



Psychoactive Substances Act 2016

2016 CHAPTER 2

Offences

6 Aggravation of offence under section 5

- (1) This section applies if—
 - (a) a court is considering the seriousness of an offence under section 5, and
 - (b) at the time the offence was committed the offender was aged 18 or over.
- (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 (that is to say, a factor that increases the seriousness of the offence), 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) a “relevant time” is—
 - (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.
- (5) In this section—

“school premises” means land used for the purposes of a school, other than any land occupied solely as a dwelling by a person employed at the school;

“school” has the same meaning—

 - (a) in England and Wales, as in section 4 of the Education Act 1996;
 - (b) in Scotland, as in section 135(1) of the Education (Scotland) Act 1980;
 - (c) in Northern Ireland, as in Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986 ([S.I. 1986/594 \(N.I. 3\)](#)).
- (6) Condition B is that in connection with the commission of the offence the offender used a courier who, at the time the offence was committed, was under the age of 18.
- (7) For the purposes of subsection (6) a person (“P”) uses a courier in connection with an offence under section 5 if P 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 P or a third person.
- (8) 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.
- (9) Condition C is that the offence was committed in a custodial institution.
- (10) In this section—
 - “custodial institution” means any of the following—
 - (a) a prison;
 - (b) a young offender institution, secure training centre, secure college, young offenders institution, young offenders centre, juvenile justice centre or remand centre;
 - (c) a removal centre, a short-term holding facility or pre-departure accommodation;
 - (d) service custody premises;
 - “removal centre”, “short-term holding facility” and “pre-departure accommodation” have the meaning given by section 147 of the Immigration and Asylum Act 1999;
 - “service custody premises” has the meaning given by section 300(7) of the Armed Forces Act 2006.