



# Psychoactive Substances Act 2016

## 2016 CHAPTER 2

### *Retention and disposal of items*

#### **51 Forfeiture of seized items by court on application**

- (1) A relevant enforcement officer may apply to the appropriate court for the forfeiture of an item retained under section 49.
- (2) Where an application for the forfeiture of an item is made under this section, the item is to be retained while proceedings on the application are in progress.
- (3) If the court is satisfied that—
  - (a) the item is a psychoactive substance which, if it had not been seized, was likely to be consumed by an individual for its psychoactive effects, and
  - (b) at the time of its seizure, the item was not being used for the purposes of, or in connection with, an exempted activity (see subsection (12)) carried on by a person entitled to the item,the court must order the forfeiture of the item.
- (4) If the item is not a psychoactive substance, the court may order the forfeiture of the item if satisfied that it has been used in the commission of an offence under this Act.
- (5) Where an order for forfeiture of an item is made under subsection (3) or (4), the item may be disposed of in whatever way the officer who applied for the order, or another relevant enforcement officer acting on behalf of the same person as that officer, thinks is suitable.
- (6) But the item may not be disposed of under subsection (5)—
  - (a) before the end of the period within which an appeal under section 52 may be made against the order, or
  - (b) if such an appeal is made, before it is determined or otherwise dealt with.
- (7) If either subsection (8) or (9) applies in relation to an item, the court must order the item to be returned to a person entitled to it.

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*Status: This is the original version (as it was originally enacted).*

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(For provision enabling an application for an order under this subsection to be made, see section 53.)

- (8) This subsection applies in relation to an item if the court is not satisfied that the item—
- (a) is a psychoactive substance, or
  - (b) has been used in the commission of an offence under this Act.
- (9) This subsection applies in relation to an item if—
- (a) the item is a psychoactive substance, and
  - (b) the court is satisfied that—
    - (i) if the item had not been seized, it was not likely to be consumed by any individual for its psychoactive effects, or
    - (ii) at the time of its seizure, the item was being used for the purposes of, or in connection with, an exempted activity carried on by a person entitled to the item.
- (10) Where an order for the return of an item is made under subsection (7), the item may nevertheless be retained—
- (a) until the end of the period within which an appeal under section 52 may be made against the order, or
  - (b) if such an appeal is made, until the time when it is determined or otherwise dealt with.

But if it is decided before the end of the period mentioned in paragraph (a) that there is to be no appeal, the item must be returned as soon as possible after that decision is made.

- (11) In this section “the appropriate court” means—
- (a) in relation to England and Wales—
    - (i) where the person in respect of whom the application is made is an individual who is under the age of 18, a youth court, and
    - (ii) in any other case, a magistrates’ court;
  - (b) in relation to Scotland, the sheriff;
  - (c) in relation to Northern Ireland—
    - (i) where the person in respect of whom the application is made is an individual who is under the age of 18, a youth court, and
    - (ii) in any other case, a court of summary jurisdiction.
- (12) For the purposes of this section—
- (a) an activity is an “exempted activity” in relation to a person if the carrying on of the activity by that person would not be an offence under this Act by virtue of section 11;
  - (b) the persons “entitled” to an item are—
    - (i) the person from whom it was seized;
    - (ii) (if different) any person to whom it belongs.