



AN BILLE UM MI-USAID DRUGAI, 1973
MISUSE OF DRUGS BILL, 1973

Mar a ritheadh ag Dáil Éireann
As passed by Dáil Éireann

ARRANGEMENT OF SECTIONS

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SCHEDULE

CONTROLLED DRUGS.



AN BILLE UM MI-USAID DRUGAI, 1973
MISUSE OF DRUGS BILL, 1973

BILL

entitled

5 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 RELA-
10 TION 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
15 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.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

20 1.—(1) In this Act—

Interpretation.

“cannabis” (except in “cannabis resin”) means the flowering or
fruiting tops of any plant of the genus *Cannabis* from which the resin
has not been extracted, by whatever name they may be designated;

25 “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;

1928, No. 25.

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

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

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

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

“the Minister” means the Minister for Health;

“opium poppy” means the plant of the species *Papaver*
somniferum L;

40 “pharmacist” means a registered pharmaceutical chemist, a regis-
tered 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 and a registered veterinary surgeon;

"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;

1951, No. 30. "registered dispensing chemist and druggist" means a person registered in the register of dispensing chemists and druggists established under the Pharmacy Act, 1951;

1890, c. 48. "registered druggist" means a person registered in the register of registered druggists in Ireland established under the Pharmacy Act (Ireland), 1875, Amendment Act, 1890;

1927, No. 25. "registered medical practitioner" means a person registered in the register established under the Medical Practitioners Act, 1927;

1875, c. 57. "registered pharmaceutical chemist" means a person registered in the register of pharmaceutical chemists for Ireland established under the Pharmacy Act (Ireland), 1875;

1931, No. 36. "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;

"temporary direction" has the meaning assigned to it by *section 9 (2)* of this Act;

1931, No. 36. "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.

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).

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. Restriction on possession of controlled drugs.

(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).

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. Regulations permitting possession of controlled drugs.

(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.

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

(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, 5
- (e) providing for the inspection by prescribed persons of precautions taken or records kept in pursuance of regulations under this section, 10
- (f) regulating the issue by registered medical practitioners, registered dentists or registered veterinary surgeons 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, 15
- (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, 20 25
- (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. 30 35

(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, for the purpose of his profession, to prescribe, administer, manufacture, compound or supply a controlled drug, 40
- (b) a pharmacist, for the purpose of his profession or business, to import, export, transport, manufacture, compound or supply a controlled drug, 45

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.

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— 50

- (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. 55

(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,

- 5 (b) in case the direction relates to a pharmacist, be a direction prohibiting him from having in his 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.

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(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.

- 15 (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.

- 20 (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.

- 25 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.

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

- 30 (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, after consultation with the registration authority concerned, suspend the operation of a special direction.

- 40 (4) The Minister may, after consultation with the registration authority concerned, cancel a special direction.

- 45 (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.

- 50 8.—(1) If the Minister considers that there are grounds for giving a special direction, he shall refer the matter for investigation—

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

(a) in case the practitioner concerned is a registered dentist, to the Dental Board,

(b) in case the practitioner concerned is a registered medical practitioner, to the Medical Registration Council,

- 55 (c) in case the practitioner concerned is a registered veterinary surgeon, to the Veterinary Council,

provided that if the practitioner concerned is a member of more than one of the aforementioned professions, the Minister shall not refer the matter for investigation to more than one of the aforementioned bodies.

(2) Where the Minister refers under *subsection (1)* of this section a matter for investigation, the registration authority concerned shall forthwith establish a committee of inquiry, constituted for the purpose in accordance with any regulations made pursuant to *section 12* of this Act which apply to it, and it shall be the duty of the committee so established to investigate the case and report on it to the Minister.

(3) Where a committee of inquiry established pursuant to *subsection (2)* of this section finds that there has been no such conduct by the respondent as is mentioned in *section 7 (1)* of this Act or finds that there has been such conduct by the respondent but does not recommend the giving of a special direction in respect of him, the Minister shall cause to be given to the respondent a notice stating that the matter has been considered by the committee and that they do not recommend the giving of such a special direction.

(4) Where a committee of inquiry established pursuant to *subsection (2)* of this section finds that there has been such conduct by the respondent as is mentioned in *section 7 (1)* of this Act and considers that a special direction should be given in respect of him, the committee shall include in its report to the Minister a recommendation to that effect together with a recommendation either indicating the controlled drugs which the committee considers should be specified in the direction or indicating that such direction should apply to all controlled drugs.

(5) Where a committee of inquiry makes a recommendation pursuant to *subsection (4)* of this section, the Minister shall cause a notice to be given to the respondent stating whether he proposes to give a special direction pursuant to the recommendation, and where he does so propose the notice shall—

(a) set out the terms of the proposed special direction, and

(b) inform the respondent that consideration will be given to any representations relating to the case which are made by him, or on his behalf, in writing to, and received by, the Minister within a period of twenty-eight days commencing on the date on which the notice is given.

(6) If any representations in writing are received by the Minister from or on behalf of a respondent within the period mentioned in *subsection (5)* of this section, the Minister shall refer the case to the registration authority by which the committee of inquiry was established.

(7) Where the Minister refers a case to a registration authority pursuant to *subsection (6)* of this section, the authority shall forthwith establish an advisory committee constituted for the purpose in accordance with any regulations made pursuant to *section 12* of this Act which apply to it, and it shall be the duty of the advisory committee so established to consider the case and the representations made to the Minister and to advise the Minister as to the exercise by him of the powers specified in *subsection (8)* of this section.

(8) Where the period for making representations under this section has expired, and as regards a case in which the Minister has made a reference under *subsection (6)* of this section, he has considered the advice of the advisory committee established pursuant to *subsection (7)* of this section, the Minister may—

(a) give in respect of the respondent a special direction specifying all or any of the controlled drugs indicated in a

recommendation relating to the case of a committee of inquiry, or

5 (b) order that the case be referred back to the committee of inquiry or referred to the registration authority concerned for reference to a new committee of inquiry established pursuant to this Act and constituted in accordance with any regulations under *section 12* of this Act which apply to it, or

(c) decide not to give a special direction,

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

(9) Where a case is referred back to a committee of inquiry pursuant to *subsection (8)* of this section, it shall be the duty of the committee to reconsider the case and to advise further the Minister
15 as to the exercise by him, pursuant to this subsection, of the powers specified in *paragraphs (a) and (c) of subsection (8)* of this section, and in case the committee in reconsidering the case makes or gives any finding, recommendation or advice which differs from a finding, recommendation or advice previously made or given by it in the
20 case, such of the provisions of *subsections (3) to (8)* of this section as are appropriate in the particular circumstances shall apply in the same manner as if the finding, recommendation or advice was being made or given by the committee in the first instance.

(10) Where a case referred pursuant to *subsection (8)* of this
25 section for reference to a new committee of inquiry is considered by that committee of inquiry, *subsections (2) to (8)* of this section shall apply as if the case had been referred to the committee under *subsection (2)* of this section and when considering the case the committee shall disregard any finding, recommendation or advice
30 previously made or given in respect of the case pursuant to this section.

(11) Where the Minister gives a special direction or makes an order pursuant to *subsection (8)* of this section, he shall as soon as may be cause a copy of the special direction or order, as the case
35 may be, to be served on the respondent, and in the case of a special direction he shall in addition cause to be published in the *Iris Oifigiúil*, and in such other manner (if any) as the Minister may consider appropriate, a copy of the direction.

9.—(1) If the Minister considers that there are grounds for giving
40 a special direction and that the circumstances of the case require such direction to be given as a matter of urgency, subject to *subsections (3) to (7)* of this section, he may give the special direction by virtue of this section.

Prohibition of prescribing etc. in cases of urgency.

(2) A special direction given by virtue of this section (subsequently
45 in this Act referred to as a temporary direction) may specify such controlled drugs as the Minister thinks fit.

(3) Where the Minister proposes to give a temporary direction the following provisions shall apply:

50 (a) he shall refer the case to an advisory panel constituted for the purpose in accordance with any regulations made under *section 12* of this Act which apply to it,

55 (b) it shall be the duty of the advisory panel, after affording the respondent an opportunity of appearing before and being heard by the panel, to consider the circumstances of the case, so far as known to it, and inform the Minister whether the information before the panel appears to it to afford reasonable grounds for considering that there has been such conduct by the respondent as is mentioned in *section 7 (1)* of this Act, and

- (c) the Minister shall not give a temporary direction unless the advisory panel reports that the information before it appears to it to afford reasonable grounds for so considering.

(4) Where the Minister gives a temporary direction he shall, if he has not already done so, forthwith refer the matter for investigation to—

- (a) in case the practitioner to whom the temporary direction relates is a registered dentist, the Dental Board,
(b) in case such practitioner is a registered medical practitioner, the Medical Registration Council,
(c) in case such practitioner is a registered veterinary surgeon, the Veterinary Council,

and the following provisions of *section 8* of this Act, namely, the proviso to *subsection (1)*, and *subsections (2) to (11)*, shall apply in relation to the matter as if the matter were being referred under the said *subsection (1)*.

(5) Subject to *subsections (6) and (7)* of this section, a temporary direction shall come into force when a copy thereof is given to the practitioner to whom it relates and shall remain in operation until—

- (a) in case no notice relating to the direction is served pursuant to *subsection (6)* of this section, the expiration of the period of six weeks commencing on the day on which the direction is given, and
(b) in case such a notice is served, the expiration of the period of twenty-eight days to which the notice relates.

(6) Where a temporary direction has been given, at any time after the matter has been referred for investigation to a registration authority the Minister may, having consulted the authority, from time to time, by notice in writing served on the practitioner to whom the temporary direction applies and while it is in operation, extend or further extend the period of operation of the temporary direction for a further twenty-eight days from the time at which that period would otherwise have ended.

(7) Without prejudice to *subsection (5)* of this section, a temporary direction shall (unless previously cancelled under this section) cease to have effect on the occurrence of any one of the following :

- (a) the service of a notice required to be served by *section 8 (3)* of this Act, as applied by *subsection (4)* of this section, and relating to the case,
(b) the service of a notice required to be served by *section 8 (5)* of this Act, as so applied, relating to the case and stating that the Minister does not propose to give a special direction,
(c) the service pursuant to *section 8 (11)* of this Act of a copy of a direction relating to the case,
(d) the making by the Minister of a decision pursuant to *section 8 (8) (c)* of this Act and relating to the case.

(8) The Minister may, after consultation with the advisory panel concerned, suspend the operation of a temporary direction for such period as he considers appropriate in the particular case.

(9) The Minister may, after consultation with the registration authority concerned, cancel a temporary direction.

(10) Where the Minister suspends the operation of or cancels a temporary direction he shall cause to be served on the practitioner concerned a notice of the suspension or cancellation.

(11) Where—

(a) a temporary direction is given, cancelled, suspended, or ceases to have effect by virtue of subsection (7) of this section, or

5 (b) a notice is served pursuant to subsection (6) of this section,

the Minister shall, as soon as may be, cause to be published in the *Iris Oifigiúil* a notice of the temporary direction, cancellation, suspension or cesser, or of the service of the notice pursuant to the said subsection (6), as may be appropriate.

10 10.—(1) Where—

(a) the Dental Board believes that a practitioner who is a registered dentist,

(b) the Medical Registration Council believes that a practitioner who is a registered medical practitioner,

15 (c) the Veterinary Council believes that a practitioner who is a registered veterinary surgeon,

is or has been, after the commencement of this section, prescribing, administering or supplying, or authorising the administration or supply of any controlled drugs in an irresponsible manner, the
20 council or board, as the case may be, may establish a committee of inquiry, constituted for the purpose in accordance with the provisions of any regulations made under section 12 of this Act which apply to it, and it shall be the duty of the committee to investigate the case and report on it to the Minister.

25 (2) Where a committee of inquiry is established pursuant to subsection (1) of this section, subsections (3) and (4) of section 8 of this Act shall apply in relation to the case as if the committee had been established pursuant to subsection (2) of that section, and where the committee makes a recommendation pursuant to the
30 said subsection (4), as applied by this section, subsections (5) to (11) of the said section 8 shall apply in relation to the case in the manner in which they would apply if the committee had been so established, and in applying the foregoing each of the references to "respondent" in the said section 8 shall be construed as a
35 reference to the practitioner in respect of whom the committee is established.

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
40 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
45 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.

50 (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.

55 (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*.

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

Appeals.

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, advisory committees or advisory panels established pursuant to *section 8* or *9* 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 or advisory panel referred to in *subsection (1)* of this section may regulate its procedure and business.

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).

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.

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.

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.

17.—(1) A person shall not cultivate opium poppy or any plant of the genus *Cannabis* except under and in accordance with a licence issued in that behalf by the Minister.

Prohibition of cultivation of opium poppy or cannabis plant.

(2) Every person who cultivates opium poppy or a plant of the genus *Cannabis* in contravention of *subsection (1)* of this section shall be guilty of an offence.

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).

Forged or fraudulently altered prescriptions.

(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.

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—

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

(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.

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.

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—

- 5 (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,
- 10

shall be guilty of an offence.

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

Onus of proof.

- 15 (a) order made under *section 2* 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.

20 (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
- 25 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,

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

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—

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

- 35 (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 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
- 40
- (c) 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.
- 45

(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.

50

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 that behalf by the Minister in writing 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, 5
- (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, 10
- (c) require any such person, or any person so employed, to produce any books, records or other documents 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. 15

(2) Every person authorised by the Minister under *subsection (1)* of this section shall be furnished with a certificate of his authorisation, and if when claiming to exercise a power by virtue of this section any such person is required to produce the said certificate, the power shall not be exercisable by him except on production of the certificate. 20

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. 25

(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 30
- (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 35
- (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, 40

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 that there is reasonable ground for suspecting that— 45

- (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, or 50
- (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 55

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,

- 5 such Justice or Commissioner may issue a search warrant mentioned in *subsection (2)* of this section.

(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 as may
10 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 named in the warrant, to search the premises and any persons found therein, to examine any substance or article found therein, to inspect any book, record or other document found therein and, if there is
15 reasonable ground for suspecting that an offence is being or has been committed under this Act in relation to a substance or article found on the premises 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 cause to believe to be a document
20 which may be required as evidence in proceedings for an offence under this Act, to seize and detain the substance, article or document, as the case may be.

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

- 25 (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, to a fine on summary conviction not exceeding fifty pounds,
30 (ii) in the case of a second offence, to a fine on summary conviction not exceeding one hundred pounds,
(iii) in the case of a third or subsequent offence, to a fine on summary conviction not exceeding two hundred and fifty pounds or, at the discretion of
35 the court, to imprisonment for a term not exceeding twelve months, or to both the fine and the imprisonment;

(b) in any other case—

- (i) on summary conviction, to a fine not exceeding two hundred and fifty pounds or, at the discretion of
40 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 not exceeding
45 fifteen hundred pounds 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) Every person guilty of an offence under *section 6* or *section 7*
50 of this Act shall be liable—

- (a) on summary conviction, to a fine not exceeding two hundred and fifty pounds 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

- 55 (b) on conviction on indictment, to a fine not exceeding three thousand pounds 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 two hundred and fifty pounds 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 not exceeding three thousand pounds or, at the discretion of the court, to imprisonment for a term not exceeding fourteen years, or to both the fine and the imprisonment. 10

(4) Subject to *section 28* of this Act, every person guilty of an offence under *section 16* of this Act shall be liable—

(a) on summary conviction, to a fine not exceeding two hundred and fifty pounds 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 15

(b) on conviction on indictment, to a fine not exceeding three thousand pounds or, at the discretion of the court, to imprisonment for a term not exceeding fourteen years, or to both the fine and the imprisonment. 20

(5) Every person guilty of an offence under *section 17* of this Act shall be liable—

(a) on summary conviction, to a fine not exceeding two hundred and fifty pounds 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 25

(b) on conviction on indictment, to a fine not exceeding three thousand pounds or, at the discretion of the court, to imprisonment for a term not exceeding fourteen years, or to both the fine and the imprisonment. 30

(6) 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 one hundred pounds 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 35

(b) on conviction on indictment, to a fine not exceeding seven hundred and fifty pounds or, at the discretion of the court, to imprisonment for a term not exceeding three years, or to both the fine and the imprisonment. 40

(7) Every person guilty of an offence under *section 19* of this Act shall be liable—

(a) on summary conviction, to a fine not exceeding two hundred and fifty pounds 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 45

(b) on conviction on indictment, to a fine not exceeding three thousand pounds or, at the discretion of the court, to imprisonment for a term not exceeding fourteen years, or to both the fine and the imprisonment. 50

(8) Every person guilty of an offence under *section 20* of this Act shall be liable—

(a) on summary conviction, to a fine not exceeding two hundred and fifty pounds 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 55

(b) on conviction on indictment, to a fine not exceeding three thousand pounds or, at the discretion of the court, to imprisonment for a term not exceeding fourteen years, or to both the fine and the imprisonment.

5 (9) 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.

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

15 (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,

20 (i) on summary conviction, to a fine not exceeding two hundred and fifty pounds 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

25 (ii) on conviction on indictment, to a fine not exceeding three thousand pounds 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

30 (b) in case the regulation in relation to which the offence was committed is a regulation made other than under the said section 5 (1) (a) or is a regulation regulating the transportation of controlled drugs—

35 (i) on summary conviction, to a fine not exceeding one hundred pounds 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

40 (ii) on conviction on indictment, to a fine not exceeding five hundred pounds or, at the discretion of the court, to imprisonment for a term not exceeding two years, or to both the fine and the imprisonment.

45 (11) 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 one hundred pounds or, at the discretion of the court, to imprisonment for a term not exceeding six months, or to both the fine and the imprisonment.

(12) In this section—

50 “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.

55 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

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.

commit any such offence, the court shall 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 a health board, court 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 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 on bail for such period as it considers necessary for the purposes of this section, and request a health board, court 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 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 a health board) or person as may be named in the order and during a period specified in the order,

(ii) a condition requiring such person to undergo medical 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, 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 medical 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 medical practitioner in charge of the hospital, clinic, custodial treatment centre or other place concerned or a medical practitioner nominated by the medical practitioner 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;

“health board” has the same meaning as in the Health Acts, 1947 to 1970.

Defences generally.

29.—(1) In any proceedings for an offence under this Act 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
- 5 (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

10 (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

15 (ii) delivering it into the custody of a person lawfully entitled to take custody of it,

20 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.

(3) In any proceedings for an offence under *section 15* of this Act
25 a defendant may rebut the presumption raised by *subsection (2)* of that section by showing that at the time of the alleged offence he was by virtue of regulations made under *section 4* of this Act lawfully in possession of the controlled drug to which the proceedings relate.

(4) In any proceedings for an offence under *section 19* of this Act
30 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.

35 (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
40 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.

45 (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.

30.—(1) Subject to *subsection (2)* of this section, a court by which a person is convicted of an offence under this Act may order anything
50 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.

Forfeiture.

(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
55 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.

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,

Offences in relation to bodies corporate.

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.—(1) Subject to *subsection* (2) of this section, any substance which is for the time being declared under section 14 of the Poisons Act, 1961, to be a poison for the purposes of the regulations made under that section shall be a poison for the purposes of the Pharmacy Acts, 1875 to 1962, and references in those Acts to poisons shall be construed as references to substances which are the subject of such declarations.

10

1961, No. 12.

(2) Where regulations under section 14 of the Poisons Act, 1961, provide that a substance with which a declaration in the regulations is concerned is in specified circumstances to be regarded as not being the subject of the declaration, then *subsection* (1) of this section shall be regarded as not applying to the substance in those circumstances.

15

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), 20 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 25 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— 30

(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 35

(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 40 of any entry in, any book, record or other document which is of a class or description so specified, 45

(l) provide for the taking (without payment) by such officers, with such authorisation, of samples of poisons or such substances for test, examination or 55 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,
- 5 (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,
- 10 (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
- 15 (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.

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

Amendment of section 2 of Pharmacy Act, 1962. 1962, No. 14.

- “(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.”.

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

Amendment of Pharmacopoeia Act, 1931.

- (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;

1931, No. 22.

- (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: 5

“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.” 10

(2) As on and from the specified day section 4 of the Pharmacopoeia Act, 1931, shall be construed and have effect as if— 15

(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.” 20

(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*. 25

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—

1947, No. 28.

(a) the substitution of the following paragraphs for paragraph (j) of subsection (3): 30

1953, No. 26.

1970, No. 1.

“(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, 35

(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; 40

(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; 55

- (l) the taking, (without payment) by such officers, with such authorisation, of samples of such substances or articles for test, examination or analysis;
- 5 (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
- 10 (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):

- 15 “(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.”.

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—

Service etc. of notices.

- (a) by delivering it to him,
- 25 (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.

1963, No. 33.

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.

Regulations generally; laying of orders.

(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.

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.

Expenses.

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.

Collection and disposal of moneys payable under Act.

(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.

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

1934, No. 1.

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.

1970, No. 1.

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.

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.

5 (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.

10 (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.

SCHEDULE

Section 2.

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.

SCHEDULE—(contd.)

Etorphine.
 Etixeridine.
 Fentanyl.
 Furethidine.
 Hydrocodone.
 Hydromorphenol.
 Hydromorphone.
 Hydroxypethidine.
 Isomethadone.
 Ketobemidone.
 Levomethorphan.
 Levomoramide.
 Levophenacymorphan.
 Levorphanol.
 Lysergamide.
 Lysergide and other N-alkyl derivatives of lysergamide.
 Mephentermine.
 Mescaline.
 Metazocine.
 Methadone.
 Methaqualone.
 Methylamphetamine.
 Methyl-desorphine.
 Methyl dihydromorphone (6-methyl dihydromorphone).
 Methylphenidate.
 Metopon.
 Morpheridine.
 Morphine.
 Morphine methobromide, morphine N-oxide and other pentavalent nitrogen morphine derivatives.
 Myrophine.
 Nicocodine.
 Nicodicodine (6-nicotinoyldihydrocodeine).
 Nicomorphine.
 Noracymethadol.
 Norcodeine.
 Norlevorphanol.
 Normethadone.
 Normorphine.
 Norpipanone.
 Opium, whether raw, prepared or medicinal.
 Oxycodone.
 Oxymorphone.
 Pentobarbitone.
 Pethidine.
 Phenadoxone.
 Phenampromide.
 Phenazocine.
 Phendimetrazine.
 Phenmetrazine.
 Phenobarbitone.
 Phenomorphan.
 Phenoperidine.
 Pholcodine.
 Piminodine.
 Pipradrol.
 Piritramide.
 Poppy straw and concentrate off poppy straw.
 Proheptazine.
 Properidine.
 Propiram.
 Psilocin.
 Quinalbarbitone.
 Racemethorphan.
 Racemoramide.
 Racemorphan.
 Thebacon.
 Thebaine.
 Trimeperidine.

SCHEDULE—(contd.)

4-Cyano-2-dimethylamino-4, 4-diphenylbutane.
4-Cyano-1-methyl-4-phenylpiperidine.
N, N-Diethyltryptamine.
N, N-Dimethyltryptamine.
2, 5-Dimethoxy-*a*, 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.

2. Any stereoisomeric form of a substance or product specified in *paragraph 1* of this Schedule not being dextromethorphan or dextrorphan.
3. Any ester or ether of a substance or product specified in *paragraph 1* or 2 of this Schedule.
4. Any salt of a substance or product specified in *paragraph 1, 2* or 3 of this Schedule.
5. Any preparation or product containing any proportion of a substance or product specified in *paragraph 1, 2, 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.

BILLE

dá ngairtear

Acht do chur cosc le mí-úsáid drugaí áirithe atá contúirteach nó atá díobhálach ar bhealaí eile, dá chumasú don Aire Sláinte chuige sin rialacháin áirithe a dhéanamh maidir leis na drugaí sin, dá chumasú don Aire sin a fhoráil gur nimheanna substaintí áirithe chun críocha na nAchtanna Cógaisíochta, 1875 go 1962, do leasú an Achta Pharmacopoeia, 1931, Acht na Nimheanna, 1961, an Achta Cógaisíochta, 1962, agus na nAchtanna Sláinte, 1947 go 1970, d'aisghairm Acht na nDruganna Dainséaracha, 1934, agus alt 78 den Acht Sláinte, 1970, agus do dhéanamh forálacha áirithe eile maidir leis na nithe réamhráite.

An tAire Sláinte a thug isteach

*Ritheadh ag Dáil Éireann,
31 Márta, 1977*

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entitled

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.

Introduced by the Minister for Health

*Passed by Dáil Éireann,
31st March, 1977*

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