



## LAWS AND REGULATIONS

### PROMULGATED TO GIVE EFFECT TO THE PROVISIONS OF THE INTERNATIONAL TREATIES ON NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

*In accordance with the relevant articles of the international treaties on narcotic drugs and psychotropic substances,  
the Secretary-General has the honour to communicate the following legislative texts*

#### IRELAND

Communicated by the Government of Ireland

##### NOTE BY THE SECRETARIAT

- (a) Some editing of texts may be done by the Secretariat in the interest of clarity. In this connection, words in square brackets [ ] have been added or changed by the Secretariat.
- (b) Only passages directly relevant to the control of narcotic drugs or psychotropic substances have been reproduced in this document. Non-relevant parts of laws and regulations have been deleted by the Secretariat; such deletions are indicated by [...].

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\*Note by the Secretariat: This document is a direct reproduction of the text communicated to the Secretariat.



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**CRIMINAL JUSTICE ACT, 1999**

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<sup>1/</sup> Note by the Secretariat: For the information of the reader, the entire "arrangement of sections" is reproduced here even though the text of the law is not entirely reproduced.

[No. 10.] *Criminal Justice Act, 1999.* [1999.]

Section

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Number 10 of 1999

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**CRIMINAL JUSTICE ACT, 1999**

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AN ACT TO CREATE A NEW DRUG OFFENCE, TO AMEND THE LAW RELATING TO PROCEEDINGS IN CRIMINAL MATTERS, TO AMEND THE LAW RELATING TO ENFORCEMENT OF PENALTIES AGAINST DRUG TRAFFICKERS, TO ESTABLISH RULES RELATING TO THE SENTENCING OF PERSONS WHO HAVE ENTERED GUILTY PLEAS, TO PROVIDE FOR EVIDENCE BY CERTIFICATE IN RELATION TO EXHIBITS, TO AMEND THE LAW RELATING TO THE CERTIFICATION, FOR EXTRADITION PURPOSES, OF CERTAIN OFFENCES UNDER THE LAW OF NORTHERN IRELAND AND SCOTLAND AND THE LAW DEFINING THE JUDGES WHO HAVE JURISDICTION TO HEAR EXTRADITION MATTERS, TO ABOLISH THE "YEAR AND A DAY" RULE, TO AMEND SECTION 4 OF THE CRIMINAL JUSTICE ACT, 1984, TO AMEND THE OFFENCES AGAINST THE STATE (AMENDMENT) ACT, 1998, TO PROVIDE FOR THE GIVING OF EVIDENCE THROUGH A LIVE TELEVISION LINK BY WITNESSES IN FEAR OR SUBJECT TO INTIMIDATION, FOR THE PROTECTION OF THE WHEREABOUTS AND IDENTITY OF WITNESSES UNDER A GARDA SÍOCHÁNA WITNESS PROTECTION PROGRAMME, FOR THE OFFENCE OF INTIMIDATION OF WITNESSES, JURORS AND OTHER PERSONS AND FOR THE ARREST AND DETENTION OF PRISONERS IN CONNECTION WITH THE INVESTIGATION OF OFFENCES AND TO PROVIDE FOR OTHER RELATED MATTERS. [26th May, 1999]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART I

PRELIMINARY AND GENERAL

1.—(1) In this Act—

Interpretation.

"the Act of 1962" means the Criminal Justice (Legal Aid) Act, 1962;

"the Act of 1967" means the Criminal Procedure Act, 1967;

[No. 10.] *Criminal Justice Act, 1999.* [1999.]

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“the Act of 1973” means the Criminal Procedure (Amendment) Act, 1973;

“the Act of 1977” means the Misuse of Drugs Act, 1977;<sup>5/</sup>

“the Act of 1981” means the Criminal Law (Rape) Act, 1981;

“the Act of 1984” means the Criminal Justice Act, 1984;

“the Act of 1990” means the Criminal Justice (Forensic Evidence) Act, 1990;

“the Act of 1992” means the Criminal Evidence Act, 1992;

“the Act of 1994” means the Criminal Justice Act, 1994;<sup>6/</sup>

“the Act of 1997” means the Criminal Justice (Miscellaneous Provisions) Act, 1997;<sup>7/</sup>

“the Minister” means the Minister for Justice, Equality and Law Reform.

(2) A reference in this Act to any other enactment is to that enactment as amended, adapted or extended by or under any subsequent enactment including this Act.

Citation and commencement.

2.—(1) This Act may be cited as the Criminal Justice Act, 1999.

(2) This Act, other than *Part VI*, shall come into operation on such day or days as, by order or orders made by the Minister, may be fixed therefor either generally or with reference to any particular purpose or provision, and different days may be so fixed for different purposes or different provisions.

Expenses.

3.—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.

## PART II

### AMENDMENTS TO PROVIDE FOR NEW DRUG RELATED OFFENCE

Amendment of Act of 1977.

4.—The Act of 1977 is hereby amended by the insertion after section 15 of the following section:

“Offence relating to possession of drugs with value of £10,000 or more.

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

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

(b) at any time while the drug or drugs are in the person’s possession the market value of the controlled drug or the aggregate of the market values of the controlled drugs, as the case may be, amounts to £10,000 or more.

5/ Note by the Secretariat: see 4/

6/ Note by the Secretariat: see 1/

7/ Note by the Secretariat: see 2/

[1999.]

*Criminal Justice Act, 1999.*

[No. 10.]

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

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

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

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

- (a) the market value of the controlled drug concerned, or
- (b) the aggregate of the market values of the controlled drugs concerned.

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

(5) In this section—

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

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

5.—Section 27 of the Act of 1977 is hereby amended by the insertion after subsection (3) of the following subsections:

Amendment of penalty provisions of Act of 1977.

“(3A) Every person guilty of an offence under section 15A shall be liable, on conviction on indictment—

- (a) to imprisonment for life or such shorter period as the court may, subject to subsections (3B) and (3C) of this section, determine, and

[No. 10.] *Criminal Justice Act, 1999.* [1999.]

Pr.II S.5

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

(3B) Where a person (other than a child or young person) is convicted of an offence under section 15A, the court shall, in imposing sentence, specify as the minimum period of imprisonment to be served by that person a period of not less than 10 years imprisonment.

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

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

(i) the stage at which he indicated the intention to plead guilty, and

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

and

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

(3D) The power conferred by section 23 of the Criminal Justice Act, 1951, to commute or remit a punishment shall not, in the case of a person serving a sentence imposed under subsection (3A) of this section, be exercised before the expiry of the minimum period specified by the court under subsection (3B) of this section less any reduction of that period under subsection (3E) of this section.

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

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

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

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



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(b) if satisfied that the person was so addicted at that time and that the addiction was a substantial factor leading to the commission of the offence, may list the sentence for review after the expiry of not less than one-half of the period specified by the court under subsection (3B) of this section. Pr.II S.5

(3H) On reviewing a sentence listed under subsection (3G) (b) of this section, the court—

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

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

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

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

6.—Section 29 of the Act of 1977 is hereby amended by the substitution of the following subsection for subsection (3): Amendment of defence provisions of Act of 1977.

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

7.—Section 3(1) of the Act of 1994 is hereby amended in the definition of “drug trafficking offence” by the insertion of the following paragraph after paragraph (b): Amendment of Act of 1994.

“(bb) an offence under section 15A of that Act;”

[...]

### PART III

#### AMENDMENTS TO ABOLISH PRELIMINARY EXAMINATIONS

[...]

Amendment of Act of 1997. 21.—Section 5 of the Act of 1997 is hereby amended by the substitution of the following subsection for subsection (3):

“(3) An alternative court shall, for the purposes of the trial of a person, remand the person to a sitting of the court in the District Court District—

(a) in which the offence to which the trial relates was committed, or

(b) in which the person resides or was arrested.”

[...]

PART IV

AMENDMENTS RELATING TO CONFISCATION ORDERS

25.—Section 4 of the Act of 1994 is hereby amended by the substitution of the following subsections for subsections (1) to (3):

Amendment of section 4 of Act of 1994.

“(1) Where a person has been sentenced or otherwise dealt with by a court in respect of one or more drug trafficking offences of which he has been convicted on indictment, the court shall, subject to subsections (2) and (3), determine whether the person has benefited from drug trafficking.

(2) A court may decide not to make a determination under subsection (1) of this section where, following such preliminary inquiries, if any, as it may make, it is satisfied that having regard to—

(a) the present means of the convicted person, and

(b) all of the other circumstances of the case, including the matters which are to be taken into account under section 12(3) of this Act,

the amount, if any, which might be recovered under any confiscation order which might be made would not be sufficient to justify proceeding with consideration of the making of such an order.

(3) The duty of a court to make a determination under subsection (1) of this section shall not apply if the convicted person has died or absconded, and accordingly the provisions of section 13 of this Act shall apply in such a case.

26.—Section 7 of the Act of 1994 is hereby amended—

Pr.IV  
Amendment of section 7 of Act of 1994.

(a) by the substitution of the following subsection for subsection (1):

“(1) This section applies where a court has—

(a) determined under section 4 of this Act that a defendant has not benefited from drug trafficking, or

(b) decided under section 4(2) of this Act not to make a determination as to whether a convicted person has benefited from drug trafficking.”,

(b) in subsection (2) by the substitution of the following paragraph for paragraph (a):

“(a) which was not considered by the court in making, or in deciding not to make, the determination referred to in subsection (1) of this section, but”,

(c) in subsection (3)(a) by the substitution of the following subparagraph for subparagraph (i):

“(i) make a determination or a fresh determination, as the case may be, of whether the defendant has benefited from drug trafficking; and”, and

- (d) by the substitution of the following subsection for subsection (4):

“(4) In considering an application under this section, the court may take into account any payment or other reward received by the defendant on or after the determination, or the decision not to make a determination, referred to in subsection (1) of this section, but only if the Director of Public Prosecutions shows that it was received by the defendant in connection with drug trafficking carried on by the defendant or another person on or before that date.”

Amendment of  
section 10 of Act of  
1994.

27.—Section 10(1)(a) of the Act of 1994 is hereby amended by the substitution of the following for everything before subparagraph (i):

“(a) a court is engaged in a determination under section 4 of this Act as to whether a convicted person has benefited from drug trafficking or as to any amount to be recovered by virtue of that section, or an application has been made to the court under section 7, 8 or 9 of this Act, and there is tendered to the court by or on behalf of the Director of Public Prosecutions a statement as to any matters relevant to—”

Amendment of  
section 11 of Act of  
1994.

28.—(1) Section 11 of the Act of 1994 is hereby amended by the substitution of the following subsection for subsection (b):

(1) This section applies where—

- (a) a court is engaged in a determination under Pr. IV S.28. section 4 of this Act as to whether a convicted person has benefited from drug trafficking or as to any amount to be recovered by virtue of that section, or
- (b) an application has been made to a court under section 7, 8 or 9 of this Act.”

(2) Section 11 of the Act of 1994 is hereby amended by the insertion of the following subsections:

“(7) A defendant who—

- (a) fails, without reasonable excuse, to comply with an order under this section, or
- (b) gives to the court, in purported compliance with this section, information which the defendant knows or has reason to believe is false or misleading,

shall be guilty of an offence.

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

- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding £1,500 or to both, or
- (b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine or to both.

(9) Information that is specified in an order under this section and is given to the court in compliance with that order shall not be admissible in evidence in any proceedings for an offence, other than an offence under this section.”

[...]

PART VI

EXTRADITION AND OTHER MATTERS

[...]

Abolition of "year and a day" rule.

38.—(1) In this section, "the 'year and a day' rule" means the rule of law that an act or omission is conclusively presumed not to have caused a person's death if more than a year and a day elapsed between the act or omission and the death.

(2) The "year and a day" rule is hereby abolished for all purposes, including—

(a) for the purposes of offences involving the death of a person, and

(b) for the purpose of determining whether a person committed suicide.

(3) *Subsection (2)* does not affect the continued application of the "year and a day" rule to any case where the act or omission, or the last of the acts or omissions, that caused the death occurred before the day on which this Act is passed.

Witnesses in fear or subject to intimidation.

39.—(1) Subject to *subsection (2)*, in any proceedings on indictment for an offence (including proceedings under Part I A of the Act of 1967) a person other than the accused may, with the leave of the court, give evidence through a live television link.

(2) A court shall not grant leave under *subsection (1)* unless it is satisfied that the person is likely to be in fear or subject to intimidation in giving evidence otherwise.

(3) Evidence given under *subsection (1)* shall be videorecorded.

(4) In any proceedings referred to in *subsection (1)* in any circuit or district court district where the court is satisfied that leave should be granted for evidence to be given through a live television link pursuant to *subsection (1)* but the necessary facilities for doing so are not available in that circuit or district, the court may by order transfer the proceedings to a circuit or district court district where such facilities are available and, where such an order is made, the jurisdiction of the court to which the proceedings have been transferred may be exercised.

(a) in the case of the Circuit Court, by the judge of the circuit, Part VI, Section 39 concerned; and

(b) in the case of the District Court, by the judge of that court for the time being assigned to the district court district concerned.

(5) Where evidence is given by a person ("the witness") through a live television link pursuant to *subsection (1)*—

- (a) in case evidence is given that the accused was known to the witness before the date on which the offence in question is alleged to have been committed, the witness shall not be required to identify the accused, unless the court in the interests of justice directs otherwise, and
- (b) in any other case, evidence by a person other than the witness that the witness identified the accused as being the offender at an identification parade or by other means shall be admissible as evidence that the accused was so identified.

(6) This section is without prejudice to any other enactment providing for the giving of evidence through a live television link.

40.—(1) A person who without lawful authority makes enquiries or takes any other steps whatever, whether within or outside the State, for the purpose of discovering—

Relocated  
Witnesses.

- (a) the whereabouts of a person whom he or she knows, or reasonably suspects, to be a relocated witness, or
- (b) any new name or other particulars related to any new identity provided for such a witness,

shall be guilty of an offence.

(2) A person who without lawful authority discloses, whether within or outside the State, to any other person any information (including information lawfully obtained pursuant to *subsection (1)*); concerning—

- (a) the whereabouts of a person whom he or she knows, or reasonably suspects, to be a relocated witness, or
- (b) any new name or other particulars related to any new identity provided for such a person.

shall be guilty of an offence.

(3) In this section "relocated witness" means any person who intends to give or has given evidence in proceedings for an offence and who as a consequence has moved residence under any programme operated by the Garda Síochána for the protection of witnesses to any place, whether within or outside the State.

(4) In this section "lawful authority" means the authority of—

- (a) a court in any proceedings involving the relocated witness,
- (b) a member of the Garda Síochána not below the rank of chief superintendent.

(5) A court shall give authority pursuant to *subsection (1)* or *(2)* only if it is satisfied—

- (a) that to do so would be in the interests of justice, and
- (b) that another way of proceeding which would not prejudice the continued participation of the relocated witness in the programme aforesaid, including, without prejudice to the generality of the foregoing, the transmission of any documents required to be served on the witness to the Commissioner of the Garda Síochána for the purpose of effecting such service, is not available.

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

- (a) on summary conviction, to a fine not exceeding £1,500 or imprisonment for a term not exceeding 12 months or both, and
- (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding five years or both.

Intimidation etc. of witnesses, jurors and others.

41.—(1) Without prejudice to any provision made by any other enactment or rule of law, a person—

- (a) who harms or threatens, menaces or in any other way intimidates or puts in fear another person who is assisting in the investigation by the Garda Síochána of an offence or is a witness or potential witness or a juror or potential juror in proceedings for an offence, or a member of his or her family,
- (b) with the intention thereby of causing the investigation or the course of justice to be obstructed, perverted or interfered with,

shall be guilty of an offence.

(2) In this section, “potential juror” means a person who, at the time an offence under this section is alleged to have been committed, has been summoned for jury service but has not been empanelled as a juror to serve on a particular jury.

(3) In proceedings for an offence under this section, proof to the satisfaction of the court or jury, as the case may be, that the accused did an act referred to in subsection (1)(a) shall be evidence that the act was done with the intention required by subsection (1)(b).

(4) In subsection (1), the reference to a member of a person's family includes a reference to—

- (a) the person's spouse;
- (b) a parent, grandparent, step-parent, child (including a step-child or an adopted child), grandchild, brother, sister, half-brother, half-sister, uncle, aunt, nephew, or niece of the person or his or her spouse; or
- (c) any person who is cohabiting or residing with him or her.

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

- (a) on summary conviction, to a fine not exceeding £1,500 or imprisonment for a term not exceeding 12 months or both, and
- (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 10 years or both.

[...]

S.I. No. 338 of 1993.

MISUSE OF DRUGS (SCHEDULED SUBSTANCES)  
REGULATIONS, 1993.

The Minister for Health, in exercise of the powers conferred on him by sections 4, 5 and 38 of the Misuse of Drugs Act, 1977 (No. 12 of 1977), hereby makes the following Regulations.

PART I

*Citation.* 1. These Regulations may be cited as the Misuse of Drugs (Scheduled Substances) Regulations, 1993.

*Interpretation.* 2. (1) In these Regulations:—

“the Act” means the Misuse of Drugs Act, 1977; <sup>1/</sup>

“animal remedy” has the same meaning as in the Animal Remedies Act, 1993 (No. 23 of 1993);

“the EC Council Regulation” means Council Regulation (EEC) No 3677/90<sup>(1)</sup>, as amended by Council Regulation (EEC) No 900/92<sup>(2)</sup>, laying down measures to be taken to discourage the diversion of certain substances to the illicit manufacture of narcotic drugs and psychotropic substances;

“import” means any physical introduction of a scheduled substance into the State from a territory which is not part of the customs territory of the European Community;

“export” means any physical departure of a scheduled substance from the State to a territory which is not part of the customs territory of the European Community;

“medical preparation” has the same meaning as in section 65 of the Health Act, 1947 (No. 28 of 1947) as amended by section 39 of the Health Act, 1953 (No. 26 of 1953) and by

<sup>(1)</sup> Official Journal of the European Communities, No. L357, 20.12.1990 (pages 1-4).

<sup>(2)</sup> Official Journal of the European Communities, No. L96, 10.4.1992 (pages 1-6).

*Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 30th November, 1993.*

section 7 of the Health (Family Planning) Act, 1992 (No. 20 of 1992);

“the Minister” means the Minister for Health;

“officer of customs and excise” means an officer within the meaning of the Customs Acts;

“operator” means any person engaged in the manufacture, processing, trade or distribution of scheduled substances or involved in other related activities such as the brokering or storage of scheduled substances;

“person keeping open shop for the dispensing or compounding of medical prescriptions or for the sale of poisons” means a person lawfully keeping open shop for the dispensing or compounding of medical prescriptions or for the sale of poisons under the Pharmacy Acts 1875 to 1977;

“produce”, where the reference is to producing a scheduled substance, means producing it by cultivation, manufacture, synthesis or by any other method;

“scheduled substance” means any controlled drug specified in the First Schedule;

“the State Chemist” means the head of the State Laboratory;

“supply” includes supply notwithstanding that the person supplied may be in another Member State of the European Community;

“transit” means any transport of a scheduled substance between third countries through the customs territory of the State and any trans-shipment in that territory;

“ultimate consignee” means the person, who may or may not be the end-user, to whom a scheduled substance is to be delivered in the country of destination.

(2) In these Regulations any reference to an article or Schedule shall be construed as a reference to an article contained in these Regulations or, as the case may be, to a Schedule thereto; any reference in an article to a sub-article shall be construed as a reference to a sub-article of that article; and any reference in a Schedule to a paragraph shall be construed as a reference to a paragraph of that Schedule.

Secret.

3. (1) Nothing in these Regulations shall be construed as affecting any provision of the Misuse of Drugs Regulations, 1988 (S.I. No. 328 of 1988). 2/

(2) These Regulations shall not apply to animal remedies, medical preparations, or to any preparation or other product containing a scheduled substance compounded in such a way that such substance cannot be easily used or recovered by readily applicable means.



PART II

PRODUCTION, SUPPLY, IMPORTATION AND EXPORTATION OF  
SCHEDULED SUBSTANCES

General  
Prohibition.

4. (1) Subject to the provisions of these Regulations a person shall not—

- (a) produce a scheduled substance;
- (b) supply or offer to supply a scheduled substance;
- (c) import a scheduled substance; or
- (d) export a scheduled substance.

(2) Sub-article (1) shall not apply to any scheduled substance specified in Category 3 of the First Schedule.

(3) Sub-article (1) (d) shall not apply to any scheduled substance in respect of which an export authorisation has been granted pursuant to the provisions of the EC Council Regulation.

Licences.

5. A person so authorised by a licence granted by the Minister under Section 14 of the Act and for the time being in force may, under and in compliance with any conditions attached thereto, produce, supply, offer to supply, import, export or have in his possession any scheduled substance to which the licence relates.

Specific  
Authorities.

6. (1) A person may supply or offer to supply any scheduled substance specified in Category 1 of the First Schedule to any person who may lawfully supply or have that substance in his possession where the person so supplying or offering

to supply the scheduled substance is a person acting in his capacity as—

- (a) a pharmacist;
- (b) a person keeping open shop for the dispensing or compounding of medical prescriptions or for the sale of poisons;
- (c) a person in charge of a laboratory the recognised activities of which consist of, or include, the conduct of scientific education or research and which is attached to a university or a hospital, or a person in charge of any other laboratory engaged in the conduct of scientific education or research and which is attached to any other institution approved for the purpose by the Minister;
- (d) the State Chemist;
- (e) the Director of the Forensic Science Laboratory in the Department of Justice;
- (f) a public analyst appointed under section 10 of the Sale of Food and Drugs Act, 1875;
- (g) a person employed or engaged as an inspector in connection with a scheme for the licensing of manufacturers or wholesalers of animal remedies or medical preparations.
- (h) an operator licensed under Article 2 (a) of the EC Council Regulation.

(2) A person whose name is for the time being entered in a register kept for the purpose of this sub-article by the Minister may, at the premises in respect of which his name is entered in the register and in compliance with any conditions subject to which his name is so entered, produce any scheduled substance in Category 2 of the First Schedule and may supply or offer to supply any such scheduled substance to any person who may lawfully supply that substance.

(3) A person, being a person specified in any of paragraphs (a), (b), (c), (d), (e) or (f) of sub-article (1) may, when acting in his capacity as such, for the purpose of his business or profession:

(a) supply any scheduled substance in Category 2 of the First Schedule to any person who may lawfully supply that substance;

(b) produce any preparation or other product containing any scheduled substance in Category 1 or Category 2 of the First Schedule.

(4) Where the supply of a scheduled substance under this article is to be made to a person in another Member State of the European Community, such supply shall not be made except to an operator authorised under the laws of that State, to supply or to possess the said scheduled substance, in accordance with article 4(3) of Council Directive 92/109/EEC<sup>(3)</sup> on the manufacture and the placing on the market of certain substances used in the illicit manufacture of narcotic drugs and psychotropic substances.

### PART III

#### POSSESSION OF SCHEDULED SUBSTANCES

General  
authorities.

7. A person who, by virtue of these Regulations, is authorised to produce, supply or offer to supply any scheduled substance may in accordance with the provisions of the Regulations have such substance in his possession.

Specific general  
authorities.

8. (1) Any of the following persons may have a scheduled substance in his possession, that is to say—

(a) a member of the Garda Síochána when acting in the course of his duty as such;

(b) an officer of customs and excise when acting in the course of his duty as such;

(c) a person authorised in writing by the Minister in accordance with section 24 of the Act, when acting in the course of his duty as such;

(d) a person engaged in connection with the postal services provided by An Post when acting in the course of his duty as a person so engaged;

<sup>(3)</sup> Official Journal of the European Communities, No. L370, 19.12.1992 (pages 76-82).

- (e) person engaged in the work of any laboratory to which the substance has been sent for forensic examination when acting in the course of his duty as a person so engaged;
- (f) a person engaged in the work of a customs agent when acting in the course of his duty as a person so engaged;
- (g) a person engaged in the business of a carrier when acting bona fide in the course of that business;
- (h) a person engaged in conveying the substance to a person authorised by these Regulations to have it in his possession.

(2) A person who is lawfully in possession of a scheduled substance may supply that substance to a person from whom he obtained it.

#### PART IV

##### LABELLING OF SCHEDULED SUBSTANCES

9. An operator shall not supply or offer to supply a scheduled substance specified in Category 1 or Category 2 of the First Schedule otherwise than in a bottle, package or other container unless it is clearly marked with the name of the substance as specified in the said Schedule.

#### PART V

##### DOCUMENTATION AND RECORD KEEPING

10. (1) Subject to sub-articles (2) and (4), where an operator proposes to supply a scheduled substance specified in Category 1 or Category 2 of the First Schedule, he shall not deliver the substance:

- (a) until he obtains a requisition in writing which—
  - (i) is signed by or on behalf of the person to whom the substance is to be supplied (in this part referred to as "the recipient"),
  - (ii) states the name and address of the recipient, and
  - (iii) specifies the name of the substance, the purpose for which it is required and the total quantity to be supplied.

(2) Sub-article (1) shall not apply—

- (a) in respect of the supply of a scheduled substance in Category 2 of the First Schedule to a person who is a regular customer of the supplier and who has within the previous twelve months already furnished to the operator a requisition in accordance with sub-article (1), or
- (b) to any supply made by a carrier in the ordinary course of transporting a scheduled substance from the operator to the recipient.

(3) Subject to sub-article (4), an operator shall not import, export, supply or offer to supply any scheduled substance specified in Category 1 or Category 2 of the First Schedule or participate in the broking or transit of such substance unless all transactions relating thereto are properly documented and any invoices, cargo manifests, customs, administrative, transport and other commercial or shipping documentation relating to the transaction contain sufficient information to positively identify—

- (a) the name of the scheduled substance as specified in the First Schedule;
- (b) the amount of the scheduled substance in the consignment;
- (c) in the case of a mixture, the total amount of the mixture in the consignment and the amount or percentage of each of its components which is a scheduled substance; and
- (d) the name and address (not being a post office box number or other such reference) of the supplier and of the recipient whether or not either such person is the importer, exporter, distributor or ultimate consignee.

(4) Sub-articles (1) and (3) shall not apply to transactions concerning a scheduled substance in Category 2 of the First Schedule where the quantity involved does not exceed that specified for that substance in the Second Schedule.

(5) An operator shall keep such detailed records of his activities as are required to comply with his obligations under sub-articles (1) and (3).

(6) The documents and records referred to in this article shall be retained for a period of not less than three years from the end of the calendar year in which the relevant transaction took place. Such documents and records shall be readily available for inspection by an officer of Customs and Excise, a member of the Garda Síochána or a person duly authorised under section 24 of the Act.

11. (1) An operator shall on demand made by the Minister or by any person authorised in writing by the Minister in that behalf—

Furnishing of information with respect to Scheduled Substances

- (a) furnish such particulars as may be requested in respect of the importation, producing, obtaining, exporting, broking, transit or supplying by him of any scheduled substance or in respect of any stock of such substance in his possession;
- (b) for the purpose of confirming any such particulars, produce any stock of such substance in his possession;
- (c) produce any register, book, requisition, invoice, cargo manifest or other document in his possession which is required to be kept under these Regulations in respect of any dealings in scheduled substances.

(2) Where the demand referred to in sub-article (1) is made in writing the particulars, or confirmation thereof, shall be furnished not later than fourteen days from the date of the said demand.

FIRST SCHEDULE

Category 1

1. The following substances, namely:—

Acetylanthranilic acid  
Ephedrine  
Ergometrine  
Ergotamine  
Isosafrole (cis isomer)  
Isosafrole (trans isomer)  
Lysergic acid  
3, 4-Methylenedioxyphenylpropan-2-one  
1-Phenyl-2-propanone (otherwise known as phenylacetone)  
Piperonal  
Pseudoephedrine  
Safrole.

2. Any sale of a substance specified in paragraph 1.

3. Any preparation or other product containing any proportion of a substance or product specified in any of paragraphs 1 or 2.

Category 2

4. The following substances, namely:—

Acetic anhydride  
Anthranilic acid  
Phenylacetic acid  
Piperidine

5. Any sale of a substance specified in paragraph 4.

6. Any preparation or other product containing any proportion of a substance or product specified in any of paragraphs 4 or 5.

Category 3

7. The following substances, namely:—

Acetone  
Ethyl ether  
Methyl ethyl ketone  
Potassium permanganate  
Toluene.

8. Any salt of a substance specified in paragraph 7.

9. The following substances, namely:—

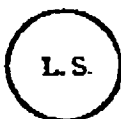
Hydrochloric acid.  
Sulphuric acid.

10. Any preparation or other product containing any proportion of a substance or product specified in any of paragraphs 7, 8 or 9.

SECOND SCHEDULE

(article 10 (4))

Substance	Threshold
Acetic anhydride	20 Litres
Anthranilic acid and its salts	1 Kilogramme
Phenylacetic acid and its salts	1 Kilogramme
Piperidine and its salts	0.5 kilogramme



GIVEN under the Official Seal of the Minister for Health this 22nd day of November, 1993.

BRENDAN HOWLIN,  
Minister for Health.

EXPLANATORY NOTE.

*(This note is not part of the Instrument and does not purport to be a legal interpretation.)*

These Regulations implement Council Directive 92/109/EEC on the manufacture and placing on the market of certain substances used in the illicit manufacture of narcotic drugs and psychotropic substances. These controls have their origin in the United Nations Convention against illicit traffic in Narcotic Drugs and Psychotropic Substances, 1988.

These Regulations apply controls to the Scheduled Substances specified in Categories 1 to 3 in Schedule 1 to the Regulations (being drugs to which the Misuse of Drugs Acts, 1977 and 1984 apply).

The effect of these Regulations is to impose restrictions on the production, supply, importation and exportation of the substances concerned, which vary according to the extent to which those substances are likely to be used for the illicit manufacture of Narcotic Drugs and Psychotropic Substances. The importation and exportation controls only apply to Category 1 and Category 2 substances and in respect of consignments destined for or originating in countries which are not Member States of the European Community. The export controls operating under Council Regulation (EEC) No. 3677/90 (as amended) are not affected by these Regulations.

In addition the Regulations specify the classes of persons who may possess and/or supply scheduled substances and the circumstances in which such possession or supply would not be in contravention of the Act. Requirements are also laid down in regard to the labelling of scheduled substances and in respect of documentation, record keeping and the furnishing of information on scheduled substances.