

Psychoactive Substances Bill [HL]

AMENDMENTS TO BE MOVED IN COMMITTEE

Clause 6

LORD BATES

- 1 Page 3, line 32, leave out “psychoactive”

Clause 12

LORD BATES

- 2 Page 6, line 35, leave out “police officer (or, in Scotland, a constable)” and insert “constable”

Clause 13

LORD BATES

- 3 Page 7, line 12, leave out “prohibition” and insert “premises”

Clause 14

LORD BATES

- 4 Page 7, line 31, after “officer” insert “acting on behalf of the same person as that officer”

Clause 15

LORD BATES

- 5 Page 7, line 41, at end insert “, or
() subject to subsection (8), sending it to the person by electronic means.”
- 6 Page 8, line 9, before “principal” insert “address of the”

7 Page 8, line 20, at end insert—

- “(8) A notice may be sent to a person by electronic means only if—
- (a) the person has indicated that notices of the same description as a notice under section 12, 13 or 14 (as the case may be) may be given to the person by being sent to an electronic address and in an electronic form specified for that purpose, and
 - (b) the notice is sent to that address in that form.
- (9) In subsection (8) “electronic address” means any number or address used for the purposes of sending or receiving documents or information by electronic means.”

Clause 17

LORD BATES

8 Page 9, line 19, at end insert “an individual who is”

9 Page 9, line 24, at end insert “an individual who is”

Clause 20

LORD BATES

10 Page 11, line 18, leave out “police officer” and insert “constable”

11 Page 11, line 20, leave out “police officer” and insert “constable”

Clause 21

LORD BATES

12 Page 11, line 32, leave out from beginning to “the” in line 33 and insert “A court making a prohibition order or a premises order, or a court varying such an order under or by virtue of any of sections 24 to 27, may by the order impose any prohibitions, restrictions or requirements that”

13 Page 12, line 2, at end insert—

- “() An item that is handed over in compliance with a requirement imposed by virtue of subsection (4) may not be disposed of—
- (a) before the end of the period within which an appeal may be made against the imposition of the requirement (ignoring any power to appeal out of time), or
 - (b) if such an appeal is made, before it is determined or otherwise dealt with.”

14 Page 12, line 19, at end insert—

- “() Subsection (6) of section 13 (when a person “owns” premises) applies for the purposes of subsection (5) of this section as it applies for the purposes of that section.”

Clause 22

LORD BATES

- 15 Page 12, line 46, after “constable” insert “, a designated NCA officer, a general customs official or a person authorised by a person listed in subsection (2A).
- (2A) Those persons are –
- (a) the chief officer of police for a police area, in the case of an order made in England and Wales;
 - (b) the chief constable of the Police Service of Scotland, in the case of an order made in Scotland;
 - (c) the chief constable of the Police Service of Northern Ireland, in the case of an order made in Northern Ireland;
 - (d) the chief constable of the British Transport Police Force, in the case of an order made in England and Wales or Scotland;
 - (e) the Director General of the National Crime Agency;
 - (f) the Secretary of State by whom general customs functions are exercisable.”

After Clause 22

LORD BATES

- 16 Insert the following new Clause –
- “Access prohibitions: reimbursement of costs**
- (1) A person listed in subsection (2) that incurs expenditure for the purpose of clearing, securing or maintaining premises in respect of which an access prohibition is in effect (see section 21(5)) may apply to the court for an order under this section.
 - (2) Those persons are –
 - (a) a local policing body;
 - (b) the Scottish Police Authority;
 - (c) the chief constable of the Police Service of Northern Ireland;
 - (d) the British Transport Police Authority;
 - (e) the Director General of the National Crime Agency;
 - (f) the Secretary of State by whom general customs functions are exercisable;
 - (g) a local authority.
 - (3) On an application under this section the court may make whatever order it considers appropriate for the reimbursement (in full or in part) by the person against whom the order imposing the access prohibition was made of the expenditure mentioned in subsection (1).
 - (4) An application for an order under this section may not be heard unless it is made before the end of the period of 3 months starting with the day on which the access prohibition ceases to have effect.
 - (5) An application under this section must be served on the person against whom the order imposing the access prohibition was made.

- (6) In this section “the court” means –
- (a) the court that made the prohibition order or the premises order imposing the access prohibition, except where paragraph (b) or (c) applies;
 - (b) where the court that made the order was the Court of Appeal, the Crown Court;
 - (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.”

17 Insert the following new Clause –

“Access prohibitions: exemption from liability

- (1) Neither an authorised person, nor the person under whose direction or control the authorised person acts, is to be liable in damages for anything done, or omitted to be done, by the authorised person in the exercise or purported exercise of a power under section 22.
- (2) Subsection (1) does not apply to an act or omission shown to have been in bad faith.
- (3) Subsection (1) does not apply so as to prevent an award of damages made in respect of an act or omission on the ground that the act or omission was unlawful by virtue of section 6(1) of the Human Rights Act 1998.
- (4) This section does not affect any other exemption from liability (whether at common law or otherwise).
- (5) In this section “authorised person” has the same meaning as in section 22.”

After Clause 23

LORD BATES

18 Insert the following new Clause –

“Offence of failing to comply with an access prohibition, etc

- (1) This section applies where a prohibition order or a premises order imposes an access prohibition (see section 21(5)).
- (2) A person, other than the person against whom the order was made, who without reasonable excuse remains on or enters premises in contravention of the access prohibition commits an offence.
- (3) A person who without reasonable excuse obstructs a person acting under section 22(1) commits an offence.
- (4) A person guilty of an offence under subsection (2) or (3) is liable –
 - (a) on summary conviction in England and Wales, to either or both of the following –
 - (i) imprisonment for a term not exceeding 51 weeks (or 6 months, if the offence was committed before the commencement of section 281(5) of the Criminal Justice Act 2003);
 - (ii) a fine;

- (b) on summary conviction in Scotland, to either or both of the following—
 - (i) imprisonment for a term not exceeding 12 months;
 - (ii) a fine not exceeding level 5 on the standard scale;
- (c) on summary conviction in Northern Ireland, to either or both of the following—
 - (i) imprisonment for a term not exceeding 6 months;
 - (ii) a fine not exceeding level 5 on the standard scale.”

Clause 24

LORD BATES

19 Page 14, line 28, at end insert—

- “() 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 (*Access prohibitions: reimbursement of costs*);
 - (b) any further application under this section.”

Clause 25

LORD BATES

20 Page 14, line 40, leave out “section” and insert “sections (*Access prohibitions: reimbursement of costs*) and”

Clause 26

LORD BATES

21 Page 15, line 15, at end insert—

- “() An appeal under subsection (1) against the making of an order must be made before the end of the period of 28 days starting with the date of the order.”

22 Page 15, line 17, at end insert “, and may also make such incidental or consequential orders as appear to it to be just.”

23 Page 15, line 19, leave out “section” and insert “sections (*Access prohibitions: reimbursement of costs*) and”

Clause 27

LORD BATES

24 Page 16, line 16, at end insert—

- “() An appeal under subsection (1) against the making of a decision must be made before the end of the period of 28 days starting with the date of the decision.”

25 Page 16, line 17, leave out “Crown Court may” and insert “court hearing the appeal may (to the extent it would not otherwise have power to do so)”

26 Page 16, line 19, at end insert –

“() A prohibition order or a premises order that has been varied by virtue of subsection (4) remains an order of the court that first made it for the purposes of sections (*Access prohibitions: reimbursement of costs*) and 24.”

Clause 28

LORD BATES

27 Page 17, line 11, after “18” insert “, (*Access prohibitions: reimbursement of costs*)”

Clause 31

LORD BATES

28 Page 18, line 31, at end insert –

“() an individual against whom a prohibition order imposing an access prohibition has been made reaches the age of 18 whilst proceedings before a youth court under section (*Access prohibitions: reimbursement of costs*) are ongoing.”

Clause 35

LORD BATES

29 Page 20, line 33, after “a” insert “relevant enforcement officer or a”

Clause 47

LORD BATES

30 Page 26, line 35, leave out from beginning to “the court” in line 44 and insert –

“(3) If the court is satisfied that –

(a) the item is a psychoactive substance, 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,”

31 Page 27, line 3, leave out “body” and insert “person”

32 Page 27, line 34, at end insert “an individual who is”

33 Page 27, line 39, at end insert “an individual who is”

34 Page 27, line 42, leave out subsection (12) and insert –

“(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 regulations under section 10;
- (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.”

Clause 49

LORD BATES

35 Page 29, line 16, after “is” insert “an individual who is”

36 Page 29, line 21, after “is” insert “an individual who is”

Clause 50

LORD BATES

37 Page 29, line 30, at end insert –

“() In this section “the court” means –

- (a) the court by or before which the person is convicted of the offence,
or
- (b) if the person is committed to the Crown Court to be dealt with for that offence, the Crown Court.”

38 Page 29, line 31, leave out “by which the person is convicted”

Schedule 2

LORD BATES

39 Page 35, line 36, at end insert –

“() In the case of an application made by a procurator fiscal, any requirement imposed on a person applying for a search warrant by this paragraph or paragraph 2 may be met by a relevant enforcement officer.”

40 Page 36, leave out lines 20 and 21

41 Page 36, line 27, at end insert –

“() In this paragraph “specific-premises warrant” and “all-premises warrant” have the meaning given by section 35(3).”

42 Page 38, line 23, after “warrant” insert “issued in England and Wales or Northern Ireland”

43 Page 38, line 35, leave out paragraph (b)

Schedule 4

LORD BATES

44 Page 45, line 36, at end insert—

“Police (Northern Ireland) Act 2003

2A In Schedule 2A to the Police (Northern Ireland) Act 2003 (powers and duties of community support officer), after paragraph 9 insert—

“Powers to seize and retain: psychoactive substances

9A (1) If a CSO—

(a) finds a psychoactive substance in a person’s possession (whether or not the CSO finds it in the course of searching the person by virtue of any other paragraph of this Schedule), and

(b) reasonably believes that it is unlawful for the person to be in possession of it,

the CSO may seize it and retain it.

(2) If a CSO—

(a) finds a psychoactive substance in a person’s possession (as mentioned in sub-paragraph (1)), or

(b) reasonably believes that a person is in possession of a psychoactive substance,

and reasonably believes that it is unlawful for the person to be in possession of it, the CSO may require the person to give the CSO his name and address.

(3) If in exercise of the power conferred by sub-paragraph (1) the CSO seizes and retains a psychoactive substance, the CSO must—

(a) if the person from whom it was seized maintains that he was lawfully in possession of it—

(i) tell the person where inquiries about its recovery may be made, and

(ii) explain the effect of sections 45 to 47 and 49 of the Psychoactive Substances Act 2015 (retention and disposal of items), and

(b) comply with a constable’s instructions about what to do with it.

(4) Any substance seized in exercise of the power conferred by sub-paragraph (1) is to be treated for the purposes of sections 45 to 49 of the Psychoactive Substances Act 2015 as if it had been seized by a police or customs officer under section 32 of that Act.

Section 46 of that Act applies in relation to any such substance as if the reference in subsection (1)(b) to the police or customs officer who seized it were a reference to the CSO who seized it.

- (5) A person who fails to comply with a requirement under sub-paragraph (2) is guilty of an offence and is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.
- (6) Paragraph 4 applies in the case of a requirement imposed by virtue of sub-paragraph (2) as it applies in the case of a requirement under paragraph 2(1).
- (7) In this paragraph “police or customs officer” and “psychoactive substance” have the same meaning as in the Psychoactive Substances Act 2015.”

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Page 47, line 11, leave out from beginning to “or” in line 12

