Changes to Legislation: as of 3 November 2026, this Act is up to date with all changes known to be in force.

Number 22 *of* 2010

CRIMINAL JUSTICE (PSYCHOACTIVE SUBSTANCES) ACT 2010

REVISED

Updated to 22 December 2023

This Revised Act is an administrative consolidation of the *Criminal Justice (Psychoactive Substances) Act 2010*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including the *Electoral (Amendment) Act 2023* (40/2023), enacted 19 December 2023, and all statutory instruments up to and including the *Public Health (Tobacco Products and Nicotine Inhaling Products) Act 2023 (Commencement) Order 2023* (S.I. No. 669 of 2023), made 20 December 2023, were considered in the preparation of this Revised Act.

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

Number 22 *of* 2010

CRIMINAL JUSTICE (PSYCHOACTIVE SUBSTANCES) ACT 2010

REVISED

Updated to 22 December 2023

ARRANGEMENT OF SECTIONS

Section

1. Interpretation.
2. Exclusions from application of Act.
3. Prohibition of sale, etc. of psychoactive substances.
4. Prohibition of sale of certain objects.
5. Prohibition of advertising of psychoactive substances, etc.
6. Sale, etc. of psychoactive substances permitted in certain circumstances.
7. Prohibition notice.
8. Prohibition order.
9. Variation of prohibition orders.
10. Closure order.
11. Variation or discharge of closure orders.
12. Powers of Garda Síochána to enter and search, etc.
13. Power of Garda Síochána to search persons, vehicles, etc.
14. Powers of officers of Customs and Excise.
15. Obstruction.
16. Taking of samples.
17. Laboratories.
18. Provisions relating to evidence in proceedings under Act.
19. Disposal of things seized.
20. Offences.
21. Jurisdiction.
22. Amendment of Customs and Excise (Miscellaneous Provisions) Act 1988.

23. Amendment of Bail Act 1997.

24. Expenses.

25. Regulations and orders.

26. Short title and commencement.

ACTS REFERRED TO

Animal Remedies Act 1993	1993, No. 23
Bail Act 1997	1997, No. 16
Criminal Justice Act 1951	1951, No. 2
Customs and Excise (Miscellaneous Provisions) Act 1988	1988, No. 10
Dentists Act 1985	1985, No. 9
Food Safety Authority of Ireland Act 1998	1998, No. 29
Irish Medicines Board Act 1995	1995, No. 29
Licensing Act 1872	35 & 36 Vic. c. 94
Medical Practitioners Act 2007	2007, No. 25
Misuse of Drugs Act 1977	1977, No. 12
Misuse of Drugs Acts 1977 and 1984	
Misuse of Drugs Acts 1977 to 2007	
Nurses Act 1985	1985, No. 18
Pharmacy Act 2007	2007, No. 20
Police (Property) Act 1897	60 & 61 Vic. c. 30
Public Health (Tobacco) Act 2002	2002, No. 6

Number 22 *of* 2010

CRIMINAL JUSTICE (PSYCHOACTIVE SUBSTANCES) ACT 2010

REVISED

Updated to 22 December 2023

AN ACT TO PREVENT THE MISUSE OF DANGEROUS OR OTHERWISE HARMFUL PSYCHOACTIVE SUBSTANCES; TO PROVIDE FOR OFFENCES RELATING TO THE SALE, IMPORTATION, EXPORTATION OR ADVERTISEMENT OF THOSE SUBSTANCES; TO PROVIDE FOR OFFENCES RELATING TO THE SALE AND ADVERTISEMENT OF CERTAIN OBJECTS FOR USE IN THE CULTIVATION OF CERTAIN PLANTS IN CONTRAVENTION OF THE MISUSE OF DRUGS ACT 1977; TO PROVIDE FOR POWERS OF THE GARDA SÍOCHÁNA IN RELATION TO THE INVESTIGATION OF THOSE OFFENCES; TO MAKE PROVISION IN RELATION TO THE ISSUING OF PROHIBITION NOTICES BY CERTAIN MEMBERS OF THE GARDA SÍOCHÁNA TO CERTAIN PERSONS IN RELATION TO ACTIVITIES THAT ARE PROHIBITED; TO PROVIDE FOR THE MAKING BY THE DISTRICT COURT OF PROHIBITION ORDERS AND CLOSURE ORDERS IN CERTAIN CIRCUMSTANCES; TO AMEND THE CUSTOMS AND EXCISE (MISCELLANOUS PROVISIONS) ACT 1988; AND TO PROVIDE FOR RELATED MATTERS.

[14*th July*, 2010]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Interpretation.

1.— (1) In this Act—

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

"advertisement" includes every form of advertisement, whether or not to the public, in a newspaper or other publication, on television or radio, by display of a notice, by electronic communication, including by means of the internet, or by any other means;

"certificate of analysis" shall be construed in accordance with *section 17*;

"consumption", in relation to a psychoactive substance, means to consume the substance (whether or not the substance concerned has been dissolved or dispersed in or diluted or mixed with any other substance)—

(*a*) orally,

(*b*) by smoking, insufflating or inhaling it,

(*c*) by injecting it,

(*d*) by applying it externally to the body of the person, or

(*e*) by otherwise introducing it into the body of a person;

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

"electronic" includes electrical, digital, magnetic, optical, electro-magnetic, biometric, photonic and any other form of related technology;

"electronic communication" includes a communication of information in the form of data, text, images or sound (or any combination of them) by means of guided or unguided electromagnetic energy, or both;

"hydroponic", in relation to cultivation, means the cultivation of plants in liquid containing nutrients under controlled conditions of light, temperature and humidity, without the use of soil;

"Minister" means the Minister for Justice and Law Reform;

"place" includes—

(*a*) a dwelling or other building,

(*b*) a structure or stall of any kind,

(*c*) a vehicle;

"psychoactive substance" means a substance, product, preparation, plant, fungus or natural organism which has, when consumed by a person, the capacity to—

(*a*) produce stimulation or depression of the central nervous system of the person, resulting in hallucinations or a significant disturbance in, or significant change to, motor function, thinking, behaviour, perception, awareness or mood, or

(*b*) cause a state of dependence, including physical or psychological addiction;

"sell", in relation to a substance or object, means to sell or supply or cause to be sold or supplied, whether for profit or otherwise, either directly or through another person and includes—

(*a*) to offer for sale, to invite to buy, to distribute or to expose or keep for sale, supply or distribution, and

(*b*) to possess for any of the purposes referred to in *paragraph (a)*;

"supply" includes giving without payment;

"vehicle" means any conveyance in or by which any person or thing, or both, is or are, as the case may be, transported which is designed for use on land, in water or in the air, or in more than one of those ways, and includes—

(*a*) a part of a vehicle,

(*b*) an article designed as a vehicle but not capable of functioning as a vehicle,

(*c*) any container, trailer, tank or any other thing which is or may be used for the storage of goods in the course of carriage and is designed or constructed to be placed on, in, or attached to, any vehicle.

(2) In this Act, a reference to the commission of an offence includes a reference to an attempt to commit the offence.

Exclusions from application of Act.

2.— (1) This Act shall not apply to—

(*a*) a medicinal product within the meaning of section 1(1) of the Irish Medicines Board Act 1995,

(*b*) an animal remedy within the meaning of section 1 of the Animal Remedies Act 1993 authorised in accordance with—

(i) the European Communities (Animal Remedies) (No. 2) Regulations 2007 (S.I. No. 786 of 2007), or

(ii) Regulation (EC) No. 726/2004 of the European Parliament and of the Council of 31 March 2004 [1] as amended,

prescribed or sold for administration to an animal in accordance with those provisions,

(*c*) intoxicating liquor within the meaning of section 77 of the Licensing Act 1872,

(*d*) a tobacco product within the meaning of section 2 of the Public Health (Tobacco) Act 2002,

F1**[**(*da*) a nicotine inhaling product, within the meaning of section 2 of the Public Health (Tobacco Products and Nicotine Inhaling Products) Act 2023,**]**

(*e*) food within the meaning of section 2 of the Food Safety Authority of Ireland Act 1998 which has been placed on the market in compliance with food legislation within the meaning of that section,

(*f*) unless otherwise expressly provided for in this Act, a controlled drug, or

(*g*) such other substance, product, preparation, plant, fungus or natural organism as may be specified by order under *subsection (2)*.

(2) The Minister may, after consultation with the Minister for Health and Children and such other Minister of the Government as he or she considers appropriate, by order declare that this Act shall not apply in relation to a substance, product, preparation, plant, fungus or natural organism specified in the order and so long as an order under this subsection is in force, this Act shall not apply in relation to the substance, product, preparation, plant, fungus or natural organism so specified in the order.

Prohibition of sale, etc. of psychoactive substances.

3.— (1) A person who sells a psychoactive substance knowing or being reckless as to whether that substance is being acquired or supplied for human consumption shall be guilty of an offence.

(2) A person who imports or exports a psychoactive substance knowing or being reckless as to whether that substance is being acquired or supplied for human consumption shall be guilty of an offence.

(3) Where in any proceedings for an offence under *subsection (1)* or *(2)*, it is proved that a person sold, or imported or exported, as the case may be, a psychoactive substance, and the court is satisfied having had regard to—

(*a*) any indication given by the person concerned orally or in writing, by means of the internet or by electronic communication or any indication otherwise given by means of any packaging, leaflets, notices or by any other object or thing that the substance concerned may have psychoactive effects or that it may be consumed in a way similar to a controlled drug,

(*b*) any indication in or at any place to which the proceedings for the offence relate that suggests the consumption of controlled drugs, including the presence of any apparatus, equipment or thing which may reasonably be associated with the consumption of controlled drugs, and

(*c*) whether it is reasonable to find that the substance concerned is being sold or imported or exported, as the case may be, for an alternative lawful purpose, taking into account the cost and quantity of the substance being sold or being imported or exported, as the case may be,

that it is reasonable to assume that the person knew or was reckless as to whether the substance was being acquired or supplied for human consumption, it shall be

[1] OJ No. L136 30.4.2004

presumed, until the court is satisfied to the contrary, that the person had such knowledge or was so reckless.

(4) A court may be satisfied under *subsection (3)* notwithstanding any oral or written statement made, any indication given on any packaging, label or leaflet or any indication given by means of the internet or by any electronic communication, that the substance to which the proceedings relate is not a psychoactive substance or is not intended or fit for human consumption.

(5) Without prejudice to any other defence that may be available, it shall be a defence for a person against whom proceedings for an offence under *subsection (1)* or *(2)* are brought to prove that he or she was, at the time of the alleged offence, a person referred to in *section 6 (2)*.

Prohibition of sale of certain objects.

4.— A person who sells any object knowing that it will be used to cultivate by hydroponic means any plant in contravention of section 17 of the Act of 1977 shall be guilty of an offence.

Prohibition of advertising of psychoactive substances, etc.

5.— (1) A person who publishes or displays or causes to be published or displayed any advertisement knowing or being reckless as to whether the advertisement—

(*a*) indicates an intention—

(i) to sell or import or export a psychoactive substance for human consumption, or

(ii) to sell any object for use in cultivating by hydroponic means any plant in contravention of section 17 of the Act of 1977,

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

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

shall be guilty of an offence.

(2) Without prejudice to any other defence that may be available, it shall be a defence for a person against whom proceedings for an offence under *subsection (1)* are brought to prove that he or she was, at the time of the alleged offence, a person referred to in *section 6(2).*

Sale, etc. of psychoactive substances permitted in certain circumstances.

6.— (1) This section applies where a person is—

(*a*) a registered medical practitioner within the meaning of section 2 of the Medical Practitioners Act 2007,

(*b*) a registered dentist, being a person whose name is entered for the time being in the Register of Dentists established under section 26 of the Dentists Act 1985,

(*c*) a registered nurse, being a person whose name is entered for the time being in the register of nurses established under section 27 of the Nurses Act 1985,

(*d*) a registered pharmacist, druggist or pharmaceutical assistant, being a person registered in a register set up under section 13 of the Pharmacy Act 2007, or

(*e*) a member of such class of persons as the Minister may, after consultation with the Minister for Health and Children and such other Minister of the Government as he or she thinks appropriate, by order designate.

(2) It shall not be an offence for a person referred to in *subsection (1)* to sell, import or export a psychoactive substance or to publish or display or cause to be published or displayed any advertisement relating to a psychoactive substance if—

(*a*) the sale, importation or exportation or advertisement of the substance concerned was for the purpose of his or her profession, and

(*b*) the sale, importation or exportation or advertisement of the substance by that person in the course of his or her profession was otherwise lawful.

Prohibition notice.

7.— (1) A member of the Garda Síochána not below the rank of superintendent may serve personally or by registered post a written notice (in this Act referred to as a "prohibition notice") on a person if he or she is of opinion that the person is, at any place, engaged in the activity of—

(*a*) selling—

(i) a psychoactive substance for human consumption,

(ii) any object for use in cultivating by hydroponic means any plant in contravention of section 17 of the Act of 1977,

(*b*) importing or exporting a psychoactive substance for human consumption,

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

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

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

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

(2) A prohibition notice shall be signed and dated by the member of the Garda Síochána concerned and shall—

(*a*) state that he or she is of the opinion that the person is engaged in an activity referred to in *subsection (1)* and the reasons for that opinion,

(*b*) specify the psychoactive substance, object or advertisement to which the activity relates and in respect of which the opinion is held and may, where appropriate, specify any place where, in his or her opinion, the activity concerned is taking place,

(*c*) direct the person to cease forthwith selling or advertising, as the case may be, the substance or object specified in the notice or, as may be appropriate, importing or exporting the substance specified in the notice,

(*d*) specify the possible consequences of failure to comply with the directions specified in the notice.

(3) A direction specified in a prohibition notice shall have effect immediately upon service of the notice.

(4) The service of a prohibition notice under this section in respect of a person shall not prevent the service of a further prohibition notice under this section in respect of the person.

(5) A member of the Garda Síochána not below the rank of superintendent may at any time withdraw a prohibition notice if he or she is satisfied that the notice was served in error or is incorrect in some material respect.

Prohibition order.

8.— (1) Where a prohibition notice has been served on a person and a member of the Garda Síochána not below the rank of superintendent is of opinion that the person is not in compliance with a direction contained in the notice, he or she may apply to the District Court for an order (in this Act referred to as a "prohibition order") prohibiting that person from engaging in or continuing to engage in the activity of selling or advertising, as the case may be, such substance or object as may be specified in the order or, as may be appropriate, importing or exporting such substance as may be specified in the order.

(2) An application for a prohibition order shall be made on notice to the person who is the subject of the prohibition notice concerned and to any other person in relation to whom the court directs that notice of the application be given.

(3) The court may make a prohibition order in respect of a person if—

(*a*) having considered the evidence before it which shall, in the case of an application in respect of the activity referred to in *paragraph (a)(i)* or *(b)* of *section 7(1)*, include a certificate of analysis in respect of the substance concerned, and

(*b*) having had regard to all the circumstances of the case, including, in the case of an application in respect of the activity referred to in *paragraph (a) (i)* or *(b)* of *section 7 (1)*, the matters referred to in *subsection (4)*,

it is satisfied that—

(i) the person concerned has, after the service of the prohibition notice, sold or advertised, as the case may be, a psychoactive substance or an object specified in the notice served on him or her or, as may be appropriate, imported or exported a substance specified in the notice served on him or her, and

(ii) it is necessary to prevent the person from engaging in or continuing to engage in the activity concerned,

unless the court considers that making the order would be unjust in all the circumstances of the case.

(4) When considering an application for a prohibition order which relates to the activity referred to in *paragraph (a)(i)* or *(b)* of *section 7(1)*, the court shall, notwithstanding any oral or written statement made, any indication given on any packaging, label or leaflet or any indication given by means of the internet or by any electronic communication, that the substance to which the application relates is not a psychoactive substance or is not intended or fit for human consumption, have regard to—

(*a*) any indication given by the respondent orally or in writing, by means of the internet or by electronic communication or any indication otherwise given by means of any packaging, leaflets, notices or by any other object or thing that the substance concerned may have psychoactive effects or that it may be consumed in a way similar to a controlled drug,

(*b*) any indication in or at any place specified in the application that suggests the consumption of controlled drugs, including the presence of any apparatus,

equipment or thing which may reasonably be associated with the consumption of controlled drugs, and

(*c*) whether it is reasonable to find that the substance concerned is being sold or imported or exported, as the case may be, for an alternative lawful purpose, taking into account the cost and quantity of the substance being sold or being imported or exported, as the case may be.

(5) A prohibition order—

(*a*) shall specify the psychoactive substance, object or advertisement to which the order relates and, where the court considers it appropriate to do so, may specify any place to which the order relates,

(*b*) shall specify the grounds upon which the order is made,

(*c*) shall provide for notice of it to be given to any person who appears to be or is affected by it, unless the court is satisfied that it is not reasonably possible to ascertain his, her or their whereabouts,

(*d*) shall state that it shall come into effect immediately upon service of the order, and

(*e*) may contain such terms, conditions and restrictions as the court considers necessary or expedient in the circumstances.

(6) A person who fails or refuses to comply with a prohibition order shall be guilty of an offence.

(7) A prohibition order shall remain in force unless—

(*a*) it is varied or discharged on appeal under this section, or

(*b*) it is varied under *section 9*.

(8) An appeal shall lie to the Circuit Court from the making of a prohibition order but the bringing of such an appeal shall not affect the operation of the prohibition order, unless the court or the Circuit Court, on application to it in that behalf within 7 days from the date of the making of the order, makes an order staying its operation pending the determination of the appeal.

(9) A prohibition order shall not operate to affect any lawful obligations of any person under any lawful contract or agreement and those obligations shall continue to be determined in accordance with the contract or agreement, as the case may be.

(10) The making of a prohibition order under this section shall not in respect of a person prevent the making of a further prohibition order under this section in respect of the person.

(11) Notwithstanding the generality of any other enactment or rule of law concerning the regulation of the sittings and the vacations of the District Court, such special sittings of the District Court as may be necessary for the purposes of this section shall take place during court vacation periods for the determination of an application under this section.

Variation of prohibition orders.

9.— (1) Where the District Court makes a prohibition order under *section 8*—

(*a*) prohibiting a person from engaging in or continuing to engage in specified activities at a specified place, and

(*b*) the place specified in the order is not owned by the person who is the subject of the prohibition order,

the court, on application to it in that behalf by the owner of the place concerned, at any time after the making of a prohibition order may, if it considers it appropriate to do so, vary the order.

(2) In determining whether to vary a prohibition order, the court shall have regard to whether there would be a serious risk of injustice if the order were not so varied.

(3) An application under *subsection (1)* shall be made on notice to—

(*a*) the person who is the subject of the prohibition order, unless it is not reasonably practicable to ascertain the whereabouts of the person, and

(*b*) a member of the Garda Síochána not below the rank of superintendent in the Garda Síochána district in which the person who is subject to the prohibition order resides.

(4) An appeal shall lie to the Circuit Court from a refusal to vary a prohibition order.

Closure order.

10.— (1) Where a person is convicted of an offence under *section 3*, *4*, *5* or *8(6)*, the court may, in addition to, or as an alternative to, any other penalty, make an order (in this Act referred to as a "closure order") prohibiting the person, at the place concerned or at any other place as may be specified in the order, from operating any business or engaging in any specified activities, which may reasonably be considered to be connected with the sale, importation or exportation or advertisement of psychoactive substances for human consumption or, as may be appropriate, the sale or advertisement of an object for use in cultivating by hydroponic means any plant in contravention of section 17 of the Act of 1977.

(2) Without prejudice to the power of the court to have regard to all of the matters that appear to it to be relevant, the court may, in particular, have regard to whether any prohibition order is in force in respect of the person concerned, whether the prohibition order has been complied with and any conduct of the person, or other person employed by that person, in relation to the operation of the place concerned.

(3) A closure order—

(*a*) shall specify the business, activities, the place and, where appropriate, the psychoactive substance or object to which it relates,

(*b*) shall specify the grounds upon which the order is made,

(*c*) shall provide for notice of it to be given to the owner of the place and any other person who appears to be or is affected by it, unless the court is satisfied that it is not reasonably possible to ascertain his, her or their whereabouts,

(*d*) shall state that it shall come into effect immediately upon service of the order or on such later date as may be specified in the order, and

(*e*) may contain such terms, conditions and restrictions as the court considers necessary or expedient in the circumstances.

(4) A closure order may be made for such period not exceeding 5 years as the court thinks appropriate and shall remain in force for that period unless—

(*a*) it is varied or discharged under *section 11*, or

(*b*) it is varied or discharged on appeal.

(5) A closure order shall come into effect immediately upon service of the order, or on such later date as may be specified in the order, and the bringing of an appeal against the conviction or closure order shall not affect the operation of the order, unless the court or the Circuit Court, on application to it in that behalf within 7 days

from the date of the making of the order, makes an order staying its operation pending the determination of the appeal.

(6) A closure order shall not operate to affect any lawful obligations of any person under any lawful contract or agreement and those obligations shall continue to be determined in accordance with the contract or agreement, as the case may be.

(7) Subject to *subsection (1)*, a closure order shall not operate to prevent a person from carrying out any lawful activities in the place concerned.

(8) A person who fails or refuses to comply with a closure order shall be guilty of an offence.

Variation or discharge of closure orders.

11.— (1) The District Court, on application to it in that behalf, by—

(*a*) the person who is subject to a closure order,

(*b*) the owner of the place which is specified in the order, or

(*c*) a member of the Garda Síochána not below the rank of superintendent,

at any time after the making of a closure order and before the date on which the order ceases to be in force may, if it considers it appropriate to do so, vary or discharge the order.

(2) In determining whether to vary or discharge a closure order, the court shall have regard to whether there would be a serious risk of injustice if the order were not so varied or discharged, as the case may be.

(3) An application under *subsection (1)* shall be made on notice to—

(*a*) where the occupier of the place is not the applicant, the occupier of the place, unless it is not reasonably practicable to ascertain the identity or whereabouts of the occupier, and

(*b*) where the owner of the place is not the applicant, the owner of the place, unless it is not reasonably practicable to ascertain the identity or whereabouts of the owner, and

(*c*) where the applicant is not a member of the Garda Síochána, a member of the Garda Síochána not below the rank of superintendent in the Garda Síochána district in which the person to whom the closure order applies resides.

(4) An appeal shall lie to the Circuit Court from a refusal to vary or discharge a closure order.

Powers of Garda Síochána to enter and search, etc.

12.— (1) Where a member of the Garda Síochána has reasonable grounds for believing that a person is, at any place—

(*a*) selling a psychoactive substance for human consumption or any object for use in cultivating by hydroponic means any plant in contravention of section 17 of the Act of 1977,

(*b*) importing or exporting a psychoactive substance for human consumption,

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

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

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

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

he or she may, subject to *subsection (3)*, enter (if necessary by the use of reasonable force) or, where the place concerned is a vehicle, stop and enter (if necessary by the use of reasonable force) any such place, and, at such place—

(i) carry out or have carried out such examinations, tests, inspections and checks of anything reasonably believed to be a psychoactive substance or any machinery, instrument or other thing used in the preparation, handling, storage, transport or sale of psychoactive substances, as he or she reasonably considers to be necessary for the purposes of this Act,

(ii) take such reasonable samples of, or from, any substances or of, or from, anything for the purposes of analysis and examination which he or she reasonably considers to be necessary for the purposes of this Act,

(iii) seize and detain any machinery, instrument or other thing used in the preparation, handling, storage, transport or sale of psychoactive substances or anything which is reasonably believed to be or to contain a psychoactive substance in relation to which a contravention of this Act is being or has been committed,

(iv) inspect and take copies of any books, records, other documents (including documents stored in non-legible form) or extracts therefrom, which he or she finds in the course of his or her inspection, and remove any such books, records or documents from such place and detain them for such period as he or she reasonably considers to be necessary for the purposes of this Act,

(v) require any person present in the place or, where the place is a vehicle, require the person who is for the time being in charge or control of the vehicle to give his or her name and address to the member,

(vi) search or cause to be searched any person present in the place,

(vii) require any person at the place or the owner or person in charge of the place and any person employed there to give to him or her such assistance and information and to produce to him or her such books, records or other documents (and in the case of records or documents stored in non-legible form, produce to him or her a legible reproduction thereof) that are in that person's power or procurement, as he or she may reasonably require for the purposes of his or her functions under this Act,

(viii) direct that such products, substances or objects found at the place as he or she, upon reasonable grounds, believes contravene a provision of this Act not be sold or moved from the place, without his or her consent, and

(ix) secure for later inspection any place or part of any place in which a product, substance or object is found or ordinarily kept, or books, records or documents are found or ordinarily kept, for such period as may reasonably be necessary for the purposes of his or her functions under this Act.

(2) When performing a function under this Act, a member of the Garda Síochána may, subject to *subsection (4)*, be accompanied by such other members of the Garda Síochána or such other persons as he or she considers appropriate.

(3) A member of the Garda Síochána shall not enter a dwelling, other than with the consent of the occupier or in accordance with a warrant issued under *subsection (4)*.

(4) If a judge of the District Court is satisfied by information on oath of a member of the Garda Síochána not below the rank of sergeant that there are reasonable grounds for believing that—

(*a*) any evidence of, or relating to, the commission of an offence under this Act is to be found in any dwelling,

(*b*) any books, records or other documents (including documents stored in non-legible form) relating to the commission of an offence under this Act are being stored or kept in any dwelling, or

(*c*) a dwelling is occupied in whole or in part by a person engaged in any trade, business or activity referred to in *paragraph (a), (b)* or *(c)* of *subsection (1)*,

the judge may issue a warrant authorising a named member of the Garda Síochána accompanied by such other members of the Garda Síochána or such other named persons as the member thinks necessary, at any time or times, within one month from the date of issue of the warrant, to enter (if necessary by the use of reasonable force) the dwelling and perform the functions under *subsection (1)*.

(5) This section is without prejudice to any other power conferred by statute or otherwise exercisable by a member of the Garda Síochána to enter a place, to search a person or to seize and retain evidence of, or relating to, the commission or attempted commission of an offence.

(6) The power to issue a warrant under this section is without prejudice to any other power conferred by statute to issue a warrant for the search of any place or person.

(7) In this section—

"record" includes, in addition to a record in writing—

(*a*) a disc, tape, sound-track or other device in which information, sounds or signals are embodied so as to be capable (with or without the aid of some other instrument) of being reproduced in legible or audible form,

(*b*) a film, tape or other device in which visual images are embodied so as to be capable (with or without the aid of some other instrument) of being reproduced in visual form, and

(*c*) a photograph,

and any reference to a copy of a record includes—

(i) in the case of a record to which *paragraph (a)* applies, a transcript of the sounds or signals embodied therein,

(ii) in the case of a record to which *paragraph (b)* applies, a still reproduction of the images embodied therein, and

(iii) in the case of a record to which *paragraphs (a)* and *(b)* apply, such a transcript together with such a still reproduction.

Power of Garda Síochána to search persons, vehicles, etc.

13.— (1) Without prejudice to the generality of *section 12*, where a member of the Garda Síochána who is in—

(*a*) a public place, or

(*b*) any other place under a power of entry authorised by law or to which or in which he or she was expressly or impliedly invited or permitted to be,

with reasonable cause suspects a person of committing or having committed an offence under this Act, he or she may without warrant—

(i) search the person and, if he or she considers it necessary for that purpose, detain the person for such time as is reasonably necessary for making the search,

(ii) search any vehicle in which he or she suspects that any evidence of, or relating to, the commission of an offence under this Act may be found and for the purpose of carrying out the search may, if he or she thinks fit, require the person who for the time being is in control of such vehicle to bring it to a stop and when stopped to refrain from moving it, or in case such vehicle is already stationary, to refrain from moving it, or

(iii) examine (by opening or otherwise) and seize and retain anything found in the course of a search under this section which with such cause appears to him or her to be something which might be required as evidence in proceedings for an offence under this Act.

(2) A member of the Garda Síochána may, for the purpose of conducting a search of a person under this section, require the person to accompany him or her to a Garda Síochána station for that purpose.

(3) A member of the Garda Síochána may, for the purpose of conducting a search of a vehicle under this section, make any one or more or all of the following requirements of the person who appears to him or her to be the owner or in control or charge for the time being of the vehicle:

(*a*) require such person, pending the commencement of the search, not to remove from the vehicle any substance, object or other thing;

(*b*) where the search relates to a vehicle and the place at which he or she finds the vehicle is in the member's reasonable opinion unsuitable for such search, require such person forthwith to take the vehicle or cause it to be taken to a place which he or she considers suitable for such search and which is specified by him or her;

(*c*) require the person to be in or on or to accompany the vehicle for so long as the requirement under this subsection remains in force or until the search is completed, as the case may be.

(4) Where there is a failure or refusal to comply with a requirement under—

(*a*) *subsection (2)*, the member of the Garda Síochána concerned may arrest without warrant the person of whom the requirement was made for the purposes of conducting the search, or

(*b*) *subsection (3)(b)*, such member of the Garda Síochána concerned may take the vehicle concerned, or cause it to be taken, to a place which he or she considers suitable for a search under this section.

(5) Where a requirement described in *subsection (3)(a)* is made of a person, the search in relation to which the requirement is made shall be carried out as soon as is practicable.

(6) This section is without prejudice to any other power conferred by statute or otherwise exercisable by a member of the Garda Síochána to search a person or to seize and retain evidence of, or relating to, the commission of an offence.

Powers of officers of Customs and Excise.

14.— (1) Where an officer of Customs and Excise has reasonable grounds for believing that a person is at any place importing or exporting a psychoactive substance for human consumption, he or she may exercise all the powers available to a member of the Garda Síochána under *section 12*.

(2) (*a*) Without prejudice to the generality of *subsection (1)*, where an officer of Customs and Excise who is in—

(i) a public place, or

(ii) any other place under a power of entry authorised by law or to which or in which he or she was expressly or impliedly invited or permitted to be,

with reasonable cause suspects a person of committing or having committed an offence under *section 3(2)*, he or she may exercise all the powers available to a member of the Garda Síochána under *section 13*.

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

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

Obstruction.

15.— (1) Any person who—

(*a*) obstructs or interferes with a member of the Garda Síochána or an officer of Customs and Excise in the course of exercising a power conferred on him or her by this Act or a warrant under *section 12(4)*,

(*b*) fails or refuses to comply with a request or requirement of the member or officer, as the case may be, pursuant to *section 12* or *13*,

(*c*) fails or refuses to answer a question asked by the member or officer, as the case may be, pursuant to *section 12*, or

(*d*) in purported compliance with such request or requirement under *section 12* or *13* or in answer to such question under *section 12*, gives information to the member or officer, as the case may be, that he or she has reasonable cause for believing is false or misleading in any material respect,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding €5,000 or imprisonment for a term not exceeding 12 months or both.

(2) A member of the Garda Síochána or an officer of Customs and Excise, as the case may be, may arrest without warrant any person whom he or she with reasonable cause suspects is committing or has committed an offence under this section.

Taking of samples.

16.— (1) A member of the Garda Síochána or an officer of Customs and Excise who takes a sample of a product or a sample of any substance or article, pursuant to *section 12*, shall divide the sample into 3 approximately equal parts, and place each part into separate containers each of which he or she shall forthwith seal and mark in such a manner as to identify it as part of the sample taken by him or her.

(2) Where a member or an officer, as the case may be, has complied with *subsection (1)* he or she shall—

(*a*) offer one of the sealed containers to the owner or person for the time being in charge or possession of the product, substance or article from which the sample concerned was taken,

(*b*) retain one of the said sealed containers, and

(*c*) forward, or cause to be forwarded, one of the sealed containers to a designated laboratory for the purposes of analysis.

(3) Where a product, substance or article is contained in a container and its division into parts is (for whatever reason) not practicable, a member of the Garda Síochána or officer of Customs and Excise, as the case may be, who wishes to take samples of such a product, substance or article for the purposes of analysis, shall take possession of 3 such containers belonging to the same batch, and each such container shall be deemed to be part of a sample for the purposes of *subsection (1)*, and the provisions of *subsections (1)* and *(2)* shall apply thereto accordingly.

Laboratories.

17.— (1) The Forensic Science Laboratory of the Department of Justice and Law Reform is hereby designated as a laboratory (in this Act referred to as a "designated laboratory") for the examination, inspection, testing or analysis of substances for the purposes of this Act and each person who is engaged in the analysis of samples at that laboratory is hereby designated as an analyst (in this Act referred to as a "designated analyst").

(2) The Minister may, after consultation with the Minister for Health and Children, for the purposes of this Act designate, by notice in writing published in *Iris Oifigiúil*—

(*a*) a laboratory as a designated laboratory at which samples taken for the purposes of this Act may be analysed, and

(*b*) as a designated analyst a person as being a person who, or a class of persons the members of which, may, at a designated laboratory, analyse samples taken under this Act.

(3) As soon as practicable after a sample taken by a member of the Garda Síochána or an officer of Customs and Excise, as the case may be, under this Act has been received at a designated laboratory it shall be analysed by a designated analyst at the laboratory.

(4) As soon as practicable after compliance with *subsection (3)*, a designated analyst engaged in the analysis of samples at the designated laboratory concerned shall forward the results of the analysis (in this Act referred to as a "certificate of analysis") carried out on the sample concerned to the Garda Síochána station or customs office, as the case may be, from which the sample was forwarded.

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

Provisions relating to evidence in proceedings under Act.

18.— (1) Any application under *section 8* (other than proceedings under *subsection (6)* of that section) shall be an application in civil proceedings and shall be determined accordingly.

(2) Any statement or admission made by a person in proceedings under *section 8* or any finding by a court in those proceedings shall not be admissible as evidence in proceedings brought against the person for an offence under this Act, other than proceedings in relation to an offence under *subsection (6)* of that section.

(3) It shall be presumed until the contrary is proved in any proceedings under this Act that *section 16* has been complied with.

(4) In any proceedings under this Act, a certificate purporting to be signed by a person employed or engaged at a designated laboratory stating the capacity in which that person is so employed or engaged and stating any one or more of the following, namely—

(*a*) that the person received a sample submitted to the designated laboratory,

(*b*) that, for such period as is specified in the certificate, the person had in his or her custody a sample so submitted, or

(*c*) that the person gave to such other person as is specified in the certificate a sample so submitted,

shall, unless the contrary is proved, be evidence of the matters stated in the certificate.

(5) In any proceedings under this Act, a certificate of analysis purporting to be signed by a designated analyst stating any one or more of the following, namely—

(*a*) that he or she carried out any procedure for the purpose of detecting the presence of any substance in the sample so submitted, or

(*b*) that the sample concerned contained such substance or such amount thereof as is specified in the certificate,

shall, unless the contrary is proved, be evidence of the matters stated in the certificate.

(6) In any proceedings under this Act a court may, if it considers that the interests of justice so require, direct that oral evidence of the matters stated in a certificate under this section be given and the court may, for the purpose of receiving oral evidence, adjourn the proceedings to a later date.

(7) A certificate under this section shall be in such form as may be specified by the Minister.

Disposal of things seized.

19.— (1) Where in the course of exercising any powers under this Act a member of the Garda Síochána or an officer of Customs and Excise finds or comes into possession of any substance, product, object, machinery, instrument, book, record (within the meaning of *section 12*), any other document or other thing and he or she has reasonable grounds for believing that it is evidence of any offence or suspected offence under this Act, he or she may seize and retain it for use in evidence in any criminal or civil proceedings for such period from the date of seizure as is reasonable or, if proceedings are commenced in which the thing so seized is required for use in evidence, until the conclusion of the proceedings, and thereafter the Police (Property) Act 1897 and, where appropriate, section 25 of the Criminal Justice Act 1951 shall apply to the thing so seized in the same manner as that Act and the said section 25 apply to property which has come into the possession of the Garda Síochána in the circumstances mentioned in that Act.

(2) If it is represented or appears to a member of the Garda Síochána or an officer of Customs and Excise proposing to seize or retain a document under this Act that the document was, or may have been, made for the purpose of obtaining, giving or communicating legal advice from or by a barrister or solicitor, the member or officer, as the case may be, shall not seize or retain the document unless he or she suspects with reasonable cause that the document was not made, or is not intended, solely for any of those purposes.

(3) Where any substance, product, object, machinery, instrument, book, record (within the meaning of *section 12*), any document or other thing which is seized from or forfeited by a person under this Act is duly disposed of by or on behalf of the State the costs of such disposal, less any moneys arising from such disposal, shall (except where such costs have been waived in writing) be recoverable from such person as a simple contract debt in any court of competent jurisdiction.

(4) The power under this section to seize and retain evidence is without prejudice to any other power conferred by statute or otherwise exercisable by a member of the Garda Síochána or an officer of Customs and Excise to seize and retain evidence of, or relating to, the commission or attempted commission of an offence.

Offences.

20.— (1) A person who is guilty of an offence under this Act (other than an offence under *section 15*) shall be liable—

(*a*) on summary conviction, to a fine not exceeding €5,000 or imprisonment for a term not exceeding 12 months or both, or

(*b*) on conviction on indictment, to a fine or imprisonment for a term not exceeding 5 years or both.

(2) Where an offence under this Act is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to wilful neglect on the part of, any director, manager, secretary or other officer of such body corporate or a person who was purporting to act in any such capacity, that officer or person shall be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(3) On conviction for an offence under this Act the court may, in addition to any other penalty, order any substance, product, object or any apparatus, equipment or thing to which the offence relates to be forfeited and either destroyed or dealt with in such manner as the court thinks fit; however a court shall not order anything to be forfeited under this subsection if a person claiming to be the owner of or otherwise interested in it applies to be heard by the court, unless an opportunity has been given to him or her to show cause why the order should not be made.

Jurisdiction.

21.— The jurisdiction of the District Court under this Act shall, in relation to a place that is a structure, stall or vehicle, be exercised by a judge for the time being assigned to the district court district in which—

(*a*) the structure, stall or vehicle concerned was alleged to have been used for the sale or advertisement of a psychoactive substance for human consumption or an object for use in cultivating by hydroponic means any plant in contravention of section 17 of the Act of 1977, or as may be appropriate, the importation or exportation of a psychoactive substance, or

(*b*) the structure, stall or vehicle is kept when not in use.

Amendment of Customs and Excise (Miscellaneous Provisions) Act 1988.

22.— Section 2 of the Customs and Excise (Miscellaneous Provisions) Act 1988 is amended in subsection (1)—

(*a*) by the insertion of "or a psychoactive substance within the meaning of *section 1* of the *Criminal Justice (Psychoactive Substances) Act 2010*" after "a controlled drug" in each place that it occurs, and

(*b*) by the substitution of ", under the Misuse of Drugs Acts 1977 to 2007 or under the *Criminal Justice (Psychoactive Substances) Act 2010*" for "or under the Misuse of Drugs Acts 1977 and 1984".

Amendment of Bail Act 1997.

23.— The Schedule to the Bail Act 1997 is amended by the insertion of the following paragraph after paragraph 35:

"*Offences relating to psychoactive substances*.

36. Any offence under the following provisions of the *Criminal Justice (Psychoactive Substances) Act 2010*—

(*a*) *section 3* (prohibition of sale, etc. of psychoactive substances);

(*b*) *section 4* (prohibition of sale of certain objects);

(*c*) *section 5* (prohibition of advertising of psychoactive substances, etc.);

(*d*) *section 8(6)* (failure or refusal to comply with a prohibition order);

(*e*) *section 10(8)* (failure or refusal to comply with aclosure order).".

Expenses.

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

Regulations and orders.

25.— (1) The Minister may make regulations to do anything that appears necessary or expedient for bringing this Act into operation.

(2) Where a provision of this Act requires or authorises the Minister to make regulations, such regulations—

(*a*) may make different provision for different circumstances or cases, classes or types, and

(*b*) may contain such incidental, consequential or supplemental provisions as the Minister considers necessary or expedient for the purposes of this Act.

(3) Every order (other than an order made under *section 26 (2)*) and regulation made by the Minister under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order or regulation, as the case may be, is passed by either such House within the next 21 days on which the House has sat after the order or regulation is laid before it, the order or regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Short title and commencement.

26.— (1) This Act may be cited as the Criminal Justice (Psychoactive Substances) Act 2010.

(2) This Act shall come into operation on such day or days as the Minister may appoint, by order or orders, either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes and different provisions.



Number 22 *of* 2010

CRIMINAL JUSTICE (PSYCHOACTIVE SUBSTANCES) ACT 2010

REVISED

Updated to 22 December 2023

About this Revised Act

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

Related legislation

This Revised Act is not collectively cited with any other Act.

Annotations

This Revised Act is not annotated and only shows textual amendments. An annotated version of this revision is also available which shows textual and non-textual amendments and their sources. It also shows editorial notes including statutory instruments made pursuant to the Act and previous affecting provisions.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available. A list of legislative changes to any Act, and to statutory instruments from 1972, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.