

Drugs (Sentencing and Commission of Inquiry) Bill

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TO

Make provision about sentencing for persons guilty of an offence in connection with the supply or an offer to supply Class A drugs; and to establish a commission of inquiry into the effects and classification of cannabis.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Sentences for supply, etc., of Class A drugs

1 Amendment of the Misuse of Drugs Act 1971

- (1) The Misuse of Drugs Act 1971 (c. 38) is amended as follows.
- (2) In section 25(1) (which gives effect to Schedule 4 about the punishment of offenders), after the word “below”, insert the words “and subject to the provisions of sections 25A and 25B”. 5
- (3) After section 25 (prosecution and punishment of offences), insert—

“25A Prosecution and punishment of third offence under section 4(3) in relation to Class A drugs

 - (1) This section applies where— 10
 - (a) a person has been charged with an offence under section 4(3) (supplying or offering to supply a controlled drug or being concerned in the doing of either activity by another);
 - (b) a Class A drug is involved in that alleged offence;
 - (c) that person has been found guilty of two previous offences which both— 15
 - (i) are under section 4(3), and
 - (ii) involve a Class A drug;
 - (d) one of the offences referred to in paragraph (c) was committed after that person had been convicted of the other; and 20

- (e) neither of the convictions for the offences referred to in paragraph (c) has been overturned on appeal.
- (2) Where this section applies, an offence to which subsection (1)(a) and (b) applies shall be triable only on indictment.
- (3) Where this section applies and a person is convicted of an offence to which subsection (1)(a) and (b) applies, the court shall impose a sentence of imprisonment for term of at least seven years. 5
- 25B Punishment of offence under section 4(3) in relation to supply of Class A drugs to minor for profit**
- (1) This section applies where— 10
- (a) a person has been found guilty of an offence under section 4(3) (supplying or offering to supply a controlled drug or being concerned in the doing of either activity by another);
- (b) a Class A drug is involved in that offence; and
- (c) the court which convicts him of that offence is satisfied that— 15
- (i) the person to whom the drug was supplied or to whom the drug was offered to be supplied was aged 17 or under, or
- (ii) one or more of the persons to whom the drug was supplied or to whom the drug was offered to be supplied was aged 17 or under, and 20
- (iii) the offence was committed with the purpose of obtaining a profit.
- (2) Where this section applies, the minimum sentence for the offence referred to in subsection (1)(a) shall be a custodial sentence. 25
- (3) In this section ‘custodial sentence’ has the meaning given by section 76 of the Powers of Criminal Courts (Sentencing) Act 2000 (meaning of ‘custodial sentence’).”
- 2 Amendment of the Powers of Criminal Courts (Sentencing) Act 2000**
- (1) The Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) is amended as follows. 30
- (2) In section 110(1) (circumstances where person is subject to seven year minimum sentence), omit the word “and” at the end of paragraph (b) and, after paragraph (c), insert “and 35
- (d) section 25A of the Misuse of Drugs Act 1971 does not apply.”

The Commission of Inquiry

3 Commission of Inquiry: establishment and terms of reference

- (1) There shall be a Commission of Inquiry into the Effects and Classification of Cannabis (referred to in this Act as “the Commission”).
- (2) The terms of reference of the Commission shall be— 40
- (a) to consider the following matters—

- (i) the health effects of the use of cannabis and cannabis resin on users,
 - (ii) other effects of the use of cannabis and cannabis resin on users, and
 - (iii) the effects of the use of cannabis and cannabis resin other than on users; 5
 - (b) to consider the classification of cannabis and cannabis resin under Schedule 2 to the Misuse of Drugs Act 1971 (c. 38);
 - (c) to make recommendations to the Secretary of State and others about the things referred to in paragraphs (a) and (b) and related matters. 10
- (3) In this section “cannabis” and “cannabis resin” have the meanings given by section 37(1) of the Misuse of Drugs Act 1971 (interpretation).

4 Membership of the Commission

- (1) The Commission shall consist of a chairman and eight other members appointed in accordance with the provisions of this section. 15
- (2) The chairman and other members of the Commission shall be appointed in accordance with the terms of a resolution of each House of Parliament; and any such resolution shall state the date on which an appointment takes effect.
- (3) A motion for a resolution under subsection (2) shall be made— 20
- (a) in the House of Commons, by the Secretary of State; and
 - (b) in the House of Lords, by a Minister of the Crown.
- (4) No motion may be made under this section in the House of Commons unless the Secretary of State has first consulted the following persons about the terms of the motion— 25
- (a) the Leader of the Opposition in the House of Commons, and
 - (b) the Leader of the second largest Opposition party in the House of Commons.
- (5) If any doubt arises as to who is or was at any material time one of the persons referred to in subsection (4)(a) and (b), the question shall be decided for the purposes of this Act by the Speaker of the House of Commons, and his decision, certified in writing under his hand, shall be final and conclusive. 30

5 Duration of appointment of members of the Commission and further appointments

- (1) Subject to the provisions of this section, a member of the Commission appointed in accordance with the provisions of section 4 shall hold office until the work of the Commission has concluded (or until his death if he dies before then). 35
- (2) A member of the Commission may at any time resign his appointment by notice to the Secretary of State.
- (3) The Secretary of State may (subject to the provisions of subsection (4)) at any time by notice terminate the appointment of a member of the Commission— 40
- (a) on the ground that, by reason of physical or mental illness or for any other reason, the member is unable to carry out his functions as a member of the Commission; or

- (b) on the ground that the member has, since his appointment, been guilty of any misconduct that makes him unsuited to membership of the Commission.
- (4) Before acting under subsection (3), the Secretary of State must consult—
- (a) the persons specified in section 4(4)(a) and (b), and 5
- (b) (unless the proposed action under subsection (3) relates to the chairman of the Commission), the chairman of the Commission.
- (5) Where a member ceases to hold office in accordance with the preceding provisions of this section, a member may be appointed in his place in accordance with the provisions of section 4. 10
- 6 Powers of the Commission**
- (1) Subject to the provisions of subsection (2), the conduct of the work of the Commission shall be for the Commission to determine.
- (2) The Commission may—
- (a) receive written evidence, 15
- (b) take oral evidence,
- (c) undertake visits within the United Kingdom and elsewhere,
- (d) appoint staff, and
- (e) *undertake, or arrange for or support (whether financially or otherwise), the carrying out of research or the provision of advice or information relating to matters within the Commission's terms of reference.* 20
- 7 Payment of Commission expenses, etc**
- (1) *The Secretary of State may agree to pay to—*
- (a) *members of the Commission,*
- (b) *staff of the Commission, and* 25
- (c) *any person engaged to provide assistance with the Commission, such remuneration and expenses as the Secretary of State may determine.*
- (2) The chairman of the Commission may award reasonable amounts to a person—
- (a) by way of compensation for loss of time, or 30
- (b) in respect of expenses properly incurred, in attending, or otherwise in relation to, the Commission.
- (3) *The Secretary of State must pay any amounts awarded under subsection (2).*
- (4) *The Secretary of State must meet any other expenses reasonably incurred in the work of the Commission, including the cost of the publication of the report under section 8.* 35
- 8 Report of the Commission**
- (1) The Commission shall, within a period of eighteen months beginning with the date on which the first appointment made in accordance with the provisions of section 4 takes effect, make its report.
- (2) The report made under subsection (1) shall be— 40
- (a) laid before each House of Parliament,

- (b) provided to the Secretary of State, and
 - (c) published.
- (3) For the purposes of this Act, the work of the Commission shall be concluded when the report made under subsection (1) has been published.

9 Response by the Secretary of State to the report of the Commission 5

Within a period of six months beginning with the date on which the report of the Commission under section 8 is published, the Secretary of State shall –

- (a) lay before each House of Parliament, and
 - (b) publish,
- a response to that report, including a response to each recommendation of that report addressed to the Secretary of State. 10

Miscellaneous and final provisions

10 Expenses

There shall be paid out of sums provided by Parliament any expenditure of the Secretary of State in connection with this Act. 15

11 Short title and extent

- (1) This Act may be cited as the Drugs (Sentencing and Commission of Inquiry) Act 2005.
- (2) This Act extends to England and Wales only.

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To make provision about sentencing for persons guilty of an offence in connection with the supply or an offer to supply Class A drugs; and to establish a commission of inquiry into the effects and classification of cannabis.

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