.]

Textual Amendments

F12 S. 7A inserted (15.11.2011) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 17 para. 8](#); S.I. 2011/2515, art. 3(g)

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