



Psychoactive Substances Act 2016

2016 CHAPTER 2

Offences

6 Aggravation of offence under section 5

- [^{F1}(1) [^{F2}Subsections (2) to (10) apply] if—
- (a) a court [^{F3}in Scotland or Northern Ireland] 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.]
- [^{F1}(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.]
- [^{F1}(3) Condition A is that the offence was committed on or in the vicinity of school premises at a relevant time.]
- [^{F1}(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)).
- [^{F4}(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.]

Changes to legislation: There are currently no known outstanding effects for the Psychoactive Substances Act 2016, Section 6. (See end of Document for details)

[^{F4}(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.]

[^{F4}(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.]

[^{F4}(9) Condition C is that the offence was committed in a custodial institution.]

[^{F4}(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.]

[^{F5}(11) For the requirement for a court in England and Wales considering the seriousness of an offence under section 5 to treat certain matters as aggravating factors, see section 72 of the Sentencing Code.]

Textual Amendments

- F1** S. 6(1)-(4) repealed (E.W.) (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 29](#) (with ss. 413(4), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F2** Words in s. 6(1) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 295\(2\)\(a\)](#) (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F3** Words in s. 6(1)(a) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 295\(2\)\(b\)](#) (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F4** S. 6(6)-(10) repealed (E.W.) (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 29](#) (with ss. 413(4), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F5** S. 6(11) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 295\(3\)](#) (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2

Modifications etc. (not altering text)

- C1** S. 6 modified in part (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2) (3) and 2020 c. 17, ss. 2, 416)) by [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\)](#), [ss. 1, 5\(2\)\(3\)](#); S.I. 2012/1236, reg. 2

Commencement Information

- I1** S. 6 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, Section 6.