

SCHEDULES

SCHEDULE 5

Section 60

CONSEQUENTIAL AMENDMENTS

Intoxicating Substances (Supply) Act 1985

- 1 (1) The Intoxicating Substances (Supply) Act 1985 is repealed.
- (2) In consequence of the repeal made by sub-paragraph (1), in Schedules 3 and 6 to the Regulatory Enforcement and Sanctions Act 2008, omit the entry relating to the Intoxicating Substances (Supply) Act 1985.

Proceeds of Crime Act 2002

- 2 (1) The Proceeds of Crime Act 2002 is amended as follows.
- (2) In Schedule 2 (lifestyle offences: England and Wales), after paragraph 1 insert—
 - “1A An offence under any of the following provisions of the Psychoactive Substances Act 2016—
 - (a) section 4 (producing a psychoactive substance);
 - (b) section 5 (supplying, or offering to supply, a psychoactive substance);
 - (c) section 7 (possession of psychoactive substance with intent to supply);
 - (d) section 8 (importing or exporting a psychoactive substance).”
- (3) In Schedule 4 (lifestyle offences: Scotland), after paragraph 2 insert—
 - “2A An offence under any of the following provisions of the Psychoactive Substances Act 2016—
 - (a) section 4 (producing a psychoactive substance);
 - (b) section 5 (supplying, or offering to supply, a psychoactive substance);
 - (c) section 7 (possession of psychoactive substance with intent to supply);
 - (d) section 8 (importing or exporting a psychoactive substance).”
- (4) In Schedule 5 (lifestyle offences: Northern Ireland), after paragraph 1 insert—
 - “1A An offence under any of the following provisions of the Psychoactive Substances Act 2016—
 - (a) section 4 (producing a psychoactive substance);
 - (b) section 5 (supplying, or offering to supply, a psychoactive substance);
 - (c) section 7 (possession of psychoactive substance with intent to supply);

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(d) section 8 (importing or exporting a psychoactive substance).”

Police Reform Act 2002

3 In Part 1 of Schedule 4 to the Police Reform Act 2002 (powers exercisable by community support officers), after paragraph 7D insert—

“Powers to seize and detain: psychoactive substances

7E (1) Where a designation applies this paragraph to any person (“the CSO”), the CSO shall, within the relevant police area, have the powers set out in sub-paragraphs (2) and (3).

(2) If the CSO—

- (a) finds a psychoactive substance in a person’s possession (whether or not the CSO finds it in the course of searching the person by virtue of any paragraph of this Part of this Schedule being applied to the CSO by a designation), and
- (b) reasonably believes that it is unlawful for the person to be in possession of it,

the CSO may seize it and retain it.

(3) If the CSO—

- (a) finds a psychoactive substance in a person’s possession (as mentioned in sub-paragraph (2)), or
- (b) reasonably believes that a person is in possession of a psychoactive substance,

and reasonably believes that it is unlawful for the person to be in possession of it, the CSO may require the person to give the CSO his name and address.

(4) If in exercise of the power conferred by sub-paragraph (2) the CSO seizes and retains a psychoactive substance, the CSO must—

- (a) if the person from whom it was seized maintains that he was lawfully in possession of it—
 - (i) tell the person where inquiries about its recovery may be made, and
 - (ii) explain the effect of sections 49 to 51 and 53 of the Psychoactive Substances Act 2016 (retention and disposal of items), and
- (b) comply with a constable’s instructions about what to do with it.

(5) Any substance seized in exercise of the power conferred by sub-paragraph (2) is to be treated for the purposes of sections 49 to 53 of the Psychoactive Substances Act 2016 as if it had been seized by a police or customs officer under section 36 of that Act.

(6) A person who fails to comply with a requirement under sub-paragraph (3) is guilty of an offence and is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

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

- (7) In this paragraph “police or customs officer” and “psychoactive substance” have the same meaning as in the Psychoactive Substances Act 2016.
- 7F (1) Sub-paragraph (2) applies where a designation applies this paragraph to any person (“the CSO”).
- (2) If the CSO imposes a requirement on a person under paragraph 7E(3)—
- (a) sub-paragraph (3) of paragraph 2 applies in the case of such a requirement as it applies in the case of a requirement under paragraph 1A(3), and
 - (b) sub-paragraphs (4) to (5) of paragraph 2 also apply accordingly.”

Police (Northern Ireland) Act 2003

- 4 In Schedule 2A to the Police (Northern Ireland) Act 2003 (powers and duties of community support officer), after paragraph 9 insert—

“Powers to seize and retain: psychoactive substances

- 9A (1) If a CSO—
- (a) finds a psychoactive substance in a person’s possession (whether or not the CSO finds it in the course of searching the person by virtue of any other paragraph of this Schedule), and
 - (b) reasonably believes that it is unlawful for the person to be in possession of it,
- the CSO may seize it and retain it.
- (2) If a CSO—
- (a) finds a psychoactive substance in a person’s possession (as mentioned in sub-paragraph (1)), or
 - (b) reasonably believes that a person is in possession of a psychoactive substance,
- and reasonably believes that it is unlawful for the person to be in possession of it, the CSO may require the person to give the CSO his name and address.
- (3) If in exercise of the power conferred by sub-paragraph (1) the CSO seizes and retains a psychoactive substance, the CSO must—
- (a) if the person from whom it was seized maintains that he was lawfully in possession of it—
 - (i) tell the person where inquiries about its recovery may be made, and
 - (ii) explain the effect of sections 49 to 51 and 53 of the Psychoactive Substances Act 2016 (retention and disposal of items), and
 - (b) comply with a constable’s instructions about what to do with it.
- (4) Any substance seized in exercise of the power conferred by sub-paragraph (1) is to be treated for the purposes of sections 49 to 53 of the

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Psychoactive Substances Act 2016 as if it had been seized by a police or customs officer under section 36 of that Act.

- (5) A person who fails to comply with a requirement under sub-paragraph (2) is guilty of an offence and is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.
- (6) Paragraph 4 applies in the case of a requirement imposed by virtue of sub-paragraph (2) as it applies in the case of a requirement under paragraph 2(1).
- (7) In this paragraph “police or customs officer” and “psychoactive substance” have the same meaning as in the Psychoactive Substances Act 2016.”

Licensing Act 2003

- 5 (1) The Licensing Act 2003 is amended as follows.
- (2) In section 97 (power to enter and search club premises), in subsection (1), omit the “or” after paragraph (a) and after that paragraph insert—
 - “(aa) that an offence under section 5(1) or (2) of the Psychoactive Substances Act 2016 (supplying, or offering to supply, a psychoactive substance) has been, is being, or is about to be, committed there, or”.
- (3) In Schedule 4 (personal licences: relevant offences), after paragraph 23 insert—
 - “23A An offence under any of the following provisions of the Psychoactive Substances Act 2016—
 - (a) section 4 (producing a psychoactive substance);
 - (b) section 5 (supplying, or offering to supply, a psychoactive substance);
 - (c) section 7 (possession of psychoactive substance with intent to supply);
 - (d) section 8 (importing or exporting a psychoactive substance).”

Gambling Act 2005

- 6 In Part 1 of Schedule 7 to the Gambling Act 2005 (relevant offences), after paragraph 11 insert—
 - “11A An offence under any of the following provisions of the Psychoactive Substances Act 2016—
 - (a) section 4 (producing a psychoactive substance);
 - (b) section 5 (supplying, or offering to supply, a psychoactive substance);
 - (c) section 7 (possession of psychoactive substance with intent to supply);
 - (d) section 8 (importing or exporting a psychoactive substance).”

Armed Forces Act 2006

- 7 (1) The Armed Forces Act 2006 is amended as follows.

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- (2) In section 75 (power of service policeman to stop and search persons, vehicles etc)—
- (a) in subsection (1), after “controlled drugs” insert “, psychoactive substances”;
 - (b) in subsection (2), for paragraphs (c) and (d) substitute—
 - “(c) in the case of the search of a person, that—
 - (i) the person is in possession of a controlled drug in circumstances in which he commits an offence under section 42 as respects which the corresponding offence under the law of England and Wales is an offence under the Misuse of Drugs Act 1971, or
 - (ii) the person is in possession of a psychoactive substance in circumstances in which he commits an offence under section 42 as respects which the corresponding offence under the law of England and Wales is an offence under the Psychoactive Substances Act 2016; or
 - (d) in the case of the search of a vehicle, that—
 - (i) the search will reveal a controlled drug that is in a person’s possession in the circumstances mentioned in paragraph (c)(i), or
 - (ii) the search will reveal a psychoactive substance that is in a person’s possession in the circumstances mentioned in paragraph (c)(ii).”;
 - (c) in subsection (4), omit the “or” after paragraph (b) and after that paragraph insert—
 - “(ba) evidence of an offence under section 42 as respects which the corresponding offence under the law of England and Wales is an offence under the Psychoactive Substances Act 2016; or”.
- (3) In section 76 (stop and search by persons other than service policemen), in subsection (1)(a), after “controlled drugs” insert “, psychoactive substances”.
- (4) In section 77 (definitions for purposes of sections 75 and 76), after subsection (4) insert—
- “(4A) Psychoactive substance” has the meaning given by section 2(1) of the Psychoactive Substances Act 2016.”

Serious Crime Act 2007

- 8 (1) Schedule 1 to the Serious Crime Act 2007 (serious offences) is amended as follows.
- (2) In Part 1 (serious offences in England and Wales), after paragraph 1 insert—
- “1ZA An offence under any of the following provisions of the Psychoactive Substances Act 2016—
- (a) section 4 (producing a psychoactive substance);
 - (b) section 5 (supplying, or offering to supply, a psychoactive substance);
 - (c) section 7 (possession of psychoactive substance with intent to supply);

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

(d) section 8 (importing or exporting a psychoactive substance).”

(3) In Part 1A (serious offences in Scotland) (inserted by Schedule 1 to the Serious Crime Act 2015), after paragraph 16A insert—

“16AA An offence under any of the following provisions of the Psychoactive Substances Act 2016—

- (a) section 4 (producing a psychoactive substance);
- (b) section 5 (supplying, or offering to supply, a psychoactive substance);
- (c) section 7 (possession of psychoactive substance with intent to supply);
- (d) section 8 (importing or exporting a psychoactive substance).”

(4) In Part 2 (serious offences in Northern Ireland), after paragraph 17 insert—

“17A An offence under any of the following provisions of the Psychoactive Substances Act 2016—

- (a) section 4 (producing a psychoactive substance);
- (b) section 5 (supplying, or offering to supply, a psychoactive substance);
- (c) section 7 (possession of psychoactive substance with intent to supply);
- (d) section 8 (importing or exporting a psychoactive substance).”

Regulatory Enforcement and Sanctions Act 2008

9 In Schedule 3 to the Regulatory Enforcement and Sanctions Act 2008 (enactments specified for the purposes of Part 1 of that Act), at the appropriate place insert—
 “Psychoactive Substances Act 2016”.

Policing and Crime Act 2009

10 In section 34 of the Policing and Crime Act 2009 (injunctions to prevent gang-related violence and drug-dealing activity), for subsection (7) substitute—

“(7) In this Part “drug-dealing activity” means—

- (a) the unlawful production, supply, importation or exportation of a controlled drug, or
- (b) the unlawful production, supply, importation or exportation of a psychoactive substance.

(8) In subsection (7)—

- (a) in paragraph (a), “production”, “supply” and “controlled drug” have the meaning given by section 37(1) of the Misuse of Drugs Act 1971;
- (b) in paragraph (b), “production”, “supply” and “psychoactive substance” have the meaning given by section 59 of the Psychoactive Substances Act 2016.”