



Psychoactive Substances Act 2016

2016 CHAPTER 2

Powers for dealing with prohibited activities

32 Nature of proceedings under sections 19 and 29, etc

- (1) Proceedings before a court arising by virtue of section 19 or 29 are civil proceedings (like court proceedings under section 18, 20 or 28).
- (2) The standard of proof to be applied by the court in the proceedings is the balance of probabilities.
- (3) The court is not restricted in the proceedings to considering evidence that would have been admissible in the criminal proceedings in which the person concerned was convicted.
- (4) The court may adjourn any proceedings arising by virtue of section 19 or 29 even after sentencing the person concerned.
- (5) An Act of Adjournal under section 305 of the Criminal Procedure (Scotland) Act 1995 (Acts of Adjournal) may be made in relation to proceedings before the High Court of Justiciary, the sheriff or the Sheriff Appeal Court—
 - (a) arising by virtue of section 19 or 29;
 - (b) under section 28, where the application relates to a prohibition order made under section 19;
 - (c) under section 30(5);
 - (d) under subsection (1) of section 31, where the relevant order (as defined in subsection (3) of that section) was made under section 19;
 - (e) under section 31(7).
- (6) A prohibition order may be made or varied as mentioned in section 19(2)(b) or 29(4) (b) (as the case may be) in spite of anything in the following provisions (which relate to orders discharging a person conditionally or absolutely and their effect)—
 - [^{F1}(a) sections 79, 80 and 82 of the Sentencing Code,]
 - (b) sections 246 and 247 of the Criminal Procedure (Scotland) Act 1995;

Changes to legislation: There are currently no known outstanding effects for the Psychoactive Substances Act 2016, Section 32. (See end of Document for details)

- (c) Articles 4 and 6 of the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/3160 (N.I. 24)).

Textual Amendments

- F1** S. 32(6)(a) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 296** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2

Commencement Information

- I1** S. 32 in force at 26.5.2016 by S.I. 2016/553, reg. 2

Changes to legislation:

There are currently no known outstanding effects for the Psychoactive Substances Act 2016, Section 32.