



Drugs Act 2005

2005 CHAPTER 17

PART 1

SUPPLY OF CONTROLLED DRUGS

1 Aggravated supply of controlled drug

- (1) After section 4 of the Misuse of Drugs Act 1971 (c. 38) (restriction on production and supply of controlled drugs) insert—

“4A Aggravation of offence of supply of controlled drug

- (1) This section applies if—
- a court is considering the seriousness of an offence under section 4(3) of this Act, and
 - 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—
- 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
 - 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.
- (5) In subsection (3), a relevant time is—
- any time when the school premises are in use by persons under the age of 18;

Status: This is the original version (as it was originally enacted).

- (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.”
- (2) Section 4A of the Misuse of Drugs Act 1971 (c. 38) (inserted by subsection (1) above) does not apply to an offence committed before this section comes into force.

2 Proof of intention to supply a controlled drug

- (1) The Misuse of Drugs Act 1971 is amended as follows.
- (2) In section 5 (restriction of possession of controlled drugs), after subsection (4) insert—
 - “(4A) In any proceedings for an offence under subsection (3) above, if it is proved that the accused had an amount of a controlled drug in his possession which is not less than the prescribed amount, the court or jury must assume that he had the drug in his possession with the intent to supply it as mentioned in subsection (3).
 - (4B) Subsection (4A) above does not apply if evidence is adduced which is sufficient to raise an issue that the accused may not have had the drug in his possession with that intent.
 - (4C) Regulations under subsection (4A) above have effect only in relation to proceedings for an offence committed after the regulations come into force.”
- (3) In section 31 (general provisions as to regulations)—
 - (a) in subsection (2), after “which shall” insert “, except as provided by subsection (2A),”;
 - (b) after subsection (2) insert—
 - “(2A) A statutory instrument containing regulations under section 5(4A) of this Act shall not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”;

(c) after subsection (4) insert—

“(4A) Subsection (4) does not apply in relation to regulations under section 5(4A) of this Act.”

(4) In section 38 (special provisions as to Northern Ireland) after subsection (1) insert—

“(1A) Subsection (1) does not apply, in relation to regulations under section 5(4A) of this Act, to the reference to the Secretary of State in the definition of “prescribed” in section 37(1) of this Act.”