



Sentencing Act 2020

2020 CHAPTER 17

SECOND GROUP OF PARTS Provisions applying to sentencing courts generally

PART 4

EXERCISE OF COURT'S DISCRETION

CHAPTER 3

SERIOUSNESS AND DETERMINING SENTENCE

Aggravating factors

72 Supply of psychoactive substance in certain circumstances

- (1) This section applies where—
 - (a) a court is considering the seriousness of an offence under section 5 of the Psychoactive Substances Act 2016 (supplying psychoactive substance etc), and
 - (b) the offender was aged 18 or over when the offence was committed.
- (2) If condition A, B or C is met the court—
 - (a) must treat the fact that the condition is met as an aggravating factor, and
 - (b) must state in open court that the offence is so aggravated.
- (3) Condition A is that the offence was committed on or in the vicinity of school premises at a relevant time.
- (4) For the purposes of subsection (3)—

“relevant time”, in relation to school premises, means—

 - (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;

Status: This is the original version (as it was originally enacted).

“school” has the same meaning as in section 6 of the Psychoactive Substances Act 2016;

“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.

- (5) Condition B is that, in connection with the offence, the offender used a courier who, when the offence was committed, was aged under 18.
- (6) For the purposes of subsection (5), a person uses a courier in connection with an offence under section 5 of the Psychoactive Substances Act 2016 if the person causes or permits another person (“the courier”)—
 - (a) to deliver a substance to a third person, or
 - (b) to deliver a drug-related consideration to the person 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 psychoactive substance, or
 - (b) is intended to be used in connection with obtaining a psychoactive substance.
- (8) Condition C is that the offence was committed in a custodial institution.
- (9) For the purposes of subsection (8), “custodial institution” means any of the following—
 - (a) a prison;
 - (b) a young offender institution, secure training centre or secure college;
 - (c) a removal centre, short-term holding facility or pre-departure accommodation (each, as defined in section 147 of the Immigration and Asylum Act 1999);
 - (d) service custody premises (as defined in section 300(7) of the Armed Forces Act 2006).
- (10) In this section “psychoactive substance” has the same meaning as in the Psychoactive Substances Act 2016 (see section 2 of that Act).