



Psychoactive Substances Act 2016

2016 CHAPTER 2

Supplementary and final provisions

55 Application of Customs and Excise Management Act 1979

- (1) Section 164 of the Customs and Excise Management Act 1979 (power to search persons) applies in relation to a psychoactive substance as it applies in relation to an article with respect to the importation or exportation of which any prohibition or restriction is for the time being in force under or by virtue of any enactment.
- (2) A psychoactive substance is liable to forfeiture under the Customs and Excise Management Act 1979 if—
 - (a) the psychoactive substance—
 - (i) is imported or exported, or
 - (ii) is entered for exportation or brought to any place in the United Kingdom for exportation,
 - (b) the psychoactive substance is likely to be consumed by any individual for its psychoactive effects, and
 - (c) the importation or (as the case may be) exportation of the psychoactive substance is not an exempted activity.
- (3) For the purposes of subsection (2) the importation or exportation of a psychoactive substance is an “exempted activity” if it would not be an offence under this Act by virtue of section 11.
- (4) Section 5 of the Customs and Excise Management Act 1979 (time of importation, exportation, etc) applies for the purposes of subsection (2) as it applies for the purposes of that Act.

56 Offences by directors, partners, etc

- (1) Where an offence under this Act has been committed by a body corporate and it is proved that the offence—

- (a) has been committed with the consent or connivance of a person falling within subsection (2), or
 - (b) is attributable to any neglect on the part of such a person,
- that person (as well as the body corporate) is guilty of that offence and liable to be proceeded against and punished accordingly.

(2) The persons are—

- (a) a director, manager, secretary or similar officer of the body corporate;
- (b) any person who was purporting to act in such a capacity.

(3) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member, in connection with that management, as if the member were a director of the body corporate.

(4) Where an offence under this Act has been committed by a Scottish firm and it is proved that the offence—

- (a) has been committed with the consent or connivance of a partner in the firm or a person purporting to act as such a partner, or
- (b) is attributable to any neglect on the part of such a person,

that person (as well as the firm) is guilty of that offence and liable to be proceeded against and punished accordingly.

57 Providers of information society services

Schedule 4 contains provision about the application of certain provisions of this Act in relation to persons providing information society services within the meaning of that Schedule.

58 Review

(1) Before the end of the period mentioned in subsection (2), the Secretary of State must—

- (a) review the operation of this Act,
- (b) prepare a report of the review, and
- (c) lay a copy of the report before Parliament.

(2) The period referred to in subsection (1) is the period of 30 months beginning with the day on which sections 4 to 8 come into force.

59 Interpretation

(1) In this Act—

“access prohibition” has the meaning given by section 22(6);

“designated NCA officer” means a National Crime Agency officer designated under section 10 of the Crime and Courts Act 2013 as a person having either or both of the following—

- (a) the powers and privileges of a constable;
- (b) the powers of an officer of Revenue and Customs;

“exempted substance” has the meaning given by section 3;

“general customs function” has the meaning given by section 1(8) of the Borders, Citizenship and Immigration Act 2009;

“general customs official” means a person designated as a general customs official under section 3(1) of the Borders, Citizenship and Immigration Act 2009;

“item” includes any substance;

“justice” means—

- (a) in England and Wales, a justice of the peace,
- (b) in Scotland, a sheriff or a justice of the peace, and
- (c) in Northern Ireland, a lay magistrate;

“local authority” means—

- (a) in England, a county council, a district council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly,
- (b) in Wales, a county council or county borough council,
- (c) in Scotland, a council constituted under section 2 of the Local Government etc (Scotland) Act 1994, and
- (d) in Northern Ireland, a district council constituted under section 1 of the Local Government Act (Northern Ireland) 1972;

“police or customs officer” has the meaning given by section 36(4);

“premises” includes any place and, in particular, includes—

- (a) any vehicle, vessel or aircraft;
- (b) any offshore installation within the meaning given by section 1 of the Mineral Workings (Offshore Installations) Act 1971;
- (c) any renewable energy installation within the meaning given by section 104 of the Energy Act 2004;
- (d) any tent or movable structure;

“premises notice” is to be read in accordance with section 14;

“premises order” is to be read in accordance with section 20;

“prohibited activity” has the meaning given by section 12;

“prohibition notice” is to be read in accordance with section 13;

“prohibition order” is to be read in accordance with section 17;

“psychoactive effects”, in relation to a substance, is to be read in accordance with section 2(2);

“psychoactive substance” has the meaning given by section 2(1);

“relevant enforcement officer” has the meaning given by section 39(6);

“relevant evidence” has the meaning given by section 36(4);

“search warrant” means a warrant under section 39;

“senior officer” has the meaning given by section 13(7);

“vessel” is to be read in accordance with subsection (4).

(2) In this Act—

- (a) any reference to producing a substance is a reference to producing it by manufacture, cultivation or any other method;
- (b) any reference to supplying a substance includes a reference to distributing it;
- (c) any reference to consuming a substance is to be read in accordance with section 2(3).

(3) For the purposes of this Act the items which are in a person’s possession include any items which are—

- (a) subject to that person's control, but
 - (b) in the custody of another person.
- (4) In this Act any reference to a vessel includes a reference to—
- (a) any ship or boat or any other description of vessel used in navigation, and
 - (b) any hovercraft, submersible craft or other floating craft,
- but does not include a reference to anything that permanently rests on, or is permanently attached to, the sea bed.
- (5) Before the commencement of section 109 of the Courts Reform (Scotland) Act 2014 (abolition of appeal from a sheriff to the sheriff principal), any reference in this Act to the Sheriff Appeal Court, other than the reference in section 31(1) in relation to a prohibition order made under section 19, is to be read as a reference to the sheriff principal.

60 Consequential amendments

Schedule 5 (which contains consequential amendments) has effect.

61 Power to make further consequential amendments

- (1) The Secretary of State may by regulations make provision that is consequential on any provision of this Act.
- (2) The power to make regulations under this section—
- (a) is exercisable by statutory instrument;
 - (b) includes power to make transitional, transitory or saving provision;
 - (c) may, in particular, be exercised by amending, repealing, revoking or otherwise modifying any provision made by or under primary legislation passed before this Act or in the same Session.
- (3) A statutory instrument that contains (with or without other provision) regulations under this section that amend, repeal or revoke any provision of primary legislation may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (4) Any other statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) In this section “primary legislation” means—
- (a) an Act of Parliament;
 - (b) an Act of the Scottish Parliament;
 - (c) a Measure or Act of the National Assembly for Wales;
 - (d) Northern Ireland legislation.

62 Extent

- (1) Except as provided by subsection (2), this Act extends to England and Wales, Scotland and Northern Ireland.
- (2) Any amendment or repeal made by this Act has the same extent as the provision amended or repealed.

- (3) The power under section 384(1) of the Armed Forces Act 2006 (“the 2006 Act”) may be exercised so as to extend to any of the Channel Islands (with or without modifications) any amendment or repeal made by or under this Act of any part of the 2006 Act.
- (4) The power under section 384(2) of the 2006 Act may be exercised so as to modify any provision of that Act as amended by or under this Act as it extends to the Isle of Man or a British overseas territory.

63 Commencement and short title

- (1) The following provisions of this Act come into force on the day on which this Act is passed—
 - (a) sections 59, 61 and 62 and this section;
 - (b) any power to make regulations under this Act.
- (2) The remaining provisions of this Act come into force in accordance with provision contained in regulations made by the Secretary of State.
- (3) Regulations under subsection (2) may—
 - (a) make different provision for different purposes;
 - (b) make such transitory or transitional provision, or savings, as the Secretary of State considers necessary or expedient.
- (4) This Act may be cited as the Psychoactive Substances Act 2016.