



Drug Trafficking Offences Act 1986

1986 CHAPTER 32

Miscellaneous and Supplemental

35 Power to appoint additional assistant commissioner

In section 2 of the Metropolitan Police Act 1856 (power to appoint two assistant commissioners of police for the metropolis, increased to five by the Metropolitan Police Act 1933) for the word " two " there is substituted " six " ; and the Metropolitan Police Act 1933 is repealed.

36 Drug trafficking offences to be serious arrestable offences

In section 116(2) of the Police and Criminal Evidence Act 1984 (arrestable offences that are always serious) after paragraph (a) there is inserted—

“(aa) any of the offences mentioned in paragraphs (a) to (d) of the definition of " drug trafficking offence " in section 38(1) of the Drug Trafficking Offences Act 1986”.

37 Expenses

There shall be paid out of money provided by Parliament any increase attributable to this Act in the sums payable out of money so provided under any other Act.

38 General interpretation

(1) In this Act—

" authorised government department " means a government department which is an authorised department for the purposes of the Crown Proceedings Act 1947 ;

" constable " includes a person commissioned by the Commissioners of Customs and Excise ;

" corresponding law " has the same meaning as in the Misuse of Drugs Act 1971;

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" drug trafficking " means doing or being concerned in any of the following, whether in England and Wales or elsewhere—

- (a) producing or supplying a controlled drug where the production or supply contravenes section 4(1) of the Misuse of Drugs Act 1971 or a corresponding law;
- (b) transporting or storing a controlled drug where possession of the drug contravenes section 5(1) of that Act or a corresponding law ;
- (c) importing or exporting a controlled drug where the importation or exportation is prohibited by section 3(1) of that Act or a corresponding law;

and includes a person doing the following, whether in England and Wales or elsewhere, that is entering into or being otherwise concerned in an arrangement whereby—

- (i) the retention or control by or on behalf of another person of the other person's proceeds of drug trafficking is facilitated, or
- (ii) the proceeds of drug trafficking by another person are used to secure that funds are placed at the other person's disposal or are used for the other person's benefit to acquire property by way of investment;

" drug trafficking offence " means any of the following—

- (a) an offence under section 4(2) or (3) or 5(3) of the Misuse of Drugs Act 1971 (production, supply and possession for supply of controlled drugs);
- (b) an offence under section 20 of that Act (assisting in or inducing commission outside United Kingdom of offence punishable under a corresponding law);
- (c) an offence under—
 - (i) section 50(2) or (3) of the Customs and Excise Management Act 1979 (improper importation),
 - (ii) section 68(2) of that Act (exportation), or
 - (iii) section 170 of that Act (fraudulent evasion),

in connection with a prohibition or restriction on importation or exportation having effect by virtue of section 3 of the Misuse of Drugs Act 1971;

- (d) an offence under section 24 of this Act;
- (e) an offence under section 1 of the Criminal Law Act 1977 of conspiracy to commit any of the offences in paragraphs (a) to (d) above ;
- (f) an offence under section 1 of the Criminal Attempts Act 1981 of attempting to commit any of those offences;
- (g) an offence of inciting another to commit any of those offences, whether under section 19 of the Misuse of Drugs Act 1971 or at common law; and
- (h) aiding, abetting, counselling or procuring the commission of any of those offences ;

" interest ", in relation to property, includes right;

" property " includes money and all other property, real or personal, heritable or moveable, including things in action and other intangible or incorporeal property.

- (2) The expressions listed in the left hand column below are respectively defined or (as the case may be) fall to be construed in accordance with the provisions of this Act listed in the right hand column in relation to those expressions.

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| <i>Expression</i> | <i>Relevant provision</i> |
|---------------------------------------|---------------------------|
| Benefited from drug trafficking | Section 1(3) |
| Charging order | Section 9(2) |
| Confiscation order | Section 1(8) |
| Dealing with property | Section 8(7) |
| Defendant | Section 1(8) |
| Gift caught by this Act | Section 5(9) |
| Making a gift | Section 5(10) |
| Proceeds of drug trafficking | Section 2(1)(a) |
| Realisable property | Section 5(1) |
| Restraint order. | Section 8(1) |
| Value of gift, payment or reward | Section 5 |
| Value of proceeds of drug trafficking | Section 2(1)(b) |
| Value of property | Section 5(4). |

- (3) This Act applies to property whether it is situated in England and Wales or elsewhere.
- (4) References in this Act to offences include a reference to offences committed before the commencement of section 1 of this Act; but nothing in this Act imposes any duty or confers any power on any court in or in connection with proceedings against a person for a drug trafficking offence instituted before the commencement of that section.
- (5) References in this Act to anything received in connection with drug trafficking include a reference to anything received both in that connection and in some other connection.
- (6) The following provisions shall have effect for the interpretation of this Act.
- (7) Property is held by any person if he holds any interest in it.
- (8) References to property held by a person include a reference to property vested in his trustee in bankruptcy, permanent or interim trustee within the meaning of the Bankruptcy (Scotland) Act 1985 or liquidator.
- (9) References to an interest held by a person beneficially in property include a reference to an interest which would be held by him beneficially if the property were not so vested.
- (10) Property is transferred by one person to another if the first person transfers or grants to the other any interest in the property.
- (11) Proceedings for an offence are instituted in England and Wales—
 - (a) when a justice of the peace issues a summons or warrant under section 1 of the Magistrates' Courts Act 1980 in respect of the offence,
 - (b) when a person is charged with the offence after being taken into custody without a warrant,

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- (c) when a bill of indictment is preferred under section 2 of the Administration of Justice (Miscellaneous Provisions) Act 1933 in a case falling within paragraph (b) of subsection (2) of that section ;
- and where the application of this subsection would result in there being more than one time for the institution of proceedings, they shall be taken to have been instituted at the earliest of those times.
- (12) Proceedings in England and Wales for an offence are concluded on the occurrence of one of the following events—
- (a) the discontinuance of the proceedings ;
 - (b) the acquittal of the defendant;
 - (c) the quashing of his conviction for the offence;
 - (d) the grant of Her Majesty's pardon in respect of his conviction for the offence;
 - (e) the court sentencing or otherwise dealing with him in respect of his conviction for the offence without having made a confiscation order ; and
 - (f) the satisfaction of a confiscation order made in the proceedings (whether by payment of the amount due under the order or by the defendant serving imprisonment in default).
- (13) An order is subject to appeal so long as an appeal or further appeal is pending against the order or (if it was made on a conviction) against the conviction; and for this purpose an appeal or further appeal shall be treated as pending (where one is competent but has not been brought) until the expiration of the time for bringing that appeal.

39 Minor amendments

- (1) Section 28 of the Bankruptcy Act 1914 (effect of order of discharge) shall have effect as if amounts payable under confiscation orders were debts excepted under subsection (1)(a) of that section.
- (2) In section 49(1)(g) of the Land Registration Act 1925 (protection of certain interests by notice) after " Charging Orders Act 1979 " there is inserted " or the Drug Trafficking Offences Act 1986 ".
- (3) In section 1(2)(a) of the Rehabilitation of Offenders Act 1974 (failure to pay fines etc. not to prevent person becoming rehabilitated) the reference to a fine or other sum adjudged to be paid by or imposed on a conviction does not include a reference to an amount payable under a confiscation order.
- (4) After subsection (4) of section 18 of the Civil Jurisdiction and Judgements Act 1982 there is inserted the following subsection—

“(4A) This section does not apply as respects the enforcement in Scotland of orders made by the High Court in England and Wales under or for the purposes of the Drug Trafficking Offences Act 1986.”
- (5) Section 281(4) of the Insolvency Act 1986 (discharge of bankrupt not to release him from liabilities in respect of fines, etc.) shall have effect as if the reference to a fine included a reference to a confiscation order.
- (6) Section 55(2) of the Bankruptcy (Scotland) Act 1985 (discharge of debtor not to release him from liabilities in respect of fines etc.) shall have effect as if the reference to a fine included a reference to a confiscation order.

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40 Short title, commencement and extent

- (1) This Act may be cited as the Drug Trafficking Offences Act 1986.
- (2) This Act, except section 35 (which comes into force on the day on which this Act is passed), shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint and different days may be appointed for different provisions and for different purposes.
- (3) Subject to subsections (4) and (5) below, this Act extends to England and Wales only.
- (4) This Act has effect in Scotland as follows—
 - (a) sections 7(4), 8 (but not subsection (8) or (9)), 11, 12 and 30 (but not subsection (10), (11) or (12)) extend also to Scotland, but only as provided by sections 20 and 21 of this Act;
 - (b) section 7(3);
section 8(8) and (9);
section 13 ;
sections 15 to 17 ;
section 18(1);
section 24(3)(a);
sections 27 to 29 ;
section 30(10), (11) and (12);
section 34;
section 38, so far as relating to other provisions of this Act extending to Scotland ;
section 39(3), (4) and (6); and
this section, so far as relating to other provisions of this Act extending to Scotland,

extend also to Scotland ;
 - (c) sections 20 to 23 extend to Scotland only.
- (5) Section 34 extends also to Northern Ireland.