



Misuse of Drugs Act 1971

1971 CHAPTER 38

Miscellaneous and supplementary provisions

28 Proof of lack of knowledge etc. to be a defence in proceedings for certain offences.

- (1) This section applies to offences under any of the following provisions of this Act, that is to say section 4(2) and (3), section 5(2) and (3), section 6(2) and section 9.
- (2) Subject to subsection (3) below, in any proceedings for an offence to which this section applies it shall be a defence for the accused to prove that he neither knew of nor suspected nor had reason to suspect the existence of some fact alleged by the prosecution which it is necessary for the prosecution to prove if he is to be convicted of the offence charged.
- (3) Where in any proceedings for an offence to which this section applies it is necessary, if the accused is to be convicted of the offence charged, for the prosecution to prove that some substance or product involved in the alleged offence was the controlled drug which the prosecution alleges it to have been, and it is proved that the substance or product in question was that controlled drug, the accused—
 - (a) shall not be acquitted of the offence charged by reason only of proving that he neither knew nor suspected nor had reason to suspect that the substance or product in question was the particular controlled drug alleged; but
 - (b) shall be acquitted thereof—
 - (i) if he proves that he neither believed nor suspected nor had reason to suspect that the substance or product in question was a controlled drug; or
 - (ii) if he proves that he believed the substance or product in question to be a controlled drug, or a controlled drug of a description, such that, if it had in fact been that controlled drug or a controlled drug of that description, he would not at the material time have been committing any offence to which this section applies.
- (4) Nothing in this section shall prejudice any defence which it is open to a person charged with an offence to which this section applies to raise apart from this section

Changes to legislation: There are currently no known outstanding effects for the Misuse of Drugs Act 1971, Cross Heading: Miscellaneous and supplementary provisions. (See end of Document for details)

Modifications etc. (not altering text)

- C1 S. 28 extended (1.7.1991) by [Criminal Justice \(International Co-operation\) Act 1990 \(c. 5, SIF 39:1\), ss. 19\(5\), 32\(2\); S.I. 1991/1072, art. 2, Sch. Pt. II](#)

29 Service of documents.

[^{F1}(A1) In the application of this Act to criminal proceedings in England and Wales, any notice or other document required or authorised by any provision of this Act to be served on any person may be served on the person in accordance with Criminal Procedure Rules.

(A2) In any other application of this Act, subsections (1) to (4) apply.]

- (1) Any notice or other document required or authorised by any provision of this Act to be served on any person may be served on him either by delivering it to him or by leaving it at his proper address or by sending it by post.
- (2) Any notice or other document so required or authorised to be served on a body corporate shall be duly served if it is served on the secretary or clerk of that body.
- (3) For the purposes of this section, and of [^{F2}section 7 of the ^{M1}Interpretation Act 1978] in its application to this section, the proper address of any person shall, in the case of the secretary or clerk of a body corporate, be that of the registered or principal office of that body, and in any other case shall be the last address of the person to be served which is known to the Secretary of State.
- (4) Where any of the following documents, that is to say—
 - (a) a notice under section 11(1) or section 15(6) of this Act; or
 - (b) a copy of a direction given under section 12(2), section 13(1) or (2) or section 16(3) of this Act,

is served by sending it by registered post or by the recorded delivery service, service thereof shall be deemed to have been effected at the time when the letter containing it would be delivered in the ordinary course of post; and so much of [^{F2}section 7 of the ^{M2}Interpretation Act 1978] as relates to the time when service by post is deemed to have been effected shall not apply to such a document if it is served by so sending it.

Textual Amendments

- F1 S. 29(A1)(A2) inserted (28.6.2022) by [Judicial Review and Courts Act 2022 \(c. 35\), s. 51\(3\), Sch. 1 para. 2](#)
- F2 Words substituted by virtue of [Interpretation Act 1978 \(c. 30\), s. 25\(2\)](#)

Marginal Citations

- M1 1978 c. 30.
- M2 1978 c. 30.

30 Licences and authorities.

[^{F3}(1)] A licence or other authority issued by the Secretary of State for purposes of this Act or of regulations [^{F4}or orders] made under this Act may be, to any degree, general or specific, may be issued on such terms and subject to such conditions (including, in

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the case of a licence, the payment of a prescribed fee) as the Secretary of State thinks proper, and may be modified or revoked by him at any time.

[^{F5}(2) Subsection (1) applies to a licence issued by the Scottish Ministers under regulations made in pursuance of section 10(2)(i) as if references in that subsection to the Secretary of State were references to the Scottish Ministers.]

Textual Amendments

- F3** S. 30 renumbered as s. 30(1) (31.10.2012) by [Scotland Act 2012 \(c. 11\)](#), **ss. 19(6)(a)**, 44(5); S.I. 2012/2516, art. 2(d)
- F4** Words in s. 30 inserted (15.11.2011) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), **Sch. 17 para. 18**; S.I. 2011/2515, art. 3(g)
- F5** S. 30(2) inserted (31.10.2012) by [Scotland Act 2012 \(c. 11\)](#), **ss. 19(6)(b)**, 44(5); S.I. 2012/2516, art. 2(d)

31 General provisions as to regulations.

- (1) Regulations made by the Secretary of State under any provision of this Act—
- (a) may make different provision in relation to different controlled drugs, different classes of persons, different provisions of this Act or other different cases or circumstances; and
 - (b) may make the opinion, consent or approval of a prescribed authority or of any person authorised in a prescribed manner material for purposes of any provision of the regulations; and
 - (c) may contain such supplementary, incidental and transitional provisions as appear expedient to the Secretary of State.
- (2) Any power of the Secretary of State to make regulations under this Act shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) The Secretary of State shall not make any regulations under this Act except after consultation with the Advisory Council.
- (4) In its application to Northern Ireland this section shall have effect as if for references to the Secretary of State there were substituted references to the Ministry of Home Affairs for Northern Ireland and as if for subsection (2) there were substituted—
- “(2) Any regulations made under this Act by the Ministry of Home Affairs for Northern Ireland shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were a statutory instrument within the meaning of that Act.”

Subordinate Legislation Made

- P1** [S. 31](#) power previously exercised by [S.I. 1990/2630](#), 1989/1460, 245, 1988/916, 311, 1987/298, 1986/2332, 2330, 416, 1985/2067, 2066, 1984/1146, 1983/1909, 1973/799, 798.
- P2** [S. 31](#) (with ss. 30 and 37(1)) power exercised by [S.I. 1991/339](#).

Changes to legislation: There are currently no known outstanding effects for the Misuse of Drugs Act 1971, Cross Heading: Miscellaneous and supplementary provisions. (See end of Document for details)

Modifications etc. (not altering text)

- C2** Functions of Ministry of Home Affairs for Northern Ireland transferred to Department of Health and Social Services for Northern Ireland by S.R. & O. (N.I.) 1973 No. 504, art. 5, [Sch. 2 Pt. I](#)

32 Research.

The Secretary of State may conduct or assist in conducting research into any matter relating to the misuse of dangerous or otherwise harmful drugs.

^{F6}33

Textual Amendments

- F6** [S. 33](#) repealed by [Extradition Act 1989 \(c. 33, SIF 48\)](#), s. 37, [Sch. 2](#)

^{F7}34

Textual Amendments

- F7** [S. 34](#) repealed by [Domestic Proceedings and Magistrates' Courts Act 1978 \(c. 22\)](#), [Sch. 3](#)

35 Financial provisions.

There shall be defrayed out of moneys provided by Parliament—

- (a) any expenses incurred by the Secretary of State under or in consequence of the provisions of this Act other than section 32; and
- (b) any expenses incurred by the Secretary of State with the consent of the Treasury for the purposes of his functions under that section.

36 Meaning of “corresponding law”, and evidence of certain matters by certificate.

- (1) In this Act the expression “corresponding law” means a law stated in a certificate purporting to be issued by or on behalf of the government of a country outside the United Kingdom to be a law providing for the control and regulation in that country of the production, supply, use, export and import of drugs and other substances in accordance with the provisions of the Single Convention on Narcotic Drugs signed at New York on 30th March 1961 or a law providing for the control and regulation in that country of the production, supply, use, export and import of dangerous or otherwise harmful drugs in pursuance of any treaty, convention or other agreement or arrangement to which the government of that country and Her Majesty’s Government in the United Kingdom are for the time being parties.
- (2) A statement in any such certificate as aforesaid to the effect that any facts constitute an offence against the law mentioned in the certificate shall be evidence, and in Scotland sufficient evidence, of the matters stated.

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37 Interpretation.

- (1) In this Act, except in so far as the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:—

“the Advisory Council” means the Advisory Council on the Misuse of Drugs established under this Act;

[^{F8}“cannabis” (except in the expression “cannabis resin”) means any plant of the genus *Cannabis* or any part of any such plant (by whatever name designated) except that it does not include cannabis resin or any of the following products after separation from the rest of the plant, namely—

- (a) mature stalk of any such plant,
- (b) fibre produced from mature stalk of any such plant, and
- (c) seed of any such plant;]

“cannabis resin” means the separated resin, whether crude or purified, obtained from any plant of the genus *Cannabis*;

“contravention” includes failure to comply, and “contravene” has a corresponding meaning;

“controlled drug” has the meaning assigned by section 2 of this Act;

“corresponding law” has the meaning assigned by section 36(1) of this Act;

“dentist” means a person registered in the dentists register under the [^{F9}Dentists Act 1984 ^{F10}...;]

[^{F11}“doctor” means a registered medical practitioner within the meaning of Schedule 1 to the Interpretation Act 1978;]

“enactment” includes an enactment of the Parliament of Northern Ireland;

“person lawfully conducting a retail pharmacy business”^{F12}... means a person lawfully conducting such a business in accordance with section 69 of the ^{M3}Medicines Act 1968;

“pharmacist” has the same meaning as in the ^{M4}Medicines Act 1968;

“practitioner” (except in the expression “veterinary practitioner”) means a doctor, dentist, veterinary practitioner or veterinary surgeon;

“prepared opium” means opium prepared for smoking and includes dross and any other residues remaining after opium has been smoked;

“prescribed” means prescribed by regulations made by the Secretary of State under this Act;

“produce”, where the reference is to producing a controlled drug, means producing it by manufacture, cultivation or any other method, and “production” has a corresponding meaning;

“supplying” including distributing;

[^{F13}“temporary class drug order” means an order made under section 2A(1);]

“veterinary practitioner” means a person registered in the supplementary veterinary register kept under section 8 of the ^{M5}Veterinary Surgeons Act 1966;

“veterinary surgeon” means a person registered in the register of veterinary surgeons kept under section 2 of the ^{M6}Veterinary Surgeons Act 1966.

- (2) References in this Act to misusing a drug are references to misusing it by taking it; and the reference in the foregoing provision to the taking of a drug is a reference to the taking of it by a human being by way of any form of self-administration, whether or not involving assistance by another.

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- (3) For the purposes of this Act the things which a person has in his possession shall be taken to include any thing subject to his control which is in the custody of another.
- (4) Except in so far as the context otherwise requires, any reference in this Act to an enactment shall be construed as a reference to that enactment as amended or extended by or under any other enactment.
- (5) ^{F14} ...

^{F15}

Subordinate Legislation Made

- P3** S. 37: For other earlier exercises of power see Index to Government Orders
- P4** S. 31 (with ss. 30 and 37(1)) power exercised by [S.I. 1991/339](#)

Textual Amendments

- F8** Definition substituted by [Criminal Law Act 1977 \(c. 45\), s. 52](#)
- F9** Words substituted by virtue of [Dentists Act 1984 \(c. 24, SIF 83:1\), s. 54\(1\), Sch. 5 para. 3](#)
- F10** Words in s. 37(1) omitted (3.12.2007) by virtue of [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\), regs. 1\(2\), 152](#)
- F11** Definition substituted by [Medical Act 1983 \(c. 54, SIF 83:1\), ss. 54, 56\(1\), Sch. 5 para. 9](#)
- F12** Words in s. 37(1) repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\), Sch. 1 Pt. 17 Group 7](#)
- F13** Words in s. 37(1) inserted (15.11.2011) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 17 para. 19; S.I. 2011/2515, art. 3\(g\)](#)
- F14** [S. 37\(5\)](#) repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\), Sch. 1 Pt. 17 Group 7](#)
- F15** Words repealed by [S.I. 1976/1213 \(N.I. 22\), Sch. 6](#)

Modifications etc. (not altering text)

- C3** Reference to enactment of the Parliament of Northern Ireland to be construed as including reference to Measure of the Northern Ireland Assembly: [Northern Ireland Constitution Act 1973 \(c. 36\), Sch. 5 para. 1\(1\)](#)

Marginal Citations

- M3** [1968 c. 67.](#)
- M4** [1968 c. 67.](#)
- M5** [1966 c. 36.](#)
- M6** [1966 c. 36.](#)

38 Special provisions as to Northern Ireland.

- (1) In the application of this Act to Northern Ireland, for any reference to the Secretary of State (except in sections 1, [^{F16}2, 2A, 2B, 7, 7A,] 17, 23(1), 31, 35, 39(3) and 40(3) and Schedules 1 and 3) there shall be substituted a reference to the Ministry of Home Affairs for Northern Ireland.
- (2) Nothing in this Act shall authorise any department of the Government of Northern Ireland to incur any expenses attributable to the provisions of this Act until provision has been made by the Parliament of Northern Ireland for those expenses to be defrayed out of moneys provided by that Parliament; and no expenditure shall be incurred by the Ministry of Home Affairs for Northern Ireland for the purposes of its functions

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under section 32 of this Act except with the consent of the Ministry of Finance for Northern Ireland.

^{F17}(3)

- (4) Without prejudice to section 37(4) of this Act, any reference in this Act to an enactment of the Parliament of Northern Ireland includes a reference to any enactment re-enacting it with or without modifications.

Textual Amendments

- F16** Words in s. 38(1) substituted (15.11.2011) by [Police Reform and Social Responsibility Act 2011](#) (c. 13), s. 157(1), [Sch. 17 para. 20](#); S.I. 2011/2515, art. 3(g)
- F17** S. 38(3) repealed by [Northern Ireland Constitution Act 1973](#) (c. 36), [Sch. 6 Pt. I](#)

Modifications etc. (not altering text)

- C4** Functions of Ministry of Home Affairs for Northern Ireland transferred to Department of Health and Social Services for Northern Ireland by S.R. & O. (N.I.) [1973 No. 504](#), art. 5, [Sch. 2 Pt. I](#)

39 Savings and transitional provisions, repeals, and power to amend local enactments.

- (1) The savings and transitional provisions contained in Schedule 5 to this Act shall have effect.
- (2) The enactments mentioned in Schedule 6 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (3) The Secretary of State may by order made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament repeal or amend any provision in any local Act, including an Act confirming a provisional order, or in any instrument in the nature of a local enactment under any Act, where it appears to him that that provision is inconsistent with, or has become unnecessary or requires modification in consequence of, any provision of this Act.

Modifications etc. (not altering text)

- C5** The text of ss. 12(7), 39(2) and Sch. 6 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

40 Short title, extent and commencement.

- (1) This Act may be cited as the Misuse of Drugs Act 1971.
- (2) This Act extends to Northern Ireland.

^{F18}(3)

Textual Amendments

- F18** [S. 40\(3\)](#) repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004](#) (c. 14), [Sch. 1 Pt. 17](#) Group 7

Changes to legislation:

There are currently no known outstanding effects for the Misuse of Drugs Act 1971, Cross
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