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*Number 12 of 1977*

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**MISUSE OF DRUGS ACT 1977**

**REVISED**

**Updated to 27 July 2016**

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This Revised Act is an administrative consolidation of *Misuse of Drugs Act 1977*. It is prepared by the Law Reform Commission in accordance with its function under *Law Reform Commission Act 1975 (3/1975)* to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including *Misuse of Drugs (Amendment) Act 2016 (9/2016)*, enacted 27 July 2016, and all statutory instruments up to and including *Appointment of Special Advisers (Tánaiste and Minister for Justice and Equality) Order 2016 (S.I. No. 454 of 2016)*, made 27 July 2016, were considered in the preparation of this Revised Act.

Disclaimer: While every care has been taken in the preparation of this Revised Act, the Law Reform Commission can assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up to date nature of the information provided and does not accept any liability whatsoever arising from any errors or omissions. Please notify any errors, omissions and comments by email to [revisedacts@lawreform.ie](mailto:revisedacts@lawreform.ie).





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Number 12 of 1977

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**MISUSE OF DRUGS ACT 1977**

**REVISED**

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**Introduction**

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

**Related legislation**

**Health Acts 1947 to 2015:** this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Health (General Practitioner Service) Act 2015* (19/2015), s. 4(2)). The Acts in this group are:

- *Health Act 1947* (28/1947)
- *Health Act 1953* (26/1953) (citation only)
- *Health (Fluoridation of Water Supplies) Act 1960* (46/1960) (citation only)
- *Health Act 1970* (1/1970)
- *Misuse of Drugs Act 1977* (12/1977), ss. 36 and 42 (in so far as it amends the *Health Acts 1947 to 1970*) (citation only)
- *Health (Family Planning) Act 1979* (20/1979)
- *Health (Amendment) Act 1986* (10/1986)
- *Health (Amendment) Act 1987* (3/1987)
- *Health (Nursing Homes) Act 1990* (23/1990)
- *Health (Amendment) Act 1991* (15/1991), other than s. 8
- *Health (Amendment) Act 1994* (11/1994)
- *Health (Amendment) Act 1996* (15/1996)
- *Health (Amendment) (No. 2) Act 1996* (23/1996)
- *Health (Amendment) (No. 3) Act 1996* (32/1996), other than ss. 21 and 22
- *Health (Provision of Information) Act 1997* (9/1997)
- *Health (Eastern Regional Health Authority) Act 1999* (13/1999)
- *Health (Miscellaneous Provisions) Act 2001* (14/2001), except in so far as it relates to the *Tobacco (Health Promotion and Protection) Act 1988* (citation only)
- *Health Act 2004* (42/2004)
- *Health (Amendment) Act 2005* (3/2005), in so far as it amends the *Health Acts 1947 to 2004*
- *Irish Medicines Board (Miscellaneous Provisions) Act 2006* (3/2006), Part 5
- *Health (Repayment Scheme) Act 2006* (17/2006)
- *Hepatitis C Compensation Tribunal (Amendment) Act 2006* (22/2006), s. 6
- *Health (Nursing Homes) (Amendment) Act 2007* (1/2007)
- *Health Act 2007* (23/2007)
- *Medical Practitioners Act 2007* (25/2007), s. 57(9) (citation only)
- *Health Act 2008* (21/2008)
- *Health (Miscellaneous Provisions) Act 2009* (25/2009), s. 64

- *Health (Amendment) Act 2010* (15/2010) (citation only)
- *Health (Amendment) (No. 2) Act 2010* (20/2010)
- *Child Care (Amendment) Act 2011* (19/2011), ss. 35 and 36 (citation only)
- *Health (Alteration of Criteria for Eligibility) Act 2013* (10/2013)
- *Health (Pricing and Supply of Medical Goods) Act 2013* (14/2013), s. 30 (citation only)
- *Health Service Executive (Governance) Act 2013* (23/2013)
- *Health (Alteration of Criteria for Eligibility) (No. 2) Act 2013* (42/2013) (citation only)
- *Local Government Reform Act* (1/2014), ss. 1(14) and 5(6) (in so far as it amends the *Health (Fluoridation of Water Supplies) Act 1960*) and sch. 2 part 6
- *Health Service Executive (Financial Matters) Act 2014* (17/2014)
- *Health (General Practitioner Service) Act 2014* (28/2014)
- *Health (General Practitioner Service) Act 2015* (19/2015)

Acts previously included in the group but now repealed are:

- *Health Act 1954* (23/1954)
- *Health and Mental Treatment Act 1957* (16/1957), s. 1
- *Health and Mental Treatment (Amendment) Act 1958* (37/1958), s.1
- *Health (Homes For Incapacitated Persons) Act 1964* (8/1964)
- *Health and Mental Treatment (Amendment) Act 1966* (2/1966), s. 1
- *Health (Mental Services) Act 1981* (17/1981)
- *Health (Family Planning) (Amendment) Act 1985* (4/1985)
- *Health (Amendment) Act 2004* (19/2004)

**Misuse of Drugs Acts 1977 to 2016:** this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Misuse of Drugs (Amendment) Act 2016* (9/2016), s. 8(2)). The Acts in this group are:

- *Misuse of Drugs Act 1977* (12/1977)
- *Misuse of Drugs Act 1984* (18/1984)
- *Criminal Justice Act 1999* (10/1999), Part II
- *Irish Medicines Board (Miscellaneous Provisions Act 2006* (3/2006), Part 2
- *Criminal Justice Act 2006* (26/2006), ss. 80-85
- *Criminal Justice Act 2007* (29/2007), s. 33
- *Misuse of Drugs (Amendment) Act 2015* (6/2015)
- *Misuse of Drugs (Amendment) Act 2016* (9/2016)

**Pharmacopoeia Acts 1931 and 1977:** this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Misuse of Drugs Act 1977* (12/1977), s. 43(4)). The Acts in this group are:

- *Pharmacopoeia Act 1931* (22/1931)
- *Misuse of Drugs Act 1977* (12/1977), ss. 35 and 42 (in so far as s. 42 amends the *Pharmacopoeia Act 1931*)

**Poisons Acts 1961 and 1977:** this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Misuse of Drugs Act 1977* (12/1977), s. 43(6)). The Acts in this group are:

- *Poisons Act 1961* (12/1961)
- *Misuse of Drugs Act 1977* (12/1977), s. 33

**Pharmacy Acts 1875 to 1977:** this Act is one of a group of Acts previously included in this collective citation, to be construed together as one (*Misuse of Drugs Act 1977* (12/1977), s. 43(3)). The substantive provision of this Act (s. 32) as well as legislation amended by provisions of this Act included in the collective citation (s. 34) were repealed (29.11.2008) by *Pharmacy Act 2007* (20/2007), s. 4 and sch. 4, S.I. No. 487 of 2008.

## Annotations

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at

[www.lawreform.ie/annotations](http://www.lawreform.ie/annotations).

### **Material not updated in this revision**

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 1998, may be found linked from the page of the Act or statutory instrument at [www.irishstatutebook.ie](http://www.irishstatutebook.ie).

### **Acts which affect or previously affected this revision**

- *Misuse of Drugs (Amendment) Act 2016* (9/2016)
- *Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016* (4/2016)
- *Misuse Of Drugs (Amendment) Act 2015* (6/2015)
- *Criminal Justice (Search Warrants) Act 2012* (33/2012)
- *Nurses and Midwives Act 2011* (41/2011)
- *Criminal Procedure Act 2010* (27/2010)
- *Criminal Justice (Psychoactive Substances) Act 2010* (22/2010)
- *Criminal Justice Act 2007* (29/2007)
- *Medical Practitioners Act 2007* (25/2007)
- *Pharmacy Act 2007* (20/2007)
- *Criminal Justice Act 2006* (26/2006)
- *Irish Medicines Board (Miscellaneous Provisions) Act 2006* (3/2006)
- *Health Act* (42/2004)
- *Euro Changeover (Amounts) Act 2001* (16/2001)
- *Criminal Justice Act 1999* (10/1999)
- *Licensing (Combating Drug Abuse) Act 1997* (33/1997)
- *Criminal Justice (Drug Trafficking) Act 1996* (29/1996)
- *Irish Medicines Board Act 1995* (29/1995)
- *Criminal Justice Act 1994* (15/1994)
- *Customs and Excise (Miscellaneous Provisions) Act 1988* (10/1988)
- *Misuse of Drugs Act 1984* (18/1984)
- *Postal and Telecommunications Services Act 1983* (24/1983)
- *Transport Act 1950* (12/1950)

All Acts up to and including *Misuse of Drugs (Amendment) Act 2016* (9/2016), enacted 27 July 2016, were considered in the preparation of this revision.

### **Statutory instruments which affect or previously affected this revision**

- *Misuse of Drugs (Designation) (Amendment) (No. 2) Order 2014* (S.I. No. 584 of 2014)
- *Misuse of Drugs (Amendment) (No. 2) Regulations 2014* (S.I. No. 583 of 2014)
- *Misuse of Drugs Act 1977 (Controlled Drugs) (Declaration) Order 2014* (S.I. No. 571 of 2014)
- *Misuse of Drugs (Designation) (Amendment) Order 2014* (S.I. No. 324 of 2014)
- *Misuse of Drugs (Amendment) Regulations 2014* (S.I. No. 323 of 2014)
- *Misuse of Drugs (Licence Fees) (Amendment) Regulations 2012* (S.I. No. 544 of 2012)
- *Misuse of Drugs (Exemption) (Amendment) Order 2011* (S.I. No. 554 of 2011)
- *Misuse of Drugs (Designation) (Amendment) Order 2011* (S.I. No. 553 of 2011)
- *Misuse of Drugs (Amendment) Regulations 2011* (S.I. No. 552 of 2011)
- *Misuse of Drugs Act 1977 (Controlled Drugs) (Declaration) Order 2011* (S.I. No. 551 of 2011)
- *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011)

- *Misuse of Drugs (Amendment) (No. 2) Regulations 2010* (S.I. No. 607 of 2010)
- *Misuse of Drugs (Exemption) (Amendment) Order 2010* (S.I. No. 202 of 2010)
- *Misuse of Drugs (Designation) (Amendment) Order 2010* (S.I. No. 201 of 2010)
- *Misuse of Drugs (Amendment) Regulations 2010* (S.I. No. 200 of 2010)
- *Misuse of Drugs Act 1977 (Controlled Drugs) (Declaration) Order 2010* (S.I. No. 199 of 2010)
- *Misuse of Drugs (Amendment) (No. 2) Regulations 2009* (S.I. No. 122 of 2009)
- *Misuse of Drugs Act 1977 (Controlled Drugs) (Declaration) Order 2009* (S.I. No. 121 of 2009)
- *Misuse of Drugs (Amendment) Regulations 2009* (S.I. No. 63 of 2009)
- *Pharmaceutical Society of Ireland (Fees) Rules 2008* (S.I. No. 496 of 2008)
- *Pharmaceutical Society of Ireland (Education and Training) Rules 2008* (S.I. No. 493 of 2008)
- *Medicinal Products (Control of Advertising) Regulations 2007* (S.I. No. 541 of 2007)
- *Misuse of Drugs (Amendment) Regulations 2007* (S.I. No. 200 of 2007)
- *Misuse of Drugs Act 1977 (Controlled Drugs) (Declaration) Order 2006* (S.I. No. 55 of 2006)
- *Misuse of Drugs (Exemption) (Amendment) Order 2006* (S.I. No. 54 of 2006)
- *Misuse of Drugs (Amendment) Regulations 2006* (S.I. No. 53 of 2006)
- *Misuse of Drugs (Scheduled Substances) (Amendment) Regulations 2004* (S.I. No. 92 of 2004)
- *Misuse of Drugs (Scheduled Substances) (Exemption) Order 2004* (S.I. No. 91 of 2004)
- *Misuse of Drugs Act, 1977 (Controlled Drugs) (Declaration No. 4) Order 2004* (S.I. No. 78 of 2004)
- *Misuse of Drugs (Scheduled Substances) (Exemption) (Amendment) Order 2003* (S.I. No. 169 of 2003)
- *Misuse of Drugs Act, 1977 (Controlled Drugs) (Declaration No 3) Order 2003* (S.I. No. 43 of 2003)
- *Misuse of Drugs (Scheduled Substances) (Exemption) (Amendment) Order 2003* (S.I. No. 42 of 2003)
- *Misuse of Drugs (Scheduled Substances) (Amendment) Regulations 2003* (S.I. No. 41 of 2003)
- *Customs-free Airport (Extension of Laws) Regulations 2000* (S.I. No. 169 of 2000)
- *Misuse of Drugs (Amendment No. 1) Regulations 1999* (S.I. No. 273 of 1999)
- *Misuse of Drugs (Supervision of Prescription and Supply of Methadone) Regulations 1998* (S.I. No. 225 of 1998)
- *Misuse of Drugs (Designation) Order 1998* (S.I. No. 69 of 1998)
- *Misuse of Drugs (Amendment) Regulations 1993* (S.I. No. 342 of 1993)
- *Misuse of Drugs (Scheduled Substances) (Exemption) Order 1993* (S.I. No. 341 of 1993)
- *Misuse of Drugs (Designation) Order 1993* (S.I. No. 340 of 1993)
- *Misuse of Drugs (Exemption) (Amendment) Order 1993* (S.I. No. 339 of 1993)
- *Misuse of Drugs (Scheduled Substances) Regulations 1993* (S.I. No. 338 of 1993)
- *Misuse of Drugs Act, 1977 (Controlled Drugs) (Declaration) Order 1993* (S.I. No. 328 of 1993)
- *Medical Preparations (Advertising) Regulations 1993* (S.I. No. 76 of 1993)
- *European Communities (Merchandise Road Transport) Regulations 1991* (S.I. No. 60 of 1991)
- *European Communities (Road Passenger Transport) Regulations 1991* (S.I. No. 59 of 1991)
- *Misuse of Drugs Regulations 1988* (S.I. No. 328 of 1988)
- *Misuse of Drugs (Designation) Order 1988* (S.I. No. 327 of 1988)
- *Misuse of Drugs (Exemption) Order 1988* (S.I. No. 326 of 1988)
- *European Communities (Merchandise and Road Transport) Regulations 1988* (S.I. No. 180 of 1988)
- *Misuse of Drugs (Licence Fees) (Amendment) Regulations 1988* (S.I. No. 11 of 1988)
- *Misuse of Drugs (Exemption) (Amendment) Order 1987* (S.I. No. 264 of 1987)
- *Misuse of Drugs (Amendment) Regulations 1987* (S.I. No. 263 of 1987)
- *Misuse of Drugs Act, 1977 (Controlled Drugs) (Declaration) Order 1987* (S.I. No. 251 of 1987)
- *European Communities (Recognition of Qualifications in Pharmacy) Regulations 1987* (S.I. No. 239 of 1987)
- *Misuse of Drugs (Licence Fees) (Amendment) Regulations 1986* (S.I. No. 172 of 1986)
- *Misuse of Drugs (Licence Fees) (Amendment) Regulations 1985* (S.I. No. 29 of 1985)

- *Misuse of Drugs (Committees of Inquiry) Regulations 1984* (S.I. No. 264 of 1984)
- *Misuse of Drugs (Safe Custody) Regulations 1982* (S.I. No. 321 of 1982)
- *European Communities (Recognition of Dental Qualifications) Regulations 1980* (S.I. No. 90 of 1980)
- *Misuse of Drugs (Custodial Treatment Centre) Order 1980* (S.I. No. 30 of 1980)
- *Misuse of Drugs (Licence Fees) Regulations 1979* (S.I. No. 164 of 1979)
- *Misuse of Drugs Regulations 1979* (S.I. No. 32 of 1979)
- *Misuse of Drugs (Committees of Inquiry, Advisory Committees and Advisory Panels) Regulations 1979* (S.I. No. 31 of 1979)
- *Misuse of Drugs (Designation) Order 1979* (S.I. No. 30 of 1979)
- *Misuse of Drugs (Exemption) Order 1979* (S.I. No. 29 of 1979)
- *Misuse of Drugs Act, 1977 (Commencement) Order 1979* (S.I. No. 28 of 1979)

All statutory instruments up to and including *Appointment of Special Advisers (Tánaiste and Minister for Justice and Equality) Order 2016* (S.I. No. 454 of 2016), made 27 July 2016, were considered in the preparation of this revision.





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*Number 12 of 1977*

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**MISUSE OF DRUGS ACT 1977**

**REVISED**

**Updated to 27 July 2016**

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ARRANGEMENT OF SECTIONS

Section

1. Interpretation.
2. Controlled drugs.
3. Restriction on possession of controlled drugs.
4. Regulations permitting possession of controlled drugs.
5. Regulations to prevent misuse of controlled drugs.
6. Directions prohibiting prescribing, supply etc. of controlled drugs by practitioners or pharmacists convicted of offences.
7. Special directions prohibiting prescribing etc. of controlled drug in certain cases.
8. Investigation of cases where Minister considers there are grounds for special direction.
9. Prohibition of prescribing etc. in cases of urgency.
10. Investigation on initiative of Dental Board, Medical Registration Council or Veterinary Council.
11. Appeals.
12. Regulations (committees and panels).
13. Additional powers in relation to certain controlled drugs.
14. Licences etc.
15. Possession of controlled drugs for unlawful sale or supply.
- 15A. Offence relating to possession of drugs with value of £10,000 or more.
- 15B. Importation of controlled drugs in excess of certain value.
- 15C. Supply of controlled drugs into prisons and places of detention.
16. Prohibition of certain activities etc. relating to opium.
17. Prohibition of cultivation of opium poppy or cannabis plant.
18. Forged or fraudulently altered prescriptions.
19. Occupiers etc. permitting certain activities to take place on land, vehicle or vessel to be guilty of an offence.
20. Offences relating to acts outside the State.

## Section

21. Attempts etc. and miscellaneous other offences.
22. Onus of proof.
23. Power of Garda Síochána to search persons, vehicles, vessels or aircraft.
24. Powers to inspect and demand production of drugs, books or documents.
25. Power of arrest.
26. Search warrants.
27. Penalties.
28. Power of court to remand persons convicted under section 3, 15, 16, 17 or 18 and to obtain a report and in certain cases to arrange for the medical treatment or for the care of such persons.
29. Defences generally.
30. Forfeiture.
31. Offences in relation to bodies corporate.
32. Poisons for purposes of Pharmacy Acts, 1875 to 1962.
33. Amendment of Poisons Act, 1961.
34. Amendment of section 2 of Pharmacy Act, 1962.
35. Amendment of Pharmacopoeia Act, 1931.
36. Amendment of section 65 of Health Act, 1947.
37. Service etc. of notices.
38. Regulations generally; laying of orders.
39. Expenses.
40. Collection and disposal of moneys payable under Act.
41. Repeal of Dangerous Drugs Act, 1934, and transitional provision.
42. Miscellaneous repeals and transitional provisions.
43. Short title, commencement and collective citations.

## SCHEDULE

## ACTS REFERRED TO

Dentists Act, 1928	1928, No. 25
Pharmacy Act, 1951	1951, No. 30
Amendment Act, 1890	1890, c. 48
Medical Practitioners Act, 1927	1927, No. 25
Pharmacy Act (Ireland), 1875	1875, c. 57
Veterinary Surgeons Act, 1931	1931, No. 36
Poisons Act, 1961	1961, No. 12
Pharmacy Act, 1962	1962, No. 14
Pharmacopoeia Act, 1931	1931, No. 22
Health Act, 1947	1947, No. 28
Health Act, 1953	1953, No. 26

[No. 12.]

*Misuse of Drugs Act 1977*

[1977.]

Health Act, 1970

1970, No. 1

Companies Act, 1963

1963, No. 33

Public Offices Fees Act, 1879

1879, c. 58

Dangerous Drugs Act, 1934

1934, No. 1




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Number 12 of 1977

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**MISUSE OF DRUGS ACT 1977**

**REVISED**

**Updated to 27 July 2016**

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AN ACT TO PREVENT THE MISUSE OF CERTAIN DANGEROUS OR OTHERWISE HARMFUL DRUGS, TO ENABLE THE MINISTER FOR HEALTH TO MAKE FOR THAT PURPOSE CERTAIN REGULATIONS IN RELATION TO SUCH DRUGS, TO ENABLE THAT MINISTER TO PROVIDE THAT CERTAIN SUBSTANCES SHALL BE POISONS FOR THE PURPOSES OF THE PHARMACY ACTS, 1875 TO 1962, TO AMEND THE PHARMACOPOEIA ACT, 1931, THE POISONS ACT, 1961, THE PHARMACY ACT, 1962, AND THE HEALTH ACTS, 1947 TO 1970, TO REPEAL THE DANGEROUS DRUGS ACT, 1934, AND SECTION 78 OF THE HEALTH ACT, 1970, AND TO MAKE CERTAIN OTHER PROVISIONS IN RELATION TO THE FOREGOING. [16th May, 1977]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

**Annotations**

**Modifications (not altering text):**

- C1** Functions in relation to *Misuse of Drugs Acts 1977 and 1984* transferred and specified bodies dissolved (1.01.2005) by *Health Act 2004 (42/2004)*, ss. 58, 59 and sch. 3 item 40, commenced as per ss. 58 and 59 on coming into force of *Health Act 2004 (Establishment Day) Order 2004 (S.I. No. 885 of 2004)*.

**Dissolution of health boards and other specified bodies.**

**58.**—The specified bodies are, by this Act, dissolved on the establishment day.

**Transfer of functions of specified bodies to Executive.**

**59.**—(1) The functions that, immediately before the establishment day, were the functions of a specified body under or in connection with the enactments referred to in Schedule 3 are, by this Act, transferred to the Executive on that day.

(2) If a provision of an enactment referred to in Schedule 3, or a provision of an instrument made under such enactment, does not come into effect until on or after the establishment day, a function that on the passing of that enactment or the making of that instrument was assigned under or in connection with that provision to a specified body is, by this Act, transferred to the Executive on the commencement of that provision.

(3) The functions transferred by this Act to the Executive include the functions specified in any enactment referred to in Schedule 3 as a function of the following:

- (a) the chief executive officer of a health board;
- (b) the Regional Chief Executive of the Eastern Regional Health Authority;
- (c) the area chief executive of an Area Health Board.

...

## SCHEDULE THREE

## Transfer of Functions and References to Functional Areas

Section 59 and 67.

...

40.—Misuse of Drugs Acts 1977 and 1984.

...

- C2** Application of *Misuse of Drugs Acts 1977 and 1984* extended (15.06.2000) by *Customs-free Airport (Extension of Laws) Regulations 2000* (S.I. No. 169 of 2000), reg. 2.

2. The provisions of the *Misuse of Drugs Acts 1977 and 1984* (Nos. 12 and 18 of 1977 and 1984 respectively), together with all Orders and Regulations made thereunder and for the time being in force, are hereby extended to the Customs-free Airport at Shannon.

- C3** Application of collectively cited *Health Acts* restricted (7.05.1986) by *Health (Amendment) Act 1986* (10/1986), s. 2(1), commenced on enactment. Note: references to health board to be read as references to the Health Service Executive as provided (1.01.2005) by *Health Act 2004* (42/2004), s. 66, S.I. No. 887 of 2004.

**Charges by health boards for provision of in-patient services and out-patient services in respect of certain injuries caused by mechanically propelled vehicles.**

2.—(1) Where—

- (a) injury is caused to a person by the negligent use of a mechanically propelled vehicle in a public place, and
- (b) in-patient services or out-patient services have been, are being or will be provided by or on behalf of a health board in respect of the injury, and
- (c) any one of the following, that is to say, the person aforesaid, his personal representative or dependant, has received, or is entitled to receive damages or compensation in respect of the negligent use aforesaid from the person liable to pay such damages or compensation in respect of that injury, or any loss, damage or expense (or mental distress in the case of a dependant) arising therefrom,

the health board shall, notwithstanding anything in the *Health Acts, 1947 to 1985*, make a charge upon the person who received or is entitled to receive such damages or compensation in respect of the said in-patient services or out-patient services.

...

- C4** Application of collectively cited *Health Acts* restricted by *Health Act 1970* (1/1970), s. 53, as amended (11.03.2005) by *Health (Amendment) Act 2005* (3/2005), s. 4(a), commenced on enactment, subject to exceptions in subs. (3) as inserted by 3/2005, s. 4(b).

**Charges for in-patient services.**

53.—(1) Save as provided for under subsection (2) charges shall not be made for in-patient services made available under section 52.

(2) [Notwithstanding anything in the *Health Acts 1947 to 2004* but subject to subsections (3), (4) and (6), the Minister shall], with the consent of the Minister for Finance, make regulations—

- (a) providing for the imposition of charges for in-patient services in specified circumstances on persons [to whom the in-patient services are provided] or on specified classes of such persons, and
- (b) specifying the amounts of the charges or the limits to the amounts of the charges to be so made.

...

**Editorial Notes:**

- E1** Offence under Act (other than a first offence under s. 3) designated an excluded offence by *National Vetting Bureau (Children and Vulnerable Persons) Act 2012* (47/2012), s. 14A and sch. 3 item 16, as inserted (29.04.2016) by *Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016* (4/2016), s. 29, S.I. No. 215 of 2016.
- E2** Procedure for complaints in relation to irregularities in the custody, prescription or supply of a controlled drug under collectively cited *Misuse of Drugs Acts* prescribed (2.10.2012) by *Nurses and Midwives Act 2011* (41/2011), s. 55, S.I. No. 385 of 2012.
- E3** Procedure for complaints in relation to registered retail pharmacy businesses, where certain persons have been convicted of an offence under *Misuse of Drugs Acts 1977 to 2006* or *Poisons Acts 1961 and 1977* prescribed (1.8.2009) by *Pharmacy Act 2007* (20/2007), s. 36(1)(a), S.I. No. 281 of 2009.
- E4** Provision for external forfeiture orders in relation to offences under the Act made (15.11.1996) by *Criminal Justice Act 1994*, s. 47(5)(a), S.I. No. 333 of 1996.
- E5** Power of examination, seizure and detention in relation to potential evidence regarding suspected offences under *Misuse of Drugs Acts 1977 to 2007* prescribed (11.05.1988) by *Customs and Excise (Miscellaneous Provisions) Act 1988* (10/1988), s. 2(1)(iii), commenced on enactment, as amended (23.08.2010) by *Criminal Justice (Psychoactive Substances) Act 2010* (22/2010), s. 22, S.I. No. 401 of 2010; 1988 Act to be repealed by *Customs Act 2015* (18/2015), s. 3(1) and sch. 1 part 1 item 44, not commenced as of date of revision.
- E6** Power to obtain search warrants in relation to potential evidence regarding suspected offences under *Misuse of Drugs Acts 1977 and 1984* prescribed (11.05.1988) by *Customs and Excise (Miscellaneous Provisions) Act 1988* (10/1988), s. 3(3), commenced on enactment; 1988 Act to be repealed by *Customs Act 2015* (18/2015), s. 3(1) and sch. 1 part 1 item 44, not commenced as of date of revision.
- E7** Evidential status of certificates purporting to be signed by an officer of Forensic Science Ireland in proceedings for offences under the Act designated (3.08.1984) by *Misuse of Drugs Act 1984* (18/1984), s. 10, S.I. No. 205 of 1984, as substituted (20.11.2015) by *Criminal Justice (Forensic Evidence and DNA Database System) Act 2014* (11/2014), s. 170, S.I. No. 508 of 2015.
- E8** An Post empowered to bring summary prosecutions for offences under Act in relation to any of its functions (13.07.1983) by *Postal and Telecommunications Services Act 1983* (24/1983), s. 5(4)(f), commenced on enactment.
- E9** Previous affecting provision: restriction on certain persons providing pharmaceutical services under *Pharmacy Acts 1875 to 1977*, *Misuse of Drugs Acts 1977 and 1984* or *Poisons Acts 1961 and 1977* imposed by *Pharmacy Act (Ireland) 1875* (1875, c. 57), s. 22A(4)(ii), as inserted (30.09.1987) by *European Communities (Recognition of Qualifications in Pharmacy) Regulations 1987* (S.I. No. 239 of 1987), reg. 3(b), in effect as per reg. 9; repealed (29.11.2008) by *Pharmacy Act 2007* (20/2007), s. 4 and sch. 4, S.I. No. 487 of 2008.
- E10** Previous affecting provision: certain nationals of EU member states deemed to be registered dentists for the purposes of the Act (1.04.1980) by *European Communities (Recognition of Dental Qualifications) Regulations 1980* (S.I. No. 90 of 1980), reg. 12(a)(ii), in effect as per reg. 2; revoked (14.07.2008) by *Recognition of Professional Qualifications of Dentists (Directive 2005/36/EC) Regulations 2008* (S.I. No. 263 of 2008), reg. 15, in effect as per reg. 1(2).

Interpretation.

1.—(1) In this Act—

F1[‘business’ includes a profession;]

F2[‘cannabis’ (except in ‘cannabis resin’) means any plant of the genus *Cannabis* or any part of any such plant (by whatever name designated) but includes neither cannabis resin nor any of the following products after separation from the rest of any such plant, namely—

- (a) mature stalk of any such plant,
- (b) fibre produced from such mature stalk, or
- (c) seed of any such plant;]

“cannabis resin” means the separated resin, whether crude or purified, obtained from any plant of the genus *Cannabis*;

“the Dental Board” means the Dental Board established under the Dentists Act, 1928;

“duly issued prescription” has the meaning assigned to it by section 18 of this Act;

“forged prescription” has the meaning assigned to it by section 18 of this Act;

F3[‘Irish Medicines Board’ means the Irish Medicines Board established under section 3 of the Irish Medicines Board Act 1995;]

“land” includes land covered wholly or partly with water;

“the Medical Registration Council” means the Medical Registration Council established under the Medical Practitioners Acts, 1927 to 1961;

“the Minister” means the Minister for Health;

F4[‘opium poppy’ means a plant of the species *Papaver somniferum L* or *Papaver bracteatum Lindl*;]

“pharmacist” means a registered pharmaceutical chemist, a registered dispensing chemist and druggist and a registered druggist;

“prepared opium” means opium prepared for smoking and includes dross and any other residues remaining after opium has been smoked;

“practitioner” means a registered medical practitioner, a registered dentist F5[, a registered veterinary surgeon and a registered nurse];

“prescribed” means prescribed by regulations made by the Minister under this Act;

“registered dentist” means a person registered in the register established under the Dentists Act, 1928;

“registered dispensing chemist and druggist” means a person registered in the register of dispensing chemists and druggists established under the Pharmacy Act, 1951;

“registered druggist” means a person registered in the register of registered druggists in Ireland established under the Pharmacy Act (Ireland), 1875, Amendment Act, 1890;

“registered medical practitioner” means a person registered in the register established under the Medical Practitioners Act, 1927;

F6[‘registered nurse’ means a person whose name is entered in the register of nurses maintained by An Bord Altranais under section 27 of the Nurses Act 1985;]

“registered pharmaceutical chemist” means a person registered in the register of pharmaceutical chemists for Ireland established under the Pharmacy Act (Ireland), 1875;

“registered veterinary surgeon” means a person registered in the register established under the Veterinary Surgeons Act, 1931;

“registration authority” means such one of the following as the context requires namely, the Dental Board, the Medical Registration Council and the Veterinary Council;

“the respondent” in relation to a reference under section 8 or section 9 of this Act means the practitioner in respect of whom the reference is made;

“special direction” has the meaning assigned to it by section 7 (2) of this Act;

“supply” includes giving without payment;

F7[‘temporary direction’ means a direction under section 9 of this Act;]

F8[‘vessel’ includes a hovercraft;]

“the Veterinary Council” means the Veterinary Council established under the Veterinary Surgeons Act, 1931.

(2) For the purposes of this Act any controlled drug, pipe, utensil or document of which a person has control and which is in the custody of another who is either under the person's control or, though not under the person's control, acts on his behalf, whether as an agent or otherwise, shall be regarded as being in the possession of the person, and the provisions of section 16 and section 18 together with the provisions of this Act relating to the possession of controlled drugs shall be construed and have effect in accordance with the foregoing.

#### Annotations

##### Amendments:

- F1** Inserted (1.05.2007) by *Irish Medicines Board (Miscellaneous Provisions) Act 2006 (3/2006)*, s. 3(a), S.I. No. 194 of 2007.
- F2** Substituted (3.08.1984) by *Misuse of Drugs Act 1984 (18/1984)*, s. 2(a), S.I. No. 205 of 1984.
- F3** Inserted (1.05.2007) by *Irish Medicines Board (Miscellaneous Provisions) Act 2006 (3/2006)*, s. 3(b), S.I. No. 194 of 2007.
- F4** Substituted (3.08.1984) by *Misuse of Drugs Act 1984 (18/1984)*, s. 2(b), S.I. No. 205 of 1984.
- F5** Substituted (1.05.2007) by *Irish Medicines Board (Miscellaneous Provisions) Act 2006 (3/2006)*, s. 3(c), S.I. No. 194 of 2007.
- F6** Inserted (1.05.2007) by *Irish Medicines Board (Miscellaneous Provisions) Act 2006 (3/2006)*, s. 3(d), S.I. No. 194 of 2007.
- F7** Substituted (3.08.1984) by *Misuse of Drugs Act 1984 (18/1984)*, s. 2(c), S.I. No. 205 of 1984.
- F8** Inserted (3.08.1984) by *Misuse of Drugs Act 1984 (18/1984)*, s. 2(d), S.I. No. 205 of 1984.
- F9** Inserted by *Misuse of Drugs (Amendment) Act 2016 (9/2016)*, s. 2, not commenced as of date of revision.
- F10** Substituted by *Misuse of Drugs (Amendment) Act 2016 (9/2016)*, s. 2, not commenced as of date of revision.
- C5** Prospective affecting provision: definition “registered midwife” inserted and definitions “registered nurse” and “practitioner” substituted by *Misuse of Drugs (Amendment) Act 2016 (9/2016)*, s. 2, not commenced as of date of revision.
- F9[“registered midwife” means a midwife whose name is entered in the midwives division of the register of nurses and midwives under the Nurses and Midwives Act 2011;]
- ...
- F10[“registered nurse” means a nurse whose name is entered in the nurses division of the register of nurses and midwives under the Nurses and Midwives Act 2011;]
- ...

F10[“practitioner” means a registered medical practitioner, a registered dentist, a registered veterinary surgeon, a registered nurse and a registered midwife;]

...

**Modifications (not altering text):**

- C6** References to a pharmaceutical chemist registered under the *Pharmacy Act (Ireland) 1875* or a dispensing chemist and druggist registered under the *Pharmacy Act 1951* construed (29.11.2008) by *Pharmacy Act 2007* (20/2007), s. 75(1), S.I. No. 487 of 2008.

**Interpretation of references to pharmaceutical chemists, persons keeping open shop, etc.**

**75.**— (1) Any reference (however expressed) in a prior enactment to a pharmaceutical chemist registered under the Pharmacy Act (Ireland) 1875 or a dispensing chemist and druggist registered under the Pharmacy Act 1951 shall be construed as a reference to a registered pharmacist.

...

- C7** References to a registered medical practitioner and the Medical Registration Council construed (3.07.2008) by *Medical Practitioners Act 2007* (25/2007), s. 108(1) and (3), S.I. No. 231 of 2008.

**Construction of references to registered medical practitioner and Medical Council, etc.**

**108.**— (1) Every reference to a registered medical practitioner contained in any enactment or any statutory instrument shall be construed as a reference to a registered medical practitioner within the meaning of *section 2*.

...

(3) Every reference to— ...

(b) the Medical Registration Council,

contained in any other enactment or any statutory instrument shall be construed as the Council within the meaning of *section 2*.

Controlled drugs. **2.**—(1) In this Act “controlled drug” means any substance, product or preparation (other than a substance, product or preparation specified in an order under subsection (3) of this section which is for the time being in force) which is either specified in the Schedule to this Act or is for the time being declared pursuant to subsection (2) of this section to be a controlled drug for the purposes of this Act.

(2) The Government may by order declare any substance, product or preparation (not being a substance, product or preparation specified in the Schedule to this Act) to be a controlled drug for the purposes of this Act and so long as an order under this subsection is in force, this Act shall have effect as regards any substance, product or preparation specified in the order as if the substance, product or preparation were specified in the said Schedule.

(3) The Government may by order declare that the provisions of this Act shall not apply in relation to a substance, product or preparation specified both in the order and in the Schedule to this Act, and so long as an order under this subsection is in force, this Act shall not apply in relation to a substance, product or preparation specified in the order.

(4) The Government may by order amend or revoke an order under this section (including an order made under this subsection).

**Annotations**

**Editorial Notes:**

- E11** Power pursuant to subs. (2) exercised (16.12.2014) by *Misuse of Drugs Act 1977 (Controlled Drugs) (Declaration) Order 2014* (S.I. No. 571 of 2014).

- E12** Power pursuant to subs. (2) exercised (1.11.2011) by *Misuse of Drugs Act 1977 (Controlled Drugs) (Declaration) Order 2011* (S.I. No. 551 of 2011), in effect as per art. 2.
- E13** Power pursuant to subs. (2) exercised (11.05.2010) by *Misuse of Drugs Act 1977 (Controlled Drugs) (Declaration) Order 2010* (S.I. No. 199 of 2010), in effect as per art. 2.
- E14** Power pursuant to subs. (2) exercised (31.03.2009) by *Misuse of Drugs Act 1977 (Controlled Drugs) (Declaration) Order 2009* (S.I. No. 121 of 2009).
- E15** Supply of samples and advertisement of controlled drugs under this section prohibited (23.07.2007) by *Medicinal Products (Control of Advertising) Regulations 2007* (S.I. No. 541 of 2007), regs. 10 and 22(2), in effect as per reg. 2.
- E16** Power pursuant to subs. (2) exercised (31.01.2006) by *Misuse of Drugs Act 1977 (Controlled Drugs) (Declaration) Order 2006* (S.I. No. 55 of 2006), in effect as per art. 1(2).
- E17** Power pursuant to subs. (2) exercised (9.11.1993) by *Misuse of Drugs Act, 1977 (Controlled Drugs) (Declaration) Order 1993* (S.I. No. 328 of 1993).
- E18** Power pursuant to subs. (2) exercised (29.09.1987 and 1.05.1988) by *Misuse of Drugs Act, 1977 (Controlled Drugs) (Declaration) Order 1987* (S.I. No. 251 of 1987), in effect as per art. 2.
- E19** Previous affecting provision: power pursuant to subs. (2) exercised (1.03.2004) by *Misuse of Drugs Act, 1977 (Controlled Drugs) (Declaration No. 4) Order 2004* (S.I. No. 78 of 2004), in effect as per art. 2; revoked (22.12.2009) by *European Communities (Control of Drug Precursors) Regulations 2009* (S.I. No. 558 of 2009), reg. 37(2)(b).
- E20** Previous affecting provision: power pursuant to subs. (2) exercised (4.02.2003) by *Misuse of Drugs Act, 1977 (Controlled Drugs) (Declaration No 3) Order 2003* (S.I. No. 43 of 2003); revoked (22.12.2009) by *European Communities (Control of Drug Precursors) Regulations 2009* (S.I. No. 558 of 2009), reg. 37(2)(a).
- E21** Previous affecting provision: supply of samples and advertisement of controlled drugs under this section prohibited (16.03.1993) by *Medical Preparations (Advertising) Regulations 1993* (S.I. No. 76 of 1993), regs. 5 and 14(3); revoked (23.07.2007) by *Medicinal Products (Control of Advertising) Regulations 2007* (S.I. No. 541 of 2007), reg. 3, in effect as per reg. 2.

Restriction on possession of controlled drugs.

**3.—(1)** Subject to subsection (3) of this section and section 4 (3) of this Act, a person shall not have a controlled drug in his possession.

(2) A person who has a controlled drug in his possession in contravention of subsection (1) of this section shall be guilty of an offence.

(3) The Minister may by order declare that subsection (1) of this section shall not apply to a controlled drug specified in the order, and for so long as an order under this subsection is in force the prohibition contained in the said subsection (1) shall not apply to a drug which is a controlled drug specified in the order.

(4) The Minister may by order amend or revoke an order under this section (including an order made under this subsection).

#### Annotations

#### Editorial Notes:

- E22** Power pursuant to section exercised (1.11.2011) by *Misuse of Drugs (Exemption) (Amendment) Order 2011* (S.I. No. 554 of 2011).
- E23** Power pursuant to section exercised (11.05.2010) by *Misuse of Drugs (Exemption) (Amendment) Order 2010* (S.I. No. 202 of 2010).

- E24** Power pursuant to section exercised (22.11.1993) by *Misuse of Drugs (Exemption) (Amendment) Order 1993* (S.I. No. 339 of 1993).
- E25** Power pursuant to section exercised (8.12.1988) by *Misuse of Drugs (Exemption) Order 1988* (S.I. No. 326 of 1988). Note that this SI was given statutory status (12.03.2015) by *Misuse Of Drugs (Amendment) Act 2015* (6/2015), s. 2 and sch. 2, commenced as per s. 1(3). It was revoked by *Misuse of Drugs (Amendment) Act 2016* (9/2016), s. 7(c), not commenced as of date of revision.
- E26** Power pursuant to section exercised (16.10.1987) by *Misuse of Drugs (Exemption) (Amendment) Order 1987* (S.I. No. 264 of 1987).
- E27** Previous affecting provision: power pursuant to section exercised (31.01.2006) by *Misuse of Drugs (Exemption) (Amendment) Order 2006* (S.I. No. 54 of 2006); revoked (11.05.2010) by *Misuse of Drugs (Exemption) (Amendment) Order 2010* (S.I. No. 202 of 2010), art. 4.
- E28** Previous affecting provision: power pursuant to section exercised (1.03.2004) by *Misuse of Drugs (Scheduled Substances) (Exemption) Order 2004* (S.I. No. 91 of 2004); revoked (22.12.2009) by *European Communities (Control of Drug Precursors) Regulations 2009* (S.I. No. 558 of 2009), reg. 37(1)(d).
- E29** Previous affecting provision: power pursuant to section exercised (29.04.2003) by *Misuse of Drugs (Scheduled Substances) (Exemption) (Amendment) Order 2003* (S.I. No. 169 of 2003); revoked (1.03.2004) by *Misuse of Drugs (Scheduled Substances) (Exemption) Order 2004* (S.I. No. 91 of 2004), art. 3.
- E30** Previous affecting provision: power pursuant to section exercised (4.02.2003) by *Misuse of Drugs (Exemption) (Amendment) Order 2003* (S.I. No. 42 of 2003); revoked (29.04.2003) by *Misuse of Drugs (Scheduled Substances) (Exemption) (Amendment) Order 2003* (S.I. No. 169 of 2003), art. 3.
- E31** Previous affecting provision: power pursuant to section exercised (22.11.1993) by *Misuse of Drugs (Scheduled Substances) (Exemption) Order 1993* (S.I. No. 341 of 1993); revoked (1.03.2004) by *Misuse of Drugs (Scheduled Substances) (Exemption) Order 2004* (S.I. No. 91 of 2004), art. 3.
- E32** Previous affecting provision: power pursuant to section exercised (1.06.1979) by *Misuse of Drugs (Exemption) Order 1979* (S.I. No. 29 of 1979), in effect as per art. 2; revoked (8.12.1988) by *Misuse of Drugs (Exemption) Order 1988* (S.I. No. 326 of 1988), art. 2.

Regulations permitting possession of controlled drugs.

**4.—(1)** The Minister may make regulations enabling any person, or persons of a prescribed class or description, in prescribed circumstances or for prescribed purposes, to possess a controlled drug subject to such conditions (if any), or subject to and in accordance with such licence, as may be prescribed.

(2) Subject to section 13 of this Act, the Minister shall exercise his power to make regulations under this section so as to secure that it is not unlawful under this Act for a practitioner or pharmacist to have a controlled drug in his possession for the purpose of his profession or business.

(3) It shall be lawful for any person, or a person of a class or description specified in regulations under this section, to have in his possession in prescribed circumstances or for prescribed purposes, as may be appropriate, a controlled drug specified therein, provided that any conditions specified in the regulations or attached to a licence granted under this Act and applicable in the particular case are complied with by him.

#### Annotations

#### Editorial Notes:

- E33** Power pursuant to section exercised (17.12.2014) by *Misuse of Drugs (Amendment) (No. 2) Regulations 2014* (S.I. No. 583 of 2014).

- E34** Power pursuant to section exercised (11.07.2014) by *Misuse of Drugs (Amendment) Regulations 2014* (S.I. No. 323 of 2014).
- E35** Power pursuant to section exercised (1.11.2011) by *Misuse of Drugs (Amendment) Regulations 2011* (S.I. No. 552 of 2011).
- E36** Power pursuant to section exercised (11.05.2010) by *Misuse of Drugs (Amendment) Regulations 2010* (S.I. No. 200 of 2010).
- E37** Power pursuant to section exercised (31.03.2009) by *Misuse of Drugs (Amendment) (No. 2) Regulations 2009* (S.I. No. 122 of 2009).
- E38** Power pursuant to section exercised (20.02.2009) by *Misuse of Drugs (Amendment) Regulations 2009* (S.I. No. 63 of 2009).
- E39** Power pursuant to section exercised (1.05.2007) by *Misuse of Drugs (Amendment) Regulations 2007* (S.I. No. 200 of 2007).
- E40** Power pursuant to section exercised (31.01.2006) by *Misuse of Drugs (Amendment) Regulations 2006* (S.I. No. 53 of 2006), in effect as per reg. 2.
- E41** Power pursuant to section exercised (22.11.1993) by *Misuse of Drugs (Amendment) Regulations 1993* (S.I. No. 342 of 1993).
- E42** Power pursuant to section exercised (8.12.1988) by *Misuse of Drugs Regulations 1988* (S.I. No. 328 of 1988). Note that this SI was given statutory status (12.03.2015) by *Misuse Of Drugs (Amendment) Act 2015* (6/2015), s. 2 and sch. 2, commenced as per s. 1(3). It was revoked by *Misuse of Drugs (Amendment) Act 2016* (9/2016), s. 7(d), not commenced as of date of revision.
- E43** Power pursuant to section exercised (1.03.1983) by *Misuse of Drugs (Safe Custody) Regulations 1982* (S.I. No. 321 of 1982). Note that this SI was given statutory status (12.03.2015) by *Misuse Of Drugs (Amendment) Act 2015* (6/2015), s. 2 and sch. 2, commenced as per s. 1(3). It was revoked by *Misuse of Drugs (Amendment) Act 2016* (9/2016), s. 7(b), not commenced as of date of revision.
- E44** Previous affecting provision: power pursuant to section exercised (1.03.2004) by *Misuse of Drugs (Scheduled Substances) (Amendment) Regulations 2004* (S.I. No. 92 of 2004); revoked (22.12.2009) by *European Communities (Control of Drug Precursors) Regulations 2009* (S.I. No. 558 of 2009), reg. 37(1)(c).
- E45** Previous affecting provision: power pursuant to section exercised (4.02.2003) by *Misuse of Drugs (Scheduled Substances) (Amendment) Regulations 2003* (S.I. No. 41 of 2003); revoked (1.03.2004) by *Misuse of Drugs (Scheduled Substances) (Amendment) Regulations 2004* (S.I. No. 92 of 2004), reg. 2.
- E46** Previous affecting provision: power pursuant to section exercised (22.11.1993) by *Misuse of Drugs (Scheduled substances) Regulations 1993* (S.I. No. 338 of 1993); revoked (22.12.2009) by *European Communities (Control of Drug Precursors) Regulations 2009* (S.I. No. 558 of 2009), reg. 37(1)(b).
- E47** Previous affecting provision: power pursuant to section exercised (16.10.1987) by *Misuse of Drugs (Amendment) Regulations 1987* (S.I. No. 263 of 1987); revoked (8.12.1988) by *Misuse of Drugs Regulations 1988* (S.I. No. 328 of 1988), reg. 2.
- E48** Previous affecting provision: power pursuant to section exercised (1.05.1979) by *Misuse of Drugs Regulations 1979* (S.I. No. 32 of 1979), in effect as per reg. 2; revoked (8.12.1988) by *Misuse of Drugs Regulations 1988* (S.I. No. 328 of 1988), reg. 2.

Regulations to prevent misuse of controlled drugs.

**5.—(1)** For the purpose of preventing the misuse of controlled drugs, the Minister may make regulations—

(a) prohibiting absolutely, or permitting subject to such conditions or exceptions as may be specified in the regulations, or subject to any licence, permit or other form of authority as may be so specified—

(i) the manufacture, production or preparation of controlled drugs,

- (ii) the importation or exportation of controlled drugs,
  - (iii) the supply, the offering to supply or the distribution of controlled drugs,
  - (iv) the transportation of controlled drugs,
- (b) requiring prescribed documents to be used in a prescribed manner in relation to prescribed transactions concerning controlled drugs and requiring copies of such documents to be furnished to prescribed persons, or to persons of a prescribed class or description,
- (c) requiring prescribed precautions to be taken for the purpose of ensuring the safe custody of controlled drugs,
- (d) requiring prescribed records to be kept in relation to controlled drugs and regulations under this section may specify the manner in which the records are to be kept and maintained and such regulations may also provide for the furnishing of information relating to such records in such circumstances and in such manner as may be prescribed,
- (e) providing for the inspection by prescribed persons of precautions taken or records kept in pursuance of regulations under this section,
- F11[(f) subject to subsection (1A) of this section, regulating the issue by—
- (i) registered medical practitioners, registered dentists or registered veterinary surgeons, or
  - (ii) registered nurses, or registered nurses belonging to a class of registered nurses,
- of prescriptions for controlled drugs and the supply of controlled drugs on prescription,]
- (g) requiring persons dispensing prescriptions for controlled drugs to furnish to the Minister such information relating to those prescriptions as may be prescribed,
- (h) regulating or controlling the packaging and labelling of controlled drugs and such regulations may in particular require prescribed particulars relating to controlled drugs or a prescribed statement (including a warning or caution) relating to such drugs to be printed either on the outside of any packet or container used in the sale, supply or distribution of controlled drugs or on a label attached to such packet or container,
- (i) requiring that any controlled drugs which, because of their condition or for any other reason, are not intended to be used shall be destroyed or disposed of in a prescribed manner,
- (j) requiring any manufacturer, manufacturer's agent or wholesaler who wishes to withdraw a controlled drug from public sale to give six months notice of such proposed withdrawal unless the Minister is satisfied that it is in the public interest that such controlled drug should be withdrawn at such shorter notice as the Minister may determine.

F12[(1A) The Minister shall only exercise the power to make regulations under subsection (1)(f) of this section in the case of registered nurses, or registered nurses belonging to a class of registered nurses, if the Minister, after having had regard to the nature and purpose of the controlled drug concerned (including any deleterious effects which may arise from the misuse thereof), is satisfied that it is reasonably safe to permit the issue by registered nurses, or registered nurses belonging to a class of registered nurses, of prescriptions for that drug.]

(2) Subject to *section 13* of this Act, the Minister shall exercise his power to make regulations under this section so as to secure that it is not unlawful under this Act for—

- (a) a practitioner F13[(other than a registered nurse)], for the purpose of his profession, to prescribe, administer, manufacture, compound or supply a controlled drug,
- (b) a pharmacist, for the purpose of his profession or business, to F14[...] manufacture, compound or supply a controlled drug,

provided that nothing in this subsection shall be construed as enabling the Minister to make regulations under this Act authorising a registered druggist to keep open shop for the compounding or dispensing of medical prescriptions.

F15[(3) Subject to *section 13* of this Act, the Minister may exercise the Minister's power to make regulations under this section so as to secure that it is not unlawful under this Act for a practitioner who is a registered nurse, or a practitioner who is a registered nurse belonging to a class of registered nurses, for the purpose of the practitioner's profession as a registered nurse, to prescribe, administer, manufacture, compound or supply a controlled drug if the Minister, after having had regard to the nature and purpose of the controlled drug (including any deleterious effects which may arise from the misuse thereof), is satisfied that it is reasonably safe to permit the practitioner, for the purpose of the practitioner's profession as a registered nurse, to prescribe, administer, manufacture, compound or supply that controlled drug.]

#### Annotations

#### Amendments:

- F11** Substituted (1.05.2007) by *Irish Medicines Board (Miscellaneous Provisions) Act 2006 (3/2006)*, s. 4(a), S.I. No. 194 of 2007.
- F12** Inserted (1.05.2007) by *Irish Medicines Board (Miscellaneous Provisions) Act 2006 (3/2006)*, s. 4(b), S.I. No. 194 of 2007.
- F13** Inserted (1.05.2007) by *Irish Medicines Board (Miscellaneous Provisions) Act 2006 (3/2006)*, s. 4(c), S.I. No. 194 of 2007.
- F14** Deleted (3.08.1984) by *Misuse of Drugs Act 1984 (18/1984)*, s. 15(a), S.I. No. 205 of 1984.
- F15** Inserted (1.05.2007) by *Irish Medicines Board (Miscellaneous Provisions) Act 2006 (3/2006)*, s. 4(d), S.I. No. 194 of 2007.
- F16** Substituted by *Misuse of Drugs (Amendment) Act 2016 (9/2016)*, s. 3, not commenced as of date of revision.
- F17** Substituted by *Misuse of Drugs (Amendment) Act 2016 (9/2016)*, s. 3, not commenced as of date of revision.
- F18** Inserted by *Misuse of Drugs (Amendment) Act 2016 (9/2016)*, s. 3, not commenced as of date of revision.

#### Modifications (not altering text):

- C8** Prospective affecting provision: subs. (1)(f), (1A) and (3) substituted, subs. (2)(a) amended and subs. (4) inserted by *Misuse of Drugs (Amendment) Act 2016 (9/2016)*, s. 3, not commenced as of date of revision.

5.—(1) For the purpose of preventing the misuse of controlled drugs, the Minister may make regulations—

...

F16[(f) subject to *subsection (1A)*, regulating the issue of prescriptions for controlled drugs and the supply of controlled drugs on prescription by—

- (i) registered medical practitioners, registered dentists or registered veterinary surgeons,
- (ii) relevant nurses, or
- (iii) relevant midwives,]

...

F16[(1A) The Minister shall not make regulations under *subsection (1)(f)(ii) or (iii)* unless the Minister, having had regard to the nature and purpose of the controlled drug (including any deleterious effects which may arise from the misuse thereof), is satisfied that it is reasonably safe to permit the issue of prescriptions for that controlled drug by relevant nurses or relevant midwives.]

(2) Subject to *section 13* of this Act, the Minister shall exercise his power to make regulations under this section so as to secure that it is not unlawful under this Act for—

- (a) a practitioner F17[(other than a relevant nurse or a relevant midwife)], for the purpose of his profession, to prescribe, administer, manufacture, compound or supply a controlled drug,

...

F16[(3) Subject to *section 13*, the Minister may make regulations under this section so as to secure that it is not unlawful under this Act for a practitioner who is a relevant nurse or a relevant midwife, for the purpose of the practitioner's profession as a relevant nurse or a relevant midwife, to prescribe, administer or supply a controlled drug if the Minister, after having had regard to the nature and purpose of the controlled drug (including any deleterious effects which may arise from the misuse thereof), is satisfied that it is reasonably safe to permit the practitioner, for the purpose of the practitioner's profession as a relevant nurse or a relevant midwife, to prescribe, administer or supply that controlled drug.]

F18[(4) In this section—

'relevant midwife' means a registered midwife or a class of registered midwives;

'relevant nurse' means a registered nurse or a class of registered nurses.]

- C9** Reference to registered medical practitioners construed (3.07.2008) by *Medical Practitioners Act 2007* (25/2007), s. 108(1), S.I. No. 231 of 2008.

**Construction of references to registered medical practitioner and Medical Council, etc.**

**108.**— (1) Every reference to a registered medical practitioner contained in any enactment or any statutory instrument shall be construed as a reference to a registered medical practitioner within the meaning of *section 2*.

- C10** References to a person dispensing prescriptions for controlled drugs under *Pharmacy Act (Ireland) 1875* or a dispensing chemist and druggist registered under the *Pharmacy Act 1951* construed (29.11.2008) by *Pharmacy Act 2007* (20/2007), s. 75(2), S.I. No. 487 of 2008.

**Interpretation of references to pharmaceutical chemists, persons keeping open shop, etc.**

**75.**— ...

(2) Any reference (however expressed) in a prior enactment to a person who is keeping open shop for the dispensing or compounding of medical prescriptions under the Pharmacy Acts 1875 to 1977—

- (a) where that person is, in relation to a pharmacist, a representative within the meaning given by *section 25(2)*, shall be construed as a reference to such a representative, and
- (b) in any other case, shall be construed as a reference to a registered retail pharmacy business.

**Editorial Notes:**

- E49** Power pursuant to section exercised (17.12.2014) by *Misuse of Drugs (Amendment) (No. 2) Regulations 2014* (S.I. No. 583 of 2014).

- E50** Power pursuant to section exercised (11.07.2014) by *Misuse of Drugs (Amendment) Regulations 2014* (S.I. No. 323 of 2014).
- E51** Power pursuant to section exercised (1.11.2011) by *Misuse of Drugs (Amendment) Regulations 2011* (S.I. No. 552 of 2011).
- E52** Power pursuant to section exercised (20.12.2010) by *Misuse of Drugs (Amendment) (No. 2) Regulations 2010* (S.I. No. 607 of 2010).
- E53** Power pursuant to section exercised (11.06.2010) by *Misuse of Drugs (Amendment) Regulations 2010* (S.I. No. 200 of 2010).
- E54** Power pursuant to section exercised (31.03.2009) by *Misuse of Drugs (Amendment) (No. 2) Regulations 2009* (S.I. No. 122 of 2009).
- E55** Power pursuant to section exercised (1.05.2007) by *Misuse of Drugs (Amendment) Regulations 2007* (S.I. No. 200 of 2007).
- E56** Power pursuant to section exercised (31.01.2006) by *Misuse of Drugs (Amendment) Regulations 2006* (S.I. No. 53 of 2006), in effect as per reg. 2.
- E57** Power pursuant to section exercised (27.08.1999) by *Misuse of Drugs (Amendment No. 1) Regulations 1999* (S.I. No. 273 of 1999).
- E58** Power pursuant to section exercised (16.07.1998) by *Misuse of Drugs (Supervision of Prescription and Supply of Methadone) Regulations 1998* (S.I. No. 225 of 1998), in effect as per reg. 1(2). Note that this SI was given statutory status (12.03.2015) by *Misuse Of Drugs (Amendment) Act 2015* (6/2015), s. 2 and sch. 2, commenced as per s. 1(3). It was revoked by *Misuse of Drugs (Amendment) Act 2016* (9/2016), s. 7(f), not commenced as of date of revision.
- E59** Offence created in respect of ships used for drug trafficking in contravention of subs. (1)(a)(ii) (15.11.1996) by *Criminal Justice Act 1994* (15/1994), s. 34(2), S.I. No. 333 of 1996.
- E60** Offence under regulations made under section designated drug trafficking offence (14.11.1994) for purposes of *Criminal Justice Act 1994* (15/1994), s. 3(1), S.I. No. 324 of 1994.
- E61** Power pursuant to section exercised (22.11.1993) by *Misuse of Drugs (Amendment) Regulations 1993* (S.I. No. 342 of 1993).
- E62** Power pursuant to section exercised (8.12.1988) by *Misuse of Drugs Regulations 1988* (S.I. No. 328 of 1988). Note that this SI was given statutory status (12.03.2015) by *Misuse Of Drugs (Amendment) Act 2015* (6/2015), s. 2 and sch. 2, commenced as per s. 1(3).
- E63** Penalties prescribed for offences under Customs Acts where controlled drug imported for purpose of supply in contravention of regulations under section (3.08.1984) by *Misuse of Drugs Act 1984* (18/1984), s. 7(1)(a), S.I. No. 205 of 1984.
- E64** Power pursuant to section exercised (1.03.1983) by *Misuse of Drugs (Safe Custody) Regulations 1982* (S.I. No. 321 of 1982), in effect as per reg. 2. Note that this SI was given statutory status (12.03.2015) by *Misuse Of Drugs (Amendment) Act 2015* (6/2015), s. 2 and sch. 2, commenced as per s. 1(3).
- E65** Previous affecting provision: power pursuant to section exercised (1.03.2004) by *Misuse of Drugs (Scheduled Substances) (Amendment) Regulations 2004* (S.I. No. 92 of 2004); revoked (22.12.2009) by *European Communities (Control of Drug Precursors) Regulations 2009* (S.I. No. 558 of 2009), reg. 37(1)(c).
- E66** Previous affecting provision: power pursuant to section exercised (4.02.2003) by *Misuse of Drugs (Scheduled Substances) (Amendment) Regulations 2003* (S.I. No. 41 of 2003); revoked (1.03.2004) by *Misuse of Drugs (Scheduled Substances) (Amendment) Regulations 2004* (S.I. No. 92 of 2004), reg. 2.
- E67** Previous affecting provision: power pursuant to section exercised (22.11.1993) by *Misuse of Drugs (Scheduled substances) Regulations 1993* (S.I. No. 338 of 1993); revoked (22.12.2009) by *European Communities (Control of Drug Precursors) Regulations 2009* (S.I. No. 558 of 2009), reg. 37(1)(b).

- E68** Previous affecting provision: power pursuant to section exercised (16.10.1987) by *Misuse of Drugs (Amendment) Regulations 1987* (S.I. No. 263 of 1987); revoked (8.12.1988) by *Misuse of Drugs Regulations 1988* (S.I. No. 328 of 1988), reg. 2.
- E69** Previous affecting provision: power pursuant to section exercised (1.05.1979) by *Misuse of Drugs Regulations 1979* (S.I. No. 32 of 1979), in effect as per reg. 2; revoked (8.12.1988) by *Misuse of Drugs Regulations 1988* (S.I. No. 328 of 1988), reg. 2.

Directions prohibiting prescribing, supply etc. of controlled drugs by practitioners or pharmacists convicted of offences.

**6.—(1)** Where a practitioner or pharmacist has after the commencement of this subsection been convicted of—

- (a) an offence under this Act, or
- (b) an offence against the Customs Acts in relation to the importation or exportation of a controlled drug,

the Minister may give a direction under *subsection (2)* of this section in respect of that person.

**F19[(1A)** Where a relevant person has after the commencement of this subsection been convicted of—

- (a) an offence under this Act, or
- (b) an offence against the Customs Acts in relation to the importation or exportation of a controlled drug,

the Minister may give a direction under *subsection (2)* of this section in respect of that person.]

(2) A direction under this subsection shall—

- (a) in case the direction relates to a practitioner, be a direction prohibiting him from having in his possession, prescribing, administering, manufacturing, compounding and supplying and from authorising the administration and supply of such controlled drugs as may be specified in the direction,
- (b) in case the direction relates to a pharmacist **F20[or relevant person, be a direction prohibiting the pharmacist or relevant person, as the case may be, from having in the pharmacist's or relevant person's, as the case may be,]** possession, manufacturing, compounding and supplying and from supervising and controlling the manufacture, compounding and supply of such controlled drugs as may be specified in the direction.

(3) The Minister may at any time give a direction cancelling or suspending any direction given by him under *subsection (2)* of this section, or cancelling any direction of his under this subsection by which a direction so given is suspended.

(4) The Minister shall cause a copy of any direction given by him under this section to be served on the person to whom it applies and shall cause notice of any such direction to be published in the *Iris Oifigiúil* and in such other manner (if any) as the Minister may consider appropriate.

(5) A direction under this section shall take effect when a copy of it is served on the person to whom it applies.

(6) Any person who contravenes a direction given under this section shall be guilty of an offence.

**F21[(7)** In this section, 'relevant person' means—

(a) a person, not being a pharmacist, keeping open shop for the dispensing or compounding of medical prescriptions in accordance with the provisions of the Pharmacy Acts 1875 to 1977, or

(b) any director, manager, secretary or other official of a person referred to in paragraph (a) of this definition which is a body corporate.]

#### Annotations

#### Amendments:

**F19** Inserted (1.12.2013) by *Irish Medicines Board (Miscellaneous Provisions) Act 2006 (3/2006)*, s. 5(a), S.I. No. 453 of 2013.

**F20** Substituted (1.12.2013) by *Irish Medicines Board (Miscellaneous Provisions) Act 2006 (3/2006)*, s. 5(b), S.I. No. 453 of 2013.

**F21** Inserted (1.12.2013) by *Irish Medicines Board (Miscellaneous Provisions) Act 2006 (3/2006)*, s. 5(c), S.I. No. 453 of 2013.

#### Modifications (not altering text):

**C11** References to a person dispensing prescriptions for controlled drugs under the *Pharmacy Acts 1875 to 1977* construed (29.11.2008) by *Pharmacy Acts 2007 (20/2007)*, s. 75(2), S.I. No. 487 of 2008.

#### Interpretation of references to pharmaceutical chemists, persons keeping open shop, etc.

75.— ...

(2) Any reference (however expressed) in a prior enactment to a person who is keeping open shop for the dispensing or compounding of medical prescriptions under the Pharmacy Acts 1875 to 1977—

(a) where that person is, in relation to a pharmacist, a representative within the meaning given by *section 25(2)*, shall be construed as a reference to such a representative, and

(b) in any other case, shall be construed as a reference to a registered retail pharmacy business.

Special directions prohibiting prescribing etc. of controlled drug in certain cases.

7.—(1) If the Minister believes that a practitioner is or has been, after the commencement of this section, prescribing, administering or supplying, or authorising the administration or supply of any controlled drug in an irresponsible manner, subject to the provisions of this Act, he may give a direction in respect of the practitioner prohibiting him prescribing, administering or supplying or authorising the administration or supply of such controlled drugs as may be specified in the direction.

(2) A direction given pursuant to this section (in this Act subsequently referred to as a special direction) shall come into force when a copy of it is given to the practitioner to whom it relates and, subject to subsection (3) of this section and section 11 (1) of this Act, the special direction shall remain in operation until it is cancelled.

(3) The Minister may F22[...] suspend the operation of a special direction.

(4) The Minister may F22[...] cancel a special direction.

(5) Where the Minister suspends the operation of or cancels a special direction, he shall cause notice to that effect to be given to the practitioner to whom the special direction applies and, as soon as may be, cause notice of the suspension or cancellation to be published in the *Iris Oifigiúil*.

(6) A person who contravenes a special direction shall be guilty of an offence.

**Annotations****Amendments:**

**F22** Deleted (3.08.1984) by *Misuse of Drugs Act 1984* (18/1984), s. 15(b), S.I. No. 205 of 1984.

Investigation of cases where Minister considers there are grounds for special direction.

**F23[8.—(1)** If the Minister considers that there may be grounds for giving a special direction, he shall forthwith establish a committee of inquiry, constituted in accordance with any regulations under *section 12* of this Act which apply to it, and as soon as may be after such committee is established he shall refer the matter in question to the committee for investigation and when making the reference send to the committee a statement of such grounds, and it shall be the duty of the committee in accordance with this section to investigate the matter referred to it and to report on it to the Minister.

(2) Where the Minister sends a statement of grounds to a committee of inquiry established pursuant to this section, he shall at the same time send to the respondent a copy of the statement and invite him to submit to the committee in writing, within the period of twenty-one days commencing on the date on which the statement is sent to the committee, any representations relating to the matter to be investigated which he may then wish to make.

(3) (a) Where a committee of inquiry is established under this section, a meeting of the committee of inquiry shall be convened by the Minister who shall at the same time fix a day for the meeting, being a day which is neither earlier than the seventh day after the expiration of the period referred to in *subsection (2)* of this section nor later than the twenty-first day after such expiration.

(b) Where the Minister convenes a meeting under this subsection, he shall at the same time send to the respondent not less than seven days' notice in writing of the date, place and time fixed by the Minister for the meeting and the notice shall also notify the respondent that he may make representations to, and if he so wishes appear in person before, the committee of inquiry concerned, be assisted by another person (whether so appearing or not) in making such representations or have such representations made by another person (whether so appearing or not) acting on his behalf.

(4) A committee of inquiry established under this section shall report to the Minister on its investigation as soon as may be and shall state in the report whether or not they recommend the giving of a special direction as regards the matter being investigated, and in case the committee recommends the giving of such a direction they shall indicate in their report either the controlled drugs which the committee considers should be specified in the relevant special direction or that the committee considers that such direction should apply to all controlled drugs.

(5) Having considered the report of the committee of inquiry established under this section, the Minister may—

(a) decide to give in respect of the respondent a special direction specifying all or any of the controlled drugs indicated in a recommendation of the committee, or

(b) decide not to give a special direction,

and in case the Minister pursuant to this section decides not to give a special direction, he shall notify the respondent accordingly.

(6) Where the Minister gives a special direction, he shall, as soon as may be, cause a copy of the special direction to be served on the respondent and shall cause a copy

of the direction to be published in the *Iris Oifigiúil* and in such other manner (if any) as the Minister may consider appropriate.

(7) Where the Minister gives a special direction, he shall send a copy of the report received by him from the relevant committee of inquiry and the special direction to the respondent and also to—

(a) in case the respondent is a registered dentist, the Dental Board,

(b) in case the respondent is a registered medical practitioner, the Medical Council,

(c) in case the respondent is a registered veterinary surgeon, the Veterinary F24[Council,]

F25[(d) in case the practitioner concerned is a registered nurse, to An Bord Altranais,]

#### Annotations

#### Amendments:

**F23** Substituted (1.10.1984) by *Misuse of Drugs Act 1984* (18/1984), s. 3, S.I. No. 205 of 1984.

**F24** Substituted (1.12.2013) by *Irish Medicines Board (Miscellaneous Provisions) Act 2006* (3/2006), s. 6(a), S.I. No. 453 of 2013.

**F25** Inserted (1.12.2013) by *Irish Medicines Board (Miscellaneous Provisions) Act 2006* (3/2006), s. 6(b), S.I. No. 453 of 2013.

#### Modifications (not altering text):

**C12** References to a registered medical practitioner and the Medical Council construed (3.07.2008) by *Medical Practitioners Act 2007* (25/2007), s. 108(1) and (3), S.I. No. 231 of 2008.

#### Construction of references to registered medical practitioner and Medical Council, etc.

**108.**— (1) Every reference to a registered medical practitioner contained in any enactment or any statutory instrument shall be construed as a reference to a registered medical practitioner within the meaning of *section 2*.

...

(3) Every reference to—

(a) the Medical Council, or

...

contained in any other enactment or any statutory instrument shall be construed as the Council within the meaning of *section 2*.

#### Editorial Notes:

**E70** Power pursuant to section exercised (23.10.1984) by *Misuse of Drugs (Committees of Inquiry) Regulations 1984* (S.I. No. 264 of 1984).

**E71** Previous affecting provision: power pursuant to section exercised (1.05.1979) by *Misuse of Drugs (Committees of Inquiry, Advisory Committees and Advisory Panels) Regulations 1979* (S.I. No. 31 of 1979), in effect as per reg. 2; revoked (23.10.1984) by *Misuse of Drugs (Committees of Inquiry) Regulations 1984* (S.I. No. 264 of 1984), reg. 8.

Prohibition of prescribing etc. in cases of urgency.

**F26[9.—(1)** Where the Minister refers a matter for investigation to a committee of inquiry established under *section 8* of this Act, he may give a direction under this section in respect of the respondent prohibiting his prescribing, administering or supplying or authorising the administration or supply of such controlled drugs as may

be specified in the direction, and such direction shall come into force on the expiration of the period of seven days beginning on the day on which a copy of the direction is sent by the Minister to the respondent unless, not later than the seventh day following the day on which such copy is so sent, the respondent satisfies the Minister that the direction should not come into force.

(2) In case a copy of a temporary direction is sent by the Minister, the Minister shall at the same time send to the respondent a notice in writing stating that the respondent may, within the time limit specified in *subsection (1)* of this section, make representations to the Minister stating why the temporary direction should not come into force.

(3) A temporary direction shall remain in force until the expiration of the period of twenty-eight days beginning on the day on which it is given or until the Minister makes a decision under *section 8 (5)* of this Act as regards the relevant case, whichever first occurs.

(4) The Minister may extend or further extend, in either case for a period not exceeding twenty-eight days, the period during which a particular temporary direction is to remain in force.

(5) Where a temporary direction is given, extended or further extended, the Minister shall, as soon as may be, cause a notice of the temporary direction, its extension or further extension, as may be appropriate, to be published in the *Iris Oifigiúil* and in such other manner (if any) as the Minister may consider appropriate.]

#### Annotations

#### Amendments:

**F26** Substituted (1.10.1984) by *Misuse of Drugs Act 1984* (18/1984), s. 4, S.I. No. 205 of 1984.

#### Editorial Notes:

**E72** Previous affecting provision: power pursuant to section exercised (1.05.1979) by *Misuse of Drugs (Committees of Inquiry, Advisory Committees and Advisory Panels) Regulations 1979* (S.I. No. 31 of 1979), in effect as per reg. 2; revoked (23.10.1984) by *Misuse of Drugs (Committees of Inquiry) Regulations 1984* (S.I. No. 264 of 1984), reg. 8.

Investigation on initiative of Dental Board, Medical Registration Council or Veterinary Council.

**10.—F27[...]**

#### Annotations

#### Amendments:

**F27** Repealed (3.08.1984) by *Misuse of Drugs Act 1984* (18/1984), s. 15(c), S.I. No. 205 of 1984.

**Editorial Notes:**

- E73** Previous affecting provision: power pursuant to section exercised (1.05.1979) by *Misuse of Drugs (Committees of Inquiry, Advisory Committees and Advisory Panels) Regulations 1979* (S.I. No. 31 of 1979), in effect as per reg. 2; revoked (23.10.1984) by *Misuse of Drugs (Committees of Inquiry) Regulations 1984* (S.I. No. 264 of 1984), reg. 8.

## Appeals.

**11.—(1)** Any practitioner or pharmacist who is aggrieved by a direction under *section 6 (2)* of this Act, a special direction or a temporary direction may, not later than three weeks after the day on which the direction under the said *section 6 (2)*, special direction or temporary direction, as the case may be, comes into force, appeal to the High Court, and that Court may—

(a) by interim order suspend the operation of the direction under the said *section 6 (2)*, special direction or temporary direction, either generally or in a particular respect, until the final determination of the proceedings,

(b) confirm the direction under the said *section 6 (2)*, special direction or temporary direction with or without modification or cancel it.

(2) Where a direction under *section 6 (2)* of this Act, special direction or temporary direction is suspended or cancelled or confirmed with modifications by the High Court, the order of the Court shall not prejudice the validity of anything done on foot of the direction prior to the making of the order.

(3) Where a direction under *section 6 (2)* of this Act, special direction or temporary direction is suspended or cancelled by the High Court, the Minister shall as soon as may be cause notice thereof to be published in the *Iris Oifigiúil*.

## Regulations (committees and panels).

**12.—(1)** The Minister may, after consultation with any registration authority concerned, make regulations in relation to the constitution and procedure of committees of inquiry F28[...] established pursuant to *section 8* F28[...] of this Act.

(2) Subject to the provisions of this Act and to any regulations made by the Minister under this section and which apply to it, a committee F29[...] referred to in *subsection (1)* of this section may regulate its procedure and business.

**Annotations****Amendments:**

**F28** Deleted (3.08.1984) by *Misuse of Drugs Act 1984* (18/1984), s. 15(d), S.I. No. 205 of 1984.

**F29** Deleted (3.08.1984) by *Misuse of Drugs Act 1984* (18/1984), s. 15(e), S.I. No. 205 of 1984.

**Editorial Notes:**

**E74** Power pursuant to section exercised (23.10.1984) by *Misuse of Drugs (Committees of Inquiry) Regulations 1984* (S.I. No. 264 of 1984).

**E75** Previous affecting provision: power pursuant to section exercised (1.05.1979) by *Misuse of Drugs (Committees of Inquiry, Advisory Committees and Advisory Panels) Regulations 1979* (S.I. No. 31 of 1979), in effect as per reg. 2; revoked (23.10.1984) by *Misuse of Drugs (Committees of Inquiry) Regulations 1984* (S.I. No. 264 of 1984), reg. 8.

Additional powers in relation to certain controlled drugs.

**13.—(1)** If in the case of any controlled drug the Minister is of the opinion that it is in the public interest—

(a) for the manufacture, production, preparation, sale, supply, distribution and possession of that drug to be either wholly unlawful or unlawful except for purposes of research or for other special purposes specified in an order under this section, or

(b) for it to be unlawful for any person who is either a practitioner or a pharmacist to have in his possession or to do in relation to that drug any of the things mentioned in *section 5 (2)* of this Act except under a licence or other authority issued by the Minister,

he may by order designate that drug as a drug to which this subsection applies, and while there is in force an order under this section designating a controlled drug as one to which this subsection applies, *section 4 (2)* of this Act and the said *section 5 (2)* shall not apply as regards that drug.

(2) The Minister may by order revoke or amend any order under this section (including an order under this subsection).

#### Annotations

#### Amendments:

**F30** Substituted by *Misuse of Drugs (Amendment) Act 2016* (9/2016), s. 4, not commenced as of date of revision.

#### Modifications (not altering text):

**C13** Prospective affecting provision: subs. (1)(b) amended by *Misuse of Drugs (Amendment) Act 2016* (9/2016), s. 4, not commenced as of date of revision.

**13.—(1)** ...

(b) for it to be unlawful for any person who is either a practitioner or a pharmacist to have in his possession or to do in relation to that drug any of the things mentioned in *section 5 (2)* of this Act except under a licence or other authority F30[issued by the Health Products Regulatory Authority],

...

#### Editorial Notes:

**E76** Power pursuant to section exercised (17.12.2014) by *Misuse of Drugs (Designation) (Amendment) (No. 2) Order 2014* (S.I. No. 584 of 2014).

**E77** Power pursuant to section exercised (11.07.2014) by *Misuse of Drugs (Designation) (Amendment) Order 2014* (S.I. No. 324 of 2014).

**E78** Power pursuant to section exercised (1.11.2011) by *Misuse of Drugs (Designation) (Amendment) Order 2011* (S.I. No. 553 of 2011).

**E79** Power pursuant to section exercised (11.05.2010) by *Misuse of Drugs (Designation) (Amendment) Order 2010* (S.I. No. 201 of 2010).

**E80** Power pursuant to section exercised (20.03.1998) by *Misuse of Drugs (Designation) Order 1998* (S.I. No. 69 of 1998). Note that this SI was given statutory status (12.03.2015) by *Misuse Of Drugs (Amendment) Act 2015* (6/2015), s. 2 and sch. 2, commenced as per s. 1(3). It was revoked by *Misuse of Drugs (Amendment) Act 2016* (9/2016), s. 7(e), not commenced as of date of revision.

**E81** Previous affecting provision: power pursuant to section exercised (22.11.1993) by *Misuse of Drugs (Designation) Order 1993* (S.I. No. 340 of 1993); revoked (20.03.1998) by *Misuse of Drugs (Designation) Order 1998* (S.I. No. 69 of 1998), art. 3.

- E82** Previous affecting provision: power pursuant to section exercised (8.12.1988) by *Misuse of Drugs (Designation) Order 1988* (S.I. No. 327 of 1988); revoked (22.11.1993) by *Misuse of Drugs (Designation) Order 1993* (S.I. No. 340 of 1993), art. 3.
- E83** Previous affecting provision: power pursuant to section exercised (1.05.1979) by *Misuse of Drugs (Designation) Order 1979* (S.I. No. 30 of 1979), in effect as per art. 3; revoked (8.12.1988) by *Misuse of Drugs (Designation) Order 1988* (S.I. No. 327 of 1988), art. 3.

Licences etc.

**14.—(1)** The Minister may grant licences or issue permits or authorisations for any of the purposes of this Act, attach conditions to any such licence, permit or authorisation, vary such conditions and revoke any such licence, permit or authorisation.

**(2)** The Minister may make regulations requiring the payment of prescribed fees in respect of the grant or issue under this section of a licence, permit or authorisation.

#### Annotations

#### Amendments:

- F31** Substituted by *Irish Medicines Board (Miscellaneous Provisions) Act 2006* (3/2006), s. 7(a), not commenced as of date of revision.
- F32** Inserted by *Irish Medicines Board (Miscellaneous Provisions) Act 2006* (3/2006), s. 7(b), not commenced as of date of revision.

#### Modifications (not altering text):

- C14** Prospective affecting provision: subs. (1) amended and subs. (3) inserted by *Irish Medicines Board (Miscellaneous Provisions) Act 2006* (3/2006), s. 7, not commenced as of date of revision.

**14.—(1)** The F31[**Irish Medicines Board**] may grant licences or issue permits or authorisations for any of the purposes of this Act, attach conditions to any such licence, permit or authorisation, vary such conditions and revoke any such licence, permit or authorisation.

**(2)** The Minister may make regulations requiring the payment of prescribed fees in respect of the grant or issue under this section of a licence, permit or authorisation.

F32[(3) **A licence, permit or authorisation—**

**(a)** granted or issued by the Minister under *subsection (1)* (including granted or issued by way of being renewed) at any time before the commencement of this subsection, and

**(b)** in force immediately before that commencement,

shall, on and after that commencement but subject to the conditions, if any, attached under *subsection (1)* to it and in force immediately before that commencement, continue in force, unless sooner revoked under *subsection (1)*, for the unexpired portion of the period of validity, if any, which it had left to run immediately before that commencement as if, on that commencement, the Irish Medicines Board had, under *subsection (1)*—

**(c)** granted or issued that licence, permit or authorisation, and

**(d)** attached to that licence, permit or authorisation those conditions, if any,

and the provisions of this Act shall apply to the licence, permit or authorisation accordingly.]

#### Editorial Notes:

- E84** Prospective affecting provision: in carrying out its duties under subs. (1) the Irish Medicines Board is required to comply with any directive or guideline issued by Minister for Health by *Irish Medicines Board Act 1995* (29/1995), s. 4(5), as substituted by *Irish Medicines Board (Miscellaneous Provisions) Act 2006* (3/2006), s. 11(b); amendment transferring duties to Irish Medicines Board not commenced as of date of revision.

- E85** Power pursuant to section exercised (1.01.2013) by *Misuse of Drugs (Licence Fees) (Amendment) Regulations 2012* (S.I. No. 544 of 2012), in effect as per reg. 3.
- E86** Power pursuant to section exercised (1.02.1988) by *Misuse of Drugs (Licence Fees) (Amendment) Regulations 1988* (S.I. No. 11 of 1988), in effect as per reg. 3.
- E87** Power pursuant to section exercised (1.06.1986) by *Misuse of Drugs (Licence Fees) (Amendment) Regulations 1986* (S.I. No. 172 of 1986), in effect as per reg. 3.
- E88** Power pursuant to section exercised (1.03.1985) by *Misuse of Drugs (Licence Fees) (Amendment) Regulations 1985* (S.I. No. 29 of 1985), in effect as per reg. 3.
- E89** Power pursuant to section exercised (15.05.1979) by *Misuse of Drugs (Licence Fees) Regulations 1979* (S.I. No. 164 of 1979), in effect as per reg. 2. Note that this SI was given statutory status (12.03.2015) by *Misuse Of Drugs (Amendment) Act 2015* (6/2015), s. 2 and sch. 2, commenced as per s. 1(3). It was revoked by *Misuse of Drugs (Amendment) Act 2016* (9/2016), s. 7(a), not commenced as of date of revision.

Possession of controlled drugs for unlawful sale or supply.

**15.—(1)** Any person who has in his possession, whether lawfully or not, a controlled drug for the purpose of selling or otherwise supplying it to another in contravention of regulations under *section 5* of this Act, shall be guilty of an offence.

(2) Subject to *section 29 (3)* of this Act, in any proceedings for an offence under *subsection (1)* of this section, where it is proved that a person was in possession of a controlled drug and the court, having regard to the quantity of the controlled drug which the person possessed or to such other matter as the court considers relevant, is satisfied that it is reasonable to assume that the controlled drug was not intended for the immediate personal use of the person, he shall be presumed, until the court is satisfied to the contrary, to have been in possession of the controlled drug for the purpose of selling or otherwise supplying it to another in contravention of regulations under *section 5* of this Act.

#### Annotations

##### Editorial Notes:

- E90** Subs. (1) designated as relevant offence for purposes of retrial and double jeopardy procedure (1.09.2010) by *Criminal Procedure Act 2010* (27/2010), ss. 7-18 and sch. para. 16, S.I. No. 414 of 2010.
- E91** Power of authorised officers in respect of offences under section prescribed by *Transport Act 1950* (12/1950), s. 22A(1)(f), as inserted (18.12.2005) by *Railway Safety Act 2005* (31/2005), s. 129, commenced on enactment.
- E92** Power of authorised officers in respect of offences under section prescribed by *Transport (Railway Infrastructure) Act 2001* (55/2001), s. 66B(1), as inserted (18.12.2005) by *Railway Safety Act 2005* (31/2005), s. 134(1), commenced on enactment.
- E93** Offence under section designated drug trafficking offence (14.11.1994) for purposes of *Criminal Justice Act 1994* (15/1994), s. 3(1), S.I. No. 324 of 1994.

**F33**[Offence relating to possession of drugs with value of £10,000 or more.

**15A.—(1)** A person shall be guilty of an offence under this section where—

- (a) the person has in his possession, whether lawfully or not, one or more controlled drugs for the purpose of selling or otherwise supplying the drug or drugs to another in contravention of regulations under *section 5* of this Act, and

(b) at any time while the drug or drugs are in the person's possession the market value of the controlled drug or the aggregate of the market values of the controlled drugs, as the case may be, amounts to F34[€13,000] or more.

(2) Subject to *section 29(3)* of this Act (as amended by section 6 of the Criminal Justice Act, 1999), in any proceedings for an offence under this section, where—

(a) it is proved that a person was in possession of a controlled drug, and

(b) the court, having regard to the quantity of the controlled drug which the person possessed or to such other matters that the court considers relevant, is satisfied that it is reasonable to assume that the controlled drug was not intended for his immediate personal use,

he shall be presumed, until the court is satisfied to the contrary, to have been in possession of the controlled drug for the purpose of selling or otherwise supplying it to another in contravention of regulations under *section 5* of this Act.

(3) If the court is satisfied that a member of the Garda Síochána or an officer of customs and excise has knowledge of the unlawful sale or supply of controlled drugs, that member or officer, as the case may be, shall be entitled in any proceedings for an offence under this section to be heard and to give evidence as to—

(a) the market value of the controlled drug concerned, or

(b) the aggregate of the market values of the controlled drugs concerned.

F35[(3A) In any proceedings for an offence under this section, it shall not be necessary for the prosecutor to prove that a person knew that at any time while the controlled drug or drugs concerned were in the person's possession that the market value of that drug or the aggregate of the market values of those drugs, as the case may be, amounted to €13,000 or more or that he or she was reckless in that regard.]

(4) No proceedings may be instituted under this section except by or with the consent of the Director of Public Prosecutions.

(5) In this section—

'market value', in relation to a controlled drug, means the price that drug could be expected to fetch on the market for the unlawful sale or supply of controlled drugs;

'an officer of customs and excise' has the same meaning as in section 6 of the Criminal Justice (Drug Trafficking) Act, 1996.]

#### Annotations

#### Amendments:

**F33** Inserted (26.05.1999) by *Criminal Justice Act 1999* (10/1999), s. 4, S.I. No. 154 of 1999.

**F34** Substituted (1.01.2002) by *Euro Changeover (Amounts) Act 2001* (16/2001), s. 1(3) and (4) and schs. 3 ref. no. 6 and 4 ref. no. 9, commenced as per s. 1(3).

**F35** Inserted (1.08.2006) by *Criminal Justice Act 2006* (26/2006), s. 81(1), S.I. No. 390 of 2006, subject to transitional provision in subs. (2).

#### Editorial Notes:

**E94** Offence under section designated as relevant offence for purposes of retrial and double jeopardy procedure (1.09.2010) by *Criminal Procedure Act 2010* (27/2010), ss. 7-18 and sch. para. 16, S.I. No. 414 of 2010.

**E95** Offence under section designated drug trafficking offence for purposes of *Criminal Justice Act 1994* by *Criminal Justice Act 1994* (15/1994), s. 3(1), as amended (26.05.1999) by *Criminal Justice Act 1999* (10/1999), s. 7, S.I. No. 154 of 1999.

**F36**[Importation of controlled drugs in excess of certain value.

**15B.—** (1) A person shall be guilty of an offence where—

(a) the person imports one or more controlled drugs in contravention of regulations under *section 5* of this Act, and

(b) at or about the time the drug or drugs are imported the market value of the controlled drug or the aggregate of the market values of the controlled drugs, as the case may be, amounts to €13,000 or more.

(2) If the court is satisfied that a member of the Garda Síochána or an officer of customs and excise has knowledge of the unlawful sale or supply of controlled drugs, that member or officer, as the case may be, shall be entitled in any proceedings for an offence under this section to be heard and to give evidence as to—

(a) the market value of the controlled drug concerned, or

(b) the aggregate of the market values of the controlled drugs concerned.

(3) In any proceedings for an offence under this section, it shall not be necessary for the prosecutor to prove that a person knew that at the time the person imported the controlled drug or drugs concerned that the market value of that drug or the aggregate of the market values of those drugs, as the case may be, amounted to €13,000 or more or that he or she was reckless in that regard.

(4) No proceedings may be instituted under this section except by or with the consent of the Director of Public Prosecutions.

(5) In this section ‘market value’ and ‘an officer of customs and excise’ have the meanings they have in *section 15A* of this Act.]

#### Annotations

#### Amendments:

**F36** Inserted (1.08.2006) by *Criminal Justice Act 2006* (26/2006), s. 82, S.I. No. 390 of 2006.

#### Editorial Notes:

**E96** Offence under section designated a relevant offence for purposes of retrial and double jeopardy procedure (1.09.2010) by *Criminal Procedure Act 2010* (27/2010), ss. 7-18 and sch. para. 16, S.I. No. 414 of 2010.

**E97** Offence under section designated drug trafficking offence for purposes of *Criminal Justice Act 1994* (15/1994), s. 3(1), as amended (1.08.2006) by *Criminal Justice Act 2006* (26/2006), s. 86, S.I. No. 390 of 2006.

**F37**[Supply of controlled drugs into prisons and places of detention.

**15C.—** (1) A person shall be guilty of an offence where—

(a) the person, other than in accordance with regulations made under *section 4* of this Act, conveys a controlled drug into a prison, children detention school or remand centre or to a person in the prison, school or centre,

(b) the person, other than in accordance with regulations made under *section 4* of this Act, places a controlled drug in any place inside or outside a prison,

children detention school or remand centre with intent that it shall come into the possession of a person in the prison, school or centre,

(c) the person throws or projects a controlled drug into a prison, children detention school or remand centre, or

(d) the person, while in the vicinity of a prison, children detention school or remand centre, has in his or her possession a controlled drug with intent to commit an act referred to in *paragraph (a), (b) or (c)* of this subsection.

(2) A person may be guilty of an offence under *subsection (1)* of this section irrespective of the quantity of the controlled drug concerned.

(3) Subject to *section 29(3)* of this Act, in any proceedings for an offence under *subsection (1)(d)* of this section, where—

(a) it is proved that a person was in possession of a controlled drug in the vicinity of a prison, children detention school or remand centre, as the case may be, and

(b) the court (or the jury, as the case may be), having regard to all the circumstances including the person's proximity to the prison, school or centre, as the case may be, the packaging (if any) of the controlled drug and the time of the day or night concerned, is satisfied that it is reasonable to assume that the controlled drug was not intended for his or her immediate personal use,

he or she shall be presumed, until the court (or the jury, as the case may be) is satisfied to the contrary, to have been in possession of the controlled drug with intent to commit an act referred to in *paragraph (a) or (b)* or, as the case may be, *(c)* of *subsection (1)* of this section.

(4) In any proceedings for an offence under *subsection (1)* of this section, it shall not be necessary for the prosecutor to prove that the controlled drug concerned was intended to come into the possession of any particular person in the prison, children detention school or remand centre, as the case may be.

(5) If a prison officer or an authorised member of the staff of a children detention school or remand centre reasonably suspects that a person has committed or is committing an offence under this section, he or she may, for the purpose of detecting the commission of such an offence, search the person at any time while he or she is in the prison, school or centre, as the case may be.

(6) A prison officer or an authorised member of the staff of a children detention school or remand centre may, for the purpose of performing his or her functions under *subsection (5)* of this section, have a controlled drug in his or her possession.

(7) A person guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding €3,000 or imprisonment for a term not exceeding 12 months or both, or

(b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 10 years or both.

(8) In this section—

‘an authorised member of the staff’ —

(a) in relation to a children detention school, means a member of the staff of the school who is authorised in writing for the purposes of this section by the Director (within the meaning of section 157 of the Children Act 2001) of the school, and

(b) in relation to a remand centre, means a member of the staff of the centre who is authorised in writing for the purposes of this section by the owners or, as the case may be, the managers of the centre;

‘children detention school’ and ‘remand centre’ have the meanings they have in section 3(1) of the Children Act 2001;

‘prison’ means a place of custody administered by the Minister for Justice, Equality and Law Reform and includes Saint Patrick’s Institution and a place of detention provided under section 2 of the Prisons Act 1970, and ‘prison officer’, in relation to a prison, shall be construed accordingly.]

#### Annotations

#### Amendments:

**F37** Inserted (1.08.2006) by *Criminal Justice Act 2006*, s. 83, S.I. No. 390 of 2006.

Prohibition of certain activities etc. relating to opium.

**16.—(1)** A person shall not—

(a) smoke or otherwise use prepared opium,

(b) frequent a place used for the purpose of smoking or otherwise using prepared opium, or

(c) have in his possession—

(i) any pipes or other utensils made or adapted for use in connection with the smoking of opium, being pipes or utensils which have been used by him or with his knowledge and permission in that connection or which he intends to use or permit others to use in that connection, or

(ii) any utensils which have been used by him or with his knowledge and permission in connection with the preparation of opium for smoking.

(2) A person who contravenes a provision of *subsection (1)* of this section shall be guilty of an offence.

Prohibition of cultivation of opium poppy or cannabis plant.

**17.—F38[(1)** A person shall not cultivate opium poppy F39[for the production of opium], any plant of the genus *Cannabis* or any plant of the genus *Erythroxyton* except under and in accordance with a licence issued in that behalf F40[under *section 14(1)*].]

F38[(2) Every person who cultivates opium poppy F41[for the production of opium], a plant of the genus *Cannabis* or a plant of the genus *Erythroxyton* in contravention of *subsection (1)* of this section shall be guilty of an offence.]

#### Annotations

#### Amendments:

**F38** Substituted (3.08.1984) by *Misuse of Drugs Act 1984* (18/1984), s. 11(1), S.I. No. 205 of 1984.

**F39** Inserted (1.12.2013) by *Irish Medicines Board (Miscellaneous Provisions) Act 2006* (3/2006), s. 8(a)(i), S.I. No. 453 of 2013.

**F40** Substituted (1.12.2013) by *Irish Medicines Board (Miscellaneous Provisions) Act 2006* (3/2006), s. 8(a)(ii), S.I. No. 453 of 2013.

**F41** Inserted (1.12.2013) by *Irish Medicines Board (Miscellaneous Provisions) Act 2006* (3/2006), s. 8(b), S.I. No. 453 of 2013.

**Editorial Notes:**

**E98** Offences relating to the sale and supply of objects in the use of cultivation of plants in contravention of section prescribed and powers and procedures established (23.08.2010) by *Criminal Justice (Psychoactive Substances) Act 2010* (22/2010), ss. 4, 5, 7-10, 12-14 and 21, S.I. No. 401 of 2010.

Forged or fraudulently altered prescriptions.

**18.—**(1) A person shall not forge a document purporting to be a prescription issued by a practitioner (which document is in this Act referred to as a forged prescription).

(2) A person shall not with intent to deceive either alter or use a prescription which has been duly issued by a practitioner (which document is in this Act referred to as a duly issued prescription).

(3) A person shall not have in his possession either a forged prescription or a duly issued prescription which has been altered with intent to deceive.

(4) The Minister may by regulations declare that in circumstances specified in the regulations *subsection (3)* of this section shall not apply in relation to persons who are of a prescribed class or description, and for so long as regulations under this subsection are in force the said *subsection (3)* shall be construed in accordance with and have effect subject to the regulations.

(5) A person who contravenes a provision of this section shall be guilty of an offence.

**Annotations**

**Editorial Notes:**

**E99** Power pursuant to section exercised (17.12.2014) by *Misuse of Drugs (Amendment) (No. 2) Regulations 2014* (S.I. No. 583 of 2014).

**E100** Power pursuant to section exercised (11.07.2014) by *Misuse of Drugs (Amendment) Regulations 2014* (S.I. No. 323 of 2014).

**E101** Power pursuant to section exercised (1.05.2007) by *Misuse of Drugs (Amendment) Regulations 2007* (S.I. No. 200 of 2007).

**E102** Power pursuant to section exercised (8.12.1988) by *Misuse of Drugs Regulations 1988* (S.I. No. 328 of 1988). Note that this SI was given statutory status (12.03.2015) by *Misuse Of Drugs (Amendment) Act 2015* (6/2015), s. 2 and sch. 2, commenced as per s. 1(3).

**E104** Previous affecting provision: power pursuant to section exercised (1.05.1979) by *Misuse of Drugs Regulations 1979* (S.I. No. 32 of 1979), in effect as per reg. 2; revoked (8.12.1988) by *Misuse of Drugs Regulations 1988* (S.I. No. 328 of 1988), reg. 2.

Occupiers etc. permitting certain activities to take place on land, vehicle or vessel to be guilty of an offence.

**19.—**(1) A person who is the occupier or is in control or is concerned in the management of any land, vehicle or vessel and who knowingly permits or suffers any of the following to take place on the land, vehicle or vessel, namely—

(a) the cultivation contrary to *section 17* of this Act of opium poppy or any plant of the genus *Cannabis*,

(b) the preparation of opium for smoking,

(c) the preparation of cannabis for smoking,

(d) the smoking of cannabis, cannabis resin or prepared opium,

- (e) the manufacture, production or preparation of a controlled drug in contravention of regulations made under *section 5* of this Act,
- (f) the importation or exportation of a controlled drug in contravention of such regulations,
- (g) the sale, supply or distribution of a controlled drug in contravention of such regulations,
- (h) any attempt so to contravene such regulations, or
- (i) the possession of a controlled drug in contravention of *section 3* of this Act,
- shall be guilty of an offence.

(2) In any proceedings for an offence under *subsection (1)* of this section, where it is proved that an activity or contravention mentioned in the said *subsection (1)* took place on particular land or on a particular vehicle or vessel and that the defendant was, at the time of the alleged offence, the occupier of, or in control or concerned in the management of the land, vehicle or vessel, as the case may be, it shall be presumed until the court is satisfied to the contrary that the activity or contravention took place with the knowledge of the defendant.

#### Annotations

#### Modifications (not altering text):

- C15** Application of subs. (1)(a) modified (3.08.1984) by *Misuse of Drugs Act 1984* (18/1984), s. 11(2), S.I. No. 205 of 1984.

#### Amendment of sections 17 and 19 of Principal Act.

11.—...

(2) Section 19 of the Principal Act shall be construed and have effect as if the reference in subsection (1) (a) thereof to the cultivation contrary to section 17 of that Act of opium poppy included a reference to the cultivation contrary to the said section 17, as amended by *subsection (1)* of this section, of any plant of the genus *Erythroxylon*.

#### Editorial Notes:

- E105** Power to apply for revocation or forfeiture of licence and disqualification from holding licence on conviction for an offence under subs. (1)(g) prescribed (21.06.1997) by *Licensing (Combating Drug Abuse) Act 1997* (33/1997), ss. 3 and 17, commenced as per s. 22(4).
- E106** Previous affecting provision: offences under section designated relevant offences (21.03.1991) for the purposes of *European Communities (Merchandise Road Transport) Regulations 1991* (S.I. No. 60 of 1991), reg. 5 and sch. 1 para. (j); revoked (4.12.2011) by *European Union (Occupation of Road Transport Operator) Regulations 2011* (S.I. No. 697 of 2011), reg. 11(b).
- E107** Previous affecting provision: offences under section designated relevant offences (21.03.1991) for the purposes of *European Communities (Road Passenger Transport) Regulations 1991* (S.I. No. 59 of 1991), reg. 2(1) and sch. 1 para. (g); revoked (4.12.2011) by *European Union (Occupation of Road Transport Operator) Regulations 2011* (S.I. No. 697 of 2011), reg. 11(a).
- E108** Previous affecting provision: offences under section designated relevant offences (30.09.1988) for the purposes of *European Communities (Merchandise Road Transport) Regulations 1988* (S.I. No. 180 of 1988), reg. 2 and sch. 1 para. (k), in effect as per reg. 1(3); revoked (21.03.1991) by *European Communities (Merchandise Road Transport) Regulations 1991* (S.I. No. 60 of 1991), reg. 21(1), subject to transitional provisions in regs. 14(1) and 21(2), (3).

Offences relating to acts outside the State.

**20.**—(1) Any person who aids, abets, counsels or induces the commission in a place outside the State of an offence punishable under a corresponding law in force in that place shall be guilty of an offence.

(2) In this section “a corresponding law” means a law stated in a certificate purporting to be issued by or on behalf of the government of a country outside the State to be a law providing for the control or regulation in that country of the manufacture, production, supply, use, exportation or importation of dangerous or otherwise harmful drugs in pursuance of any treaty, convention, protocol or other agreement between states and prepared or implemented by, or under the auspices of, the League of Nations or the United Nations Organisation and which for the time being is in force.

(3) Any statement in a certificate mentioned in *subsection (2)* of this section as to the effect of the law mentioned in the certificate or any such statement that any facts constitute an offence against the law so mentioned shall, for the purposes of any proceedings under this Act, be evidence of the matters stated.

#### Annotations

#### Editorial Notes:

**E109** Offence under section designated drug trafficking offence for purposes of *Criminal Justice Act 1994* (14.11.1994) by *Criminal Justice Act 1994* (15/1994), s. 3(1), S.I. No. 324 of 1994.

Attempts etc. and miscellaneous other offences.

**21.**—(1) A person who attempts to commit an offence under this Act, or who aids, abets, counsels or procures the commission of an offence under this Act, or who solicits or incites any other person to commit an offence under this Act shall be guilty of an offence.

(2) Any person who, whether by act or omission, contravenes or fails to comply with regulations under this Act shall be guilty of an offence.

(3) A person who, in purported compliance with any obligation to give information to which he is subject by virtue of regulations made under this Act, gives any information which he knows to be false in a material particular or recklessly gives information which is so false shall be guilty of an offence.

(4) Any person who by act or omission impedes or obstructs a member of the Garda Síochána or a person duly authorised under this Act in the lawful exercise of a power conferred by this Act shall be guilty of an offence and if, in the case of a continuing offence, the impediment or obstruction is continued after conviction, he shall be guilty of a further offence.

(5) Any person who conceals from a person lawfully exercising a power under *section 24* of this Act any controlled drug, or who without reasonable excuse fails to produce any book, record or other document which he has been duly required to produce under that section, shall be guilty of an offence.

(6) Any person who contravenes a condition attached to a licence, permit or authorisation granted or issued by the Minister under this Act (other than *section 24*) or under regulations made under this Act shall be guilty of an offence.

(7) Any person who, for the purpose of obtaining, whether for himself or another, the grant, issue or renewal of a licence, permit or authorisation under this Act or under regulations made under this Act—

(a) makes any statement or gives information which he knows to be false in a material particular or recklessly gives information which is so false, or

(b) produces or otherwise makes use of any book, record or other document which to his knowledge contains any statement or information which he knows to be false in a material particular,

shall be guilty of an offence.

#### Annotations

#### Amendments:

**F42** Substituted by *Misuse of Drugs (Amendment) Act 2016* (9/2016), s. 5, not commenced as of date of revision.

#### Modifications (not altering text):

**C16** Prospective affecting provision: subs. (6) amended by *Misuse of Drugs (Amendment) Act 2016* (9/2016), s. 5, not commenced as of date of revision.

(6) Any person who contravenes a condition attached to a licence, permit or authorisation granted or F42[issued under *section 14* by the Health Products Regulatory Authority] under this Act (other than *section 24*) or under regulations made under this Act shall be guilty of an offence.

...

Onus of proof.

**22.**—(1) In any proceedings for an offence under this Act, it shall not be necessary to negative by evidence the existence of any—

(a) order made under *section 2* F43[ or 3] of this Act,

(b) licence, permit or authorisation under this Act,

and accordingly the onus of proving the existence of any such licence, permit or authorisation shall be on the person seeking to avail himself thereof.

(2) In any proceedings for an offence under this Act it shall not be necessary for the prosecutor to prove that at the time of the offence—

(a) a defendant was not a person to whom regulations made under *section 4* of this Act applied,

(b) a defendant was a person to whom an exception under regulations made under *section 5* of this Act applied, and

in case a defendant claims that—

(i) by virtue of the said *section 4* he had lawfully in his possession a controlled drug,

(ii) he is a person to whom such an exception applied,

the onus of proving such lawful possession, or that he is such a person, as may be appropriate, shall be on the defendant.

#### Annotations

#### Amendments:

**F43** Inserted (3.08.1984) by *Misuse of Drugs Act 1984* (18/1984), s. 14(a), S.I. No. 205 of 1984.

Power of Garda Síochána to search persons, vehicles, vessels or aircraft.

**23.—(1)** A member of the Garda Síochána who with reasonable cause suspects that a person is in possession in contravention of this Act of a controlled drug, may without warrant—

- (a) search the person and, if he considers it necessary for that purpose, detain the person for such time as is reasonably necessary for making the search,
- (b) search any vehicle, vessel or aircraft in which he suspects that such drug may be found F44[(and any substance, article or other thing on or in the vehicle, vessel or aircraft)] and for the purpose of carrying out the search may, if he thinks fit, require the person who for the time being is in control of such vehicle, vessel or aircraft to bring it to a stop and when stopped to refrain from moving it, or in case such vehicle, vessel or aircraft is already stationary, to refrain from moving it, or
- (c) F44[examine (by opening or otherwise) and] seize and detain anything found in the course of a search under this section which with such cause appears to him to be something which might be required as evidence in proceedings for an offence under this Act.

F44[(1A) Where a member of the Garda Síochána decides to search a person under this section, he may require the person to accompany him to a Garda Station for the purpose of being so searched at that station.

(1B) Where a member of the Garda Síochána decides to search a vehicle, vessel or aircraft under this section he may as regards the person who appears to him to be the owner or in control or charge for the time being of the vehicle, vessel or aircraft make any one or more or all of the following requirements:

- (a) require such person, pending the commencement of the search, not to remove from the vehicle, vessel or aircraft, as may be appropriate, any substance, article or other thing,
- (b) in case the decision relates to a vehicle and the place at which he finds the vehicle is in his reasonable opinion unsuitable for such search, require such person forthwith to take the vehicle or cause it to be taken to a place which he considers suitable for such search and which is specified by him,
- (c) require the person to be in or on or to accompany the vehicle, vessel or aircraft, as may be appropriate, for so long as the requirement under this paragraph remains in force.

(1C) Where there is a failure to comply with a requirement made under this section the following provisions shall apply—

- (a) in case the requirement was made under *subsection (1A)* of this section, the member of the Garda Síochána concerned may arrest without warrant the person of whom the requirement was made, and
- (b) in case the requirement is a requirement mentioned in *paragraph (b) of subsection (1B)* of this section, such member may take the vehicle concerned, or cause it to be taken, to a place which he considers suitable for a search under this section.

(1D) Where a requirement is made of a person under this section—

- (a) in case the requirement is a requirement mentioned in *paragraph (c) of subsection (1B)* of this section, if at any time while the requirement is in force the person of whom it was made is neither in nor on nor accompanying the vehicle, vessel or aircraft, as may be appropriate, in relation to which the requirement was made, he shall be guilty of an offence,
- (b) in case of any other requirement under this section the person who fails to comply with the requirement shall be guilty of an offence.

(1E) A requirement mentioned in *paragraph (c) of subsection (1B)* of this section shall remain in force until the search in relation to which it is made is completed.

(1F) Where a requirement described in *paragraph (a) of subsection (1B)* of this section is made of a person, the search in relation to which the requirement is made shall be carried out as soon as is practicable.]

(2) Nothing in this section shall operate to prejudice any power to search, or to seize or detain property which may be exercised by a member of the Garda Síochána apart from this section.

#### Annotations

#### Amendments:

**F44** Inserted (3.08.1984) by *Misuse of Drugs Act 1984* (18/1984), s. 12, S.I. No. 205 of 1984.

Powers to inspect and demand production of drugs, books or documents.

**24.**—(1) For the purpose of enforcing this Act and regulations made thereunder, a member of the Garda Síochána or a person authorised in F45[*writing in that behalf by the Minister or the Irish Medicines Board*] may at all reasonable times—

- (a) enter any building or other premises in which a person carries on business as a producer, manufacturer, seller or distributor of controlled drugs F46[*or as a practitioner*],
- (b) require any such person, or any person employed in connection with such a business, to produce any controlled drugs which are in his possession or under his control,
- (c) require any such person, or any person so employed, to produce any books, records or other documents F46[*(including any data within the meaning of the Data Protection Acts 1988 and 2003)*] which relate to transactions concerning controlled drugs and which are in his possession or under his control, and
- (d) inspect any controlled drug, book, record or other document produced in pursuance of a requirement under this section.

F47[(2) For the purposes of enforcing this Act and any statutory instruments made thereunder, and without prejudice to the generality of *subsection (1)* of this section, a person authorised in writing in that behalf by the Council of the Pharmaceutical Society of Ireland may at all reasonable times—

- (a) enter any building or premises in which a person keeps open shop for the dispensing or compounding of medical prescriptions,
- (b) require any such person, or any person employed in connection with keeping such open shop for the dispensing or compounding of medical prescriptions, to produce any controlled drugs which are in his possession or under his control,
- (c) require any such person, or any person so employed, to produce any books, records or other documents (including any data within the meaning of the Data Protection Acts 1988 and 2003) which relate to transactions concerning controlled drugs and which are in his possession or under his control, and
- (d) inspect any controlled drug, book, record or other document produced in pursuance of a requirement under this section.

(3) Where the Minister or the Irish Medicines Board authorises a person under *subsection (1)* of this section, then the Minister or the Irish Medicines Board, as the case may be, shall furnish the person with a warrant of his authorisation.

(4) Where the Pharmaceutical Society of Ireland authorises a person under *subsection (2)* of this section, then it shall furnish the person with a warrant of his authorisation.

(5) Where—

(a) a person has been authorised by the Minister under *subsection (1)* of this section at any time before the commencement of this subsection,

(b) the authorisation is still in force immediately before that commencement, and

(c) either—

(i) the person has, before that commencement, been issued with a certificate of his authorisation, or

(ii) the person has not, before that commencement, been issued with a certificate of his authorisation,

then the Minister shall—

(d) in a case falling within *paragraph (c)(i)* of this subsection, furnish the person with a warrant of his authorisation upon the surrender of his certificate of authorisation,

(e) in a case falling within *paragraph (c)(ii)* of this subsection, as soon as reasonably practicable after that commencement, furnish the person with a warrant of his authorisation.

(6) Where a person authorised under *subsection (1)* or *(2)* of this section—

(a) claims to exercise a power by virtue of that authorisation, and

(b) is required by a person in relation to whom the power is proposed to be exercised, to produce evidence of that authorisation,

then the person so authorised shall not exercise that power until he has produced the warrant of authorisation furnished under this section to the person in relation to whom the power is proposed to be exercised.

(7) A certificate of authorisation referred to in *subsection (5)(c)(i)* of this section which has not been surrendered as referred to in *subsection (5)(d)* of this section shall be deemed to be a warrant of authorisation furnished under this section to the person to whom the certificate of authorisation was furnished, and *subsection (6)* of this section shall be construed accordingly.]

#### Annotations

#### Amendments:

**F45** Substituted (1.12.2013) by *Irish Medicines Board (Miscellaneous Provisions) Act 2006 (3/2006)*, s. 9(a)(i), S.I. No. 453 of 2013.

**F46** Inserted (1.12.2013) by *Irish Medicines Board (Miscellaneous Provisions) Act 2006 (3/2006)*, s. 9(a)(ii) and (iii), S.I. No. 453 of 2013.

**F47** Substituted (1.12.2013) by *Irish Medicines Board (Miscellaneous Provisions) Act 2006 (3/2006)*, s. 9(b), S.I. No. 453 of 2013.

Power of arrest. **25.**—(1) Where with reasonable cause a member of the Garda Síochána suspects that an offence under *section 15* of this Act has been committed and so suspects a person of having committed the offence, he may arrest the person without warrant.

(2) Where with reasonable cause a member of the Garda Síochána,

(a) suspects that an offence under this Act, other than an offence under *section 15*, has been committed or attempted, and

(b) suspects a person of having committed the offence or having made the attempt,

then if the member,

(c) with reasonable cause suspects that the person unless he is arrested either will abscond for the purposes of evading justice or will obstruct the course of justice, or

(d) having enquired of the person, has reasonable doubts as to the person's identity or place of abode, or

(e) having enquired of the person, knows that the person does not ordinarily reside in the State, or has reasonable doubts as to whether the person so resides,

he may arrest the person without warrant.

Search warrants. **26.**—(1) If a Justice of the District Court or a Peace Commissioner is satisfied by information on oath of a member of the Garda Síochána F48[or if, F49[subject to the provisions of subsections (2) and (2A) of section 8 of the Criminal Justice (Drug Trafficking) Act 1996], a member of the Garda Síochána not below the rank of superintendent is satisfied] that there is reasonable ground for suspecting that—

(a) a person is in possession in contravention of this Act on any premises of a controlled drug, a forged prescription or a duly issued prescription which has been wrongfully altered and that such drug or prescription is on a particular premises F50[or other land], or

F50[(aa) opium poppy, a plant of the genus *Cannabis* or a plant of the genus *Erythroxylon* is being cultivated contrary to *section 17* of this Act on or in any premises or other land, or]

(b) a document directly or indirectly relating to, or connected with, a transaction or dealing which was, or an intended transaction or dealing which would if carried out be, an offence under this Act, or in the case of a transaction or dealing carried out or intended to be carried out in a place outside the State, an offence against a provision of a corresponding law within the meaning of *section 20* of this Act and in force in that place, is in the possession of a person on any premises,

F51[such Justice, Commissioner or, as the case may be, member] may issue a search warrant mentioned in *subsection (2)* of this section.

F52[(2) A search warrant issued under this section shall be expressed and operate to authorise a named member of the Garda Síochána, accompanied by such other members of the Garda Síochána and such other persons as may be necessary, at any time or times within one month of the date of issue of the warrant, to enter (if need be by force) the premises or other land named in the warrant, to search such premises or other land and any persons found therein, to examine any substance, article or other thing found thereon or therein, to inspect any book, record or other document found thereon and, if there is reasonable ground for suspecting that an offence is being or has been committed under this Act in relation to a substance, article or other thing found on such premises or other land or that a document so found is a document mentioned in *subsection (1) (b)* of this section or is a record or

other document which the member has reasonable cause to believe to be a document which may be required as evidence in proceedings for an offence under this Act, to seize and detain the substance, article, document or other thing, as the case may be.

(3) Where any premises or other land is entered pursuant to a warrant issued under this section, the member of the Garda Síochána named in the warrant may do either or both of the following:

- (a) arrest without warrant any person or persons found on such premises or other land for the purpose of searching him or them,
- (b) so arrest any such person or persons and keep him or them, as may be appropriate, under arrest until such time as such of the powers of search or examination as he wishes to exercise pursuant to the warrant have been exercised by him.

(4) In this section—

‘land’ includes any structure on land;

‘structure’ means building, structure or any other thing constructed, erected, placed or made on, in or under any land.]

#### Annotations

#### Amendments:

- F48** Inserted (9.09.1996) by *Criminal Justice (Drug Trafficking) Act 1996* (29/1996), s. 8(1)(a), S.I. No. 257 of 1996.
- F49** Substituted (25.07.2012) by *Criminal Justice (Search Warrants) Act 2012* (33/2012), s. 2, commenced as per s. 4(2).
- F50** Inserted (3.08.1984) by *Misuse of Drugs Act 1984* (18/1984), s. 13(a) and (b), S.I. No. 205 of 1984.
- F51** Substituted (9.09.1996) by *Criminal Justice (Drug Trafficking) Act 1996* (29/1996), s. 8(1)(b), S.I. No. 257 of 1996.
- F52** Substituted (3.08.1984) by *Misuse of Drugs Act 1984* (18/1984), s. 13(c), S.I. No. 205 of 1984.

#### Modifications (not altering text):

- C17** Application of section restricted (9.09.1996) by *Criminal Justice (Drug Trafficking) Act 1996* (29/1996), s. 8(2) and (3), S.I. No. 257 of 1996.

#### Search warrants.

8.—...

(2) A member of the Garda Síochána not below the rank of superintendent shall not issue a search warrant under the said section 26 unless he or she is satisfied—

- (a) that the warrant is necessary for the proper investigation of a drug trafficking offence, and
- (b) that circumstances of urgency giving rise to the need for the immediate issue of the search warrant would render it impracticable to apply to a judge of the District Court or a Peace Commissioner under the said section 26 for the issue of the warrant.

(3) Notwithstanding subsection (2) of section 26 of the Act of 1977, a search warrant issued by a member of the Garda Síochána not below the rank of superintendent under subsection (1) of that section shall cease to have effect after a period of 24 hours has elapsed from the time of the issue of the warrant.

## Penalties.

**27.—** F53(1) Subject to *section 28* of this Act, every person guilty of an offence under *section 3* of this Act shall be liable—

(a) where the relevant controlled drug is cannabis or cannabis resin and the court is satisfied that the person was in possession of such drug for his personal use:

(i) in the case of a first offence,

(I) on summary conviction, to a fine not exceeding £300, or

(II) on conviction on indictment, to a fine not exceeding £500,

(ii) in the case of a second offence,

(I) on summary conviction, to a fine not exceeding £400, or

(II) on conviction on indictment, to a fine not exceeding £1,000,

(iii) in the case of a third or subsequent offence,

(I) on summary conviction, to a fine not exceeding £1,000 or, at the discretion of the court, to imprisonment for a term not exceeding twelve months, or to both the fine and the imprisonment, or

(II) on conviction on indictment, to a fine of such amount as the court considers appropriate or, at the discretion of the court, to imprisonment for a term not exceeding three years, or to both the fine and the imprisonment;

(b) in any other case—

(i) on summary conviction, to a fine not exceeding £1,000 or, at the discretion of the court, to imprisonment for a term not exceeding twelve months, or to both the fine and the imprisonment, or

(ii) on conviction on indictment, to a fine of such amount as the court considers appropriate or, at the discretion of the court, to imprisonment for a term not exceeding seven years, or to both the fine and the imprisonment.

(2) Subject to *section 28* of this Act, every person guilty of an offence under *section 6, 7, 16, 17, 19 or 20* of this Act shall be liable—

(a) on summary conviction, to a fine not exceeding £1,000 or, at the discretion of the court, to imprisonment for a term not exceeding twelve months, or to both the fine and the imprisonment, or

(b) on conviction on indictment, to a fine of such amount as the court considers appropriate or, at the discretion of the court, to imprisonment for a term not exceeding fourteen years, or to both the fine and the imprisonment.

(3) Subject to *section 28* of this Act, every person guilty of an offence under *section 15* of this Act shall be liable—

(a) on summary conviction, to a fine not exceeding £1,000 or, at the discretion of the court, to imprisonment for a term not exceeding twelve months, or to both the fine and the imprisonment, or

(b) on conviction on indictment, to a fine of such amount as the court considers appropriate or, at the discretion of the court, to imprisonment for life or such lesser period as the court shall determine, or, at such discretion, to both such fine and such lesser period of imprisonment.

F54[(3A) Every person guilty of an offence under *section 15A* or *15B* of this Act shall be liable, on conviction on indictment—

(a) to imprisonment for life or such shorter term as the court may determine, subject to *subsections (3C)* and *(3D)* of this section or, where *subsection (3F)* of this section applies, to that subsection, and

(b) at the court's discretion, to a fine of such amount as the court considers appropriate.

(3B) The court, in imposing sentence on a person for an offence under *section 15A* or *15B* of this Act, may, in particular, have regard to whether the person has a previous conviction for a drug trafficking offence.

(3C) Where a person (other than a person under the age of 18 years) is convicted of an offence under *section 15A* or *15B* of this Act, the court shall, in imposing sentence, specify a term of not less than 10 years as the minimum term of imprisonment to be served by the person.

(3D) (a) The purpose of this subsection is to provide that in view of the harm caused to society by drug trafficking, a court, in imposing sentence on a person (other than a person under the age of 18 years) for an offence under *section 15A* or *15B* of this Act, shall specify a term of not less than 10 years as the minimum term of imprisonment to be served by the person, unless the court determines that by reason of exceptional and specific circumstances relating to the offence, or the person convicted of the offence, it would be unjust in all the circumstances to do so.

(b) *Subsection (3C)* of this section shall not apply where the court is satisfied that there are exceptional and specific circumstances relating to the offence, or the person convicted of the offence, which would make a sentence of not less than 10 years imprisonment unjust in all the circumstances and for that purpose the court may, subject to this subsection, have regard to any matters it considers appropriate, including—

(i) whether that person pleaded guilty to the offence and, if so—

(I) the stage at which he or she indicated the intention to plead guilty, and

(II) the circumstances in which the indication was given,

and

(ii) whether that person materially assisted in the investigation of the offence.

(c) The court, in considering for the purposes of *paragraph (b)* of this subsection whether a sentence of not less than 10 years imprisonment is unjust in all the circumstances, may have regard, in particular, to—

(i) whether the person convicted of the offence concerned was previously convicted of a drug trafficking offence, and

(ii) whether the public interest in preventing drug trafficking would be served by the imposition of a lesser sentence.

(3E) *Subsections (3C)* and *(3D)* of this section apply and have effect only in relation to a person convicted of a first offence under *section 15A* or *15B* of this Act (other than a person who falls under *paragraph (b)* of *subsection (3F)* of this section), and accordingly references in those first-mentioned subsections to an offence under *section 15A* or *15B* of this Act are to be construed as references to a first such offence.

(3F) Where a person (other than a person under the age of 18 years)—

(a) is convicted of a second or subsequent offence under *section 15A* or *15B* of this Act, or

(b) is convicted of a first offence under one of those sections and has been convicted under the other of those sections,

the court shall, in imposing sentence, specify a term of not less than 10 years as the minimum term of imprisonment to be served by the person.

(3G) The power conferred by section 23 of the Criminal Justice Act 1951 to commute or remit a punishment shall not, in the case of a person serving a sentence imposed under *subsection (3A)* of this section, be exercised before the expiry of the minimum term specified by the court under *subsection (3C)* or *(3F)*, as may be appropriate, of this section less any reduction of that term under *subsection (3H)* of this section.

(3H) The rules or practice whereby prisoners generally may earn remission of sentence by industry and good conduct shall apply in the case of a person serving a sentence imposed under *subsection (3A)* of this section and the minimum term specified by the court under *subsection (3C)* of this section shall be reduced by the amount of any remission so earned by the person.

(3I) Any powers conferred by rules made under section 2 of the Criminal Justice Act 1960 to release temporarily a person serving a sentence of imprisonment shall not, in the case of a person serving a sentence imposed under *subsection (3A)* of this section, be exercised during the term for which the commutation or remission of his or her punishment is prohibited by *subsection (3G)* of this section unless for a grave reason of a humanitarian nature, and any release so granted shall be only of such limited duration as is justified by such reason.

(3J) In imposing a sentence on a person convicted of an offence under *section 15A* or *15B* of this Act, a court—

(a) may inquire whether at the time of the commission of the offence the person was addicted to one or more controlled drugs, and

(b) if satisfied that the person was so addicted at that time and that the addiction was a substantial factor leading to the commission of the offence, may list the sentence for review after the expiry of not less than one-half of the term specified by the court under *subsection (3C)* or *(3F)*, as may be appropriate, of this section.

(3K) On reviewing a sentence listed under *subsection (3J)(b)* of this section, the court—

(a) may suspend the remainder of the sentence on any conditions it considers fit, and

(b) in deciding whether to exercise its powers under this subsection, may have regard to any matters it considers appropriate.

(3L) Paragraph (a) of section 13(2) of the Criminal Procedure Act 1967 shall not apply in relation to an offence under *section 15A* or *15B* of this Act, but each of those offences shall be deemed for the purposes of paragraph (b) of section 13(2) of that Act to be an offence to which section 13 of that Act applies.

(3M) The reference in *subsection (3I)* of this section to section 2 of the Criminal Justice Act 1960 shall be construed to include that section as applied by section 4 of the Prisons Act 1970.

(3N) In *subsections (3B)* and *(3D)* of this section ‘drug trafficking offence’ has the meaning it has in section 3(1) of the Criminal Justice Act 1994 and in *subsection (3D)* of this section ‘drug trafficking’ has the meaning it has in the said section 3(1).】

(4) Subject to *section 28* of this Act, every person guilty of an offence under *section 18* of this Act shall be liable—

- (a) on summary conviction, to a fine not exceeding £400 or, at the discretion of the court, to imprisonment for a term not exceeding six months, or to both the fine and the imprisonment, or
- (b) on conviction on indictment, to a fine of such amount as the court considers appropriate or, at the discretion of the court, to imprisonment for a term not exceeding three years, or to both the fine and the imprisonment.

(5) Every person guilty of an offence under *section 21 (1)* of this Act shall be liable to be punished on summary conviction as if he were guilty of the substantive offence and in case a penalty on conviction on indictment is provided by this Act in relation to the substantive offence, he shall be liable to be proceeded against on indictment and, if convicted, punished as if he were convicted on indictment of the substantive offence.

(6) Every person guilty of an offence under *section 21 (2)* of this Act shall be liable—

- (a) in case the regulation in relation to which the offence was committed is a regulation made pursuant to *section 5 (1) (a)* of this Act, other than a regulation regulating the transportation of controlled drugs,
  - (i) on summary conviction, to a fine not exceeding £1,000 or, at the discretion of the court, to imprisonment for a term not exceeding twelve months, or to both the fine and the imprisonment, or
  - (ii) on conviction on indictment, to a fine of such amount as the court considers appropriate or, at the discretion of the court, to imprisonment for a term not exceeding fourteen years, or to both the fine and the imprisonment, and
- (b) in case the regulation in relation to which the offence was committed is a regulation made otherwise than under the said *section 5 (1) (a)* or is a regulation regulating the transportation of controlled drugs—
  - (i) on summary conviction, to a fine not exceeding £500 or, at the discretion of the court, to imprisonment for a term not exceeding six months, or to both the fine and the imprisonment, or
  - (ii) on conviction on indictment, to a fine of such amount as the court considers appropriate, or at the discretion of the court, to imprisonment for a term not exceeding two years, or to both the fine and the imprisonment.

(7) Every person guilty of an offence under *section 21* of this Act, other than an offence mentioned in *subsection (1)* or *subsection (2)* of that section, shall be liable on summary conviction to a fine not exceeding £400 or, at the discretion of the court, to imprisonment for a term not exceeding six months, or to both the fine and the imprisonment.

(8) Every person guilty of an offence under *paragraph (a)* or *(b)* of *subsection (1D)* of *section 23* of this Act, as amended by *section 12* of the Misuse of Drugs Act, 1984, shall be liable on summary conviction to a fine not exceeding £200.

(9) Every person guilty of an offence under *section 5* of the Misuse of Drugs Act, 1984, shall on summary conviction be liable—

- (a) in case the offence is an offence under *subsection (2)* of that section, to a fine not exceeding £1,000,
- (b) in any other case, to a fine not exceeding £500.]

(10)F55[...]

(11)F55[...]

(12) In this section—

“relevant controlled drug” means the controlled drug in relation to which the offence was committed;

“substantive offence” means the offence under this Act to which the attempt or, as the case may be, the aiding, abetting, counselling, procuring, soliciting or incitement was directed.

#### Annotations

##### Amendments:

**F53** Substituted (3.08.1984) by *Misuse of Drugs Act 1984* (18/1984), s. 6, S.I. No. 205 of 1984.

**F54** Substituted and inserted (18.05.2007) by *Criminal Justice Act 2007* (29/2007), s. 33, S.I. No. 236 of 2007.

**F55** Repealed (3.08.1984) by *Misuse of Drugs Act 1984* (18/1984), s. 6, S.I. No. 205 of 1984.

##### Editorial Notes:

**E110** Previous affecting provision: subs. (3A) amended (1.08.2006) by *Criminal Justice Act 2006* (26/2006), s. 84(a), S.I. No. 390 of 2006; substituted as per F-note above.

**E111** Previous affecting provision: subs. (3AA) inserted (1.08.2006) by *Criminal Justice Act 2006* (26/2006), s. 84(b), S.I. No. 390 of 2006; substituted as per F-note above.

**E112** Previous affecting provision: subs. (3B) amended (1.08.2006) by *Criminal Justice Act 2006* (26/2006), s. 84(c), S.I. No. 390 of 2006; substituted as per F-note above.

**E113** Previous affecting provision: subss. (3CC)-(3CCCC) inserted (1.08.2006) by *Criminal Justice Act 2006* (26/2006), s. 84(d), S.I. No. 390 of 2006; substituted as per F-note above.

**E114** Previous affecting provision: subs. (3I) amended (1.08.2006) by *Criminal Justice Act 2006* (26/2006), s. 84(e), S.I. No. 390 of 2006; substituted as per F-note above.

**E115** Previous affecting provision: subs. (3K) inserted (1.08.2006) by *Criminal Justice Act 2006* (26/2006), s. 84(f), S.I. No. 390 of 2006; substituted as per F-note above.

**E116** Previous affecting provision: subss. (3A)-(3J) inserted (26.05.1999) by *Criminal Justice Act 1999* (10/1999), s. 5, S.I. No. 154 of 1999; substituted as per F-note above.

Power of court to remand persons convicted under *section 3, 15, 16, 17 or 18* and to obtain a report and in certain cases to arrange for the medical treatment or for the care of such persons.

**28.—(1) (a)** Where a person is convicted of an offence under *section 3* of this Act, other than a first or second offence in relation to which a penalty may be imposed under *section 27 (1) (a)* of this Act, or an offence under *section 15* or *16* of this Act, or of attempting to commit any such offence, F56[if, having regard to the circumstances of the case, the court considers it appropriate so to do, the court may] remand the person for such period as it considers necessary for the purposes of this section (being a period not exceeding eight days in the case of a remand in custody), and request F57[the Health Service Executive], F56[probation and welfare] officer or other body or person, considered by the court to be appropriate, to—

(i) cause to be furnished to the court a medical report in writing on the convicted person together with such recommendations (if any) as to medical treatment which the person making the report considers appro-

appropriate to the needs F58[, arising because of his being dependent on drugs,] of the convicted person, and

- (ii) furnish to the court a report in writing as to the vocational and educational circumstances and social background of the convicted person together with such recommendations (if any) as to care which the body or person making the report considers appropriate to the said needs.

(b) Where a person is convicted of a first or second offence under *section 3* of this Act in relation to which a penalty may be imposed under the said *section 27 (1) (a)* or an offence under *section 17* or *18* of this Act, or of attempting to commit any such offence, and the court, having regard to the circumstances of the case, considers it appropriate so to do, the court may remand the person F59[on bail or, unless a penalty falls to be imposed on the person under *paragraph (a)* of *section 27 (1)* of this Act, in custody] for such period as it considers necessary for the purposes of this section, and request F57[the Health Service Executive], F59[probation and welfare] officer or other body or person, considered by the court to be appropriate, to—

- (i) cause to be furnished to the court a medical report in writing on the convicted person together with such recommendations (if any) as to medical treatment which the person making the report considers appropriate to the needs F58[, arising because of his being dependent on drugs,] of the convicted person, and
- (ii) furnish to the court a report in writing as to the vocational and educational circumstances and social background of the convicted person together with such recommendations (if any) as to care which the body or person making the report considers appropriate to the said needs.

(2) Having considered the reports furnished pursuant to *subsection (1)* of this section, the court shall, if in its opinion the welfare of the convicted person warrants its so doing, instead of imposing a penalty under *section 27* of this Act, but subject to *subsection (8)* of this section either—

(a) permit the person concerned to enter into a recognisance containing such of the following conditions as the court considers appropriate having regard to the circumstances of the case and the welfare of the person, namely—

- (i) a condition that the person concerned be placed under the supervision of such body (including F57[the Health Service Executive]) or person as may be named in the order and during a period specified in the order,

F60[(ia) in case the person concerned is placed under such supervision, a condition requiring such person, at the place at which he normally resides or at such other place as may be specified in the order and during such period and at such intervals as shall be so specified, to receive visits from and permit visits by—

(I) in case such person is placed under the supervision of a body, an officer of that body,

(II) in case such person is placed under the supervision of a person, that person,]

- (ii) a condition requiring such person to undergo medical F61[or other] treatment recommended in the report,
- (iii) a condition requiring such person for such treatment to attend or remain in a hospital, clinic or other place specified in the order for a period so specified,
- (iv) a condition requiring the person to attend a specified course of education, instruction or training, being a course which, if undergone by such person,

would, in the opinion of the court, improve his vocational opportunities or social circumstances, facilitate his social rehabilitation or reduce the likelihood of his committing a further offence under this Act, or

(b) order that the person be detained in custody in a designated custodial treatment centre for a period not exceeding the maximum period of imprisonment which the court may impose in respect of the offence to which the conviction relates, or one year, whichever is the shorter.

(3) A court may, if it thinks fit, consider otherwise than in public—

(a) a report under *subsection (1)* of this section,

(b) whether or not it will permit a person to enter into a recognisance mentioned in *subsection (2)* of this section, or

(c) whether or not it will make an order referred to in *paragraph (b)* of *subsection (2)* of this section.

(4) In any proceedings in which a report furnished under *subsection (1)* of this section is considered, the court may, if it believes that it is in the interests of the person concerned not to know the contents of the report, withhold from him the report, but the foregoing shall not be construed as preventing any barrister or solicitor who appears on such person's behalf in the proceedings seeing the report or, if thought fit, questioning or commenting on any of its contents in the proceedings.

(5) Where it is alleged to the court that a person has been in breach of a recognisance entered into by him under *subsection (2)* of this section, the court, notwithstanding the decision by it under the said *subsection (2)*, may direct that the person be brought before the court, and, if satisfied that the person has been in breach of the recognisance, may estreat the recognisance and, subject to *subsection (8)* of this section, either make in respect of the person an order referred to in *paragraph (b)* of *subsection (2)* of this section or proceed to deal with the case in accordance with the provisions of *section 27* of this Act as if the decision had not been made.

(6) If at any time during a period of detention in a designated custodial treatment centre it appears to the court, on an application made by or on behalf either of the prosecutor or the person who is being detained, or on receipt of a message, in a form approved of by the Minister, from an authorised medical practitioner F62[or the person who is for the time being in charge of such centre], that the person being detained under this Act is not then, or may not then be, in further need of the treatment or care of which the court formerly considered him to be in need, or that his continued detention in custody in the designated custodial treatment centre is not then, or may not then be, in his best interests or in the best interests of other persons in that centre, the court, notwithstanding its decision under *subsection (2)* of this section, may order the person to be brought before the court.

(7) Where a person is brought before the court pursuant to an order under *subsection (6)* of this section, the court may inquire into the case and hear such evidence as it considers relevant, and if, having considered the circumstances of the case, the court is satisfied that the person is not then in further need of the treatment or care referred to in *subsection (6)* of this section, or that his continued detention in custody in the designated custodial treatment centre would not be in his best interests or in the best interests of other persons in that centre, the court, notwithstanding its decision under *subsection (2)* of this section, may revoke the relevant order made by it under the said *subsection (2)* and, subject to *subsection (8)* of this section,

(a) permit the person to enter into a recognisance described in the said *subsection (2)* if the court is of the opinion that the welfare of the person warrants its so doing, or

(b) order the person to be detained for a period not exceeding the unexpired portion of the period specified in the revoked order in a custodial treatment centre other than that so specified, or

(c) decide not to impose any penalty under *section 27* of this Act, or

(d) where it considers it appropriate so to do and subject to *subsection (9)* of this section, proceed to deal with the offence in accordance with *section 27* of this Act.

(8) The court shall not under this section either,

(a) permit a person to enter into a recognisance containing a condition requiring him for F63[**medical or other treatment**] to remain in a specified hospital, clinic or other place, or

(b) order a person to be detained in a custodial treatment centre,

unless, after consultation with, or consideration of a report of, either the F63[**the medical practitioner or other person**] in charge of the hospital, clinic, custodial treatment centre or other place concerned or a medical practitioner nominated by F63[**the medical practitioner or other person**] so in charge, the court is satisfied that the giving or making of the permission or order would be an appropriate course having regard to the needs of the person and would not prejudicially affect the ability of such hospital, clinic, custodial treatment centre or other place to provide for the treatment or care of persons.

(9) In case a court decides, pursuant to *subsection (7)* of this section, to impose a sentence of imprisonment under *section 27* of this Act, the period of imprisonment which may be so imposed shall not exceed the period by which the maximum term of imprisonment which that court could otherwise have imposed under the said *section 27* for the offence of which the person was convicted exceeds the period already spent by him in custody on foot of the order revoked by the court.

(10) The Minister may by order designate an institution which in his opinion is suitable for the medical treatment or the care of persons in respect of whom an order may be made under this section, or a specified part of such an institution, as a designated custodial treatment centre for the purpose of this section.

(11) In this section—

“authorised medical practitioner” means a registered medical practitioner authorised for the purposes of this section by the Minister in writing or a registered medical practitioner of a class specified by the Minister as being authorised for the said purposes;

F64[‘**probation and welfare officer**’ means an officer employed in the probation and welfare service of the Department of Justice;]

F65[...]

#### Annotations

#### Amendments:

**F56** Substituted (3.08.1984) by *Misuse of Drugs Act 1984* (18/1984), s. 14(b) and (d), S.I. No. 205 of 1984.

**F57** Substituted (1.01.2005) by *Health Act 2004* (42/2004), s. 75 and sch. 6 pt. 7 item 1(a)-(c), S.I. No. 887 of 2004.

**F58** Inserted (3.08.1984) by *Misuse of Drugs Act 1984* (18/1984), s. 14(c), S.I. No. 205 of 1984.

**F59** Substituted (3.08.1984) by *Misuse of Drugs Act 1984* (18/1984), s. 14(e), S.I. No. 205 of 1984.

**F60** Inserted (3.08.1984) by *Misuse of Drugs Act 1984* (18/1984), s. 14(f), S.I. No. 205 of 1984.

**F61** Inserted (3.08.1984) by *Misuse of Drugs Act 1984* (18/1984), s. 14(g), S.I. No. 205 of 1984.

- F62** Inserted (3.08.1984) by *Misuse of Drugs Act 1984* (18/1984), s. 14(h), S.I. No. 205 of 1984.
- F63** Substituted (3.08.1984) by *Misuse of Drugs Act 1984* (18/1984), s. 14(i), S.I. No. 205 of 1984.
- F64** Inserted (3.08.1984) by *Misuse of Drugs Act 1984* (18/1984), s. 14(j), S.I. No. 205 of 1984.
- F65** Deleted (1.01.2005) by *Health Act 2004* (42/2004), s. 75 and sch. 6 pt. 7 item 1(d), S.I. No. 887 of 2004.

**Modifications (not altering text):**

- C18** Reference to a registered medical practitioner construed (3.07.2008) by *Medical Practitioners Act 2007* (25/2007), s. 108(1), S.I. No. 231 of 2008.

**Construction of references to registered medical practitioner and Medical Council, etc.**

**108.**— (1) Every reference to a registered medical practitioner contained in any enactment or any statutory instrument shall be construed as a reference to a registered medical practitioner within the meaning of *section 2*.

**Editorial Notes:**

- E117** Subss. (2)-(9) applied with modifications where a person is convicted of an offence under *Misuse of Drugs Act 1984*, s. 7 (3.08.1984) by *Misuse of Drugs Act 1984* (18/1984), s. 8, S.I. No. 205 of 1984.
- E118** Power pursuant to subs. (10) exercised (1.02.1980) by *Misuse of Drugs (Custodial Treatment Centre) Order 1980* (S.I. No. 30 of 1980).

Defences generally.

**29.**—F66[(1) In any proceedings for an offence under this Act or an offence under section 34 of the Criminal Justice Act, 1994 in which it is proved that the defendant had in his possession or supplied a controlled drug, the defendant shall not be acquitted of the offence charged by reason only of proving that he neither knew nor suspected nor had reason to suspect that the substance, product or preparation in question was the particular controlled drug alleged.]

(2) In any such proceedings in which it is proved that the defendant had in his possession a controlled drug, or a forged prescription, or a duly issued prescription altered with intent to deceive, it shall be a defence to prove that—

(a) he did not know and had no reasonable grounds for suspecting—

- (i) that what he had in his possession was a controlled drug or such a prescription, as may be appropriate, or
- (ii) that he was in possession of a controlled drug or such a prescription, as may be appropriate, or

(b) he believed the substance, product or preparation to be a controlled drug, or a controlled drug of a particular class or description, and that, if the substance, product or preparation had in fact been that controlled drug or a controlled drug of that class or description, he would not at the material time have been committing an offence under this Act, or

(c) knowing or suspecting it to be such a drug or prescription, he took or retained possession of it for the purpose of—

- (i) preventing another from committing or continuing to commit an offence in relation to the drug or document, as may be appropriate, or
- (ii) delivering it into the custody of a person lawfully entitled to take custody of it,

and that as soon as practicable he took all such steps as were reasonably open to him to destroy the drug or document or to deliver it into the custody of such a person.

F67[(3) In any proceedings for an offence under *section 15 or 15A, or subsection (1)(d) of section 15C, of this Act, a defendant may rebut the presumption raised by subsection (2) of the said section 15 or 15A or subsection (3) of the said section 15C, as the case may be, by showing that at the time of the alleged offence, he or she was by virtue of regulations made under section 4 of this Act lawfully in possession of the controlled drug or drugs to which the proceedings relate.*]

(4) In any proceedings for an offence under *section 19* of this Act it shall be a defence to show that the defendant took steps to prevent the occurrence or continuance of the activity or contravention to which the alleged offence relates and that, in the particular circumstances, the steps were taken as soon as practicable and were reasonable.

(5) In any proceedings for an offence under *section 16, 17 or 21 (2)* of this Act, it shall be a defence for the defendant to prove that he neither knew of nor suspected nor had reason to suspect the existence of some fact alleged by the prosecutor which it is necessary for the prosecutor to prove if he is to be convicted of the offence charged.

(6) In any proceedings for an attempt to commit an offence under this Act the defences mentioned in *subsection (2) or (5)* of this section shall, with the necessary modifications, be open to the defendant.

(7) Subject to *subsection (1)* of this section nothing in this section shall prevent a person raising a defence which, apart from this section, would be open to him to raise in proceedings for an offence under this Act.

#### Annotations

#### Amendments:

**F66** Substituted (15.11.1996) by *Criminal Justice Act 1994 (15/1994)*, s. 34(5), S.I. No. 333 of 1996.

**F67** Substituted (1.08.2006) by *Criminal Justice Act 2006 (26/2006)*, s. 85, S.I. No. 390 of 2006.

#### Editorial Notes:

**E119** Previous affecting provision: subs. (3) substituted (26.05.1999) by *Criminal Justice Act 1999 (10/1999)*, s. 6, S.I. No. 154 of 1999; substituted as per F-note above.

Forfeiture.

**30.**—F68[(1) Subject to *subsection (2)* of this section, a court by which a person is convicted of an offence under this Act or a drug trafficking offence (within the meaning of the *Criminal Justice Act, 1994*), may order anything shown to the satisfaction of the court to relate to the offence to be forfeited and either destroyed or dealt with in such other manner as the court thinks fit.]

(2) A court shall not order anything to be forfeited under this section if a person claiming to be the owner of or otherwise interested in it applies to be heard by the court, unless an opportunity has been given to him to show cause why the order should not be made.

**Annotations****Amendments:**

**F68** Substituted (14.11.1994) by *Criminal Justice Act 1994* (15/1994), s. 62, S.I. No. 324 of 1994.

Offences in relation to bodies corporate.

**31.**—Where an offence under this Act is committed by a body corporate or by a person purporting to act on behalf of a body corporate and is proved to have been so committed with the consent, connivance or approval of, or to have been facilitated by any neglect on the part of, any director, manager, secretary or other official of such body, such person shall also be guilty of the offence.

Poisons for purposes of Pharmacy Acts, 1875 to 1962.

**32.**—F69[...]

**Annotations****Amendments:**

**F69** Repealed (29.11.2008) by *Pharmacy Act 2007* (20/2007), s. 4 and sch. 4, S.I. No. 487 of 2008.

Amendment of Poisons Act, 1961.

**33.**—(1) The Poisons Act, 1961, shall be amended as follows:

(a) section 4 (1) is hereby amended by—

(i) the addition of “and one of whom is a person with knowledge and experience of the manufacture of preparations containing poisons” to paragraph (b), and

(ii) the insertion of the following paragraph after paragraph (c),

“(cc) one person who is a fellow, ordinary member or licentiate of the Institute of Chemistry of Ireland,”;

(b) section 14 (3) is hereby amended by the substitution of the following paragraphs for paragraphs (j) to (l):

“(j) provide for the enforcement and execution of the provisions of the regulations—

(i) by officers of the Minister,

(ii) with the consent of the Minister for Agriculture, by officers of that Minister,

(iii) by the Pharmaceutical Society of Ireland and its officers, and

(iv) by health boards and their officers,

(k) enable any such officer (with, in the case of an officer of the Minister or the Minister for Agriculture, a written authorisation of whichever of those Ministers is appropriate, in the case of an officer of the Pharmaceutical Society of Ireland, a written authorisation of that Society, and in the case of an officer of a health board, a written authorisation of the board), at all reasonable times, for the purpose of ascertaining whether or not there is or has been a contravention of the regulations, to enter premises of a

class or description specified in the regulations and to inspect any substance or article which is so specified and require the production of and inspect, and if he thinks fit take copies of any entry in, any book, record or other document which is of a class or description so specified,

- (l) provide for the taking (without payment) by such officers, with such authorisation, of samples of poisons or such substances for test, examination or analysis,
  - (m) prescribe the certificate or other evidence to be given of the result of any such test, examination or analysis and the classes of person by whom such certificate or evidence is to be given,
  - (n) provide that any certificate or other evidence specified under paragraph (m) of this subsection and given in respect of the test, examination or analysis of a sample shall with regard to that sample be evidence for all purposes of the result,
  - (o) provide for the prosecution of offences under section 17 of this Act in relation to the regulations by the Minister, the Pharmaceutical Society of Ireland or health boards, and
  - (p) provide for matters ancillary to the foregoing matters.”;
- (c) the following new section is hereby inserted after section 15:

“Evidence of result of certain tests, examinations or analyses.

15A.—Whenever regulations made under this Act provide that a certificate or other evidence is to be evidence for all purposes of a result of a test, examination or analysis of a sample, such certificate or other evidence shall until the contrary is shown, in relation to that sample, be accepted by a court as sufficient evidence of the result of the test, examination or analysis.”.

(2) Regulations under section 14 or section 15 of the Poisons Act, 1961, may provide that a substance which is declared to be a poison for the purposes of those regulations or a provision thereof, shall, for the purposes of whichever of the said sections is appropriate and the regulations or provision to which the declaration relates, be regarded in circumstances specified in the regulations as not being the subject of the declaration.

Amendment of section 2 of Pharmacy Act, 1962.

**34.**—Section 2 of the Pharmacy Act, 1962, is hereby amended by the substitution of the following subsection for subsection (4):

“(4) It shall not be a contravention of subsection (2) of this section for a person to keep open shop for the sale of a substance which is declared to be a poison for the purposes of regulations made under section 14 of the Poisons Act, 1961, if the person is a person, or a member of a class of persons, by whom pursuant to such regulations the substance may be sold or offered or kept for sale.”.

Amendment of Pharmacopoeia Act, 1931.

**35.**—(1) The Pharmacopoeia Act, 1931, is hereby amended as follows:

- (a) section 2 (1) shall be construed and have effect as if the reference therein to the Council were a reference to the Minister for Health;
- (b) the following subsection shall be substituted for subsection (2) of section 2:

“(2) The Minister for Health may by regulations make such modifications (by way of deletion, addition or amendment) in the British Pharmacopoeia for the time being in force in Great Britain as he thinks fit.”;

(c) the following subsection shall be substituted for subsection (2) of section 3:

“(2) A certificate endorsed on a book purporting to be a copy of the British Pharmacopoeia and purporting to be signed by an officer of the Minister for Health that such book is a copy of the British Pharmacopoeia in force in Great Britain on a specified day or days, or during a specified period, shall in any legal proceedings until the contrary is shown be admitted as evidence of the facts so certified, and in such proceedings it shall not be necessary to prove the signature of the person purporting to sign the certificate or that the person was an officer of the said Minister.”; and

(d) the following new section shall be inserted after section 4:

“Regulations.

4A.—Every regulation made under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next twenty-one days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to anything previously done thereunder.”.

(2) As on and from the specified day section 4 of the Pharmacopoeia Act, 1931, shall be construed and have effect as if—

(a) “or the European Pharmacopoeia” were inserted after “Saorstát Éireann Pharmacopoeia” in subsection (1), and

(b) the following subsection were added to the section:

“(3) In this section ‘the European Pharmacopoeia’ means the Pharmacopoeia elaborated under the auspices of the Council of Europe in pursuance of the Convention in that behalf done at Strasbourg on the 22nd day of July, 1964.”.

(3) In this section “the specified day” means the day specified for the purposes of this section in a notice published by the Minister in the *Iris Oifigiúil*.

Amendment of section 65 of Health Act, 1947.

36.—Section 65 of the Health Act, 1947, as amended by section 39 of the Health Act, 1953, and section 6 of the Health Act, 1970, is hereby amended by—

(a) the substitution of the following paragraphs for paragraph (j) of subsection (3):

“(j) the enforcement and execution of the regulations—

(i) by officers of the Minister,

(ii) by health boards and their officers,

(iii) with the consent of the Minister for Finance, by officers of Customs and Excise,

(iv) with the consent of the Minister for Industry and Commerce, by officers of that Minister,

(v) by the Pharmaceutical Society of Ireland and its officers;

(k) the enabling for the purpose of ascertaining whether or not there is or has been a contravention of the regulations, of any such officer (with, in the case of an officer of the Minister or the Minister for Industry and Commerce or an officer of Customs and Excise, a written authorisation of whichever of those Ministers or the Minister for Finance is appropriate, in the case of an officer of a health board, a written authorisation of the

board and in the case of an officer of the Pharmaceutical Society of Ireland, a written authorisation of that Society), at all reasonable times to enter any premises which are of a class or description specified in the regulations and to inspect or examine any substance or article which is of a class or description so specified and require the production of and inspect, and if he thinks fit, to take copies of any entry in, any book, record or other document which is of a prescribed class or description;

(l) the taking (without payment) by such officers, with such authorisation, of samples of such substances or articles for test, examination or analysis;

(m) the prescribing of the certificate or other evidence to be given of the result of any such test, examination or analysis and the classes of person by whom such certificate or evidence is to be given; and

(n) providing that any certificate or other evidence specified under paragraph (m) of this subsection and given in respect of the test, examination or analysis of a sample shall with regard to that sample be evidence for all purposes of the result.”, and

(b) the substitution of the following subsection for subsection (5):

“(5) An offence under this section may be prosecuted by the Minister, the Pharmaceutical Society of Ireland or by the health board in whose functional area the offence is committed.”.

Service etc. of notices.

**37.**—(1) Where a notice or other document is required or authorised by this Act or by regulations under this Act to be served on or given or sent to a person, it may be served on or given or sent to him—

(a) by delivering it to him,

(b) in the case of a person other than a body corporate, by sending it by post in an envelope addressed to him at the address at which he ordinarily resides or carries on business, or

(c) in the case of a body corporate, by sending it by post in an envelope addressed to the secretary or principal officer of the body at the address at which the body carries on business.

(2) For the purposes of *subsection (1)* of this section, a company registered under the Companies Act, 1963, shall be deemed to carry on business at its registered offices and every other body corporate and every unincorporated body of persons shall be deemed to carry on business at its principal office or place of business.

Regulations generally; laying of orders.

**38.**—(1) The Minister may make regulations for prescribing any matter referred to in this Act as prescribed, provided that in so far as any such regulations provide for the charging of fees they shall only be made with the consent of the Minister for Finance.

(2) Regulations under this Act may apply to controlled drugs generally, to controlled drugs of a prescribed class or description, or to one or more prescribed controlled drugs.

(3) Every regulation and every order made under this Act (other than an order under *section 8 (8)* or an order referred to in *section 11* or *section 28*) shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation or order is passed by either such House within the next twenty-one days on which that House has sat after the regulation or order is laid before it, the regulation or order, as the case may be, shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

**Annotations****Modifications (not altering text):**

**C19** Functions transferred and reference to “Minister for Finance” construed (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts. 3 and 5 and sch. 1 part 2, in effect as per art. 1(2), subject to transitional provisions in arts. 6-9.

3. The functions conferred on the Minister for Finance by or under the provisions of —

(a) the enactments specified in Schedule 1, and

(b) the statutory instruments specified in Schedule 2,

are transferred to the Minister for Public Expenditure and Reform.

...

5. References to the Minister for Finance contained in any Act or instrument under an Act and relating to any functions transferred by this Order shall, from the commencement of this Order, be construed as references to the Minister for Public Expenditure and Reform.

...

Schedule 1

Enactments

...

Part 2

1922 to 2011 Enactments

Number and Year (1)	Short Title (2)	Provision (3)
...	...	...
No. 12 of 1977	Misuse of Drugs Act 1977	Sections 38 and 40
...	...	...

**Editorial Notes:**

**E120** Power pursuant to section exercised (17.12.2014) by *Misuse of Drugs (Amendment) (No. 2) Regulations 2014* (S.I. No. 583 of 2014).

**E121** Power pursuant to section exercised (11.07.2014) by *Misuse of Drugs (Amendment) Regulations 2014* (S.I. No. 323 of 2014).

**E122** Power pursuant to section exercised (1.01.2013) by *Misuse of Drugs (Licence Fees) (Amendment) Regulations 2012* (S.I. No. 544 of 2012), in effect as per reg. 3.

**E123** Power pursuant to section exercised (1.11.2011) by *Misuse of Drugs (Amendment) Regulations 2011* (S.I. No. 552 of 2011).

**E124** Power pursuant to section exercised (11.05.2010) by *Misuse of Drugs (Amendment) Regulations 2010* (S.I. No. 200 of 2010).

**E125** Power pursuant to section exercised (31.03.2009) by *Misuse of Drugs (Amendment) (No. 2) Regulations 2009* (S.I. No. 122 of 2009).

**E126** Power pursuant to section exercised (1.05.2007) by *Misuse of Drugs (Amendment) Regulations 2007* (S.I. No. 200 of 2007).

**E127** Power pursuant to section exercised (31.01.2006) by *Misuse of Drugs (Amendment) Regulations 2006* (S.I. No. 53 of 2006), in effect as per reg. 3.

- E128** Power pursuant to section exercised (22.11.1993) by *Misuse of Drugs (Amendment) Regulations 1993* (S.I. No. 342 of 1993).
- E129** Power pursuant to section exercised (8.12.1988) by *Misuse of Drugs Regulations 1988* (S.I. No. 328 of 1988). Note that this SI was given statutory status (12.03.2015) by *Misuse Of Drugs (Amendment) Act 2015* (6/2015), s. 2 and sch. 2, commenced as per s. 1(3).
- E130** Power pursuant to section exercised (1.02.1988) by *Misuse of Drugs (Licence Fees) (Amendment) Regulations 1988* (S.I. No. 11 of 1988), in effect as per reg. 3.
- E131** Power pursuant to section exercised (1.06.1986) by *Misuse of Drugs (Licence Fees) (Amendment) Regulations 1986* (S.I. No. 172 of 1986), in effect as per reg. 3.
- E132** Power pursuant to section exercised (1.03.1985) by *Misuse of Drugs (Licence Fees) (Amendment) Regulations 1985* (S.I. No. 29 of 1985), in effect as per reg. 3.
- E133** Power pursuant to section exercised (23.10.1984) by *Misuse of Drugs (Committees of Inquiry) Regulations 1984* (S.I. No. 264 of 1984), in effect as per reg. 3.
- E134** Power pursuant to section exercised (1.03.1983) by *Misuse of Drugs (Safe Custody) Regulations 1982* (S.I. No. 321 of 1982), in effect as per reg. 2. Note that this SI was given statutory status (12.03.2015) by *Misuse Of Drugs (Amendment) Act 2015* (6/2015), s. 2 and sch. 2, commenced as per s. 1(3). It was revoked by *Misuse of Drugs (Amendment) Act 2016* (9/2016), s. 7(b), not commenced as of date of revision.
- E135** Power pursuant to section exercised (15.05.1979) by *Misuse of Drugs (Licence Fees) Regulations 1979* (S.I. No. 164 of 1979), in effect as per reg. 2. Note that this SI was given statutory status (12.03.2015) by *Misuse Of Drugs (Amendment) Act 2015* (6/2015), s. 2 and sch. 2, commenced as per s. 1(3).
- E136** Previous affecting provision: power pursuant to section exercised (1.03.2004) by *Misuse of Drugs (Scheduled Substances) (Amendment) Regulations 2004* (S.I. No. 92 of 2004); revoked (22.12.2009) by *European Communities (Control of Drug Precursors) Regulations 2009* (S.I. No. 558 of 2009), reg. 37(1)(c).
- E137** Previous affecting provision: power pursuant to section exercised (4.02.2003) by *Misuse of Drugs (Scheduled Substances) (Amendment) Regulations 2003* (S.I. No. 41 of 2003); revoked (1.03.2004) by *Misuse of Drugs (Scheduled Substances) (Amendment) Regulations 2004* (S.I. No. 92 of 2004), reg. 2.
- E138** Previous affecting provision: power pursuant to section exercised (22.11.1993) by *Misuse of Drugs (Scheduled substances) Regulations 1993* (S.I. No. 338 of 1993); revoked (22.12.2009) by *European Communities (Control of Drug Precursors) Regulations 2009* (S.I. No. 558 of 2009), reg. 37(1)(b).
- E139** Previous affecting provision: power pursuant to section exercised (16.10.1987) by *Misuse of Drugs (Amendment) Regulations 1987* (S.I. No. 263 of 1987); revoked (8.12.1988) by *Misuse of Drugs Regulations 1988* (S.I. No. 328 of 1988), reg. 2.
- E140** Previous affecting provision: power pursuant to section exercised (1.05.1979) by *Misuse of Drugs Regulations 1979* (S.I. No. 32 of 1979), in effect as per reg. 2; revoked (8.12.1988) by *Misuse of Drugs Regulations 1988* (S.I. No. 328 of 1988), reg. 2.
- E141** Previous affecting provision: power pursuant to section exercised (1.05.1979) by *Misuse of Drugs (Committees of Inquiry, Advisory Committees and Advisory Panels) Regulations 1979* (S.I. No. 31 of 1979), in effect as per reg. 2; revoked (23.10.1984) by *Misuse of Drugs (Committees of Inquiry) Regulations 1984* (S.I. No. 264 of 1984), reg. 8.

Expenses.

**39.**—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Collection and disposal of moneys payable under Act.

**40.**—(1) All moneys payable under regulations under this Act shall be collected and taken in such manner as the Minister for Finance may from time to time direct and shall be paid into or disposed of for the benefit of the Exchequer in accordance with the directions of the Minister for Finance.

(2) The Public Offices Fees Act, 1879, shall not apply in respect of moneys mentioned in *subsection (1)* of this section and payable to the Minister.

#### Annotations

#### Modifications (not altering text):

**C20** Functions transferred and references to “Minister for Finance” construed (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts. 3 and 5 and sch. 1 part 2, in effect as per art. 1(2), subject to transitional provisions in arts. 6-9.

3. The functions conferred on the Minister for Finance by or under the provisions of —

(a) the enactments specified in Schedule 1, and

(b) the statutory instruments specified in Schedule 2,

are transferred to the Minister for Public Expenditure and Reform.

...

5. References to the Minister for Finance contained in any Act or instrument under an Act and relating to any functions transferred by this Order shall, from the commencement of this Order, be construed as references to the Minister for Public Expenditure and Reform.

...

Schedule 1

Enactments

...

Part 2

1922 to 2011 Enactments

Number and Year	Short Title	Provision
(1)	(2)	(3)
...	...	...
No. 12 of 1977	Misuse of Drugs Act 1977	Sections 38 and 40
...	...	...

Repeal of Dangerous Drugs Act, 1934, and transitional provision.

**41.**—(1) The Dangerous Drugs Act, 1934, is hereby repealed.

(2) In case a provision of this Act other than *subsection (1)* of this section, comes into force on a day which is earlier than the day on which the said *subsection (1)* comes into force, the following provisions shall have effect, namely, as regards the period beginning on the day on which the first-mentioned provision comes into force and ending on the day on which the said *subsection (1)* comes into force, an act or omission which is an offence under this Act shall not be an offence under the Dangerous Drugs Act, 1934.

Miscellaneous repeals and transitional provisions.

**42.**—(1) The following are hereby repealed:

(a) (i) “by the General Council of Medical Education and Registration of the United Kingdom” in section 1 of the Pharmacopoeia Act, 1931, and

- (ii) section 2 (3) of that Act; and
- (b) section 78 of the Health Act, 1970.
- (2) Notwithstanding *subsection (1)* of this section, the Minister may by regulations provide—
- (a) that a register specified in the regulations and kept by him under regulations made under section 78 of the Health Act, 1970, shall be included in and shall be deemed to be part of a register to be kept by him for the purposes of regulations under this Act, or
- (b) that any person, being a person whose name was, immediately before the commencement of this section, on a register specified in the regulations and kept by the Minister under the said section 78, shall be deemed to have been granted, issued or given, as may be appropriate, such licence, permit or other form of authority under this Act as may be specified in the regulations.
- (3) Notwithstanding *section 41 (1)* of this Act, the Minister may by regulations provide that any person who was, immediately before the commencement of this section, the holder of a licence, permit or other authority granted, issued or given under the Dangerous Drugs Act, 1934, shall be deemed to have been granted, issued or given, as may be appropriate, such licence, permit or other form of authority under this Act as may be specified in the regulations.
- (4) Regulations made under this section which include provisions mentioned in *paragraph (b) of subsection (2)* or in *subsection (3)* of this section may also include—
- (a) provisions deeming any such licence, permit or other form of authority to have been granted, issued or given subject to conditions specified in the regulations, and
- (b) provisions enabling the Minister in specified circumstances to direct that provisions of regulations under this section shall cease to apply in relation to a particular person.
- (5) Where the Minister duly gives a direction referred to in *subsection (4) (b)* of this section, the provisions specified in the direction shall in accordance with the direction cease to apply in relation to the person to whom the direction relates.

#### Annotations

#### Editorial Notes:

**E142** Previous affecting provision: power pursuant to section exercised (1.05.1979) by *Misuse of Drugs Regulations 1979* (S.I. No. 32 of 1979), in effect as per reg. 2; revoked (8.12.1988) by *Misuse of Drugs Regulations 1988* (S.I. No. 328 of 1988), reg. 2.

Short title, commencement and collective citations.

**43.—(1)** This Act may be cited as the Misuse of Drugs Act, 1977.

(2) *Subsection (1)* of this section and *section 41 (2)* of this Act shall come into operation on the passing hereof and the other purposes and provisions of this Act shall come into operation on such day or days as may be fixed therefor by any order or orders of the Minister, either generally or with reference to any particular such purpose or provision and different days may be so fixed for different such purposes and different such provisions of this Act.

(3) The Pharmacy Acts, 1875 to 1962, and *sections 32 and 34* of this Act may be cited together as the Pharmacy Acts, 1875 to 1977.

(4) The Pharmacopoeia Act, 1931, *section 35* of this Act, and *section 42* of this Act in so far as it amends that Act, may be cited together as the Pharmacopoeia Acts, 1931 and 1977.

(5) The Health Acts, 1947 to 1970, *section 36* of this Act, and *section 42* of this Act in so far as it amends those Acts, may be cited together as the Health Acts, 1947 to 1977.

(6) The Poisons Act, 1961, and *section 33* of this Act may be cited together as the Poisons Acts, 1961 and 1977.

#### Annotations

#### Editorial Notes:

**E143** Power pursuant to section exercised (1.03.1979 and 1.05.1979) by *Misuse of Drugs Act, 1977 (Commencement) Order 1979 (S.I. No. 28 of 1979)*.

3. Sections 1, 2 and 4 to 14 (inclusive), section 21 (1), section 27 (2), subsections (1), (2), (6) and (7) of section 29, sections 32 to 40 (inclusive) and subsections (2), (3), (4), (5) and (6) of section 43 of the Act, together with the Schedule to the Act, shall come into operation generally on the 1st day of March, 1979.

4. Subsection (1) of section 42 of the Act shall come into operation—

(a) for the purpose of effecting the repeal of the matter referred to in paragraph (a) of that subsection, on the 1st day of March, 1979, and

(b) for the purpose of effecting the repeal of the matter referred to in paragraph (b) of that subsection, on the 1st day of May, 1979.

5. The provisions of the Act, other than those referred to in articles 3 and 4 of this Order, shall come into operation generally on the 1st day of May, 1979.

## SCHEDULE

## Controlled Drugs

1 Acetorphine.  
Acetyldihydrocodeine.  
Acetylmethadol.  
Allylprodine.  
Alphacetylmethadol.  
Alphameprodine.  
Alphamethadol.  
Alphaprodine.  
Amphetamine.  
Amylobarbitone.  
Anileridine.  
Benzethidine.  
Benzphetamine.  
Benzylmorphine (3-benzylmorphine).  
Betacetylmethadol.  
Betameprodine.  
Betamethadol.  
Betaprodine.  
Bezitramide.  
Bufotenine.  
Cannabinol, except where contained in cannabis or cannabis resin.  
Cannabinol derivatives.  
Cannabis and cannabis resin.  
Chlorphentermine.  
Clonitazene.  
Coca leaf.  
Cocaine.  
Codeine.  
Codoxime.  
Desomorphine.  
Dexamphetamine.  
Dextromoramide.  
Diamorphine.  
Diampromide.  
Diethylthiambutene.  
Difenoxin.  
Dihydrocodeine.  
Dihydromorphine.  
Dimenoxadole.

Dimepheptanol.  
Dimethylthiambutene.  
Dioxaphetyl butyrate.  
Diphenoxylate.  
Dipipanone.  
Drotebanol.  
Ecgonine, and any derivative of ecgonine which is convertible to ecgonine or to cocaine.  
Ethylmethylthiambutene.  
Ethylmorphine (3-ethylmorphine).  
Etonitazene.  
Etorphine.  
Etoxidine.  
Fentanyl.  
Furethidine.  
Hydrocodone.  
Hydromorphanol.  
Hydromorphone.  
Hydroxypethidine.  
Isomethadone.  
Ketobemidone.  
Levomethorphan.  
Levomoramide.  
Levophenacymorphan.  
Levorphanol.  
Lysergamide.  
Lysergide and other N-alkyl derivatives of lysergamide.  
Mephentermine.  
Mescaline.  
Metazocine.  
Methadone.  
Methaqualone.  
Methylamphetamine.  
Methyldesorphine.  
Methyldihydromorphine (6-methyldihydromorphine).  
Methylphenidate.  
Metopon.  
Morpheridine.  
Morphine.  
Morphinemethobromide, morphine N-oxide and other pentavalent nitrogen morphine derivatives.  
Myrophine.

Nicocodeine.  
Nicodicodine (6-nicotinoyldihydrocodeine).  
Nicomorphine.  
Noracymethadol.  
Norcodeine.  
Norlevorphanol.  
Normethadone.  
Normorphine.  
Norpipanone.  
Opium, whether raw, prepared or medicinal.  
Oxycodone.  
Oxymorphone.  
Pentobarbitone.  
Pethidine.  
Phenadoxone.  
Phenampramide.  
Phenazocine.  
Phendimetrazine.  
Phenmetrazine.  
Phenobarbitone.  
Phenomorphane.  
Phenoperidine.  
Pholcodine.  
Piminodine.  
Pipradrol.  
Piritramide.  
Poppy straw and concentrate of poppy straw.  
Proheptazine.  
Properidine.  
Propiram.  
Psilocin.  
Quinalbarbitone.  
Racemethorphan.  
Racemoramide.  
Racemorphan.  
Thebacon.  
Thebaine.  
Trimeperidine.  
4-Cyano-2-dimethylamino-4, 4-diphenylbutane.  
4-Cyano-1-methyl-4-phenylpiperidine.  
N, N-Diethyltryptamine.

N, N-Dimethyltryptamine.

2, 5-Dimethoxy- $\alpha$ , 4-dimethyl-phenethylamine.

1-Methyl-4-phenylpiperidine-4-carboxylic acid.

2-Methyl-3-morpholino-1, 1-diphenylpropanecarboxylic acid.

4-Phenylpiperidine-4-carboxylic acid ethyl ester.

F70[1A. (a) Alfentanil

(3-Amino-2,2-dimethylpropyl)4-aminobenzoate

5-(2-Aminopropyl) indole

1-(1,3-Benzodioxol-5-yl)-2-(1-pyrrolidinyl)-pentanone

N-(1-Benzyl-4-piperidyl) propionanilide

1-(4-Bromofuro[2,3-f][1]benzofuran-8-yl) propan-2-amine

Carfentanil

Cathinone

3,4-Dichloro-N-[[1-(dimethylamino)cyclohexyl]methyl]benzamide

Dihydroetorphine

[2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone

Dimethocaine

3-Dimethylheptyl-11-hydroxyhexahydrocannabinol

Eticyclidine

Etryptamine

1-(2-Fluorophenyl)-2-methylaminopropan-1-one

1-(3-Fluorophenyl)-2-methylaminopropan-1-one

1-(4-Fluorophenyl)-2-methylaminopropan-1-one

9-(Hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol

[9-Hydroxy-6-methyl-3-[5-phenylpentan-2-yl]oxy-5,6,6a,7,8,9,10,10a-octahydrophenanthridin-1-yl] acetate

N-Hydroxy-tenamphetamine

4-Iodo-2,5-dimethoxy-N-(2-methoxybenzyl)phenethylamine

Khat (being the leaves of *Catha edulis* (Celastraceae))

Lofentanil

Methcathinone

2-(3-Methoxyphenyl)-2-(ethylamino)cyclohexanone

1-(4-Methoxyphenyl)-2-(methylamino)propan-1-one

Methyl(2*S*,4*aR*,6*aR*,7*R*,10*aS*,10*bR*)-9-acetyloxy-2-(furan-3-yl)-6*a*,10*b*-dimethyl-4,10-dioxo-2,4*a*,5,6,7,8,9,10*a*-octahydro-1*H*-benzo[*f*]iso-chromene-7-carboxylate and any product, whether natural or otherwise, including any plant or plant material of any kind or description, which contains any proportion of the said substance

2-Methylamino-1-(3,4-methylenedioxyphenyl)butan-1-one

2-Methylamino-1-(3,4-methylenedioxyphenyl)propan-1-one

4-Methyl-aminorex

(8-Methyl-8-azabicyclo[3.2.1]octan-3-yl)-4-fluorobenzoate

Methyl-2-[(2*S*,3*S*,7*aS*,12*bS*)-3-ethyl-7*a*-hydroxy-8-methoxy-2,3,4,6,7,12*b*-hexahydro-1*H*-indolo[2,3*a*]quinolizin-2-yl]-3-methoxyprop-2-enoate and any product, whether natural or otherwise, including any plant or plant material of any kind or description, which contains any proportion of the said substance

Methyl-2-[(2*S*,3*S*,12*bS*)-3-ethyl-8-methoxy-1,2,3,4,6,7,12,12*b*-octahydroindolo[2,3*a*]quinolizin-2-yl]-3-methoxyprop-2-enoate and any product, whether natural or otherwise, including any plant or plant material of any kind or description, which contains any proportion of the said substance

$\alpha$ -Methyl-4-(methylthio)phenethylamine

1-(4-Methylphenyl)-2-methylaminopropan-1-one

Nabilone

Oripavine

Phencyclidine

1-Phenylcyclohexylamine

4-(1-Phenylcyclohexyl)morpholine

1-Piperidinocyclohexanecarbonitrile

Remifentanil

Rolicyclidine

Sufentanil

Tapentadol

Tenocyclidine

*N*-[1-(2-Thienyl)-4-piperidyl]propionanilide

4-[1-(2-Thienyl)cyclohexyl]morpholine

1-[1-(2-Thienyl)cyclohexyl]pyrrolidine

Tilidine.

(b) Any substance (not being bupropion) structurally derived from 2-amino-1-phenyl-1-propanone by modification in any of the following ways:

(i) by substitution in the phenyl ring to any extent with alkyl, alkenyl, alkynyl, alkoxy, alkylthio, alkylenedioxy, haloalkyl or halo substituents, whether

- or not further substituted in the phenyl ring by one or more other univalent substituents;
- (ii) by substitution at the 2- or 3-position of the propanone side-chain with an alkyl substituent;
  - (iii) by substitution at the nitrogen atom with one or more alkyl or dialkyl groups, or by inclusion of the nitrogen atom in a cyclic structure.
- (c) Any substance structurally derived from 2-amino-1-propanone by substitution at the 1-position with any monocyclic, or fused-polycyclic ring system (not being a phenyl ring or alkylendioxyphenyl ring system), whether or not the substance is further modified in any of the following ways:
- (i) by substitution in the ring system to any extent with alkyl, alkenyl, alkynyl, alkoxy, alkylthio, haloalkyl or halo substituents, whether or not further substituted in the ring system by one or more other univalent substituents;
  - (ii) by substitution at the 3-position with an alkyl substituent;
  - (iii) by substitution at the 2-amino nitrogen atom with one or more alkyl or dialkyl groups, or by inclusion of the 2-amino nitrogen atom in a cyclic structure.
- (d) Any substance structurally derived from 3-(1-benzoyl)indole or 3-(1-naphthoyl)indole by modification in any of the following ways:
- (i) by substitution at the nitrogen atom of the indole ring by alkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl or 2-(4-morpholinyl)ethyl;
  - (ii) by replacement of one or more hydrogen atoms of any of the substituents referred to in *clause (i)*, with a halo substituent;
- whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl or naphthyl ring to any extent.
- (e) 1-Benzylpiperazine or any substance structurally derived from 1-benzylpiperazine or 1-phenylpiperazine by modification in any of the following ways:
- (i) by substitution at the second nitrogen atom of the piperazine ring with alkyl, benzyl, haloalkyl or phenyl groups;
  - (ii) by substitution in the aromatic ring to any extent with alkyl, alkoxy, alkylendioxy, halide or haloalkyl groups.
- (f) Any substance structurally derived from fentanyl by modification in one or more of the following ways, that is to say:
- (i) by replacement of the phenyl portion of the phenethyl group by any heteromonocycle whether or not further substituted in the heterocycle;
  - (ii) by substitution in the phenethyl group with alkyl, alkenyl, alkoxy, hydroxy, halogeno, haloalkyl, amino or nitro groups;
  - (iii) by substitution in the piperidine ring with alkyl or alkenyl groups;
  - (iv) by substitution in the aniline ring with alkyl, alkoxy, alkylendioxy, halogeno or haloalkyl groups;
  - (v) by substitution at the 4-position of the piperidine ring with any alkoxy-carbonyl or alkoxyalkyl or acyloxy group;
  - (vi) by replacement of the *N*-propionyl group by another acyl group.

- (g) Any substance structurally derived from 2-(3-hydroxycyclohexyl)phenol by substitution at the 5-position of the phenolic ring by alkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl or 2-(4-morpholinyl)ethyl, whether or not further substituted in the cyclohexyl ring to any extent.
- (h) Any substance structurally derived from 3-(1-naphthoyl)indole or 1*H*-indol-3-yl-(1-naphthyl) methane by substitution at the nitrogen atom of the indole ring by alkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl or 2-(4-morpholinyl)ethyl, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent.
- (i) Any substance structurally derived from 3-(1-naphthoyl)pyrrole by substitution at the nitrogen atom of the pyrrole ring by alkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl or 2-(4-morpholinyl)ethyl, whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent.
- (j) Any substance structurally derived from 1-(1-naphthylmethyl)indene by substitution at the 3-position of the indene ring by alkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl or 2-(4-morpholinyl)ethyl, whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent.
- (k) Any substance structurally derived from pethidine by modification in one or more of the following ways, that is to say:
- (i) by replacement of the 1-methyl group by an acyl, alkyl whether or not unsaturated, benzyl or phenethyl group, whether or not further substituted;
  - (ii) by substitution in the piperidine ring with alkyl or alkenyl groups or with a propano bridge, whether or not further substituted;
  - (iii) by substitution in the 4-phenyl ring with alkyl, alkoxy, aryloxy, halogeno or haloalkyl groups;
  - (iv) by replacement of the 4-ethoxycarbonyl by any other alkoxy carbonyl or any alkoxyalkyl or acyloxy group;
  - (v) by formation of an *N*-oxide or a quaternary base.
- (l) Any substance (not being methoxyphenamine) structurally derived from phenethylamine, an *N*-alkyl-phenethylamine,  $\alpha$ -methylphenethylamine, an *N*-alkyl- $\alpha$ -methylphenethylamine,  $\alpha$ -ethylphenethylamine, or an *N*-alkyl- $\alpha$ -ethylphenethylamine by substitution in the ring to any extent with alkyl, alkoxy, alkylendioxy or halo substituents, whether or not further substituted in the ring by one or more other univalent substituents.
- (m) Any substance structurally derived from 3-phenylacetylindole by substitution at the nitrogen atom of the indole ring with alkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl or 2-(4-morpholinyl)ethyl, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent.
- (n) Any fungus containing any proportion of psilocin or of an ester of psilocin.
- (o) 1,2,3,4-Tetrahydronaphthalen-2-amine, 1,2-dihydronaphthalen-2-amine or 2,3-dihydro-1*H*-inden-2-amine or any substance structurally derived from 1,2,3,4-tetrahydronaphthalen-2-amine, 1,2-dihydronaphthalen-2-amine or 2,3-dihydro-1*H*-inden-2-amine by modification in any of the following ways:

- (i) by substitution in the phenyl ring to any extent with alkyl, alkoxy, alkenyl, alkynyl, alkylthio, alkylendioxy, haloalkyl, hydroxy or halo substituents, whether or not further substituted by one or more other univalent substituents;
  - (ii) by *mono* - or *di*-substitution at the nitrogen atom with alkyl, alkenyl, alkynyl or haloalkyl groups or by inclusion of the nitrogen atom in a cyclic structure.
- (p) Any substance structurally derived from tryptamine or from a ring-hydroxy tryptamine by substitution at the nitrogen atom of the side-chain with one or more alkyl substituents but no other substituent.

1B. (a) Alprazolam

Amineptine

Aminorex

Amphetaminil

2-Benzhydrylpiperidine

Bromazepam

Brotizolam

Buprenorphine

Butan-1,4-diol

Butorphanol

Camazepam

Cathine

Chlordiazepoxide

Clobazam

Clonazepam

Clorazepic acid

Clotiazepam

Cloxazolam

Delorazepam

Dextropropoxyphene

Diazepam

Diethylpropion

Dihydrofuran-2(3H)-one

Estazolam

Ethchlorvnlol

Ethinamate

N-Ethylamphetamine  
Ethyl loflazepate  
Fencamfamin  
Fenethylline  
Fenproporex  
Fludiazepam  
Flunitrazepam  
Flurazepam  
Glutethimide  
Halazepam  
Haloxazolam  
4-Hydroxybutanoic acid  
Ketamine  
Ketazolam  
Lefetamine  
Loprazolam  
Lorazepam  
Lormetazepam  
Mazindol  
Mecloqualone  
Medazepam  
Mefenorex  
Meprobamate  
Mesocarb  
Methyprylone  
Midazolam  
Nalbuphine  
Nimetazepam  
Nitrazepam  
Nordazepam  
Oxazepam  
Oxazolam  
Pemoline

Pentazocine

Phentermine

Pinazepam

Prazepam

Propylhexedrine

Pyrovalerone

Selegiline

Temazepam

Tetrazepam

Triazolam

Zipeprol

Zolpidem.

(b) Any substance structurally derived from barbituric acid by *di*-substitution at the 5-position, whether or not there is also substitution at the 1-position by a methyl substituent.]

2. Any stereoisomeric form of a substance or product specified in *paragraph 1* F71[*or 1A*] of this Schedule not being dextromethorphan or dextrorphan.

F72[2A. Any stereoisomeric form of a substance specified in *paragraph 1B*.]

3. Any ester or ether of a substance or product specified in *paragraph 1* F73[, *1A*] or 2 of this Schedule.

4. Any salt of a substance or product specified in F74[*paragraph 1, 1A, 1B, 2, 2A or 3*] of this Schedule.

5. Any preparation or product containing any proportion of a substance or product specified in F75[*paragraph 1, 1A, 1B, 2, 2A, 3 or 4*] of this Schedule.

6. In this Schedule—

“cannabinol derivatives” means the following substances, except where contained in cannabis or cannabis

resin, namely, tetrahydro derivatives of cannabinol and 3-alkyl homologues of cannabinol or of its tetrahydro derivatives;

“coca leaf” means the leaf of any plant of the genus *Erythroxylon* from whose leaves cocaine can be extracted either directly or by chemical transformation;

“concentrate of poppy straw” means the material produced when poppy straw has entered into a process for the concentration of its alkaloids;

“medicinal opium” means raw opium which has undergone the process necessary to adapt it for medicinal use in accordance with the requirements of the Irish Pharmacopoeia, whether it is in the form of powder or is granulated or is in any other form, and whether it is or is not mixed with neutral substances;

“poppy straw” means all parts, except the seeds, of the opium poppy, after mowing;

“raw opium” includes powdered or granulated opium but does not include medicinal opium.

#### Annotations

#### Amendments:

- F70** Inserted (12.03.2015) by *Misuse Of Drugs (Amendment) Act 2015* (6/2015), s. 1(a) and sch. 1, commenced as per s. 3(3).
- F71** Inserted (12.03.2015) by *Misuse Of Drugs (Amendment) Act 2015* (6/2015), s. 1(b), commenced as per s. 3(3).
- F72** Inserted (12.03.2015) by *Misuse Of Drugs (Amendment) Act 2015* (6/2015), s. 1(c), commenced as per s. 3(3).
- F73** Inserted (12.03.2015) by *Misuse Of Drugs (Amendment) Act 2015* (6/2015), s. 1(d), commenced as per s. 3(3).
- F74** Inserted (12.03.2015) by *Misuse Of Drugs (Amendment) Act 2015* (6/2015), s. 1(e), commenced as per s. 3(3).
- F75** Inserted (12.03.2015) by *Misuse Of Drugs (Amendment) Act 2015* (6/2015), s. 1(f), commenced as per s. 3(3).
- F76** Substituted by *Misuse of Drugs (Amendment) Act 2016* (9/2016), s. 6 and sch., not commenced as of date of revision.

#### Modifications (not altering text):

- C21** Prospective affecting provision: paras. 1A and 1B substituted by *Misuse of Drugs (Amendment) Act 2016* (9/2016), s. 6 and sch., not commenced as of date of revision.

F76[1A. (a) *N*-(Adamantan-1-yl)-1-(5-fluoropentyl)-1*H*-indazole-3-carboxamide

Alfentanil

(3-Amino-2,2-dimethylpropyl)-4-aminobenzoate

5-(2-Aminopropyl) indole

1-(1,3-Benzodioxol-5-yl)-2-(1-pyrrolidinyl)-1-pentanone

*N*-(1-Benzyl-4-piperidyl) propionanilide

2-(4-Bromo-2,5-dimethoxyphenyl)-*N*-[(2-methoxyphenyl) methyl]ethanamine

1-(4-Bromofuro[2,3-*f*][1]benzofuran-8-yl)propan-2-amine

Carfentanil

Cathinone

2-(4-Chloro-2,5-dimethoxyphenyl)-*N*-[(2-methoxyphenyl) methyl]ethanamine

1-Cyclohexyl-4-(1,2-diphenylethyl) piperazine

3,4-Dichloro-*N*-[[1-(dimethylamino) cyclohexyl]methyl]benzamide

Dihydroetorphine

[2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl) pyrrolo[1,2,3-*de*]-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone

Dimethocaine

3-Dimethylheptyl-11-hydroxyhexahydrocannabinol

Eticyclidine

Etryptamine

1-(2-Fluorophenyl)-2-methylaminopropan-1-one  
1-(3-Fluorophenyl)-2-methylaminopropan-1-one  
1-(4-Fluorophenyl)-2-methylaminopropan-1-one  
9-(Hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol  
[9-Hydroxy-6-methyl-3-[5-phenylpentan-2-yl]oxy-5,6,6a,7,8,9,10,10a-octahydrophenanthridin-1-yl] acetate  
*N*-Hydroxy-tenamphetamine  
2-(4-Iodo-2,5-dimethoxyphenyl)-*N*-[(2-methoxyphenyl) methyl]ethanamine  
Khat (being the leaves of *Catha edulis* (Celastraceae))  
Lisdexamphetamine  
Lofentanil  
Methcathinone  
2-(3-Methoxyphenyl)-2-(ethylamino) cyclohexanone  
1-(4-Methoxyphenyl)-2-(methylamino) propan-1-one  
Methyl (2*S*,4*aR*,6*aR*,7*R*,10*aS*,10*bR*)-9-acetyloxy-2-(furan-3-yl)-6a,10b-dimethyl-4,10-dioxo-2,4a,5,6,7,8,9,10a-octahydro-1*H*-benzo[*f*]isochromene-7-carboxylate and any product, whether natural or otherwise, including any plant or plant material of any kind or description, which contains any proportion of the said substance  
2-Methylamino-1-(3,4-methylenedioxyphenyl) butan-1-one  
2-Methylamino-1-(3,4-methylenedioxyphenyl) propan-1-one  
4-Methyl-aminorex  
(8-Methyl-8-azabicyclo[3.2.1]octan-3-yl)-4-fluorobenzoate  
Methyl 2-[[1-(cyclohexylmethyl) indole-3-carbonyl]amino]-3,3-dimethylbutanoate  
Methyl (*E*)-2-[(2*S*,3*S*,7*aS*,12*bS*)-3-ethyl-7a-hydroxy-8-methoxy-2,3,4,6,7,12b-hexahydro-1*H*-indolo[2,3-*a*]quinolizin-2-yl]-3-methoxyprop-2-enoate and any product, whether natural or otherwise, including any plant or plant material of any kind or description, which contains any proportion of the said substance  
Methyl (*E*)-2-[(2*S*,3*S*,12*bS*)-3-ethyl-8-methoxy-1,2,3,4,6,7,12,12b-octahydroindolo[2,3-*a*]quinolizin-2-yl]-3-methoxyprop-2-enoate and any product, whether natural or otherwise, including any plant or plant material of any kind or description, which contains any proportion of the said substance  
4-methyl-5-(4-methylphenyl)-4,5-dihydro-1,3-oxazol-2-amine  
 $\alpha$ -Methyl-4-(methylthio) phenethylamine  
1-(4-Methylphenyl)-2-methylaminopropan-1-one  
Nabilone  
Oripavine  
Phencyclidine  
1-Phenylcyclohexylamine  
4-(1-Phenylcyclohexyl) morpholine  
1-Piperidinocyclohexanecarbonitrile  
Quinolin-8-yl 1-(5-fluoropentyl)-1*H*-indole-3-carboxylate  
Remifentanil  
Rolicyclidine

Sufentanil  
Tapentadol  
Tenocyclidine  
N-[1-(2-Thienyl)-4-piperidyl]propionanilide  
4-[1-(2-Thienyl) cyclohexyl]morpholine  
1-[1-(2-Thienyl) cyclohexyl]pyrrolidine  
Tilidine.]

## F76[1B. (a) Alprazolam

Amineptine  
Aminorex  
Amphetaminil  
2-Benzhydrylpiperidine  
Bromazepam  
Brotizolam  
Buprenorphine  
Butan-1,4-diol  
Butorphanol  
Camazepam  
Cathine  
Chlordiazepoxide  
Clobazam  
Clonazepam  
Clorazepic acid  
Clotiazepam  
Cloxazolam  
Delorazepam  
Dextropropoxyphene  
Diazepam  
Diethylpropion  
Dihydrofuran-2(3H)-one  
Estazolam  
Ethchlorvnlol  
Ethinamate  
N-Ethylamphetamine  
Ethyl loflazepate  
Fencamfamin  
Fenethylamine  
Fenproporex  
Fludiazepam  
Flunitrazepam  
Flurazepam

Glutethimide  
Halazepam  
Haloxazolam  
4-Hydroxybutanoic acid  
Ketamine  
Ketazolam  
Lefetamine  
Loprazolam  
Lorazepam  
Lormetazepam  
Mazindol  
Mecloqualone  
Medazepam  
Mefenorex  
Meprobamate  
Mesocarb  
Methyprylone  
Midazolam  
Nalbuphine  
Nimetazepam  
Nitrazepam  
Nordazepam  
Oxazepam  
Oxazolam  
Pemoline  
Pentazocine  
Phenazepam  
Phentermine  
Pinazepam  
Prazepam  
Propylhexedrine  
Pyrovalerone  
Selegiline  
Temazepam  
Tetraazepam  
Triazolam  
Zaleplon  
Zipeprol  
Zolpidem  
Zopiclone.]