

## SUPPLYING/OFFERING TO SUPPLY A PSYCHOACTIVE SUBSTANCE

### Psychoactive Substances Act 2016

- 5.- (1) A person commits an offence if—
- (a) the person intentionally supplies a substance to another person,
  - (b) the substance is a psychoactive substance,
  - (c) the person knows or suspects, or ought to know or suspect, that the substance is a psychoactive substance, and
  - (d) the person knows, or is reckless as to whether, the psychoactive substance is likely to be consumed by the person to whom it is supplied, or by some other person, for its psychoactive effects.
- (2) A person (“P”) commits an offence if—
- (a) P offers to supply a psychoactive substance to another person (“R”), and
  - (b) P knows or is reckless as to whether R, or some other person, would, if P supplied a substance to R in accordance with the offer, be likely to consume the substance for its psychoactive effects.
- 6.- (1) This section applies if—
- (a) a court is considering the seriousness of an offence under section 5, and
  - (b) at the time the offence was committed the offender was aged 18 or over.
- (2) If condition A, B or C is met the court—
- (a) must treat the fact that the condition is met as an aggravating factor (that is to say, a factor that increases the seriousness of the offence), and
  - (b) must state in open court that the offence is so aggravated.
- (3) Condition A is that the offence was committed on or in the vicinity of school premises at a relevant time.  
...
- (6) Condition B is that in connection with the commission of the offence the offender used a courier who, at the time the offence was committed, was under the age of 18.  
...
- (9) Condition C is that the offence was committed in a custodial institution.

### Maximum Sentence

*Psychoactive Substances Act 2016, s.10(1)*

*Indictment: 7 years imprisonment*

*Summarily: 6 months imprisonment and/or £5,000 Fine*

### Assessment of Offence

*(starting points and ranges based on 1<sup>st</sup> time offender convicted following contest)*

<u>Nature of Offence</u>		<u>Starting Point</u>	<u>Sentencing Range</u>
Offering to Supply	Minimal quantity between equals on a non-commercial basis	Community Order	Fine to Community Order
	Small scale retail supply to consumer	2 month Custody	Community Order to 3 months custody
Supplying	Minimal quantity between equals on a non-commercial basis	Community Order	Community Order to 6 months custody
	Small scale retail supply to consumer	3 month Custody	Community Order to 6 months Custody
Aggravated Offence (section 6 of the 2016 Act)		4 months	3 – 6 months Custody

<u>Examples of Possible Aggravating Factors of Offence</u>	<u>Examples of Possible Mitigating Factor of Offence</u>
1. Offender exercising or acting in position of special responsibility. 2. Supply to vulnerable persons including children.	

### Relevant Cases:

*NI Cases*  
N/A

*English Cases*  
N/A

**Notes:**

