DÁIL ÉIREANN

AN BILLE UM CHEARTAS COIRIÚIL (SUBSTAINTÍ SÍCIGHNÍOMHACHA) 2010
CRIMINAL JUSTICE (PSYCHOACTIVE SUBSTANCES) BILL 2010

LEASUITHE COISTE
COMMITTEE AMENDMENTS

[No. 34a of 2010] [05 July, 2010]
SECTION 1
1. In page 3, subsection (1), between lines 35 and 36, to insert the following:

“Authority” refers to An tÚdarás Rialála um Shubstaintí Neamhleigheasacha Sícighníomhacha translated into English as the Non-Medicinal Psychoactive Substances Regulatory Authority;”.  
—Aengus Ó Snodaigh.

2. In page 4, subsection (1), between lines 20 and 21, to insert the following:

“National Advisory Committee on Drugs” or “NACD” is that which was established under the auspices of the Department of Tourism, Sport and Recreation in July 2000 and is now under the auspices of the Department of Community, Equality and Gaeltacht Affairs;”.  
—Aengus Ó Snodaigh.

3. In page 4, subsection (1), between lines 34 and 35, to insert the following:

“and which is identified as being such by the Authority;”.  
—Aengus Ó Snodaigh.

4. In page 4, subsection (1), between lines 34 and 35, to insert the following:

“and which is identified as being such by the NACD;”.  
—Aengus Ó Snodaigh.

5. In page 5, subsection (1), line 2, to delete “are” and substitute “are, as the case may be;”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

6. In page 5, subsection (2), line 11, to delete “Act” and substitute “Act,”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

SECTION 3
7. In page 6, before section 3, to insert the following new section:

3.—(1) There shall be established a body known as An tÚdarás Rialála um Shubstaintí Neamhleigheasacha Sícighníomhacha translated into English as the Non-Medicinal Psychoactive Substances Regulatory Authority (in this Act referred to as “the Authority”).

[No. 34a of 2010] [05 July, 2010]
(2) The Authority shall consist of ten members appointed by the Minister, with the approval of the Oireachtas Joint Committee on Health and Children and reflecting equal representation of each gender.

(3) Of those ten—

(a) one shall be nominated by the Irish Medicines Board (IMB) as a representative of that body and to coordinate regulation between that body and the Authority,

(b) one shall be nominated by the Food Safety Authority as a representative of that body and to coordinate regulation between that body and the Authority,

(c) one shall be nominated by the Pharmaceutical Society of Ireland as having particular knowledge and experience of the dispensing of controlled substances,

(d) one shall be nominated by the Garda Síochána as having particular experience and knowledge on the subject of drug enforcement to provide information and be of assistance to the Authority,

(e) one shall be nominated by the Alcohol and Drug Research Unit of the Health Research Board as having expertise in drugs research,

(f) one shall be nominated by the National Advisory Committee on Drugs to ensure coherence between the work of the Authority and the National Drugs Strategy,

(g) two shall be nominated as having such qualifications, skills and experience as is deemed to be helpful to advise the Authority on scientific issues,

(h) two shall be nominated as having sufficient qualifications, skills and experience as is deemed to be helpful to advise the Authority on issues of drugs and harm reduction one of whom will be nominated by the community drugs services sector and one by the voluntary drugs services sector.

(4) The Authority shall be a Body Corporate.

(5) The Authority may sue and may be sued in its corporate name.

(6) The Authority may acquire, hold and transfer land and other property.

(7) The Authority will meet at regular intervals or on any other occasion as may be necessary to carry out its functions under this Act.

(8) The Authority will be provided with a permanent secretariat to process applications, maintain registers, provide information to the Authority and undertake any administrative duties as may be necessary.

(9) The Minister, when appointing a member under subsection (3)(g) and (h), shall fix such member’s period of membership which shall not exceed 5 years.

(10) A member of the Authority may at any time resign his or her membership by letter addressed to the Minister and the resignation shall take effect from the date specified therein or upon receipt of the letter by the Minister, whichever is the later.
(11) A member of the Authority may at any time be removed from membership of the Authority by the Minister if, in the Minister’s and the Oireachtas Joint Committee on Health and Children’s opinion, the member has become incapable through ill-health of performing his or her functions, or has committed stated misbehaviour, or his or her removal appears to the Minister and the Oireachtas Joint Committee on Health and Children to be necessary for the effective performance by the Authority of the functions of the Authority.

(12) If a member of the Authority dies, resigns, retires, becomes disqualified or is removed from office, the Minister may appoint a person to be a member of the Authority to fill the casual vacancy so occasioned and the person so appointed shall be appointed in the same manner as the member of the Authority who occasioned the casual vacancy. The person so appointed shall be appointed within 2 months of the Minister being notified of the vacancy.

(13) A member of the Authority whose period of membership expires by the effluxion of time shall be eligible for re-appointment as a member of the Authority.”

—Aengus Ó Snodaigh.

8. In page 6, before section 3, to insert the following new section:

3.—The principle functions of the Authority shall be—

(a) to identify the substances that it considers to be psychoactive substances for the purposes of the Act,

(b) to establish, update and maintain a register of the substances it identifies as being psychoactive substances for the purposes of the Act, and

(c) to provide guidance and support to An Garda Síochána and to Customs and Excise on the conduct of their functions and exercise of their powers under the Act.”.

—Aengus Ó Snodaigh.

9. In page 6, before section 3, to insert the following new section:

3.—The National Advisory Committee on Drugs shall—

(a) identify the substances that it considers to be psychoactive substances for the purposes of the Act,

(b) establish, update and maintain a register of the substances it identifies as being psychoactive substances for the purposes of the Act, and

(c) provide guidance and support to An Garda Síochána and to Customs and Excise on the conduct of their functions and exercise of their powers under the Act.”.

—Aengus Ó Snodaigh.

10. In page 6, subsection (1), line 3, after “sells” to insert “, processes, repackages or stores”.

—Aengus Ó Snodaigh.

11. In page 6, subsection (3), line 31, to delete “accused” and substitute “person”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.
SECTION 3
12. In page 6, subsection (3), line 34, to delete “accused” and substitute “person”.
   —An tAire Dlí agus Cirt agus Athchóirithe Dlí.
13. In page 6, subsection (4), line 36, to delete “of the matters referred to in” and substitute “under”.
   —An tAire Dlí agus Cirt agus Athchóirithe Dlí.

SECTION 4
14. In page 6, line 47, after “that” to insert “or being reckless as to whether”.
   —Pat Rabbitte.
15. In page 6, lines 48 and 49, to delete “plant, fungus, natural organism or substance” and substitute “plant”.
   —An tAire Dlí agus Cirt agus Athchóirithe Dlí.

SECTION 5
16. In page 7, subsection (1), line 2, after “advertisement” to insert “or other information”.
   —Pat Rabbitte.
17. In page 7, subsection (1), line 3, after “advertisement” to insert “or other information”.
   —Pat Rabbitte.
18. In page 7, subsection (1)(a)(ii), lines 8 and 9, to delete “plant, fungus, natural organism or substance” and substitute “plant”.
   —An tAire Dlí agus Cirt agus Athchóirithe Dlí.
19. In page 7, subsection (1)(c), lines 16 and 17, to delete “plant, fungus, natural organism or substance” and substitute “plant”.
   —An tAire Dlí agus Cirt agus Athchóirithe Dlí.

SECTION 6
20. In page 7, subsection (2), lines 41 and 42, to delete all words from and including “publish,” in line 41 down to and including “displayed,” in line 42 and substitute the following:
   “publish or display or cause to be published or displayed”.
   —An tAire Dlí agus Cirt agus Athchóirithe Dlí.

SECTION 7
21. In page 8, subsection (1)(a)(ii), line 12, to delete “plant, fungus, natural organism or substance” and substitute “plant”.
   —An tAire Dlí agus Cirt agus Athchóirithe Dlí.
22. In page 8, subsection (1)(c)(i), line 19, after “or” to insert “to sell”.
   —An tAire Dlí agus Cirt agus Athchóirithe Dlí.
23. In page 8, subsection (1)(c)(i), lines 21 and 22, to delete “plant, fungus, natural organism or substance” and substitute “plant”.
   —An tAire Dlí agus Cirt agus Athchóirithe Dlí.
24. In page 8, subsection (1)(c)(iii), lines 30 and 31, to delete “plant, fungus, natural organism or substance” and substitute “plant”.
—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

25. In page 8, subsection (2)(b), line 40, to delete “held,” and substitute the following:

“held and may, where appropriate, specify any place where, in his or her opinion, the activity concerned is taking place,”.
—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

SECTION 8

26. In page 10, subsection (4)(a), line 10, to delete “or effects similar to that of a controlled drug”.
—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

27. In page 10, subsection (4)(b), lines 12 and 13, to delete “to which the application relates” and substitute “specified in the application”.
—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

28. In page 10, subsection (4)(b), line 16, after “drugs,” to insert “and”.
—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

29. In page 10, subsection (5)(a), line 24, to delete “relates,” and substitute the following:

“relates and, where the court considers it appropriate to do so, may specify any place to which the order relates,”.
—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

SECTION 10

30. In page 11, subsection (1), line 32, to delete “such”.
—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

31. In page 11, subsection (1), line 38, to delete “plant, fungus, natural organism or substance” and substitute “plant”.
—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

SECTION 11

32. In page 12, subsection (1)(b), line 40, to delete “which is the subject of” and substitute “which is specified in”.
—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

SECTION 12

33. In page 13, subsection (1)(a), line 25, to delete “plant, fungus, natural organism or substance” and substitute “plant”.
—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

34. In page 13, subsection (1)(b), lines 27 to 29, to delete all words from and including “knowing” in line 27 down to and including “supplied” in line 29.
—An tAire Dlí agus Cirt agus Athchóirithe Dlí.
35. In page 13, subsection (1), lines 30 to 41, to delete paragraph (c) and substitute the following:

“(c) publishing or displaying or causing to be published or displayed any advertisement which—

(i) indicates an intention to sell or import or export a psychoactive substance for human consumption or to sell any object for use in cultivating by hydroponic means any plant in contravention of section 17 of the Act of 1977,

(ii) promotes the consumption of a substance or a combination of substances for its or their, as the case may be, psychoactive effects and provides information on how or where a psychoactive substance may be obtained, or

(iii) provides information on how an object may be used to cultivate by hydroponic means any plant in contravention of section 17 of the Act of 1977,.”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

36. In page 14, subsection (1)(vii), lines 30 and 31, to delete all words from and including “documents” in line 30 down to and including “records” where it secondly occurs in line 31 and substitute the following:

“records or other documents (and in the case of records or documents”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

37. In page 14, subsection (1)(viii), line 36, to delete “products” and substitute “products, substances or objects”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

38. In page 14, subsection (1)(ix), line 41, to delete “article” and substitute “object”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

39. In page 14, subsection (1)(ix), line 42, to delete “records, books” and substitute “books, records”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

40. In page 15, subsection (4)(c), line 12, to delete “subsection (1)” and substitute the following:

“paragraph (a), (b) or (c)* of subsection (1)”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

[*Note: This is a reference to the paragraph proposed to be inserted by amendment No. 35.]

41. In page 15, subsection (4), line 17, after “enter” to insert “(if necessary by the use of reasonable force)”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

SECTION 13

42. In page 16, subsection (1), to delete lines 13 to 17 and substitute the following:
“(ii) search any vehicle in which he or she suspects that any evidence of, or relating to, the commission of an offence under this Act may be found and for the purpose of carrying out”.

—An tAire Dlí agus Cirt agus Athchóirthe Dlí.

43. In page 16, subsection (3)(a), line 39, to delete “article” and substitute “object”.

—An tAire Dlí agus Cirt agus Athchóirthe Dlí.

SECTION 14
44. In page 17, subsection (1), line 17, to delete “unlawfully”.

—An tAire Dlí agus Cirt agus Athchóirthe Dlí.

45. In page 17, subsection (2), line 21, to delete “(2) Without” and substitute “(2) (a) Without”.

—An tAire Dlí agus Cirt agus Athchóirthe Dlí.

46. In page 17, subsection (2)(a), line 23, to delete “(a) a public place” and substitute “(i) a public place”.

—An tAire Dlí agus Cirt agus Athchóirthe Dlí.

47. In page 17, subsection (2)(b), line 24, to delete “(b) any other place” and substitute “(ii) any other place”.

—An tAire Dlí agus Cirt agus Athchóirthe Dlí.

48. In page 17, subsection (2), between lines 30 and 31, to insert the following:

“(b) An officer of Customs and Excise may, for the purpose of conducting a search of a person under section 13, require the person to accompany him or her to a customs office or to such other place as may be specified by the officer for that purpose.”.

—An tAire Dlí agus Cirt agus Athchóirthe Dlí.

49. In page 17, between lines 30 and 31, to insert the following subsection:

“(3) Without prejudice to the generality of subsections (1) and (2), an officer of Customs and Excise may seize and detain any thing which he or she with reasonable cause suspects is being imported or exported in contravention of section 3(2) and may for that purpose open any packet (including any postal packet) or container containing, or which he or she suspects of containing, a psychoactive substance.”.

—An tAire Dlí agus Cirt agus Athchóirthe Dlí.

SECTION 17
50. In page 18, subsection (2)(a), line 44, before “laboratory” where it secondly occurs to insert “designated”.

—An tAire Dlí agus Cirt agus Athchóirthe Dlí.

51. In page 19, subsection (4), line 7, to delete “subsection (2)” and substitute “subsection (3)”.

—An tAire Dlí agus Cirt agus Athchóirthe Dlí.

52. In page 19, between lines 12 and 13, to insert the following subsection:

“(5) A certificate of analysis shall be in such form as may be specified by the Minister.”.

—An tAire Dlí agus Cirt agus Athchóirthe Dlí.
SECTION 18

53. In page 19, subsection (1), line 14, before “shall” to insert the following:

“, 9, 10 (other than under subsection (8) of that section) or 11 ”.

—Pat Rabbitte.

54. In page 19, subsection (5), line 36, after “certificate” to insert “of analysis”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

SECTION 19

55. In page 20, subsection (1), line 7, after “any” to insert “substance, product, object,“.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

56. In page 20, subsection (3), line 28, after “any” to insert “substance, product, object,“.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

SECTION 20

57. In page 21, subsection (3), line 4, to delete “product” and substitute “product, object”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.

SECTION 21

58. In page 21, paragraph (a), lines 19 and 20, to delete “plant, fungus, natural organism or substance” and substitute “plant”.

—An tAire Dlí agus Cirt agus Athchóirithe Dlí.