

PSYCHOACTIVE SUBSTANCES BILL 2015

Psychoactive substance means any substance which:

- Is capable of producing a psychoactive effect on a person who consumes it and
- Is not an exempted substance

For the purposes of this Act a substance produces a psychoactive effect in a person if, by stimulating or depressing the person's central nervous system, it affects the person's mental functioning or emotional state

For the purposes of the Act a person consumes a substance if the person causes or allows the substance or fumes given off by the substance to enter the person's body in any way.

In this Act an 'exempted substance' means a substance listed in Schedule 1 and the Secretary of State may amend Schedule 1 to add or vary any description of a substance and remove any description of substance. Before making amendments consultation must be undertaken with those deemed appropriate.

OFFENCES

Producing a psychoactive substance

An offence is committed if:

- the person intentionally produces a psychoactive substance,
- the person knows or suspects that the substance is a psychoactive substance and
- the person intends to consume the psychoactive substance for its psychoactive effects or knows, or is reckless as to whether, the psychoactive substance is likely to be consumed by some other person for its psychoactive effects

Supplying, or offering to supply, a psychoactive substance

A person commits an offence if:

- the person intentionally supplies a substance to another person
- the substance is a psychoactive substance
- the person knows or suspects, or ought to know or suspect, that the substance is a psychoactive substance and
- the person knows, or is reckless as to whether, the psychoactive substance is likely to be consumed by the person to whom it is supplied, or by some other person, for its psychoactive effects

Aggravation of offence

This section applies if:

1. a court is considering the seriousness of an offence under Section 5 (above) and
2. at the time the offence was committed the offender was aged 18 or over

If either of the conditions above are met the court:

- must treat the fact that the condition is met as an aggravating factor and
- must state in open court that the offence is so aggravated

Condition 1 is that the offence was committed in or in the vicinity of school premises at a relevant time

Condition 2 is that in connection with the commission of the offence the offender used a courier who, at the time of the offence was committed, was under the age of 18.

Possession of psychoactive substance with intent to supply

A person commits an offence if:

- the person is in possession of a psychoactive substance
- the person knows or suspects that the substance is a psychoactive substance and
- the person intends to supply it to another person for its consumption, whether by any person to whom it is supplied or by some other person, for its psychoactive effects
- Importing or exporting a psychoactive substance

A person commits an offence if:

- the person intentionally imports a substance
- the substance is a psychoactive substance
- the person knows or suspects, or ought to know or suspect, that the substance is a psychoactive substance and
- the person intended to consume the psychoactive substance for its psychoactive effects or knows, or is reckless as to whether, the psychoactive substance is likely to be consumed by some other person for its psychoactive effects

A person commits an offence if:

- the person intentionally exports a substance
- the substance is a psychoactive substance
- the person knows or suspects, or ought to know or suspect, that the substance is a psychoactive substance and
- the person intended to consume the psychoactive substance for its psychoactive effects or knows, or is reckless as to whether, the psychoactive substance is likely to be consumed by some other person for its psychoactive effects

Penalties

A person guilty of an offence under of the sections above is liable:

- on summary conviction in England and Wales to imprisonment for a term not exceeding 12 months (or 6 months if the offence is committed before the

commencement of section 154(1) of the Criminal Justice Act 2003 or a fine or both

- on conviction by indictment to imprisonment for a term not exceeding 7 years or a fine or both

Powers to deal with prohibited activity

A prohibited activity means any of the following activities:

1. producing a psychoactive substance that is likely to be consumed by individuals for psychoactive effects
2. supplying such a substance
3. offering to supply such a substance
4. importing such a substance
5. exporting such a substance

Offences relating to prohibited activity in specified premises is also being included in the Bill.