



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 text / 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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E/NL.2004/3

**S.I. No. 30/1980: MISUSE OF DRUGS ORDER, 1980
(CUSTODIAL TREATMENT CENTRE)**

The Minister for Health, being of the opinion that the Central Mental Hospital is suitable for the medical treatment and for the care of persons in respect of whom an order may be made under section 28 of the Misuse of Drugs Act, 1977 (No. 12 of 1977)¹, in exercise of the powers conferred on him by section 28 (10) of the said Act hereby orders as follows:

1. This Order may be cited as the Misuse of Drugs (Custodial Treatment Centre) Order, 1980.
2. The Central Mental Hospital is hereby designated as a designated custodial treatment centre for the purpose of section 28 of the Misuse of Drugs Act, 1977.

GIVEN under the Official Seal of the Minister for Health this 1st day of February, 1980.

MICHAEL WOODS,

Minister for Health.

EXPLANATORY NOTE.

The effect of the Order is to designate the Central Mental Hospital at Dundrum, Dublin as a place where persons convicted of certain specified offences under the Misuse of Drugs Act, 1977 may receive custodial medical treatment or care.

Date of Adoption: 1 February 1980

¹ Note by the Secretariat: E/NL.1978/6

**S.I. No. 321/1982: MISUSE OF DRUGS REGULATIONS, 1982
(SAFE CUSTODY)**

The Minister for Health, in exercise of the powers conferred by sections 4 of the Misuse of Drugs Act, 1977 (No. 12 of 1977)¹, hereby makes the following Regulations:

1. These Regulations may be cited as the Misuse of Drugs (Safe Custody) Regulations, 1982.
2. These Regulations shall come into operation on the 1st day of March, 1983.
3. (1) In these Regulations
"the Principal Regulations" means the Misuse of Drugs Regulations, 1979 (S.I. No. 32 of 1979)².
(2) In these Regulations every reference to an article shall, except where the context otherwise indicates, be construed as a reference to an article contained in these Regulations and any reference in an article to a sub-article shall be construed as a reference to a sub-article of that article.
4. (1) Subject to the provisions of these Regulations, a person lawfully having in his possession any controlled drug specified in Schedule 1, 2 or 3 of the Principal Regulations shall ensure that, so far as circumstances permit, such drug is kept in a locked, fixed receptacle which can be opened only by him or by a person authorised by him.
(2) Sub-article (1) shall not apply as respects
 - (a) a person to whom the drug has been supplied by or on the prescription of a practitioner for his own treatment or that of another person or of an animal;
 - (b) a person engaged in the business of a carrier when acting in the course of that business;
 - (c) a person engaged in conveying the drug to a person authorised by virtue of the Principal Regulations to have that drug in his possession;
 - (d) a person engaged in connection with the Postal Services provided by the Minister for Posts and Telegraphs when acting in the course of his duty as a person so engaged.
5. (1) Subject to sub-article (2), a person keeping open shop for the dispensing or compounding of medical prescriptions or for the sale of poisons in accordance with the Pharmacy Acts, 1875 to 1977, shall ensure that any controlled drug specified in Schedule 1, 2 or 3 of the Principal Regulations which he has in his possession is ordinarily kept in a locked safe or cabinet which is so constructed and maintained as to prevent unauthorised access to the drugs.
(2) Subject to article 6, every safe or cabinet in which controlled drugs are kept in pursuance of sub-article (1) shall be constructed and maintained in accordance with a standard which is at least equivalent to the requirements set out in the Schedule to these Regulations.
6. (1) Article 5 (2) shall not apply as respects a safe or cabinet where a certificate has been issued under sub-article (2) in respect of that safe or cabinet and is for the time being in force.
(2) A member of the Garda Síochána, not below the rank of Superintendent, may, on receipt of an application in writing
 - (a) inspect or cause to be inspected any safe or cabinet in which controlled drugs are to be kept and the premises in which such safe or cabinet is located, and
 - (b) if such safe or cabinet provides a degree of security which, in his opinion, in all the circumstances of the case, is at least equivalent to that which would be provided by a safe or cabinet which complies with the requirements set out in the Schedule to these Regulations, issue a certificate in respect of that safe or cabinet.

¹ Note by the Secretariat: E/NL.1978/6

² Note by the Secretariat: E/NL.1979/53

- (3) Every certificate issued under sub-article (2) shall specify any conditions which the member of the Garda Síochána considers necessary to ensure that each such safe or cabinet will provide an adequate degree of security.
- (4) A certificate issued under sub-article (2) may be revoked by a member of the Garda Síochána, not below the rank of Superintendent, where
 - (a) there has been a breach of any condition specified in the certificate, or
 - (b) as a result of any change of circumstances, any safe or cabinet to which the certificate relates no longer provides an adequate degree of security, or
 - (c) the occupier has refused entry to any member of the Garda Síochána seeking such entry for the purpose of ascertaining whether any such breach or change has occurred.
- (5) A certificate shall, unless revoked in pursuance of sub-article (4), remain in force for a period of two years but may from time to time be renewed for a further period of two years.
7. An officer of the Pharmaceutical Society of Ireland, with a written authorisation of that Society, may carry out such inspection as may be necessary for the purpose of ascertaining whether the provisions of Article 5 are being complied with.
8. Article 22 of the Principal Regulations is hereby revoked.

SCHEDULE

REQUIREMENTS IN RELATION TO SAFES AND CABINETS USED FOR KEEPING DRUGS

1. In this Schedule, the expression
 - "two-leaf door" means a door having two leaves which either close on to each other or on to a central pillar, and the two leaves of any such door shall be treated for the purposes of this Schedule as a single door;
 - "sheet steel" means mild steel sheet being not lighter than 16 gauge.
2. (1) A safe or cabinet shall be constructed of
 - (a) pressed and welded sheet steel; or
 - (b) pressed and welded steel mesh; or
 - (c) sheet steel or steel mesh welded upon an angle-iron frame of at least 25 millimetres by 25 millimetres section and of at least 5 millimetres thickness.
- (2) The clearance between the door and jamb or, in the case of a two-leaf door, between the two leaves of each leaf and a central pillar shall not be greater than 3 millimetres.
- (3) Each door shall be fitted with an effective lock
 - (a) having at least 5 levers differing from each other or, in the case of a pin and tumbler mechanism, at least 6 pins;
 - (b) designed to permit at least 1,000 effective key-differs independent of wards or any other fixed obstruction to the movement of the key; and
 - (c) provided with a dead-bolt which is either of mild steel of at least 19 millimetres by 8 millimetres section or incorporates a suitable anti-cutting device and which has a total throw of at least 12 millimetres.
- (4) Where the length of the vertical closing edge of a door exceeds 914 millimetres and the length of the horizontal edge exceeds 457 millimetres the door shall be fitted with two such locks as are specified in sub-paragraph (3) above, one situated at not more than one third of the length of the vertical closing edge from the top and the other at not more than one third from the bottom, but otherwise the lock required by sub-paragraph (3) above shall be situated in the centre of the vertical closing edge.
- (5) Where a safe or cabinet is fitted with a two-leaf door, either

- (a) the lock or locks required by sub-paragraphs (3) and (4) above shall be fitted with an integrated espagnolette bolt which is of at least 19 millimetres by 8 millimetres section and which has a total throw, at both the top and bottom, of at least 12 millimetres; or
 - (b) the second opening leaf shall be secured at the top and bottom by means of internal bolts of mild steel of at least 6 millimetres by 6 millimetres section or 6 millimetres diameter, each of which has a total throw of at least 12 millimetres, the bolt handles being returnable into a holding recess.
- (6) A safe or cabinet shall be rigidly and securely fixed to a wall or floor which is soundly constructed by means of at least two rag-bolts each passing through an internal anchor plate of mild steel which is of at least 3 millimetres thickness and which has a surface area of at least 19,355 square millimetres.
- (7) Nothing shall be displayed outside a safe or cabinet to indicate that drugs are kept in it.
- (8) For the purposes of sub-paragraph (6) "soundly constructed", in respect of a wall or floor, means constructed of solid brick, concrete block or mass concrete, of sufficient thickness, depth and strength to provide a firm and secure anchor.
3. (1) Subject to sub-paragraph (2) below where sheet steel is used in the construction of a safe or cabinet, its edges shall be lapped inwards around the margins of apertures and around the edges of doors in such manner as to be inaccessible from the outside; and where sheet steel is fixed on a framework, it shall be so fixed as to prevent removal from outside the safe or cabinet of which the framework forms part.
- (2) Where sheet steel is used in the construction of the door or the leaf of a door of a safe or cabinet, its edges shall not be required to be lapped inwards as required by sub-paragraph (1) above where the sheet steel used is not lighter than 10 gauge and the door or leaf of the door fits flush, or is recessed, so that no edge protrudes when the door is closed.
- (3) Steel mesh used in the construction of a safe or cabinet shall be
- (a) welded steel mesh not lighter than 10 standard wire gauge having rectangular apertures not exceeding 75 millimetres by 12 millimetres; or
 - (b) expanded steel not lighter than 12 gauge having diamond apertures not exceeding 44 millimetres by 19 millimetres.
- (4) Except where otherwise specified in this Schedule, the edges of each panel of sheet steel or steel mesh used in the construction of a safe or cabinet shall be arc-welded to a steel frame along their entire length, or, in the absence of a steel frame, continuously arc-welded along the entire length of all joints.
- (5) Each hinged door in a safe or cabinet shall be fitted with at least two hinges.
- (6) If any part of the hinges of such a door is on the outside of the door, it shall be fitted with at least two dog-bolts of mild steel of similar gauge and dimensions to the frame of the safe or cabinet or an internal flange or rebate running the entire length of the door and so fitted as to prevent access without unlocking in the event of damage to the hinges.
- (7) Each lock, bolt assembly and other means of securing doors in a safe or cabinet shall be fitted internally.
- (8) The bolt of each lock and each other bolt or catch securing the cover of any aperture in a safe or cabinet shall be protected against cutting or manipulation from the outside.
- (9) Each screw, bolt or other fixing device used in the construction of a safe or cabinet shall be such as to be incapable of being removed from the outside and shall be of a strength at least equal to that of the component part which it fixes.

GIVEN under the Official Seal of the Minister for Health this 28th day of October 1982.

MICHAEL WOODS,
Minister for Health.

EXPLANATORY NOTE.

The Regulations prescribe a minimum standard for the safes and cabinets to be used in retail pharmacies for the safe custody of drugs specified in Schedules 1, 2 and 3 to the Misuse of Drugs Regulations, 1979. The Regulations also impose an obligation on persons lawfully having possession of controlled drugs to keep such drugs in a locked, fixed container so as to prevent unauthorised access to them. The Regulations come into operation on 1st March, 1983.

Date of Adoption: 28 October 1982

Date of Entry into Force: 1 March 1983

**S.I. No. 205/1984: MISUSE OF DRUGS ACT, 1984 ORDER, 1984
(COMMENCEMENT)**

The Minister for Health, in exercise of the powers conferred on him by subsection (2) of section 16 of the Misuse of Drugs Act, 1984 (No. 18 of 1984),¹ hereby orders as follows:

1. This Order may be cited as the Misuse of Drugs Act, 1984 (Commencement) Order, 1984.
2. (1) The Misuse of Drugs Act, 1984, other than sections 3 and 4, shall come into operation on the 3rd day of August, 1984.
(2) Sections 3 of the Misuse of Drugs Act, 1984 shall come into operation on the 1st day of October, 1984.

GIVEN under the Official Seal of the Minister for Health this 2nd day of August, 1984.

BARRY DESMOND.

Minister for Health.

EXPLANATORY NOTE.

This Order fixes the dates on which the various provisions of the Misuse of Drugs Act, 1984, come into operation.

Date of Adoption: 2 August 1984

¹ Note by the Secretariat: E/NL.1985/8

E/NL.2004/6

**S.I. No. 264/1984: MISUSE OF DRUGS REGULATIONS, 1984
(COMMITTEES OF INQUIRY)**

The Minister for Health, in exercise of the powers conferred on him by sections 8 of the Misuse of Drugs Act, 1977 (No. 12 of 1977)¹, as amended by the Misuse of Drugs Act, 1984 (No. 18 of 1984)², after consultation with the Dental Board, the Medical Council and the Veterinary Council hereby makes the following Regulations:

1. These Regulations may be cited as the Misuse of Drugs (Committees of Inquiry) Regulations, 1984.
2. In these Regulations "the Act" means the Misuse of Drugs Act, 1977, as amended by the Misuse of Drugs Act 1984.
3. A committee of inquiry established under section 8 of the Act shall consist of three persons, of whom
 - (a) one (who shall be the Chairman) shall be nominated by the Minister;
 - (b) one shall be a member of the respondent's profession who is also a member of the registration authority concerned nominated by such registration authority; and
 - (c) one shall be a person appointed from a panel of members of the respondent's profession who is not a member of the registration authority concerned nominated by such other organisations as are in the opinion of the Minister representative of the profession to which the respondent belongs.
4. Any question arising before a committee of inquiry shall be decided by the majority of the members of the committee.
5. The proceedings of a committee of inquiry shall be held in private.
6. Subject to the provisions of articles 4 and 5 a committee of inquiry shall regulate its own procedure.
7. The Minister shall appoint a person to act as secretary to a committee of inquiry.
8. The Misuse of Drugs (Committees of Inquiry, Advisory Committees and Advisory Panels) Regulations, 1979 (S.I. No. 31 of 1979) are hereby revoked³.

Given under the Official Seal of the Minister for Health this 23rd day of October,
1984.

BARRY DESMOND.

Minister for Health.

EXPLANATORY NOTE.

These regulations set out the constitution and procedure of the committees of inquiry established in connection with the investigation of cases of irresponsible prescribing by practitioners as provided under section 8 of the Misuse of Drugs Act, 1977, as amended by section 3 of the Misuse of Drugs Act, 1984.

Date of Adoption: 23 October 1984

¹ Note by the Secretariat: E/NL.1978/6

² Note by the Secretariat: E/NL.1985/8

³ Note by the Secretariat: E/NL.1979/52

**S.I. No. 251/1987: MISUSE OF DRUGS ACT, 1977 ORDER, 1987
(CONTROLLED DRUGS) (DECLARATION)**

The Government, in exercise of the powers conferred on them by Section 2(2) of the Misuse of Drugs Act, 1977 (No. 12 of 1977)¹, hereby make the following Order:

1. This Order may be cited as the Misuse of Drugs Act, 1977 (Controlled Drugs) (Declaration) Order, 1987.
2. (1) This Order, other than article 5, shall come into operation on the 1st day of May, 1988.
(2) Article 5 of this Order shall come into operation on the date of making this Order.
3. In this Order
"the Act" means the Misuse of Drugs Act, 1977 (No. 12 of 1977).
4. Each of the substances, products and preparations specified in the Schedule to this Order is hereby declared to be a controlled drug for the purposes of the Act.
5. Buprenorphine, its salts, its stereoisomeric forms, their salts and any preparation or other product containing any proportion of any of the aforementioned substances and products are hereby declared to be controlled drugs for the purposes of the Act.

SCHEDULE

1. The following substances and products, namely:
 - (a) Alfentanil; Carfentanil; Cathinone; Eticyclidine; Lofentanil; Nabilone; Phencyclidine; Rolicyclidine; Sufentanil; Tenocyclidine; Tilidine; N-(1-Benzyl-4-piperidyl) propionanilide;
1-Phenylcyclohexylamine;
4-1-Phenylcyclohexyl) morpholine;
1-Piperidinocyclohexanecarbonitrile;
N-[1-(2-Thienyl)-4-piperidyl] propionanilide;
4-[1-(2-Thienyl) cyclohexyl] morpholine;
1-[1-(2-Thienyl) cyclohexyl pyrrolidine.
 - (b) any substance (not being a substance otherwise specified in this Schedule or in the Schedule to the Act) structurally derived from tryptamine or from a ring-hydroxy tryptamine by substitution at the nitrogen atom of the sidechain with one or more alkyl substituents but no other substituent;
 - (c) any substance (not being methoxyphenamine or a substance otherwise specified in this Schedule or in the Schedule to the Act) structurally derived from phenethylamine, an N-alkyl—phenethylamine, a-methylphenethylamine, an N-alkyl-a-methylphenethylamine, a-ethylphenethylamine, or an N-alkyl-a-ethylphenethylamine by substitution in the ring to any extent with alkyl, alkoxy, alkylenedioxy or halide substituents, whether or not further substituted in the ring by one or more other univalent substituents;
 - (d) any substance (not being a substance otherwise specified in this Schedule or in the Schedule to the Act) structurally derived from fentanyl by modification in one or more of the following ways, that is to say,
 - (i) by replacement of the phenyl portion of the phenethyl group by any heteromonocycle whether or not further substituted in the heterocycle;
 - (ii) by substitution in the phenethyl group with alkyl, alkenyl, alkoxy, hydroxy, halogeno, haloalkyl, amino or nitro groups;
 - (iii) by substitution in the piperidine ring with alkyl or alkenyl groups;
 - (iv) by substitution in the aniline ring with alkyl, alkoxy, alkylenedioxy, halogeno or haloalkyl groups;

¹ Note by the Secretariat: E/NL.1978/6

- (v) by substitution at the 4-position of the piperidine ring with any alkoxycarbonyl or alkoxyalkyl or acyloxy group;
- (vi) by replacement of the N-propionyl group by another acyl group;
- (e) any substance (not being a substance otherwise specified in this Schedule or in the Schedule to the Act) structurally derived from pethidine by modification in one or more of the following ways, that is to say,
 - (i) by replacement of the 1-methyl group by an acyl, alkyl whether or not unsaturated, benzyl or phenethyl group, whether or not further substituted;
 - (ii) by substitution in the piperidine ring with alkyl or alkenyl groups or with a propano bridge, whether or not further substituted;
 - (iii) by substitution in the 4-phenyl ring with alkyl, alkoxy, aryloxy, halogeno or haloalkyl groups;
 - (iv) by replacement of the 4-ethoxycarbonyl by any other alkoxycarbonyl or any alkoxyalkyl or acyloxy group;
 - (v) by formation of an N-oxide or of a quaternary base;
- (f) any ester or ether of a substance specified in this paragraph, not being a substance otherwise specified in this Schedule or in the Schedule to the Act.

2. The following substances, namely:

- (a) Alprazolam; Bromazepam; Butorphanol; Camazepam; Cathine; Chlordiazepoxide; Clobazam; Clonazepam; Clorazepic Acid; Clotiazepam; Cloxazolam; Delorazepam; Dextropropoxyphene; Diazepam; Diethylpropion; Estazolam; Ethchlorvnlol; Ethinamate; Ethyl loflazepate; Fencamfamin; Fenethylamine; Fenproporex; Fludiazepam; Flunitrazepam; Flurazepam; Glutethimide; Halazepam; Haloxazolam; Ketazolam; Lefetamine; Loprazolam; Lorazepam; Lormetazepam; Mazindol; Mecloqualone; Medazepam; Mefenorex; Meprobamate; Methyprylone; Nalbuphine; Nimetazepam; Nitrazepam; Nordazepam; Oxazepam; Oxazolam; Pemoline; Pentazocine; Phentermine; Pinazepam; Prazepam; Propylhexedrine; Pyrovalerone; Selegiline; Temazepam; Tetrazepam; Triazolam; N—Ethylamphetamine; Phenylacetone.
- (b) any substance (not being a substance otherwise specified in this Schedule or in the Schedule to the Act) structurally derived from barbituric acid by disubstitution at the 5,5 positions, whether or not there is also substitution at the 1 position by a methyl substituent.

- 3. Any stereoisomeric form of a substance specified in paragraph 1 or 2 above not being phenylpropanolamine.
- 4. Any salt of a substance specified in paragraphs 1 to 3 above.
- 5. Any preparation or other product containing any proportion of a substance or product specified in any of paragraph 1 to 4 above.

GIVEN under the Official Seal of the Government, this 29th Day of September, 1987.

CHARLES J. HAUGHEY,

Taoiseach.

EXPLANATORY NOTE

The purpose of this Order is to declare certain substances, products and preparations to be controlled drugs for the purposes of the Misuse of Drugs Act, 1977.

Date of Adoption: 29 September 1987

Date of Entry into Force: 1 May 1988

**S.I. No. 328/1993: MISUSE OF DRUGS ACT, 1977 ORDER, 1993
(CONTROLLED DRUGS) (DECLARATION)**

The Government, in exercise of the powers conferred on them by section 2 (2) of the Misuse of Drugs Act, 1977 (No. 12 of 1977)¹, hereby make the following Order:

1. This Order may be cited as the Misuse of Drugs Act, 1977 (Controlled Drugs) (Declaration) Order, 1993.
2. Each of the substances, products and preparations specified in the Schedule to this Order is hereby declared to be a controlled drug for the purposes of the Misuse of Drugs Act, 1977 (No. 12 of 1977).

SCHEDULE

1. The following substances and products, namely:

N-Hydroxy-tenamphetamine

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

4-Methyl-aminorex

2. Any ester or ether of a substance specified in paragraph 1 of this Schedule.

3. Midazolam.

4. Any stereoisomeric form of a substance specified in paragraph 1, 2 or 3 of this Schedule.

5. The following substances, namely:

Acetic anhydride

Acetone

N-Acetylanthranilic acid

Anthranilic acid

Ephedrine

Ergometrine

Ergotamine

Ethyl ether

4-Hydroxybutanoic acid

Isosafrole (cis isomer)

Isosafrole (trans isomer)

Lysergic acid

3, 4-Methylenedioxyphenylpropan-2-one

Methylethylketone

Phenylacetic acid

Piperidine

Piperonal

Potassium permanganate

Pseudoephedrine

Safrole

¹ Note by the Secretariat: E/NL.1978/6

Toluene.

6. Any salt of a substance specified in any of paragraphs 1 to 5 of this Schedule.

7. The following substances, namely:

Hydrochloric acid

Sulphuric acid

8. Any preparation or other product containing any proportion of a substance or product specified in any of paragraphs 1 to 7 of this Schedule.

GIVEN under the Official Seal of the Government, this 9th day of November, 1993.

ALBERT REYNOLDS,

Taoiseach.

EXPLANATORY NOTE.

The purpose of this Order is to declare certain substances, products and preparations to be controlled drugs for the purposes of the Misuse of Drugs Act, 1977.

Date of Adoption: 09 November 1993

**S.I. No. 339/1993: MISUSE OF DRUGS ORDER, 1993
(EXEMPTION) (AMENDMENT)**

The Minister for Health in exercise of the powers conferred on him by Section 3 of the Misuse of Drugs Act, 1977 (No. 12 of 1977)¹ hereby orders as follows:

1. This Order may be cited as the Misuse of Drugs (Exemption) (Amendment) Order, 1993.
2. The Misuse of Drugs (Exemption) Order, 1988 (S.I. No. 326 of 1988)² is hereby amended as follows:

In paragraph 1 of Part 1 of the Schedule

- (i) the words "Flunitrazepam" and "Temazepam" shall be deleted;
- (ii) after "Mefenorex" there shall be inserted the word "Midazolam"; and
- (iii) after "Pyrovalerone" there shall be inserted the word "Selegiline".

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

BRENDAN HOWLIN,

Minister for Health.

EXPLANATORY NOTE.

This Order amends the Schedule to the Misuse of Drugs (Exemption) Order, 1988 by deleting Flunitrazepam and Temazepam thereby further restricting the possession of those drugs and their respective animal remedies and medical preparations.

The addition of Midazolam and Selegiline to the Schedule has the effect of exempting those drugs and their respective animal remedies and medical preparations, from the provisions of Section 3 of the Misuse of Drugs Act, 1977. (This Section 3 makes the unauthorised possession of a controlled drug an offence).

Date of Adoption: 22 November 1993

¹ Note by the Secretariat: E/NL.1978/6

² Note by the Secretariat: E/NL.1993/11

E/NL.2004/10

**S.I. No. 341/1993: MISUSE OF DRUGS ORDER 1993
(SCHEDULED SUBSTANCES) (EXEMPTION)**

The Minister for Health in exercise of the powers conferred on him by Section 3 of the Misuse of Drugs Act, 1977 (No. 12 1977)¹ hereby orders as follows:

1. This Order may be cited as the Misuse of Drugs (Scheduled Substances) (Exemption) Order, 1993.
2. In this Order:
 - "animal remedy" has the same meaning as in the Animal Remedies Act, 1993 (No. 23 of 1993);
 - "medical preparation" has the same meaning as in Section 65 of the Health Act, 1947 as amended by Section 39 of the Health Act, 1953 (No. 26 of 1953) and by Section 7 of the Health (Family Planning) (Amendment) Act, 1992 (No. 20 of 1992);
3. Sub-section (1) of Section 3 of the Misuse of Drugs Act, 1977 shall not apply to the controlled drugs specified in the Schedule to this Order provided that such drugs as aforesaid do not contain any other substance, preparation or other product which itself is a controlled drug.

SCHEDULE

1. Any animal remedy or medical preparation containing one or more of the following substances or their salts, namely:
 - N-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. The following substances, namely:
 - Acetic anhydride
 - Acetone
 - Anthranilic acid
 - Ethyl ether
 - Methylethylketone
 - Phenylacetic acid
 - Piperidine
 - Potassium permanganate
 - Toluene.

¹ Note by the Secretariat: E/NL.1978/6

3. Any salt of a substance specified in paragraph 2 above.
4. The following substances, namely:
 - Hydrochloric acid
 - Sulphuric acid.
5. Any preparation or other product containing any proportion of a substance referred to in paragraph 1 above, or of a salt of any such substance, or of a substance specified in any of paragraphs 2, 3 or 4 above, compounded in such a way that any such substance cannot be easily used or recovered by readily applicable means.
6. Any animal remedy or medical preparation containing any proportion of a substance specified in any of paragraphs 2, 3 or 4 above.

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

BRENDAN HOWLIN,

Minister for Health.

EXPLANATORY NOTE.

The effect of this Order is to exempt from the provisions of Section 3 of the Misuse of Drugs Act, 1977 (which makes unauthorised possession an offence) the substances, animal remedies, medical preparations, other preparations and other products specified in the Schedule to the Order.

Date of Adoption: 22 November 1993

E/NL.2004/11

**S.I. No. 342/1993: MISUSE OF DRUGS REGULATIONS, 1993
(AMENDMENT)**

The Minister for Health, in exercise of the powers conferred on him by sections 4 of the Misuse of Drugs Act, 1977 (No. 12 of 1977)¹, hereby makes the following Regulations:

1. These Regulations may be cited as the Misuse of Drugs (Amendment) Regulations, 1993.
2. These Regulations shall be construed as one with the Misuse of Drugs Regulations, 1988 (S.I. No. 328 of 1988)² and may be cited together with those Regulations as the Misuse of Drugs Regulations, 1988 and 1993.
3. The Misuse of Drugs Regulations, 1988 are hereby amended as follows:
 - (a) the following paragraph shall be added to article 4 (2)

"(c) Sub-article (1) (c) shall not apply to Flunitrazepam or to Temazepam or to any animal remedy or medical preparation containing any proportion of any of those substances.";
 - (b) the following article shall be inserted after article 15

"15A A person shall not export a controlled drug unless the transactions relating thereto are properly documented and the commercial documents such as invoices, cargo manifests, customs, transport and other shipping documentation accompanying the drug include the name of the drug as set out in the relevant Schedule or, where such name would not adequately identify the drug, the international non-proprietary name for the drug as recommended by the World Health Organisation. Such documentation as aforesaid shall be dated and shall also include the total quantity being exported, the name and address of the exporter and of the importer and when available that of the ultimate consignee.";
 - (c) in paragraph 1 (1) of Schedule 1
 - (i) after "Eticyclidine" there shall be inserted "Khat (being the leaves of *Catha edulis* (Celastraceae)); and
 - (ii) at the end there shall be added "N-Hydroxytenamphetamine" and "4-Methyl-aminorex";
 - (d) in paragraph 6 of Schedule 2, the word "Selegiline" shall be deleted;
 - (e) in paragraph 1 (a) of Schedule 3
 - (i) after "Ethinamate" there shall be inserted the words "Flunitrazepam", and "4-Hydroxybutanoic acid";
 - (ii) the word "Phenylacetone" shall be deleted; and
 - (iii) at the end there shall be added "Temazepam"; and
 - (f) in paragraph 1 of Part 1 of Schedule 4
 - (i) after "Mefenorex" there shall be inserted "Midazolam";
 - (ii) after "Pyrovalerone" there shall be inserted "Selegiline"; and
 - (iii) the words "Flunitrazepam" and "Temazepam" shall be deleted.

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

BRENDAN HOWLIN,
Minister for Health.

¹ Note by the Secretariat: E/NL.1978/6

² Note by the Secretariat: E/NL.1993/10

EXPLANATORY NOTE.

These Regulations amend the Misuse of Drugs Regulations, 1988

- (a) to require exports of controlled drugs to be properly documented and to ensure that the relating shipping documentation properly identifies the drug. This is to conform with Article 16 of the United Nations Convention against illicit traffic in Narcotic Drugs and Psychotropic Substances,
- (b) to add certain additional substances to the Schedules to the Regulations. These include Khat, N-Hydroxy-tenamphetamine and 4-Methyl-aminorex (to Schedule 1), 4-Hydroxybutanoic acid (to Schedule 3) and Midazolam (to Schedule 4),
- (c) to reduce the extent of the controls applicable to Selegiline which is being transferred from Schedule 2 to Schedule 4,
- (d) to apply Schedule 3 type controls (except for import and export) to Flunitrazepam and Temazepam and to make consequential deletions from Schedule 4, and
- (e) to delete Phenylacetone (which as a scheduled substance is now to be the subject of another form of control ___ under the Act).

Date of Adoption: 22 November 1993

Date of Entry into Force: 11 April 2001

E/NL.2004/12

**No. 33/1997: LICENSING ACT, 1997
(COMBATING DRUG ABUSE)**

ARRANGEMENT OF SECTIONS

Section

1. Interpretation.
2. Disqualification for ever from obtaining intoxicating liquor, public dancing or public music and singing licence on conviction for drugs offence.
3. Revocation of public dancing or public music and singing licence on conviction for drugs offence and disqualification for ever from holding such licence.
4. Revocation of public dancing licence or public music and singing licence for allowing licensed premises to be used for sale, etc., of controlled drugs and disqualification for years from holding either such licence.
5. Amendment of section 1 of Act of 1935 (Definitions).
6. Amendment of section 2 (2) of Act of 1935 (Application for and grant of public dancing licences).
7. Insertion of conditions and restrictions in public dancing licences.
8. Amendment of section 9 of Act of 1935 (Appeals in respect of applications for public dancing licences).
9. Use of unlicensed place for public dancing.
10. Contravention of public dancing licence.
11. Amendment of section 51 of Act of 1890.
12. Powers to remove persons preparing for or certain persons at an unlicensed dance.
13. Powers to stop persons proceeding to unlicensed dances.
14. Powers of entry and seizure.
15. Powers of court to forfeit sound equipment.
16. Retention of seized sound equipment.
17. Forfeiture of intoxicating liquor licence on conviction for drugs offence and disqualification for ever from holding such licence.
18. Suspension of intoxicating liquor licence for allowing licensed premises to be used for sale, etc., of controlled drugs and disqualification from holding such licence, etc.
19. Amendment of section 4 of Courts (No. 2) Act, 1986 (Grant of renewal of intoxicating liquor licences without court certificates).
20. Appeal against forfeiture or suspension of intoxicating liquor licence.
21. Shadow licence holder.
22. Short title, collective citation, construction and commencement.

ACTS REFERRED TO

Companies Act, 1990 1990, No. 33
 Courts (No. 2) Act, 1986 1986, No. 26
 Criminal Justice Act, 1994 1994, No. 15¹
 Intoxicating Liquor Act, 1988 1988, No, 16
 Licensing Act, 1872 1872, c.94
 Licensing Acts, 1833 to 1995
 Misuse of Drugs Act, 1977 1977, No .12²
 Public Dance Halls Act, 1935 1935, No . 2
 Public Health Acts Amendment Act, 1890 1890,c.59

Number 33 of 1997

LICENSING (COMBATING DRUG ABUSE) ACT, 1997

AN ACT TO MAKE PROVISION FOR MEASURES TO COMBAT DRUG ABUSE IN PLACES USED FOR PUBLIC DANCING, LICENSED PREMISES AND OTHER PLACES OF ENTERTAINMENT AND TO PROVIDE THE GARDA SÍOCHÁNA WITH POWERS TO PREVENT DRUG ABUSE AT UNLICENSED DANCES AND FOR THOSE PURPOSES TO AMEND THE LICENSING ACTS, 1833 TO 1995, SECTION 51 OF THE PUBLIC HEALTH ACTS AMENDMENT ACT, 1890, AND THE PUBLIC DANCE HALLS ACT, 1935, AND TO PROVIDE FOR CONNECTED MATTERS. [21st May, 1997]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1. Interpretation.

1. (1) In this Act

"the Act of 1890" means the Public Health Acts Amendment Act, 1890;

"the Act of 1935" means the Public Dance Halls Act, 1935;

"the Act of 1977" means the Misuse of Drugs Act, 1977;

"controlled drug" has the same meaning as in section 2 of the Act of 1977;

"drug trafficking offence" has the same meaning as in section 3 (1) of the Criminal Justice Act, 1994;

"exempt person", in relation to an unlicensed dance, means the occupier of the place where the unlicensed dance is taking place or is due to take place, any member of the occupier's family, any employee or agent of the occupier and any person whose home is situated in the place where the unlicensed dance is taking place or is due to take place;

"intoxicating liquor licence" means a licence for the sale of intoxicating liquor by retail whether granted on production or without production of a certificate of the Circuit Court or the District Court;

"the Licensing Acts" means the Licensing Acts, 1833 to 1995;

¹ Note by the Secretariat: E/NL.1996/70

² Note by the Secretariat: E/NL.1978/6

"Minister" means the Minister for Justice;

"music" includes sounds wholly or predominantly characterised by the emission of a succession of repetitive beats;

"place" has the same meaning as in section 1 of the Act of 1935 as amended by section 5 of this Act, and for the purposes of section 51 of the Act of 1890 includes a house, room, garden or other place:

"public dancing licence" has the same meaning as in section 2 of the Act of 1935;

"public music and singing licence" means any licence under section 51 of the Act of 1890;

"sound equipment" means equipment designed or adapted for amplifying music and any equipment suitable for use with such equipment;

"unlicensed dance" means a gathering of persons in any place which is open to the public and for which a public dancing licence is not in force, and which gathering a member of the Garda Síochána not below the rank of superintendent reasonably believes

(a) the primary purpose of which is to entitle the persons attending to dance, and at which music is played (with or without intermissions), and

(b) will be an occasion for the sale, supply or distribution of any controlled drug, and for this purpose such a gathering continues during intermissions in the music.

(2) In sections 3 and 4 and section 21 (in so far as it relates to a public dancing licence or a public music and singing licence) licensing area" has the same meaning as in section 1 of the Act of 1935.

(3) In this Act

(a) a reference to any enactment shall, unless the context otherwise requires, be construed as a reference to that enactment as amended or extended by or under any subsequent enactment including this Act,

(b) a reference to a section is a reference to a section of this Act unless it is indicated that reference to some other enactment is intended,

(c) a reference to a subsection, paragraph or subparagraph is a reference to the subsection, paragraph or subparagraph of the provision in which the reference occurs unless it is indicated that reference to some other provision is intended.

2. Disqualification for ever from obtaining intoxicating liquor, public dancing or public music and singing licence on conviction for drugs offence.

2. Any person who has been convicted of a drug trafficking offence shall be disqualified for ever from holding any intoxicating liquor licence, any public dancing licence or any public music and singing licence where the person is not the holder of any such licence.

3. Revocation of public dancing or public music and singing licence on conviction for drugs offence and disqualification for ever from holding such licence.

3. (1) Where a person who is the holder of a public dancing licence or a public music and singing licence is convicted of a drug trafficking offence or of an offence under section 19 (1)(g) of the Act of 1977, a member of the Garda Síochána not below the rank of inspector may, notwithstanding any penalty imposed on the person, apply to the District Court to have the licence revoked.

(2) Upon an application under subsection (1), a judge of the District Court, where he or she is satisfied of the conviction of the licence-holder for a drug trafficking offence or an offence under section 19 (1) (g) of the Act of 1977, shall, unless the judge is of the opinion that there is good reason for not doing so, order that the licence be immediately revoked.

(3) Where a licence is revoked under this section, the person to whom the licence had been granted shall be disqualified for ever from holding a public dancing licence or a public music and singing licence, as appropriate.

- (4) Where a licence is revoked under this section and the person to whom the licence had been granted was the owner of the place in respect of which the licence applied, that place shall not again have such licence attached to it.
- (5) Where a licence is revoked under this section and the holder of the licence was not the owner of the place in respect of which the licence applied, that place shall not again have such licence attached to it unless—
 - (a) the offence in respect of which the holder of the licence was convicted took place elsewhere than in the place to which the licence applied,
 - or
 - (b) the offence in respect of which the holder of the licence was convicted took place in the place to which the licence applied, but the court is satisfied, on application by the owner, that the owner did not know and had no reason to suspect that the holder would use the place in such a way that would give rise to such a conviction.
- (6) Any application under subsection (1) or (5) may be made at any time to the District Court for the licensing area in which the place to which the licence relates is situate.

4. Revocation of public dancing licence or public music and singing licence for allowing licensed premises to be used for sale, etc, of controlled drugs and disqualification for 5 years from holding either such licence.

4. 1) Subject to subsection (2), where, upon an application by a member of the Garda Síochána not below the rank of inspector, a judge of the District Court is satisfied that a person who is the holder of a public dancing licence or a public music and singing licence permits or suffers the use of the place in respect of which the licence was granted for the sale, supply or distribution of any controlled drug or did not exercise control which was reasonable in all the circumstances over the place to prevent such sale, supply or distribution, the judge shall order that the licence be immediately revoked.
- (2) An application under subsection (1) shall not be made on the ground that the licence-holder did not exercise control which was reasonable in all the circumstances over the place to prevent the sale, supply or distribution of any controlled drug, unless a member of the Garda Síochána has previously—
 - (a) advised the licence-holder that he or she has a reasonable suspicion that there was such sale, supply or distribution at the place,
 - (b) warned the licence-holder to take whatever action was necessary to prevent such sale, supply or distribution, and
 - (c) given the licence-holder a reasonable period of time, being not less than 4 weeks from the date of the warning, to enable the licence-holder to take whatever action was necessary to prevent such sale, supply or distribution.
- (3) Where a licence is revoked under this section, the person to whom the licence had been granted shall be disqualified from holding such a licence for a period of 5 years from the date of the order of revocation and the place in respect of which the licence applied shall not have a public dancing licence or a public music and singing licence, as the case may be, granted to it for a period of 5 years from the date of such order.
- (4) Where a licence is revoked under this section and the person to whom the licence had been granted was not the owner of the place in respect of which the licence applied, the provisions of subsection (3) relating to such place shall not apply where, on application to the court by the owner, the court is satisfied that the owner did not know and had no reason to suspect that the holder permitted or suffered the use of, or did not exercise control over, the place as referred to in subsection (1).
- (5) Any application under subsection (1) or (4) may be made at any time to the District Court for the licensing area in which the place to which the licence relates is situate.

5. Amendment of section 1 of Act of 1935 (Definitions).

5. Section 1 of the Act of 1935 is hereby amended by the substitution for the definition of "place" of the following definitions:

'controlled drug' has the same meaning as in section 2 of the Misuse of Drugs Act, 1977;

'place' means a building (including part of a building), yard, garden or other place, whether enclosed or not enclosed and whether roofed or not roofed and whether the enclosure (if any) and the roofing (if any) are permanent or temporary;"

6. Amendment of section 2 (2) of Act of 1935 (Application for and grant of public dancing licences).

6. Subsection (2) of section 2 of the Act of 1935 is hereby amended by the insertion of the following paragraph after paragraph (g):

"(h) the arrangements, where appropriate, that have been made to ensure that persons entering or making use of such place are not in possession of any controlled drug and that the place is not used for the sale, supply or distribution of any controlled drug."

7. Insertion of conditions and restrictions in public dancing licences.

7. The Act of 1935 is hereby amended by the substitution for section 4 of the following section:

"Insertion of conditions and restrictions in public dancing licences.

4. A judge of the District Court in granting public dancing licence.

(a) may insert therein such conditions and restrictions as the judge thinks proper, and

(b) in particular (without prejudice to the generality of the foregoing power)

(i) may insert in such licence conditions limiting the days on which and the hours during which the place to which the licence relates may be used for public dancing, and

(ii) shall, where the judge considers it appropriate to do so, insert a condition that the person to whom the licence is being granted shall make all reasonable arrangements to ensure that persons entering or making use of the place are not in possession of any controlled drug and that the place is not used for the sale, supply or distribution of any controlled drug."

8. Amendment of section 9 of Act of 1935 (Appeals in respect of applications for public dancing licences).

8. Section 9 of the Act of 1935 is hereby amended

(a) by the substitution in paragraph (c) for "such licence." of "such licence, and", and

(b) the insertion after paragraph (c) of the following paragraph:

"(d) by the person whose licence was revoked following application under section 3, 4, or 21 of the Licensing (Combating Drug Abuse) Act, 1997, or who unsuccessfully applied pursuant to section 3 (5), 4 (4) or 21 (4) of the said Act."

9. Use of unlicensed place for public dancing.

9. The Act of 1935 is hereby amended by the substitution for section 10 of the following section:

"Use of unlicensed place for public dancing.

10. (1) No place, whether licensed or not licensed for the sale of intoxicating liquor, shall be used for public dancing unless a public dancing licence is in force in respect of the place.

(2) If any place is used for public dancing in contravention of this section, the person who organised the public dance and the owner of such place shall be guilty of an offence and shall be liable

(a) on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months, or both, or

(b) on conviction on indictment to a fine not exceeding £10,000 or to imprisonment for a term not exceeding 3 years, or both.

(3) In a prosecution for an offence under this section it shall be a defence for the owner to prove that he or she had no knowledge that his or her place was to be used for public dancing in contravention of this section."

10. Contravention of public dancing licence.

10. The Act of 1935 is hereby amended by the substitution for section 11 of the following section:

"Contravention of public dancing licence.

11. (1) Whenever any place in respect of which a public dancing licence is for the time being in force is used for public dancing by a person other than the licensee thereunder or is used for public dancing in contravention of or without due compliance with the conditions and restrictions contained in such licence, the licensee under such licence shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,500.
- (2) Whenever any person is convicted of an offence under this section the judge of the District Court by whom such person is so convicted
- (a) may, in any case, and
- (b) shall, where the condition contravened relates to reasonable arrangements not having been made to ensure that persons entering or making use of the place were not in possession of any controlled drug and that the place was not used for the sale, supply or distribution of any controlled drug,

in addition to or in lieu of imposing a fine, revoke the public dancing licence relating to the place in respect of which such offence was committed."

11. Amendment of section 51 of Act of 1890.

11. Section 51 of the Act of 1890 is hereby amended

- (a) in subsection 2, by the insertion of the following after "conditions":

",which shall, where the court considers it appropriate to do so, include a condition that the person to whom the licence is being granted make all reasonable arrangements to ensure that persons entering or making use of such house, room, garden or place are not in possession of any controlled drug (within the meaning of section 2 of the Misuse of Drugs Act, 1977) and that the house, room, garden or place is not used for the sale, supply or distribution of any controlled drug,".

- (b) by the substitution for subsection 5 of the following subsections:

"5. If any house, room, garden or place is used for any of the purposes aforesaid without a licence under this section, the person who organised the singing, music or other public entertainment, as referred to in subsection 1, and the owner of such house, room, garden or place shall be guilty of an offence and shall be liable

- (a) on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months, or both, or
- (b) on conviction on indictment to a fine not exceeding £10,000 or to imprisonment for a term not exceeding 3 years, or both.

5A. In a prosecution for an offence under this section it shall be a defence for the owner to prove that he or she had no knowledge that his or her house, room, garden or place was to be used for any of the purposes aforesaid without a licence."

and

- (c) the substitution for subsection 9 of the following subsections:

"9. In case of any breach or disregard of any of the terms or conditions upon or subject to which the licence was granted, the holder thereof shall be liable on summary conviction to a fine not exceeding £1,500.

9A. Whenever any person is convicted of an offence under subsection 9 the court by whom such person is so convicted

- (a) may, in any case, and

- (b) shall, where the condition contravened relates to reasonable arrangements not having been made to ensure that persons entering or making use of the place were not in possession of any controlled drug and that the place was not used for the sale, supply or distribution of any controlled drug,

in addition to or in lieu of imposing a fine, revoke the public music and singing licence relating to the place in respect of which such offence was committed."

12. Powers to remove persons preparing for certain persons at an unlicensed dance.

12. (1) Where a member of the Garda Síochána not below the rank of superintendent reasonably believes that persons
- (a) are making preparation for the holding of an unlicensed dance,
 - (b) who are present at an unlicensed dance which is in progress, prepared or organised that dance, or
 - (c) are using the sound equipment at an unlicensed dance, he or she may give a direction that those persons and any other persons who come to prepare for or organise the dance are to leave the place and remove any sound equipment or other property which they have with them at that place.
- (2) A direction under subsection (1) may be communicated to the persons referred to in that subsection by any member of the Garda Síochána at the scene.
- (3) Persons shall be treated as having had a direction under subsection (1) communicated to them if reasonable steps have been taken to bring it to their attention.
- (4) A direction under subsection (1) does not apply to an exempt person.
- (5) A person knowing that a direction has been given which applies to him or her who
- (a) fails to leave the place as soon as reasonably practicable, or
 - (b) having left again enters the place within a period of 7 days beginning with the day on which the direction was given, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,500 or to imprisonment for a period not exceeding 3 months, or both.
- (6) In a prosecution for an offence under this section it is a defence for the accused to show that he or she had a reasonable excuse or had lawful authority for failing to leave the place as soon as reasonably practicable or, as the case may be, for again entering the place.
- (7) Where a member of the Garda Síochána finds any person committing an offence under this section, the member may arrest such person without warrant.

13. Powers to stop persons proceeding to unlicensed dances.

13. (1) If a member of the Garda Síochána reasonably believes that a person is on his or her way to an unlicensed dance in respect of which a direction under section 12 (1) is in force, the member may, subject to subsections (2) and (3)
- (a) stop that person, and
 - (b) direct him or her not to proceed in the direction of the unlicensed dance.
- (2) The power conferred by subsection (1) may only be exercised at a place within 2 miles of the place where the unlicensed dance is being held or is due to be held but this restriction does not apply where the dance is being held, or is due to be held, on an offshore island.
- (3) No direction may be given under subsection (1) to an exempt person.
- (4) If a person knowing that a direction under subsection (1) has been given to him or her fails to comply with that direction, he or she shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,500 or to imprisonment for a period not exceeding 3 months, or both.
- (5) Where a member of the Garda Síochána finds any person committing an offence under this section, the member may arrest such person without warrant.

14. Powers of entry and seizure.

14. (1) Any member of the Garda Síochána whether in uniform or not may enter without a warrant any place in respect of which a public dancing licence is not in force at any time while such place is being used for public dancing or at any other reasonable time and there make such inspection, examination and inquiry as he or she shall think proper for the prevention or detection of a drug trafficking offence or for the giving of a direction under section 12.
- (2) Every person who prevents or attempts to prevent a member of the Garda Síochána from exercising, or obstructs or attempts to obstruct any such member in the exercise of, the power vested in such member by virtue of subsection (1), shall be guilty of an offence and shall be liable on summary conviction thereof to a fine not exceeding £1,000.
- (3) If a direction has been given under section 12 and a member of the Garda Síochána reasonably suspects that any person to whom the direction applies has, without reasonable excuse, failed to remove from the place concerned any sound equipment, which appears to the member to belong to that person or to be in his or her possession or under his or her control, the member may seize and remove that sound equipment.

15 Powers of court to forfeit sound equipment.

15. (1) Where a person is convicted of an offence under section 12 in relation to an unlicensed dance and the court is satisfied that any sound equipment which has been seized from him or her under section 14, or which was in his or her possession or under his or her control at the relevant time, has been used at the unlicensed dance, the court may make an order for forfeiture under this subsection in respect of that property.
- (2) The court may make an order under subsection (1) whether or not it also deals with the offender in respect of the offence in any other way and without regard to any restrictions on forfeiture in any enactment.
- (3) In considering whether to make an order under subsection (1) in respect of any property, a court shall have regard
 - (a) to the value of the property, and
 - (b) to the likely financial and other effects on the offender of the making of the order.
- (4) An order under subsection (1) shall operate to deprive the offender of his or her rights, if any, in the property to which it relates, and the property shall (if not already in their possession) be taken into the possession of the Garda Síochána.
- (5) Subject to the provisions of this section, where any property has been forfeited under subsection (1), a judge of the District Court may, on application by a claimant of the property, other than the offender from whom it was forfeited under subsection (1), make an order for delivery of the property to the applicant if it appears to the court that he or she is the owner of the property.
- (6) No application shall be made under subsection (5) by any claimant of the property after the expiration of 6 months from the date on which an order under subsection (1) was made in respect of the property.
- (7) No such application shall succeed unless the claimant satisfies the court either that he or she had not consented to the offender having possession of the property or that he or she did not know, and had no reason to suspect, that the property was likely to be used at a gathering to which section 12 applies.
- (8) An order under subsection (5) shall not affect the right of any person to take, within the period of 6 months from the date of an order under that subsection, proceedings for the recovery of the property from the person in possession of it in pursuance of the order, but on the expiration of that period the right shall cease.
- (9) The Minister may make regulations for the disposal of property, and for the application of the proceeds of sale of property, forfeited under subsection (1) where no application by a claimant of the property under subsection (5) has been made within the period specified in subsection (6) or no such application has succeeded.

(10) Every regulation made by the Minister under this section 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 21 days on which the House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

(11) In this section "relevant time" in relation to a person convicted of an offence under section 12 means the time of his or her arrest for the offence or of the issue of a summons in respect of it.

16 Retention of seized sound equipment.

16. (1) Any sound equipment which has been seized and removed by a member of the Garda Síochána under section 14 (3) may be retained until the conclusion of proceedings against the person from whom it was seized for an offence under section 12.

(2) In this section, "conclusion of proceedings" against the person from whom sound equipment was seized means

(a) his or her being sentenced or otherwise dealt with for the offence or his or her acquittal,

(b) the discontinuance of the proceedings, or

(c) the decision not to prosecute him or her.

17. Forfeiture of intoxicating liquor licence on conviction for drugs offence and disqualification for ever from holding such licence.

17. (1) Where a person who is the holder of an intoxicating liquor licence is convicted of a drug trafficking offence or of an offence under section 19 (1) (g) of the Act of 1977, a member of the Garda Síochána not below the rank of inspector may, notwithstanding any penalty imposed on the person, apply to the District Court to have the licence forfeited.

(2) Upon an application under subsection (1), a judge of the District Court, where he or she is satisfied of the conviction of the licence-holder for a drug trafficking offence or an offence under section 19 (1)(g) of the Act of 1977, shall, unless the judge is of the opinion that there is good reason for not doing so, order that the licence be immediately forfeited.

(3) Any person whose intoxicating liquor licence is forfeited under this section shall be disqualified for ever from holding any intoxicating liquor licence.

(4) Where an intoxicating liquor licence is forfeited under this section and the person to whom the licence had been granted was the owner of the premises in respect of which the licence applied, that premises shall not again have an intoxicating liquor licence attached to it.

(5) Where a licence is forfeited under this section and the holder of the licence was not the owner of the premises in respect of which the licence applied, that premises shall not again have such licence attached to it unless—

(a) the offence in respect of which the holder of the licence was convicted took place elsewhere than on the premises to which the licence applied, or

(b) the offence in respect of which the holder of the licence was convicted took place on the premises to which the licence applied, but the court is satisfied, on application by the owner, that the owner did not know and had no reason to suspect that the holder would use the premises in such a way that would give rise to such a conviction.

(6) Any application under subsection (1) or (5) may be made at any time to the District Court for the licensing area in which the premises to which the licence relates is situate.

18 Suspension of intoxicating liquor licence for allowing licensed premises to be used for sale, etc, of controlled drugs and disqualification from holding such licence, etc.

18. (1) Subject to subsection (2), where, upon an application by a member of the Garda Síochána not below the rank of inspector' a judge of the District Court is satisfied that a person who is the holder of an intoxicating liquor licence permits or suffers the use of the premises to which the licence attaches for the sale, supply or distribution of any controlled drug or did not exercise control which was reasonable in all the circumstances over the premises to prevent such sale, supply or distribution, the judge shall order that the licence be immediately suspended.
- (2) An application under subsection (1) shall not be made on the ground that the licence-holder did not exercise control which was reasonable in all the circumstances over the premises to prevent the sale, supply or distribution of any controlled drug, unless a member of the Garda Síochána has previously—
- (a) advised the licence-holder that he or she has a reasonable suspicion that there was such sale, supply or distribution on the premises,
 - (b) warned the licence-holder to take whatever action was necessary to prevent such sale, supply or distribution, and
 - (c) given the licence-holder a reasonable period of time, being not less than 4 weeks from the date of the warning, to enable the licence-holder to take whatever action was necessary to prevent such sale, supply or distribution.
- (3) Where an intoxicating liquor licence is suspended under this section, it shall not be renewed until the annual licensing district court of the fourth year following the date of the suspension.
- (4) During the period of suspension of an intoxicating liquor licence, that licence shall, for all purposes of the Licensing Acts, be treated as if it had been forfeited.
- (5) Any person whose intoxicating liquor licence is suspended under this section shall be disqualified for the period of the suspension from holding any intoxicating liquor licence.
- (6) Where an intoxicating liquor licence is suspended under this section, the premises to which the licence attached shall not again have any intoxicating liquor licence granted in respect of those premises before the annual licensing district court of the fourth year following the date of the suspension.
- (7) Where a licence is suspended under this section and the person to whom the licence had been granted was not the owner of the premises in respect of which the licence applied, the provisions of subsection (6) relating to such premises shall not apply where, on application to the court by the owner, the court is satisfied that the owner did not know and had no reason to suspect that the holder permitted or suffered the use of, or did not exercise control over, the premises as referred to in subsection (1).
- (8) Any application under subsection (1) or (7) may be made at any time to the District Court for the licensing area in which the premises to which the licence relates is situate.

19. Amendment of section 4 of Courts (No 2) Act, 1986 (Grant of renewal of intoxicating liquor licences without court certificates).

19. Section 4 of the Courts (No. 2) Act, 1986, is hereby amended
- (a) in subsection (2), by the insertion after "preceding year" of "or of a licence which has been suspended pursuant to an order under section 18 (1) of the Licensing (Combating Drug Abuse) Act, 1997", and the said subsection, as so amended, is set out in the Table to this section, and
 - (b) in subsection (11), by the insertion after paragraph (d) (inserted by section 18 of the Intoxicating Liquor Act, 1988) of the following paragraph:
 - "(e) that the licence has been suspended pursuant to an order under section 18 (1) of the Licensing (Combating Drug Abuse) Act, 1997."

TABLE

- (2) Subject to subsection (5) of this section, where a renewal is required of a licence for premises which have been licensed in the immediately preceding year or of a licence which has been suspended pursuant to an order under section 18 (1) of the Licensing (Combating Drug Abuse) Act, 1997, it shall not be necessary to produce a certificate of the District Court to an officer of the Revenue Commissioners empowered to grant a renewal of such a licence.

20 Appeal against forfeiture or suspension of intoxicating liquor licence.

20. (1) In addition and without prejudice to any right of appeal for the time being existing under any other enactment, an appeal shall lie to the Circuit Court—
- (a) by a person whose licence is forfeited under section 17 or 21,
 - (b) by a person whose licence is suspended under section 18, or
 - (c) by a person who unsuccessfully applied pursuant to section 17 (5) or 18 (7).
- (2) Section 53 of the Licensing Act, 1872 (concerning the grant of a temporary licence during the pendency of an appeal) shall apply in the case of any appeal under subsection (1).
- (3) The jurisdiction of the Circuit Court to hear an appeal under this section shall be exercised by the judge of that Court having jurisdiction in the circuit in which was situate the court house in which the order appealed from was made.

21. Shadow licence holder.

21. (1) A person who is disqualified from holding a relevant licence under any of the provisions of this Act shall be disqualified from being a shadow licence holder in relation to the operation of the licence.
- (2) A disqualification under this section shall be for the same period as the person has been disqualified under a provision of this Act.
- (3) Where, upon an application by a member of the Garda Síochána not below the rank of inspector, a judge of the District Court is satisfied that a person, who is disqualified under subsection (1) from being a shadow licence holder in relation to the operation of a relevant licence, is a shadow licence holder in relation to the operation of the licence—
- (a) the holder of the licence shall, unless he or she can satisfy the judge that there is good reason for not doing so, be disqualified for ever from holding a relevant licence,
 - (b) the person who is a shadow licence holder in relation to the operation of the licence shall, where he or she has not already been disqualified for ever under this Act from holding a relevant licence, be so disqualified,
 - (c) the licence shall be immediately revoked (in the case of a public dancing licence or a public music and singing licence) or forfeited (in the case of an intoxicating liquor licence), and
 - (d) subject to subsection (4), the place or premises in respect of which the licence applied shall not again have a relevant licence attached to it.
- (4) Where a public dancing licence or a public music and singing licence is revoked under paragraph (c) of subsection (3) and the person to whom the licence had been granted was not the owner of the place in respect of which the licence applied, the provisions of subsection (3) relating to such place shall not apply where, on application to the court by the owner, the court is satisfied that the owner did not know and had no reason to suspect that there was a shadow licence holder in relation to the operation of the licence who has been disqualified under subsection (1) from being a shadow licence holder in relation to the operation of a relevant licence.
- (5) Any application under subsection (3) or subsection (4) may be made at any time to the District Court for the licensing area in which the place or premises to which the licence relates is situate.
- (6) In this section:
- "director" includes a shadow director within the meaning of section 27 of the Companies Act, 1990;

"relevant licence" means an intoxicating liquor licence, a public dancing licence or a public music and singing licence;

"shadow licence holder", in relation to the operation of a relevant licence, means a person who is not the holder of the licence but who:

- (a) by reason of any understanding, arrangement or direction in relation to any profit or gain from the operation of the licence, enjoys or is entitled to any such profit or gain, or
- (b) controls or conducts the activities under any such licence, either directly or indirectly, that is held by another person or a body corporate of which he or she is the director, manager, secretary or other officer.

22. Short title, collective citation, construction and commencement.

22. (1) This Act may be cited as the Licensing (Combating Drug Abuse) Act, 1997.
- (2) The Act of 1935 and sections 2 to 1010 and 21 in so far as they relate to public dancing licences may be cited together as the Public Dance Halls Acts, 1935 and 1997, and shall be construed together as one.
- (3) The Licensing Acts and sections 2 and 21 in so far as they relate to intoxicating liquor licences and sections 77 to 2020 may be cited together as the Licensing Acts, 1833 to 1997, and shall be construed together as one.
- (4) This Act shall come into operation one month after the date of its passing.

Date of Adoption: 21 May 1997

Date of Entry into Force: 21 June 1997

E/NL.2004/13

**S.I. No. 69/1998: MISUSE OF DRUGS ORDER, 1998
(DESIGNATION)**

The Minister for Health and Children, being of the opinion that it is in the public interest for the manufacture, production, preparation, sale, supply, distribution and possession of the drugs specified in the Schedule 1 hereto to be unlawful except for the purposes specified in Schedule 2 hereto and 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 the drugs specified in the said Schedule 1, any of the things mentioned in section 5(2) of the Misuse of Drugs Act, 1977 (No. 12 of 1977)¹ except under a licence or other authority issued by the said Minister, in exercise of the powers conferred on him by section 13 of the said Act, as adapted by the Health (Alteration of Name of Department and Title of Minister) Order, 1997 (S.I. No. 308 of 1997), hereby orders as follows:

1. This Order may be cited as the Misuse of Drugs (Designation) Order, 1998.
2. In this Order "practitioner" and "pharmacist" have the meanings assigned to them under the Misuse of Drugs Act, 1977.
3. The Misuse of Drugs (Designation) Order, 1993 (S.I. No. 340 of 1993) is hereby revoked.
4. The drugs specified in Schedule 1 hereto are hereby designated as drugs to which subsection (1) of section 13 of the Misuse of Drugs Act, 1977, applies.

SCHEDULE 1

1. The following substances and products, namely:

- (a) Bufotenine.

Cannabinol, except where contained in cannabis or cannabis resin.

Cannabinol derivatives.

Cannabis and cannabis resin.

Cathinone.

Coca leaf.

Concentrate of poppy-straw.

Eticyclidine.

N-Hydroxy-tenamphetamine.

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

Lysergamide.

Lysergide and other N-alkyl derivatives of lysergamide.

Mescaline.

4-Methylaminorex.

Psilocin.

Raw opium.

Rolicyclidine.

Tenocyclidine.

N, N-Diethyltryptamine.

N, N-Dimethyltryptamine.

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

¹ Note by the Secretariat: E/NL.1978/6

N - [1 - (2 - Thenyl) - 4 - piperidyl]propionanilide.

2, 5 - Dimethoxy -a, 4 - dimethylphenethylamine.

- (b) any substance (not being a substance specified in sub-paragraph (a) above) structurally derived from tryptamine or from a ring-hydroxy tryptamine by substitution at the nitrogen atom of the sidechain with one or more alkyl substituents but no other substituent;
- (c) any substance (not being methoxyphenamine or a substance specified in sub-paragraph (a) above) structurally derived from phenethylamine, an N-alkylphenethylamine, a-methylphenethylamine, an N-alkyl-a-methylphenethylamine, a-ethylphenethylamine, or an N-alkyl-a-ethylphenethylamine by substitution in the ring to any extent with alkyl, alkoxy, alkylendioxy or halide substituents, whether or not further substituted in the ring by one or more other univalent substituents;
- (d) any substance (not being a substance specified in Schedule 2 to the Misuse of Drugs Regulations, 1988 (S.I. No. 328 of 1988))² structurally derived from fentanyl by modification in one or more of the following ways—
 - (i) by replacement of the phenyl portion of the phenethyl group by any heteromonocycle whether or not further substituted in the heterocycle;
 - (ii) by substitution in the phenethyl group with alkyl, alkenyl, alkoxy, hydroxy, halogeno, haloalkyl, amino or nitro groups;
 - (iii) by substitution in the piperidine ring with alkyl or alkenyl groups;
 - (iv) by substitution in the aniline ring with alkyl, alkoxy, alkylendioxy, halogeno or haloalkyl groups;
 - (v) by substitution at the 4 - position of the piperidine ring with any alkoxy-carbonyl or alkoxy-alkyl or acyloxy group;
 - (vi) by replacement of the N-propionyl group by another acyl group;
- (e) any substance (not being a substance specified in Schedule 2 to the Misuse of Drugs Regulations, 1988) structurally derived from pethidine by modification in one or more of the following ways—
 - (i) by replacement of the 1 - methyl group by an acyl, alkyl whether or not unsaturated, benzyl or phenethyl group, whether or not further substituted;
 - (ii) by substitution in the piperidine ring with alkyl or alkenyl groups or with a propano bridge, whether or not further substituted;
 - (iii) by substitution in the 4-phenyl ring with alkyl, alkoxy, aryloxy, halogeno or haloalkyl groups;
 - (iv) by replacement of the 4-ethoxycarbonyl by any other alkoxy-carbonyl or any alkoxyalkyl or acyloxy group;
 - (v) by formation of an N-oxide or a quaternary base.

2. Any stereoisomeric form of a substance specified in paragraph 1.

3. Any ester or ether of a substance specified in paragraph 1 or 2.

4. Any salt of a substance specified in any of paragraphs 1, 2 or 3.

5. Any preparation or other product containing any proportion of a substance or product specified in any of paragraphs 1, 2, 3 or 4.

SCHEDULE 2

The following purposes, namely:

- (a) research, forensic analysis or use as an essential intermediate or starting material in an industrial manufacturing process;

² Note by the Secretariat: E/NL.1993/10

- (b) the growing of hemp from seed varieties specified, by the commission of the European Communities, as being eligible for the purposes of Article 4.1 of Council Regulation (EEC) No. 1308/70 (OJ No. L 146, 4.7.70, p1) (as amended);

subject to such licensing provisions under the Misuse of Drugs Acts, 1977 and 1984 and the Regulations made thereunder as are applicable.

GIVEN under the Official Seal of the Minister for Health and Children, this 20th day of March, 1998.

BRIAN COWEN,

Minister for Health and Children

EXPLANATORY NOTE.

Sections 4(2) of the Misuse of Drugs Act, 1977, require provision to be made in Regulations to allow the use for medical purposes of the drugs specified in the Schedule to the Act.

That obligation is removed, however, in the case of any such drug which is designated by order under section 13 of the Act as a drug to which that section is to apply. This Order designates for that purpose the drugs specified in the Schedule to the Order since it would not be in the public interest that they should be so available.

The drugs in question are not normally used for medical purposes e.g. mescaline, cannabis, psilocin, lysergide etc.

Date of Adoption: 20 March 1998

**S.I. No. 225/1998: MISUSE OF DRUGS REGULATIONS, 1998
(SUPERVISION OF PRESCRIPTION AND SUPPLY OF METHADONE)**

I, BRIAN COWEN, T.D., Minister for Health and Children, in exercise of the powers conferred on me by section 5 of the Misuse of Drugs Act, 1977 (No. 12 of 1977)¹, and the Health (Alteration of Name of Department and Title of Minister) Order, 1997 (S.I. No. 308 of 1997), hereby make the following regulations:

Commencement

1. (1) These Regulations may be cited as the Misuse of Drugs (Supervision of Prescription and Supply of Methadone) Regulations, 1998.
- (2) Save where otherwise expressly provided, these Regulations shall come into operation on the 16th day of July, 1998.

Interpretation

2. (1) In these Regulations, unless the context otherwise requires
 - "Act of 1977" means the Misuse of Drugs Act, 1977 (No. 12 of 1977);
 - "Central Treatment List" means the record referred to in Regulation 3(2);
 - "drug treatment card" means a card which has issued to a person pursuant to Regulation 4;
 - "Eastern Health Board" means the health board established under Regulation 4 of the Health Boards Regulations, 1970 (S.I. No. 170 of 1970);
 - "health board" means a health board established under section 4 of the Health Act, 1970 (No. 1 of 1970);
 - "Minister" means the Minister for Health and Children;
 - "person keeping open shop for the dispensing or compounding of medical prescriptions or for the sale of poisons" has the same meaning as in Regulation 3 of the Regulations of 1988 ;
 - "prescription" means a prescription issued by a registered medical practitioner in compliance with Regulation 13(1) (form of prescriptions) of the Regulations of 1988;
 - "Regulations of 1988" mean the Misuse of Drugs Regulations, 1988 (S.I. No. 328 of 1988);
 - "specified controlled drug" means a drug specified in the Schedule of these Regulations.
- (2) In these Regulations, unless the context otherwise requires
 - (a) a reference to a Regulation is a reference to a Regulation of these Regulations,
 - and
 - (b) a reference to a paragraph is a reference to a paragraph of the provision in which the reference occurs.

Central Treatment List

3. (1) Where a registered medical practitioner intends to prescribe a specified controlled drug for the first time to a person who has presented to the registered medical practitioner for treatment, the registered medical practitioner shall not issue a prescription for the drug until he or she notifies the Eastern Health Board of the name, address and date of birth of the person.
- (2) The Eastern Health Board shall maintain a record to be known and in these Regulations referred to as the "Central Treatment List" which shall contain the information notified to it under paragraph (1) and the list may be maintained in electronic form.

¹ Note by the Secretariat: E/NL.1978/6

- (3) Where a notification is made to the Eastern Health Board in accordance with paragraph (1), the Eastern Health Board shall inform the registered medical practitioner as to whether the person has previously been included in the Central Treatment List.
- (4) The Eastern Health Board may amend an entry in or delete an entry from the Central Treatment List.

Issue of drug treatment card

4. (1) A health board shall issue a drug treatment card in respect of a person participating in a programme of treatment involving the use of a specified controlled drug and in respect of whom the information referred to in Regulation 3(1) has been notified to the Eastern Health Board.
- (2) A drug treatment card shall be valid for such period as may be specified on the card but in any case shall not be valid for more than one year from the date of issue.

General prohibition on registered medical practitioner

5. (1) A registered medical practitioner shall not issue a prescription for a specified controlled drug other than on a form supplied by or on behalf of the Minister.
- (2) From the 1st day of October, 1998, a registered medical practitioner shall not issue a prescription referred to in paragraph (1) other than to a person in respect of whom a drug treatment card has been issued and remains valid.
- (3) Notwithstanding Regulation 13 of the Regulations of 1988, it shall be sufficient compliance with requirements of paragraph (1)(f) of that Regulation if the information required to be included on a prescription issued by a registered medical practitioner in accordance with paragraph (1) of this Regulation is impressed upon the prescription from an embossed drug treatment card.

General prohibition on person keeping open shop for the dispensing or compounding of medical prescriptions or for the sale of poisons

6. (1) Subject to paragraph (3), a person keeping open shop for the dispensing or compounding of medical prescriptions or for the sale of poisons shall not supply a specified controlled drug on a prescription other than on a prescription issued by a registered medical practitioner in accordance with Regulation 5(1).
- (2) From the 1st day of October, 1998, a person keeping open shop for the dispensing or compounding of medical prescriptions or for the sale of poisons shall not supply a specified controlled drug on a prescription issued by a registered medical practitioner in accordance with Regulation 5(1) other than to a person in respect of whom a drug treatment card has issued and remains valid.
- (3) Paragraph (1) shall not apply to a prescription issued by a registered medical practitioner before the coming into operation of that paragraph.

Information to be furnished to Minister

7. (1) Subject to paragraph (2), a person keeping open shop for the dispensing or compounding of medical prescriptions or for the sale of poisons shall forward to the Minister
 - (a) in respect of each supply of a specified controlled drug
 - (i) the original prescription on which the supply of the specified controlled drug was made, and
 - (ii) in respect of the prescription, a statement which confirms or clarifies the identity of the person to whom the prescription was issued, if the information given on the prescription is inadequate, illegible or misleading,and
 - (b) particulars of each supply of a specified controlled drug made to a registered medical practitioner pursuant to a requisition referred to in Regulation 12(2) (documents to be obtained by a supplier) of the Regulations of 1988,
not later than 14 days after the last day of the calendar month in which the supply of the specified controlled drug made on that prescription was completed or when no further supply may be made on that prescription.

- (2) Paragraph (1) shall not apply to a prescription issued by a registered medical practitioner before the coming into operation of this Regulation.

Minister to maintain a record

8. (1) The Minister shall maintain a record of all prescriptions received by him or her under Regulation 7 and the record may be maintained in electronic form.
- (2) Subject to paragraph (3), the Minister may amend an entry in or delete an entry from the record referred to in paragraph (1).
- (3) Each prescription received by the Minister under Regulation 7 shall be preserved for a period of two years from the date of receipt of that prescription.

Prohibition on supply

9. (1) A person shall not supply a specified controlled drug to a registered medical practitioner unless that person is a person keeping open shop for the dispensing or compounding of medical prescriptions or for the sale of poisons.
- (2) Paragraph (1) shall not apply to a person who is the holder of a licence under section 14 of the Act of 1977 to supply a controlled drug, where the licence directs that such supply may be made.

Supply by instalments

- 10.(1) From the 1st day of October, 1998, for the purposes of compliance with Regulation 16(1) (keeping of registers) of the Regulations of 1988, where the supply of a controlled drug on a prescription issued by a registered medical practitioner in accordance with Regulation 5(1) is to be dispensed in instalments—
- (a) the information in relation to each supply may be entered on the prescription, and
- (b) the total amount supplied on the prescription, when the dispensing of that prescription has been completed or when no further supply may be made on that prescription, may be entered, in the register referred to in Regulation 16(1) of the Regulations of 1988, as the amount supplied.
- (2) For the purposes of an entry in a register to be made under paragraph (1), the date to be entered in the register shall be the date on which the last supply was made on the prescription concerned.

Preservation of registers

11. Notwithstanding Regulation 19(2) (preservation of registers) of the Regulations of 1988, the preservation of a copy of a prescription issued by a registered medical practitioner in accordance with Regulation 5(1), made by a registered medical practitioner at the time of writing the original prescription, shall be treated as if it were the preservation of the original prescription.

Exemption: hospitals

- 12.(1) These Regulations shall not apply to a prescription issued in respect of a specified controlled drug where the prescription has been issued in a hospital
- (a) for administration in the hospital, to the person to whom the prescription relates, or
- (b) for supply in the hospital, in exceptional circumstances, to the person to whom the prescription relates and who has attended the hospital
- (i) for the treatment of opiate dependence, or
- (ii) as an in-patient who is opiate dependent.
- (2) In this Regulation "hospital" means a hospital, nursing home or clinic which is wholly or mainly maintained by a public authority out of public funds, by a charity or by voluntary subscriptions.

Exemption: medical consultants

- 13.(1) Regulations 3, 4, 5(2) and 6(2) shall not apply to a prescription issued for the treatment of a person for purposes other than for or in connection with opiate dependence provided that
- (a) the prescription has been initiated, for issue by a registered medical practitioner, by a medical consultant whose name and address is included on the prescription, or

(b) the prescription is issued by the medical consultant.

- (2) In this Regulation "medical consultant" means a registered medical practitioner in any hospital practice who by reason of his or her training, skill and experience in a particular speciality, is consulted by other registered medical practitioners.

SCHEDULE

Regulation 2

1. Methadone.
2. Any stereoisomeric form of a substance specified in paragraph (1).
3. Any salt of a substance specified in paragraph 1 or 2.
4. Any preparation or other product containing any proportion of a substance or product specified in paragraphs 1, 2 or 3.

GIVEN under the Official Seal of the Minister for Health and Children, this 1st day of July, 1998.

BRIAN COWEN, T.D.,

Minister for Health and Children.

Date of Adoption: 1 July 1998

Date of Entry into Force: 16 July 1998

PROCEEDS OF CRIME (AMENDMENT) BILL, 1999

As initiated

ARRANGEMENT OF SECTIONS

Section

1. Interpretation.
2. Amendment of section 1 (interpretation) of Principal Act.
3. Amendment of section 2 (interim order) of Principal Act.
4. Amendment of section 3 (interlocutory order) of Principal Act.
5. Amendment of section 6 (order in relation to property the subject of interim order or interlocutory order) of Principal Act.
6. Amendment of section 8 (evidence and proceedings under Act) of Principal Act.
7. Amendment of section 9 (affidavit specifying property and income of respondent) of Principal Act.
8. Short title, collective citation and construction.

Acts Referred to

Proceeds of Crime Act, 1996

1996, No. 30

Taxes Consolidation Act, 1997

1997, No. 39

PROCEEDS OF CRIME (AMENDMENT) BILL, 1999

BILL

entitled

AN ACT TO AMEND THE PROCEEDS OF CRIME ACT, 1996.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1. Interpretation:

1. In this Act the "Principal Act" means the Proceeds of Crime Act, 1996.

2. Amendment of section 1 (interpretation) of Principal Act):

2. Section 1 of the Principal Act is hereby amended

(a) in subsection (1) by the substitution of the following for the definition of "the applicant":

"the applicant' means a person, being a member, an authorised officer or the Criminal Assets Bureau, who has applied to the Court for the making of an interim order or an interlocutory order and, in relation to such an order that is in force, means, as appropriate, any member, any authorised officer or the Criminal Assets Bureau";

and

(b) by the insertion, after subsection (1), of the following:

"(1A) (a) For the avoidance of doubt, a person shall be deemed for the purposes of this Act to be in possession or control of property notwithstanding that it (or any part of it)

(i) is lawfully in the possession of any member of the Garda Sfochana, any officer of the Revenue Commissioners or any other person, having been lawfully seized or otherwise taken by any such member, officer or person, or

(ii) is subject to an interim order or interlocutory order or any other order of a court which-

(I) prohibits any person from disposing of or otherwise dealing with it or diminishing its value, or

(II) contains any conditions or restrictions in that regard,

or is to the like effect, and references in this Act to the possession or control of property shall be construed accordingly.

(b) Paragraph (a)(ii) is without prejudice to sections 11(2) and 13(2)."

3. Amendment of section 2 (interim order) of Principal Act:

3. Section 2 of the Principal Act is hereby amended

(a) in subsection (1) by the substitution, for the opening words up to and including "officer", of the following:

"Where it is shown to the satisfaction of the Court on application to it ex parte in that behalf by a member, an authorised officer or the Criminal Assets Bureau",

(b) by the insertion, after subsection (3), of the following:

"(3A) Without prejudice to section 6, where an interim order is in force, the Court may, on application to it in that behalf by the applicant or any other person, vary the order to such extent as may be necessary to permit-

(a) the enforcement of any order of a court for the payment by the respondent of any sum, including any sum in respect of costs,

(b) the recovery by a county registrar or sheriff of income tax due by the respondent pursuant to a certificate issued by the Collector-General under section 962 of the Taxes Consolidation Act, 1997, together with the fees and expenses provided for in that section, or

(c) the institution of proceedings for, or relating to, the recovery of any other sum owed by the respondent."

and

(c) in subsection (6) by the substitution of the following for paragraph (b):

"(b) in case the application is under subsection (3A) or (4), by the applicant or other person making the application to the respondent, unless the Court is satisfied that it is not reasonably possible to ascertain the respondent's whereabouts,".

4. Amendment of Section 3 (interlocutory order) or Principal Act:

4. Section 3 of the Principal Act is hereby amended

(a) in subsection (1) by the substitution, for the opening words up to and including "section 8", of the following:

"Where, on application to it in that behalf by a member, an authorised officer or the Criminal Assets Bureau, it appears to the Court on evidence tendered by the applicant, which may consist of or include evidence admissible by virtue of section 8",

(b) by the insertion, after subsection (3), of the following:

"(3A) Without prejudice to section 6, where an interlocutory order is in force, the Court may, on application to it in that behalf by the applicant or any other person, vary the order to such extent as may be necessary to permit

- (a) the enforcement of any order of a court for the payment by the respondent of any sum, including any sum in respect of costs,
- (b) the recovery by a county registrar or sheriff of income tax due by the respondent pursuant to a certificate issued by the Collector-General under section 962 of the Taxes Consolidation Act, 1997, together with the fees and expenses provided for in that section, or
- (c) the institution of proceedings for, or relating to, the recovery of any other sum owed by the respondent."

and

(c) in subsection (6) by the substitution of the following for paragraph (a):

"(a) in case the application is under subsection (1), (3A) or (4), by the applicant or other person making the application to the respondent, unless the Court is satisfied that it is not reasonably possible to ascertain the respondent's whereabouts,".

5. Amendment of section 6 (order in relation to property the subject of interim order or interlocutory order) of Principal Act:

5. Section 6 of the Principal Act is hereby amended by the substitution of the following for paragraph (a) of subsection (1):

"(a) the respondent or that other person to discharge the reasonable living and other necessary expenses (including legal expenses in or in relation to proceedings under this Act) incurred or to be incurred by or in respect of the respondent and his or her dependants or that other person, or".

6. Amendment of section 8 (evidence and proceedings under Act) of Principal Act:

6. Section 8 of the Principal Act is hereby amended

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

"(b) in proceedings under section 3, on affidavit or, where the respondent requires the deponent to be produced for cross-examination or the court so directs, in oral evidence,".

and

(b) by the insertion, after subsection (5), of the following:

"(6) In any proceedings, a document purporting to be a document issued by the Criminal Assets Bureau and to be signed on its behalf shall be 'deemed, unless the contrary is shown, to be such a document and to be so signed.'"

7. Amendment of Section 9 (affidavit specifying property and income of respondent) of Principal Act:

7. Section 9 of the Principal Act is hereby amended by the insertion of the following subsection:

"(2) Any information given by the respondent in compliance with an order under subsection (1) shall not be admissible in evidence against that person or his or her spouse in any criminal proceedings, except in the case of any proceedings for perjury in respect of the giving of such information."

8. Short title, collective citation and construction:

8. (1) This Act may be cited as the Proceeds of Crime (Amendment) Act, 1999.
- (2) The Principal Act and this Act may be cited together as the Proceeds of Crime Acts, 1996 and 1999, and shall be construed together as one.

PROCEEDS OF CRIME (AMENDMENT) BILL, 1999
EXPLANATORY AND FINANCIAL MEMORANDUM

Introduction

The purpose of this Bill is to make technical amendments to the Proceeds of Crime Act, 1996.

Exchequer Costs and Staffing Implications

This Bill will not give rise to exchequer costs and has no staffing implications.

Section 1 (Interpretation)

This simply defines the Proceeds of Crime Act, 1996, as the Principal Act so as to avoid repetition of the full title of the Act throughout the Bill.

Section 2 (Amendment of section 1 of Principal Act)

This amends section 1 of the Principal Act in two ways.

First, it provides that applications under the Act may be made by the Criminal Assets Bureau. Currently, applications must be made by a person, who must either be a member of the Garda Sfochiina of at least chief superintendent rank or an authorised official of the Revenue Commissioners.

Second, it makes clear that a person remains in possession or control of property for the purposes of the 1996 Act even if the property has been lawfully seized from that person or is subject to any restriction by order of a court.

Section 3 (Amendment of section 2 of Principal Act)

This amends section 2 of the Principal Act in two ways.

First, it makes a technical amendment consequential on the earlier amendment providing for corporate applications under the Act by the Criminal Assets Bureau,

Second, it provides that an interim order under the Act may be varied so as to enable income tax, or other sums owing on foot of court orders, to be recovered. The Act at present permits an interim order to be varied only on the application of the respondent (the person against whom the order is made).

Section 4 (Amendment of section 3 of Principal Act)

This amends section 3 of the Principal Act in two ways.

First, it amends the reference in section 3 to the tendering of evidence of belief that property is the proceeds of crime, provided for in section 8 of the Act, to make clear that the tendering of such evidence is discretionary, not mandatory.

Second, it provides for the variation of interlocutory orders in the same way that variation of interim orders is provided for in *section 3* of this Bill,

Section 5 (Amendment of section 6 of Principal Act)

This amends section 6 of the Principal Act, which currently permits a respondent whose property is frozen under an interim or interlocutory order to apply to court for an order enabling him or her to discharge reasonable living and other necessary expenses. The amendment will extend this facility to any person affected by the order.

Section 6 (Amendment of section 8 of Principal Act)

This amends section 8 of the Principal Act in two ways.

First, it provides that evidence of the belief of the applicant that property is the proceeds of crime may be given in proceedings under section 3, the interlocutory stage, on affidavit, unless the respondent requires or the court directs the evidence to be given orally. Section 8 of the Act currently requires such evidence of belief always to be given orally at the interlocutory stage.

Second, it makes an amendment consequential on the earlier amendment to section 1 of the Act providing for corporate applications by the Criminal Assets Bureau, and provides that any document issued by the Bureau is to be accepted as authentic, unless the contrary is shown.

Section 7 (Amendment of section 9 of Principal Act)

This amends section 9 of the Principal Act, which provides that a court, in proceedings under the Act, can require the respondent to reveal details of his or her property, income and sources of income. The amendment makes clear what is in any event the position in law, namely that information obtained in this way may not be used in evidence against the respondent or his or her spouse in any criminal proceedings (except proceedings for perjury for having given false information).

Section 8 (Short title, collective citation and construction)

This is a standard technical provision setting out the title of the Bill and providing that it and the Principal Act may be read together as one.