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*Changes to legislation: There are currently no known outstanding effects  
for the Psychoactive Substances Act 2016. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 1

Section 3

#### EXEMPTED SUBSTANCES

##### *Controlled drugs*

- 1 Controlled drugs (within the meaning of the Misuse of Drugs Act 1971).

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**Commencement Information**

**I1** Sch. 1 para. 1 in force at 26.5.2016 by S.I. 2016/553, reg. 2

##### *Medicinal products*

- 2 Medicinal products.

In this paragraph “medicinal product” has the same meaning as in the Human Medicines Regulations 2012 (S.I. 2012/1916) (see regulation 2 of those Regulations).

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**Commencement Information**

**I2** Sch. 1 para. 2 in force at 26.5.2016 by S.I. 2016/553, reg. 2

##### *Alcohol*

- 3 Alcohol or alcoholic products.

In this paragraph—

“alcohol” means ethyl alcohol, and

“alcoholic product” means any product which—

(a) contains alcohol, and

(b) does not contain any psychoactive substance.

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**Commencement Information**

**I3** Sch. 1 para. 3 in force at 26.5.2016 by S.I. 2016/553, reg. 2

##### *Nicotine and tobacco products*

- 4 Nicotine.

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**Commencement Information**

**I4** Sch. 1 para. 4 in force at 26.5.2016 by S.I. 2016/553, reg. 2

5 Tobacco products.

In this paragraph “tobacco product” means—

- (a) anything which is a tobacco product within the meaning of the Tobacco Products Duty Act 1979 (see section 1 of that Act), and
- (b) any other product which—
  - (i) contains nicotine, and
  - (ii) does not contain any psychoactive substance.

**Commencement Information**

**I5** Sch. 1 para. 5 in force at 26.5.2016 by S.I. 2016/553, reg. 2

*Caffeine*

6 Caffeine or caffeine products.

In this paragraph “caffeine product” means any product which—

- (a) contains caffeine, and
- (b) does not contain any psychoactive substance.

**Commencement Information**

**I6** Sch. 1 para. 6 in force at 26.5.2016 by S.I. 2016/553, reg. 2

*Food*

7 Any substance which—

- (a) is ordinarily consumed as food, and
- (b) does not contain a prohibited ingredient.

In this paragraph—

[<sup>F1</sup>“enactment” includes—

- (a) an enactment contained in subordinate legislation;
- (b) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament;
- (c) an enactment contained in, or in an instrument made under, a Measure or Act of the National Assembly for Wales;
- (d) an enactment contained in, or in an instrument made under, Northern Ireland legislation;]

“food” includes drink;

“prohibited ingredient”, in relation to a substance, means any psychoactive substance—

- (a) which is not naturally occurring in the substance, and

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(b) the use of which in or on food is not authorised [<sup>F2</sup>by an enactment].

#### Textual Amendments

- F1** Words in Sch. 1 para. 7 inserted (31.12.2020) by The Law Enforcement and Security (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/742), regs. 1, **17(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F2** Words in Sch. 1 para. 7 substituted (31.12.2020) by The Law Enforcement and Security (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/742), regs. 1, **17(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

#### Commencement Information

- I7** Sch. 1 para. 7 in force at 26.5.2016 by S.I. 2016/553, **reg. 2**

## SCHEDULE 2

Section 11

### EXEMPTED ACTIVITIES

#### *Healthcare-related activities*

- 1 Any activity carried on by a person who is a health care professional and is acting in the course of his or her profession.

In this paragraph “health care professional” has the same meaning as in the Human Medicines Regulations 2012 (S.I. 2012/1916) (see regulation 8 of those Regulations).

#### Commencement Information

- I8** Sch. 2 para. 1 in force at 26.5.2016 by S.I. 2016/553, **reg. 2**

- 2 Any activity carried on for the purpose of, or in connection with—
- (a) the supply to, or the consumption by, any person of a substance prescribed for that person by a health care professional acting in the course of his or her profession, or
  - (b) the supply to, or the consumption by, any person of a substance in accordance with the directions of a health care professional acting in the course of his or her profession.

In this paragraph “health care professional” has the same meaning as in the Human Medicines Regulations 2012 (see regulation 8 of those Regulations).

#### Commencement Information

- I9** Sch. 2 para. 2 in force at 26.5.2016 by S.I. 2016/553, **reg. 2**

- 3 Any activity carried on in respect of an active substance by a person who—
- (a) is registered in accordance with regulation 45N of the Human Medicines Regulations 2012, or
  - (b) is exempt from any requirement to be so registered by virtue of regulation 45M(2) or (3) of those Regulations.

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In this paragraph “active substance” has the same meaning as in the Human Medicines Regulations 2012 (see regulation 8 of those Regulations).

**Commencement Information**

**I10** Sch. 2 para. 3 in force at 26.5.2016 by S.I. 2016/553, reg. 2

*Research*

4 Any activity carried on in the course of, or in connection with, approved scientific research.

In this paragraph—

“approved scientific research” means scientific research carried out by a person who has approval from a relevant ethics review body to carry out that research;

“relevant ethics review body” means—

- (a) a research ethics committee recognised or established by the Health Research Authority under Chapter 2 of Part 3 of the Care Act 2014, or
- (b) a body appointed by any of the following for the purpose of assessing the ethics of research involving individuals—
  - (i) the Secretary of State, the Scottish Ministers, the Welsh Ministers, or a Northern Ireland department;
  - (ii) a relevant NHS body;
  - (iii) [<sup>F3</sup>United Kingdom Research and Innovation or] a body that is a Research Council for the purposes of the Science and Technology Act 1965;
  - (iv) an institution that is a research institution for the purposes of Chapter 4A of Part 7 of the Income Tax (Earnings and Pensions) Act 2003 (see section 457 of that Act);
  - (v) a charity which has as its charitable purpose (or one of its charitable purposes) the advancement of health or the saving of lives;

“charity” means—

- (a) a charity as defined by section 1(1) of the Charities Act 2011,
- (b) a body entered in the Scottish Charity Register, or
- (c) a charity as defined by section 1(1) of the Charities Act (Northern Ireland) 2008;

“relevant NHS body” means—

- (a) an NHS trust or NHS foundation trust in England,
- (b) an NHS trust or Local Health Board in Wales,
- (c) a Health Board or Special Health Board constituted under section 2 of the National Health Service (Scotland) Act 1978,
- (d) the Common Services Agency for the Scottish Health Service, or
- (e) any of the health and social care bodies in Northern Ireland falling within paragraphs (a) to (d) of section 1(5) of the Health and Social Care (Reform) Act (Northern Ireland) 2009.

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### Textual Amendments

- F3** Words in Sch. 2 para. 4 inserted (1.4.2018) by Higher Education and Research Act 2017 (c. 29), s. 124(5), Sch. 12 para. 29; S.I. 2018/241, reg. 2(t)

### Commencement Information

- I11** Sch. 2 para. 4 in force at 26.5.2016 by S.I. 2016/553, reg. 2

## SCHEDULE 3

Section 40

### SEARCH WARRANTS: ENGLAND AND WALES AND NORTHERN IRELAND

#### PART 1

##### APPLICATION OF THIS SCHEDULE

- 1 This Schedule applies to—
- (a) applications for search warrants made in England and Wales or Northern Ireland, and
  - (b) search warrants issued in England and Wales or Northern Ireland.

### Commencement Information

- I12** Sch. 3 para. 1 in force at 26.5.2016 by S.I. 2016/553, reg. 2

#### PART 2

### SEARCH WARRANTS: APPLICATIONS AND SAFEGUARDS

#### *Applications for warrants*

- 2 (1) A person applying for a search warrant must—
- (a) state that the application is made under section 39 of this Act;
  - (b) specify the matters set out in sub-paragraph (2) or (3) (as the case may be);
  - (c) state what are the grounds for suspecting that relevant evidence is on the premises;
  - (d) identify, so far as is possible, the offence to which the relevant evidence relates.
- (2) If the person is applying for a specific-premises warrant, the person must specify each set of premises that it is desired to enter and search.
- (3) If the person is applying for an all-premises warrant, the person must specify—
- (a) as many of the sets of premises that it is desired to enter and search as it is reasonably practicable to specify;
  - (b) the person who is in occupation or control of those premises and any others that it is desired to enter and search;

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- (c) why it is necessary to search more premises than those specified under paragraph (a);
  - (d) why it is not reasonably practicable to specify all the premises that it is desired to enter and search.
- (4) If the person is applying for a search warrant authorising entry and search on more than one occasion, the person must also state—
- (a) the ground on which the person applies for such a warrant, and
  - (b) whether the person seeks a warrant authorising an unlimited number of entries, or (if not) the maximum number of entries desired.
- (5) In this paragraph “specific-premises warrant” and “all-premises warrant” have the meaning given by section 39(3).

**Commencement Information**

**I13** Sch. 3 para. 2 in force at 26.5.2016 by S.I. 2016/553, reg. 2

*Safeguards in connection with power of entry conferred by warrant*

- 3 A search warrant authorises entry on one occasion only, unless it specifies that it authorises multiple entries.

**Commencement Information**

**I14** Sch. 3 para. 3 in force at 26.5.2016 by S.I. 2016/553, reg. 2

- 4 (1) A search warrant must—
- (a) specify the name of the person who applies for it;
  - (b) specify the date on which it is issued;
  - (c) state that the warrant is issued under section 39 of this Act;
  - (d) specify each set of premises to be searched, or (in the case of an all-premises warrant) the person who is in occupation or control of premises to be searched, together with any premises to be searched that are under the person's occupation or control and can be specified;
  - (e) identify, so far as is possible, the offence to which the relevant evidence suspected to be on the premises relates.
- (2) In sub-paragraph (1)(d) “all-premises warrant” has the meaning given by section 39(3).

**Commencement Information**

**I15** Sch. 3 para. 4 in force at 26.5.2016 by S.I. 2016/553, reg. 2

- 5 (1) Two copies must be made of a search warrant that specifies only one set of premises and does not authorise multiple entries.
- (2) As many copies as are reasonably required may be made of any other kind of search warrant.

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- (3) The copies must be clearly certified as copies.

**Commencement Information**

**I16** Sch. 3 para. 5 in force at 26.5.2016 by S.I. 2016/553, reg. 2

**PART 3**

**EXECUTION OF SEARCH WARRANTS**

*Warrant to be executed within one month*

- 6 Entry and search under a search warrant must be within one month from the date of its issue.

**Commencement Information**

**I17** Sch. 3 para. 6 in force at 26.5.2016 by S.I. 2016/553, reg. 2

*All-premises warrants*

- 7 (1) In the case of an all-premises warrant, premises that are not specified in the warrant may be entered and searched only if a relevant enforcement officer of the appropriate grade has authorised them to be entered.
- (2) An authorisation under sub-paragraph (1) must be in writing.
- (3) In this paragraph—
- “all-premises warrant” has the meaning given by section 39(3);
  - “relevant enforcement officer of the appropriate grade” means—
    - (a) a senior officer (see section 13(7)), or
    - (b) in the case of a search warrant issued on the application of an officer of a local authority, a person designated by the local authority for the purposes of this paragraph.

**Commencement Information**

**I18** Sch. 3 para. 7 in force at 26.5.2016 by S.I. 2016/553, reg. 2

*Search of premises more than once*

- 8 (1) Premises may be entered or searched for the second or any subsequent time under a search warrant authorising multiple entries only if a relevant enforcement officer of the appropriate grade has authorised that entry to the premises.
- (2) An authorisation under sub-paragraph (1) must be in writing.
- (3) In this paragraph “relevant enforcement officer of the appropriate grade” has the same meaning as in paragraph 7.

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**Commencement Information**

**I19** Sch. 3 para. 8 in force at 26.5.2016 by S.I. 2016/553, reg. 2

*Time of search*

- 9 Entry and search under a search warrant must be at a reasonable hour unless it appears to the relevant enforcement officer executing it that the purpose of a search may be frustrated on an entry at a reasonable hour.

**Commencement Information**

**I20** Sch. 3 para. 9 in force at 26.5.2016 by S.I. 2016/553, reg. 2

*Evidence of authority etc*

- 10 (1) Where the occupier of premises to be entered and searched under a search warrant is present at the time when a relevant enforcement officer seeks to execute the warrant, the following requirements must be satisfied—
- (a) the occupier must be told the officer's name;
  - (b) if not a constable in uniform, the officer must produce to the occupier documentary evidence that the officer is a relevant enforcement officer;
  - (c) the officer must produce the warrant to the occupier;
  - (d) the officer must supply the occupier with a copy of it.
- (2) Where the occupier of premises to be entered and searched under a search warrant is not present at the time when a relevant enforcement officer seeks to execute the warrant—
- (a) if some other person who appears to the officer to be in charge of the premises is present, sub-paragraph (1) has effect as if a reference to the occupier were a reference to that other person;
  - (b) if not, the officer must leave a copy of the warrant in a prominent place on the premises.

**Commencement Information**

**I21** Sch. 3 para. 10 in force at 26.5.2016 by S.I. 2016/553, reg. 2

*Extent of search*

- 11 A search under a search warrant may only be a search to the extent required for the purpose for which the warrant was issued.

**Commencement Information**

**I22** Sch. 3 para. 11 in force at 26.5.2016 by S.I. 2016/553, reg. 2



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*Securing premises after entry*

- 12 A relevant enforcement officer who enters premises under a search warrant must take reasonable steps to ensure that when the officer leaves the premises they are as secure as they were before the officer entered.

**Commencement Information**

**I23** Sch. 3 para. 12 in force at 26.5.2016 by S.I. 2016/553, reg. 2

*Return and retention of warrant*

- 13 (1) A search warrant must be returned to the appropriate person (see sub-paragraph (2))
- 
- (a) when the warrant has been executed, or
- (b) on or before the expiry of the period of one month from the date of its issue, if the warrant is—
- (i) a specific-premises warrant that has not been executed,
- (ii) an all-premises warrant, or
- (iii) a warrant authorising multiple entries.
- (2) The appropriate person is—
- (a) in the case of a warrant issued in England and Wales, the designated officer for the local justice area in which the justice of the peace was acting when issuing the warrant;
- (b) in the case of a warrant issued in Northern Ireland, the clerk of petty sessions for the petty sessions district in which the lay magistrate was acting when issuing the warrant.
- (3) The appropriate person must retain a search warrant returned under sub-paragraph (1) for 12 months from the date of its return.
- (4) If during that period the occupier of premises to which the search warrant relates asks to inspect it, the occupier must be allowed to do so.
- (5) In this paragraph “specific-premises warrant” and “all-premises warrant” have the meaning given by section 39(3).

**Commencement Information**

**I24** Sch. 3 para. 13 in force at 26.5.2016 by S.I. 2016/553, reg. 2

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## SCHEDULE 4

Section 57

### PROVIDERS OF INFORMATION SOCIETY SERVICES

#### PART 1

#### OFFERING TO SUPPLY A PSYCHOACTIVE SUBSTANCE

##### *Domestic service providers: extension of liability*

F4<sup>1</sup> .....

##### **Textual Amendments**

**F4** Sch. 4 para. 1 omitted (31.12.2020) by virtue of [The Law Enforcement and Security \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/742\)](#), regs. 1, **17(3)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

##### *Non-UK service providers: restriction on institution of proceedings*

- 2 (1) Proceedings for an offence under section 5(2) may not be instituted against a non-UK service provider in respect of anything done in the course of the provision of information society services unless the derogation condition is met.
- (2) The derogation condition is that taking proceedings—
- (a) is necessary for the purposes of the public interest objective,
  - (b) relates to an information society service that prejudices that objective or presents a serious and grave risk of prejudice to that objective, and
  - (c) is proportionate to that objective.
- (3) In this paragraph—
- “non-UK service provider” means a service provider established in an EEA state <sup>F5</sup> ...;
- “the public interest objective” means the pursuit of public policy.

##### **Textual Amendments**

**F5** Words in Sch. 4 para. 2(3) omitted (31.12.2020) by virtue of [The Law Enforcement and Security \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/742\)](#), regs. 1, **17(3)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

##### **Commencement Information**

**I25** Sch. 4 para. 2 in force at 26.5.2016 by [S.I. 2016/553](#), **reg. 2**

##### *Exceptions for mere conduits*

- 3 (1) A service provider does not commit an offence under section 5(2) by providing access to a communication network or by transmitting, in a communication network, information provided by a recipient of the service, if the service provider does not—
- (a) initiate the transmission,
  - (b) select the recipient of the transmission, or

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- (c) select or modify the information contained in the transmission.
- (2) For the purposes of sub-paragraph (1)—
  - (a) providing access to a communication network, and
  - (b) transmitting information in a communication network,include the automatic, intermediate and transient storage of the information transmitted so far as the storage is solely for the purpose of carrying out the transmission in the network.
- (3) Sub-paragraph (2) does not apply if the information is stored for longer than is reasonably necessary for the transmission.

**Commencement Information**

**I26** Sch. 4 para. 3 in force at 26.5.2016 by S.I. 2016/553, reg. 2

*Exception for caching*

- 4
- (1) A service provider does not commit an offence under section 5(2) by storing information provided by a recipient of the service for transmission in a communication network if the first and second conditions are met.
  - (2) The first condition is that the storage of the information—
    - (a) is automatic, intermediate and temporary, and
    - (b) is solely for the purpose of making more efficient the onward transmission of the information to other recipients of the service at their request.
  - (3) The second condition is that the service provider—
    - (a) does not modify the information,
    - (b) complies with any conditions attached to having access to the information, and
    - (c) if sub-paragraph (4) applies, promptly removes the information or disables access to it.
  - (4) This sub-paragraph applies if the service provider obtains actual knowledge that—
    - (a) the information at the initial source of the transmission has been removed from the network,
    - (b) access to it has been disabled, or
    - (c) a court or administrative authority has ordered the removal from the network of, or the disablement of access to, the information.

**Commencement Information**

**I27** Sch. 4 para. 4 in force at 26.5.2016 by S.I. 2016/553, reg. 2

*Exception for hosting*

- 5
- (1) A service provider does not commit an offence under section 5(2) by storing information provided by a recipient of the service if—
    - (a) the service provider had no actual knowledge when the information was provided that its provision constituted an offence under section 5(2), or

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- (b) on obtaining actual knowledge that the provision of the information constituted such an offence, the service provider promptly removed the information or disabled access to it.
- (2) Sub-paragraph (1) does not apply if the recipient of the service is acting under the authority or control of the service provider.

**Commencement Information**

**I28** Sch. 4 para. 5 in force at 26.5.2016 by S.I. 2016/553, reg. 2

**PART 2**

PROHIBITION NOTICES AND PROHIBITION ORDERS

*Domestic service providers: extension of liability*

F6

**Textual Amendments**

**F6** Sch. 4 para. 6 omitted (31.12.2020) by virtue of [The Law Enforcement and Security \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/742\)](#), regs. 1, **17(3)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

*Non-UK service providers: restriction on including terms in prohibition notice or order*

- 7 (1) This paragraph applies where—
- (a) a person proposes to give a prohibition notice,
  - (b) a person makes an application for a prohibition order under section 18, or
  - (c) a person mentioned in subsection (1)(a) or (2) of section 28 makes an application under that section for the variation of a prohibition order.
- (2) The prohibition notice or prohibition order may include terms which restrict the freedom of a non-UK service provider to provide information society services in relation to an EEA state only if conditions A and B are met.
- (3) Condition A is that the relevant person considers that the terms—
- (a) are necessary for the purposes of the public interest objective,
  - (b) relate to an information society service that prejudices that objective or presents a serious and grave risk of prejudice to that objective, and
  - (c) are proportionate to that objective.
- (4) In sub-paragraph (3)—
- “the relevant person” means—
    - (a) in relation to a prohibition notice, the person giving the notice;
    - (b) in relation to a prohibition order, the court making or varying the order;
  - “the public interest objective” means the pursuit of public policy.
- (5) Condition B is that—

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- (a) the relevant enforcement authority has requested the EEA state in which the service provider is established to take measures which the authority considers to be of equivalent effect under the law of the EEA state to the terms and the EEA state has failed to take the measures, <sup>F7</sup> ...

<sup>F7</sup> .....

<sup>F8</sup>(6) .....

- (7) In the case of a prohibition order, it does not matter for the purposes of subparagraph (5) whether the request <sup>F9</sup>... is made before or after the making of the application [<sup>F10</sup>for the order or variation].

- (8) In this paragraph—

“non-UK service provider” means a service provider established in an EEA state <sup>F11</sup> ...;

“the relevant enforcement authority” means—

- (a) in the case of a prohibition notice to be given by a constable, the chief officer of police or chief constable (as the case may be) of the police force of which the constable is a member;
- (b) in the case of a prohibition notice to be given by a designated NCA officer, the Director General of the National Crime Agency;
- (c) in the case of a prohibition notice to be given by a general customs official, the Secretary of State by whom general customs functions are exercisable;
- (d) in the case of a prohibition notice to be given by a local authority, that local authority;
- (e) in the case of a prohibition order, the person applying for the order or for the variation of the order (as the case may be).

#### Textual Amendments

**F7** Sch. 4 para. 7(5)(b) and word omitted (31.12.2020) by virtue of The Law Enforcement and Security (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/742), regs. 1, **17(3)(d)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

**F8** Sch. 4 para. 7(6) omitted (31.12.2020) by virtue of The Law Enforcement and Security (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/742), regs. 1, **17(3)(d)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

**F9** Words in Sch. 4 para. 7(7) omitted (31.12.2020) by virtue of The Law Enforcement and Security (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/742), regs. 1, **17(3)(d)(iii)(aa)**; 2020 c. 1, Sch. 5 para. 1(1)

**F10** Words in Sch. 4 para. 7(7) substituted (31.12.2020) by The Law Enforcement and Security (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/742), regs. 1, **17(3)(d)(iii)(bb)**; 2020 c. 1, Sch. 5 para. 1(1)

**F11** Words in Sch. 4 para. 7(8) omitted (31.12.2020) by virtue of The Law Enforcement and Security (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/742), regs. 1, **17(3)(d)(iv)**; 2020 c. 1, Sch. 5 para. 1(1)

#### Commencement Information

**I29** Sch. 4 para. 7 in force at 26.5.2016 by S.I. 2016/553, reg. 2

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*Protections for service providers of intermediary services*

- 8 (1) A prohibition notice or prohibition order may not include terms which impose liabilities on service providers of intermediary services so far as the imposition of those liabilities would result in a contravention of Article 12, 13 or 14 of the E-Commerce Directive (various protections for service providers of intermediary services) [<sup>F12</sup>, reading those Articles as if the requirements imposed on a Member State were imposed on the person giving the notice or the court making the order].
- (2) A prohibition notice or prohibition order may not include terms which impose a general obligation on service providers of intermediary services [<sup>F13</sup>falling within the descriptions contained in] Article 12, 13 or 14 of the E-Commerce Directive—
- (a) to monitor the information which they transmit or store when providing those services, or
  - (b) actively to seek facts or circumstances indicating illegal activity when providing those services.

**Textual Amendments**

**F12** Words in Sch. 4 para. 8(1) inserted (31.12.2020) by [The Law Enforcement and Security \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/742\)](#), regs. 1, [17\(3\)\(e\)](#); 2020 c. 1, Sch. 5 para. 1(1)

**F13** Words in Sch. 4 para. 8(2) substituted (31.12.2020) by [The Law Enforcement and Security \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/742\)](#), regs. 1, [17\(3\)\(f\)](#); 2020 c. 1, Sch. 5 para. 1(1)

**Commencement Information**

**I30** Sch. 4 para. 8 in force at 26.5.2016 by [S.I. 2016/553](#), [reg. 2](#)

- 9 (1) In paragraph 8 “intermediary services” means an information society service which consists in any of the following—
- (a) the provision of access to a communication network or the transmission, in a communication network, of information provided by a recipient of the service;
  - (b) the transmission in a communication network of information which—
    - (i) is provided by a recipient of the service, and
    - (ii) is the subject of automatic, intermediate and temporary storage which is solely for the purpose of making more efficient the onward transmission of the information to other recipients of the service at their request;
  - (c) the storage of information provided by a recipient of the service.
- (2) For the purposes of sub-paragraph (1)(a)—
- (a) providing access to a communication network, and
  - (b) transmitting information in a communication network,
- include the automatic, intermediate and transient storage of the information transmitted so far as the storage is solely for the purpose of carrying out the transmission in the network.
- (3) Sub-paragraph (2) does not apply if the information is stored for longer than is reasonably necessary for the transmission.

*Changes to legislation: There are currently no known outstanding effects for the Psychoactive Substances Act 2016. (See end of Document for details)*

**Commencement Information**

**I31** Sch. 4 para. 9 in force at 26.5.2016 by S.I. 2016/553, reg. 2

**PART 3**

INTERPRETATION

- 10 In this Schedule—
- “established”, in relation to a service provider, is to be read in accordance with paragraph 11;
- “information society services”—
- (a) has the meaning given in Article 2(a) of the E-Commerce Directive (which refers to Article 1(2) of Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations), and
- (b) is summarised in recital 17 of the E-Commerce Directive as covering “any service normally provided for remuneration, at a distance, by means of electronic equipment for the processing (including digital compression) and storage of data, and at the individual request of a recipient of a service”;
- “recipient”, in relation to a service, means a person who, for professional ends or otherwise, uses an information society service, in particular for the purposes of seeking information or making it accessible;
- “service provider” means a person providing an information society service;
- “the E-Commerce Directive” means Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce).

**Commencement Information**

**I32** Sch. 4 para. 10 in force at 26.5.2016 by S.I. 2016/553, reg. 2

- 11 (1) A service provider is “established” [<sup>F14</sup>in a particular EEA state] if the service provider—
- (a) effectively pursues an economic activity using a fixed establishment in [<sup>F15</sup>that EEA state] for an indefinite period, and
- (b) is a national of an EEA state or a company or firm mentioned in Article 54 of the Treaty on the Functioning of the European Union.
- (2) The presence or use in a particular place of equipment or other technical means of providing an information society service does not, of itself, constitute the establishment of a service provider.
- (3) Where it cannot be determined from which of a number of establishments a given information society service is provided, that service is to be regarded as provided

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from the establishment at the centre of the service provider's activities relating to that service.

**Textual Amendments**

- F14** Words in Sch. 4 para. 11(1) substituted (31.12.2020) by [The Law Enforcement and Security \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/742\)](#), regs. 1, **17(3)(g)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F15** Words in Sch. 4 para. 11(1)(a) substituted (31.12.2020) by [The Law Enforcement and Security \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/742\)](#), regs. 1, **17(3)(g)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

**Commencement Information**

- I33** Sch. 4 para. 11 in force at 26.5.2016 by [S.I. 2016/553](#), **reg. 2**

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.

**Commencement Information**

- I34** Sch. 5 para. 1 in force at 26.5.2016 by [S.I. 2016/553](#), **reg. 2**

*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—



*Changes to legislation: There are currently no known outstanding effects for the Psychoactive Substances Act 2016. (See end of Document for details)*

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

**Commencement Information**

**I35** Sch. 5 para. 2 in force at 26.5.2016 by S.I. 2016/553, reg. 2

*Police Reform Act 2002*

F163

**Textual Amendments**

**F16** Sch. 5 para. 3 omitted (31.1.2017 for specified purposes, 15.12.2017 in so far as not already in force) by virtue of Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), Sch. 12 para. 31(e); S.I. 2017/1139, reg. 2(k) (as amended by S.I. 2017/1162, reg. 2)

*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

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*Changes to legislation: There are currently no known outstanding effects  
 for the Psychoactive Substances Act 2016. (See end of Document for details)*

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- (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 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.”

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**Commencement Information**

**I36** Sch. 5 para. 4 in force at 26.5.2016 by S.I. 2016/553, reg. 2

*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—

*Changes to legislation: There are currently no known outstanding effects for the Psychoactive Substances Act 2016. (See end of Document for details)*

- (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).”

**Commencement Information**

**I37** Sch. 5 para. 5 in force at 26.5.2016 by S.I. 2016/553, reg. 2

*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).”

**Commencement Information**

**I38** Sch. 5 para. 6 in force at 26.5.2016 by S.I. 2016/553, reg. 2

*Armed Forces Act 2006*

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

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- (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.”

**Commencement Information**

**I39** Sch. 5 para. 7 in force at 26.5.2016 by S.I. 2016/553, reg. 2

*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);
  - (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);

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- (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).”

**Commencement Information**

**I40** Sch. 5 para. 8 in force at 26.5.2016 by [S.I. 2016/553](#), [reg. 2](#)

*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”.

**Commencement Information**

**I41** Sch. 5 para. 9 in force at 26.5.2016 by [S.I. 2016/553](#), [reg. 2](#)

*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.”

**Commencement Information**

**I42** Sch. 5 para. 10 in force at 26.5.2016 by [S.I. 2016/553](#), [reg. 2](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Psychoactive Substances Act 2016.