

2016 No. 546 (L. 7)

MAGISTRATES' COURTS, ENGLAND AND WALES

**The Magistrates' Courts (Psychoactive Substances Act 2016)
(Transfer of Proceedings) Rules 2016**

Made - - - - - *28th April 2016*

Laid before Parliament *3rd May 2016*

Coming into force in accordance with rule 1

The Lord Chief Justice, with the concurrence of the Lord Chancellor, makes the following Rules in exercise of the powers conferred by section 144 of the Magistrates' Courts Act 1980(a) and section 35(2) and (3) of the Psychoactive Substances Act 2016(b).

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Magistrates' Courts (Psychoactive Substances Act 2016) (Transfer of Proceedings) Rules 2016.

(2) These Rules come into force on the day on which, and immediately after, section 35 of the Psychoactive Substances Act 2016 comes into force.

(3) In these Rules, "the 2016 Act" means the Psychoactive Substances Act 2016.

Individual reaching age of 18 while proceedings in youth court are ongoing

2.—(1) Where—

- (a) an individual against whom a prohibition order(c) is sought reaches the age of 18 while proceedings before a youth court for the making of the order are ongoing;
- (b) an individual against whom a prohibition order has been made reaches the age of 18 while proceedings before a youth court for the variation or discharge of the order are ongoing; or
- (c) an individual against whom a prohibition order imposing an access prohibition has been made reaches the age of 18 while proceedings before a youth court under section 24 of the 2016 Act (access prohibitions: reimbursement of costs) are ongoing,

the proceedings must remain in a youth court, subject to paragraphs (2) and (3).

(a) 1980 c. 43. Section 144 has been amended by the Access to Justice Act 1999 (c. 22), Schedule 11, paragraphs 26 and 29; the Courts Act 2003 (c. 39), Schedule 8, paragraph 245 and Schedule 10; the Constitutional Reform Act 2005 (c. 4), Schedule 4, paragraphs 99 and 102; the Legal Services Act 2007 (c.29), Schedule 21, paragraphs 42 and 43; the Crime and Courts Act 2013 (c.22), Schedule 10, paragraphs 39, 52 and 99; and by S.I. 2012/2398, article 3(2), Schedule 2, paragraph 1.

(b) 2016 c. 2.

(c) The meaning of "prohibition order" is given in section 17 of the 2016 Act.

(2) The court in which the proceedings were continuing when the individual reached the age of 18 may, of its own motion or at the request of the individual, the person who applied for the prohibition order or any other person who is a party to the proceedings—

- (a) make a direction under paragraph (3); or
- (b) direct that the proceedings be transferred to a youth court for the local justice area in which the individual currently resides, in order for that court to consider whether to make a direction under paragraph (3).

(3) The court may direct that the proceedings be transferred to an adult magistrates' court, having had regard in particular to—

- (a) the stage which the proceedings have reached;
- (b) the circumstances of the individual and any other persons who are parties to the proceedings; and
- (c) the need to ensure fairness between the individual and any other persons who are parties to the proceedings.

(4) The court may not make a direction under paragraph (3) without a hearing, on notice to the individual and any other persons who are parties to the proceedings.

Thomas of Cwmgiedd, C.J.

I agree

Signed on the authority of the Lord Chancellor

Edward Faulks
Minister of State
Ministry of Justice

28th April 2016

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules make provision for proceedings in youth courts in relation to prohibition orders (applications for orders, applications for variation or discharge of orders, and applications for reimbursement of costs incurred in giving effect to orders which impose an access prohibition) under the Psychoactive Substances Act 2016. Under the 2016 Act, such proceedings are allocated to adult magistrates' courts where the person against whom the prohibition order is sought or was made is aged 18 or over and to youth courts where that person is aged under 18. That allocation is subject to the possibility, for which these Rules provide, for proceedings to remain in a youth court where the person against whom the prohibition order is sought or was made reaches the age of 18 after the proceedings were begun, if the court considers this appropriate having regard to a range of factors.

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