



# Psychoactive Substances Act 2016

## 2016 CHAPTER 2

### *Retention and disposal of items*

#### **54 Forfeiture by court following conviction**

- (1) This section applies where a person is convicted of—
  - (a) an offence under any of sections 4 to 9 and 26, or
  - (b) an ancillary offence (see subsection (11)).
- (2) In this section “the court” means—
  - (a) the court by or before which the person is convicted of the offence, except where paragraph (b) or (c) applies;
  - (b) if the person is committed to the Crown Court to be dealt with for that offence, the Crown Court;
  - (c) if the person is remitted to the High Court of Justiciary to be dealt with for that offence, the High Court of Justiciary.
- (3) The court must make an order for the forfeiture of any psychoactive substance in respect of which the offence was committed.
- (4) The court may also make an order for the forfeiture of any other item that was used in the commission of the offence.
- (5) An order under subsection (3) or (4) is referred to in this section as a “forfeiture order”.
- (6) Before making a forfeiture order under subsection (4) in relation to any item, the court must give an opportunity to make representations to any person (in addition to the convicted person) who claims to be the owner of the item or otherwise to have an interest in it.
- (7) A forfeiture order may not be made so as to come into force at any time before there is no further possibility (ignoring any power to appeal out of time) of the order being varied or set aside on appeal.
- (8) Where the court makes a forfeiture order, it may also make such other provision as it considers to be necessary for giving effect to the forfeiture.

- (9) That provision may, in particular, include provision relating to the retention, handling, destruction or other disposal of the item.
- (10) Provision made by virtue of this section may be varied at any time by the court that made it.
- (11) In this section “ancillary offence” means—
- (a) an offence of attempting or conspiring to commit an offence under any of sections 4 to 9 and 26;
  - (b) an offence under Part 2 of the Serious Crime Act 2007 in relation to an offence under any of sections 4 to 9 and 26;
  - (c) an offence of inciting a person to commit an offence under any of sections 4 to 9 and 26;
  - (d) an offence of aiding, abetting, counselling or procuring the commission of an offence under any of sections 4 to 9 and 26.