



# Psychoactive Substances Act 2016

## 2016 CHAPTER 2

### *Powers for dealing with prohibited activities*

#### **28 Variation and discharge on application**

- (1) The court may vary or discharge a prohibition order or a premises order on the application of—
  - (a) the person who applied for the order (if any),
  - (b) the person against whom the order was made, or
  - (c) any other person who is significantly adversely affected by the order.
- (2) Where a prohibition order is made under section 19, the court may also vary or discharge the order on the application of—
  - (a) in the case of an order made in England and Wales, the chief officer of police for a police area or the chief constable of the British Transport Police Force;
  - (b) in the case of an order made in Scotland, the Lord Advocate or a procurator fiscal;
  - (c) in the case of an order made in Northern Ireland, the chief constable of the Police Service of Northern Ireland;
  - (d) in the case of an order made in England and Wales or Northern Ireland, the Director General of the National Crime Agency;
  - (e) in the case of an order made in England and Wales or Northern Ireland, the Secretary of State by whom general customs functions are exercisable.
- (3) Subsection (4) applies where—
  - (a) a prohibition order or a premises order imposes an access prohibition (see section 22(6)), and
  - (b) an application for the variation of the order is made by the person who applied for the order, or by a person mentioned in subsection (2), before the expiry of the period for which the access prohibition has effect.
- (4) Where this subsection applies, the court may vary the order by extending (or further extending) the period for which the access prohibition has effect.

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*Status: This is the original version (as it was originally enacted).*

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- (5) The period for which an access prohibition has effect may not be extended so that it has effect for more than 6 months.
- (6) In this section “the court” means—
- (a) the court that made the order, except where paragraph (b) or (c) applies;
  - (b) where—
    - (i) the order was made under section 19 on an appeal in relation to a person’s conviction or sentence for an offence, or
    - (ii) the order was made by a court under that section against a person committed or remitted to that court for sentencing for an offence,the court by or before which the person was convicted (but see subsection (7));
  - (c) where the court that made the order was a youth court but the person against whom the order was made is aged 18 or over at the time of the application, a magistrates’ court or, in Northern Ireland, a court of summary jurisdiction.
- (7) Where the person mentioned in subsection (6)(b)—
- (a) was convicted by a youth court, but
  - (b) is aged 18 or over at the time of the application,
- the reference in subsection (6)(b) to the court by or before which the person was convicted is to be read as a reference to a magistrates’ court or, in Northern Ireland, a court of summary jurisdiction.
- (8) An order that has been varied under this section remains an order of the court that first made it for the purposes of—
- (a) section 24;
  - (b) any further application under this section.