

2023 No. 784

CRIMINAL LAW, ENGLAND AND WALES

The Criminal Justice (Specified Class A Drugs) Order 2023

Made - - - - *10th July 2023*

Laid before Parliament *12th July 2023*

Coming into force - - *2nd August 2023*

The Secretary of State makes the following Order in exercise of the power conferred by section 70(1) of the Criminal Justice and Court Services Act 2000(a).

Citation, commencement and extent

1.—(1) This Order may be cited as the Criminal Justice (Specified Class A Drugs) Order 2023 and comes into force on 2nd August 2023.

(2) This Order extends to England and Wales.

Specified Class A drugs

2. For the purposes of section 70(1) of the Criminal Justice and Court Services Act 2000(b), the term “specified Class A drugs”(c) means the substances and products specified in paragraphs 1 to 5 of Part 1 (Class A drugs) of Schedule 2 to the Misuse of Drugs Act 1971(d).

Revocation

3. The Criminal Justice (Specified Class A Drugs) Order 2001(e) is revoked.

10th July 2023

Chris Philp
Minister of State
Home Office

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- (a) 2000 c. 43 (“the 2000 Act”). Section 70(1) was amended by section 11(1) and (3) of the Offender Rehabilitation Act 2014 (c. 11). There are other amendments to section 70 which are not relevant to this instrument.
- (b) The specification also has effect, accordingly, for the purposes of section 3(6E) of, and paragraph 6B(3) of Part 1 of Schedule 1 to, the Bail Act 1976 (c. 63); section 63C(6) of the Police and Criminal Evidence Act 1984 (c. 60); section 256D(6) of the Criminal Justice Act 2003 (c. 44); section 19(3) of the Drugs Act 2005 (c. 17); paragraph 10ZB(2) of Schedule 1 to the Terrorism Prevention and Investigation Measures Act 2011 (c. 23); and section 34A(7) of the Sentencing Act 2020 (c. 17) (which is not yet commenced). These provisions provide that specified Class A drugs, for the purposes set out in those provisions, have the same meaning as in Part 3 of the 2000 Act.
- (c) Class A drug is defined in section 70(1) of 2000 Act to have the same meaning as in the Misuse of Drugs Act 1971 (c. 38) (“the 1971 Act”). See section 2 of the 1971 Act for the definition of “Class A drug” under that Act.
- (d) 1971 c. 38. Part 1 of Schedule 2 has been amended by section 21 of the Drugs Act 2005 (c. 17) and S.I. 1973/771, 1975/421, 1977/1243, 1979/299, 1983/765, 1984/859, 1986/2230, 1990/2589, 1998/750, 2001/3932, 2003/1243, 2003/3201, 2006/3331, 2011/744, 2014/1106, 2014/3271, 2015/215 and 2017/634.
- (e) S.I. 2001/1816.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order specifies Class A drugs for the purposes of Part 3 of the Criminal Justice and Court Services Act 2000 (c. 43) (“the 2000 Act”).

Article 2 specifies the Class A drugs for which offenders who are subject to a drug testing licence condition, upon release from prison, can be tested (under section 64 of the 2000 Act). Specifically, the substances and products specified in paragraphs 1 to 5 of Part 1 (Class A drugs) of Schedule 2 to the Misuse of Drugs Act 1971 (c. 38), on the date this order enters into force (2nd August 2023), are “specified Class A drugs” for that purpose.

Additionally, as a consequence of other legislation relying on the definition of “specified Class A drug” in Part 3 of the 2000 Act, Article 2 also has the effect of setting out the Class A drugs for which:

- testing in police detention may be carried out (under section 63B of the Police and Criminal Evidence Act 1984 (c. 60)),
- persons may be required to attend assessments of their drug misuse following testing in police detention (under Part 3 of the Drugs Act 2005 (c. 17)),
- persons may be required to attend an assessment and/or follow up assessment relating to their drug dependency or misuse as a condition of bail (under section 3(6D) of the Bail Act 1976 (c. 63)),
- pre-sentence drug testing requirements may be imposed (under section 34A of the Sentencing Act 2020 (c. 17) (which is not yet commenced)),
- offenders may be tested when they are subject to post sentence supervision requirements (under section 256D of the Criminal Justice Act 2003 (c. 44)); and
- testing measures which may be imposed in respect of Terrorism Prevention and Investigation Measure subjects (under paragraph 10ZB of Schedule 1 to the Terrorism Prevention and Investigation Measures Act 2011 (c. 23)).

Article 3 of this Order revokes the Criminal Justice (Specified Class A Drugs) Order 2001 (S.I. 2001/1816), the provisions of which are re-enacted, with amendments, by this Order.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector and community bodies is available from www.legislation.gov.uk. A hard copy can be obtained by writing to the Drugs Misuse Unit of the Home Office at 2 Marsham Street, London, SW1P 4DF.

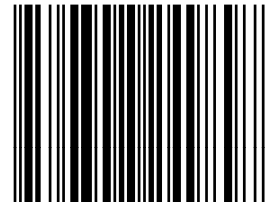
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