

# **Focal Point Ireland: national report for 2024 – Legal framework**

**Health Research Board. Irish Focal Point to the European Monitoring Centre for Drugs and Drug Addiction**

**Authors of the national report**

Lucy Dillon, Brian Galvin, Ciara Guiney, Suzi Lyons, and Sean Millar

**Head of Irish Focal Point**

Brian Galvin

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(2025) *Focal Point Ireland: national report for 2024 – Drug policy*

(2025) *Focal Point Ireland: national report for 2024 – Treatment*

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(2025) *Focal Point Ireland: national report for 2024 – Drugs*





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## **T0. Summary**

### **Summary of T1.1.1 Characteristics of drug legislation**

The classification of drugs and precursors in Ireland is made in accordance with the three United Nations conventions of 1961, 1971, and 1988. Irish legislation defines the importation, manufacture, supply, and possession of most psychoactive substances as criminal offences. The principal criminal legislative framework is laid out in the Misuse of Drugs Acts (MDAs) 1977–2017. Since the commencement of the Misuse of Drugs Act, 1977, the legislation has been amended via statutory instruments and regulations to accommodate the transient nature of drug-related crime.

Alternatives to punishment are available in Ireland; for example, via Community Service Orders, probation services, and Drug Treatment Court programmes.

### **Summary of T1.1.2 Variation of penalties by drug/quantity/addiction/recidivism**

Fines and sentence lengths for drug-related crime vary by the piece of legislation, by the Section that offenders are being prosecuted under, and also by whether it is a first, second, or subsequent offence. It is considered unjust to specify the minimum term of 10 years to offenders with addictions; if the judge is satisfied that an addiction exists and all extenuating circumstances are considered, the sentence can either be listed for review once 50% has expired, or it can be suspended. In order to reduce the likelihood of repeat offending, second or subsequent offences are penalised more severely than first offences.

### **Summary of T1.1.3 Legislation to control New Psychoactive Substances (NPS)**

The main legislation that provides for the control of NPS is the Criminal Justice (Psychoactive Substances) Act 2010. This Act formed part of a multifaceted approach to reduce the availability of substances that were not controlled by the MDAs 1977–2007. Under the main provisions of the 2010 Act, it is an offence to sell, import, or export substances; to sell equipment that enables cultivation; and to advertise drugs. In an effort to deal with the transient nature of NPS, the Misuse of Drugs (Amendment) Act 2016 was enacted in July 2016. The Act includes the addition of NPS that have recently emerged on the Irish market. In order to ensure that drugs legislation captures emerging NPS, it is supplemented by secondary legislation in the form of declarations and designation orders, and annual regulation amendments. To date, the implementation of Criminal Justice (Psychoactive Substances) Act 2010 has not been evaluated.

## **T1. National profile**

### **T1.1 Legal framework**

#### **T1.1.1 Characteristics of drug legislation**

As stated in previous *Legal framework* workbooks, the classification of drugs and precursors in Ireland is made in accordance with the three United Nations conventions of 1961, 1971, and 1988. Irish legislation defines the importation, manufacture, trade in, and possession of most psychoactive substances as criminal offences. The principal criminal legislative framework is laid out in the revised Misuse of Drugs Act, 1977, updated to 29 February 2024 (Law Reform Commission 2024) of which the Misuse of Drugs Acts (MDAs) 1977 and 1984 and the Misuse of Drugs Regulations, 1988 are

prominent. The offences of drug possession (MDA, 1977, Section 3) and possession for the purpose of supply (MDA, 1977, Section 15) are the principal forms of criminal charge used in the prosecution of drug offences in Ireland. The Misuse of Drugs Regulations, 1988 lists the various substances to which the laws apply under five schedules.

The majority of drug offences reported come under one of three Sections of the MDA, 1977, as follows:

- Section 3: possession of any controlled drug without due authorisation (simple possession)
- Section 15: possession of a controlled drug for the purpose of unlawful sale or supply (possession for sale or supply), and
- Section 21: obstructing the lawful exercise of a power conferred by the Act (obstruction).

Other MDA, 1977 offences that are regularly recorded relate to the importation of drugs, and include:

- Section 5: regulations to prevent misuse of controlled drugs
- Section 17: cultivation of cannabis plants, and
- Section 18: use of forged prescriptions.

Due to the ever-changing nature of the drug situation, drug-related legislation is continually being monitored and adapted accordingly.

### **Medicinal Products (Prescription and Control of Supply) Regulations 2003**

Under S.I. No. 540/2003 – Medicinal Products (Prescription and Control of Supply) Regulations 2003, it is prohibited for a person to supply a prescription medicine except in accordance with a prescription, and the supply must be made from a registered retail pharmacy business or under the personal supervision of a registered pharmacist. A person who contravenes these Regulations is guilty of an offence. However, the illegal street sale of prescription drugs has emerged as an important issue in the Irish drug scene in recent years (see discussion in Section T1.2.1 of the 2012 national report (Health Research Board 2012)).

### **Misuse of Drugs (Amendment) Act 2015**

The Misuse of Drugs (Amendment) Act 2015 was introduced as emergency legislation after the Court of Appeal found that a regulation making the possession of methylethcathinone (known as 4-Mec or ‘snow blow’) illegal was invalid (Hogan and Court of Appeal 2015). As a result of the judgment, all substances controlled by means of Government orders made under Section 2(2) of the MDA, 1977 (e.g. ecstasy, benzodiazepines, and NPS) ceased to be controlled with immediate effect, and their possession ceased to be an offence.

Under Section 2, the following statutory instruments (SIs) specified in Schedule 2 were given statutory effect:

- S.I. No. 164/1979 – Misuse of Drugs (Licence Fees) Regulations, 1979
- S.I. No. 321/1982 – Misuse of Drugs (Safe Custody) Regulations, 1982
- S.I. No. 326/1988 – Misuse of Drugs (Exemption) Order, 1988

- S.I. No. 328/1988 – Misuse of Drugs Regulations, 1988
- S.I. No. 69/1998 – Misuse of Drugs (Designation) Order, 1998, and
- S.I. No. 225/1998 – Misuse of Drugs (Supervision of Prescription and Supply of Methadone) Regulations, 1998.

### **Misuse of Drugs (Amendment) Act 2016**

The Misuse of Drugs (Amendment) Act 2016 was enacted on 27 July 2016. The aim of the Act is to amend schedules to the MDAs 1977–2015. The main provisions of the 2016 Act included the addition of new substances, the revocation of ministerial regulations and orders confirmed in the Misuse of Drugs (Amendment) Act 2015, and some technical amendments.

### **Misuse of Drugs (Supervised Injecting Facilities) Act 2017**

The Misuse of Drugs (Supervised Injecting Facilities) Act 2017 was signed into Irish law on 16 May 2017 and came into operation on 21 November 2017. The Act aimed to provide for the establishment, licensing, operation, and regulation of supervised injecting facilities for the purposes of reducing harm to people who inject drugs; to enhance the dignity, health, and well-being of people who inject drugs in public places; to reduce the incidence of drug injection and drug-related litter in public places and thereby to enhance the public amenity for the wider community; and to provide for matters related thereto. Merchant's Quay Project CLG (now Merchants Quay Ireland) in Dublin was selected as the preferred bidder to deliver this service. Further information on the status of this service can be found in Section T3.1 of the *Drug policy* workbook.

### **Misuse of Drugs (Supervision of Prescription and Supply of Methadone and Medicinal Products containing Buprenorphine authorised for Opioid Substitution Treatment) Regulations 2017**

The Misuse of Drugs (Supervision of Prescription and Supply of Methadone and Medicinal Products containing Buprenorphine authorised for Opioid Substitution Treatment) Regulations 2017 came into operation on 22 November 2017 and replaced the Misuse of Drugs (Supervision of Prescription and Supply of Methadone) Regulations, 1998 (S.I. No. 225/1998). The 2017 Regulations provided for the addition of certain buprenorphine medicinal products authorised for opioid substitution treatment to the schedule of products that come under the scope of the 2017 Regulations. In addition, several references and definitions were updated. For the purpose of receiving information, the Minister for Health was replaced with the Health Service Executive (HSE). Responsibilities regarding record maintenance were also reassigned from the Minister for Health to the HSE.

### **Misuse of Drugs Regulations 2017 and 2019**

The Misuse of Drugs Regulations 2017 and 2019 came into operation on 5 May 2017 and 26 June 2019, respectively. Part 3 of the 2017 Regulations imposed restrictions on the production, supply, importation, and exportation of controlled drugs as specified in Schedules 1–5 of the Regulations, which refer to drugs that are controlled under the MDAs 1977–2016. The 2019 Regulations amended the Misuse of Drugs Regulations 2017.

### **Misuse of Drugs (Amendment) Regulations 2020**

S.I. No. 99/2020 – Misuse of Drugs (Amendment) Regulations 2020 was signed into Irish law on 10 April 2020. These Regulations allow for the amendment of the Misuse of Drugs Regulations 2017 and take the national electronic prescription transfer system established by S.I. No. 98/2020 – Medicinal

Products (Prescription and Control of Supply) (Amendment) Regulations 2020 into account. Further information on how this amendment impacts patients can be found in Section T3.1 of the *Treatment* workbook.

### **Misuse of Drugs (Amendment) Regulations 2021**

S.I. No. 121/2021 – Misuse of Drugs (Amendment) Regulations 2021 was signed into Irish law on 23 March 2021. These Regulations allow for the amendment of the Misuse of Drugs Regulations 2017 by adding additional substances to Schedule 1.

### **Misuse of Drugs (Prescription and Control of Supply of Cannabis for Medical Use) Regulations 2019**

S.I. No. 262/2019 – Misuse of Drugs (Prescription and Control of Supply of Cannabis for Medical Use) Regulations 2019 was signed into Irish law on 26 June 2019. These Regulations allow for the use of certain cannabis products for the treatment of persons with certain medical conditions when they are under the care of a medical consultant.

### **Misuse of Drugs (Prescription and Control of Supply of Cannabis for Medical Use) (Amendment) Regulations 2021**

S.I. No. 557/2021 – Misuse of Drugs (Prescription and Control of Supply of Cannabis for Medical Use) (Amendment) Regulations 2021 was signed into Irish law on 27 October 2021. The aim of these Regulations was to amend the Misuse of Drugs (Prescription and Control of Supply of Cannabis for Medical Use) Regulations 2019 to replace Schedule 1 in order to list certain cannabis products or preparations for medical use, such as Aurora High CBD Oil Drops, CannEpil, and Aurora Sedamen Softgels capsules.

Further information on all legislation, SIs, and regulations referred to in this workbook can be retrieved from the electronic Irish Statute Book (<http://www.irishstatutebook.ie/>).

### **Penalties for drug offences in Ireland**

Table T1.1.1.1 shows a summary of penalties provided for under various Sections of the MDA, 1977–2017; the Criminal Justice (Psychoactive Substances) Act 2010; the Road Traffic Act 2016; the Criminal Justice (Community Service) Act, 1983; and the Maritime Safety Act 2005. The fines and sentence lengths vary by legislation; by Section that offenders are being prosecuted under; and also by whether it is a first, second, or subsequent offence. There were no changes to these penalties in 2023.

Table T1.1.1.1 Summary of penalties received for drug offences in Ireland

Subject to Section	Penalty
<b>MDAs 1977–2017</b>	
Section 3* <sup>†</sup> Restriction on possession of controlled drugs	First offence:
27a) Where a controlled drug is cannabis or cannabis resin and	<ul style="list-style-type: none"> <li>On summary conviction – Class D fine not exceeding €1,000, or</li> <li>On conviction on indictment – Class C fine not exceeding €2,500.</li> </ul>



the court is satisfied that possession was for own use

Second offence:

- On summary conviction – Class D fine not exceeding €1,000, or
- On conviction on indictment – Class C fine not exceeding €2,500.

Third and subsequent offences:

- On summary conviction – Class C fine not exceeding €2,500, or imprisonment not exceeding 12 months at the court's discretion, or both fine and imprisonment, or
- On conviction on indictment – fine of such amount that the court considers appropriate, or, at the court's discretion, imprisonment for a term not exceeding 3 years, or both fine and imprisonment.

b) Any other case

On summary conviction –

- Class C fine not exceeding €2,500, or
- Imprisonment not exceeding 12 months at the court's discretion, or
- Both fine and imprisonment.

Or

On conviction on indictment –

- Fine of such amount as the court considers appropriate, or
- Imprisonment not exceeding 7 years at the court's discretion, or
- Both fine and imprisonment.

Section 6<sup>†</sup> Directions prohibiting prescribing, supply, etc. of controlled drugs by practitioners or pharmacists convicted of offences

or

Section 7<sup>†</sup> Special directions prohibiting prescribing, etc. of controlled drug drugs in certain cases

or

Section 16 Prohibition of certain activities, etc. relating to opium

On summary conviction –

- Class C fine not exceeding €2,500, or
- Imprisonment not exceeding 12 months at the court's discretion, or
- Both fine and imprisonment.

Or

On conviction on indictment –

- Fine of such amount as the court considers appropriate, or
- Imprisonment not exceeding 14 years at the court's discretion, or
- Both fine and imprisonment.

or

Section 17<sup>†</sup> Prohibition of cultivation of opium poppy or cannabis plant

or

Section 19<sup>†</sup> Occupiers, etc. permitting certain activities to take place on land, vehicle, or vessels to be guilty of an offence

or

Section 20<sup>†</sup> Offences relating to acts outside the State

Section 15<sup>\*†</sup> Possession of controlled drugs for unlawful sale or supply

On summary conviction –

- Class C fine not exceeding €2,500 in District Court, or
- Imprisonment not exceeding 12 months at the court's discretion, or
- Both fine and imprisonment.

Or

On conviction on indictment –

- Imprisonment for life or such shorter term as the court may determine, or
- At the court's discretion, fine of such amount as the court considers appropriate, or
- Both fine and imprisonment.

Section 15A<sup>†</sup> Offence relating to possession of drugs with value of €13,000 or more

On conviction on indictment –

- Imprisonment for life or such shorter term as the court may determine, and
- At the court's discretion, fine of such amount as the court considers appropriate.

or

The court can:

Section 15B<sup>†</sup> Importation of controlled drugs in excess of certain value (amounts to €13,000 or more)

- Take into account whether the offender has a previous conviction for a drug trafficking offence
- Impose a sentence with a term of not less than 10 years as the minimum term of imprisonment to be served by the offender
- Determine a sentence unjust if exceptional and specific circumstances relating to the offence exist
- If exceptional circumstances exist, take into account:

- whether the offender pleaded guilty to the offence
- when and under what circumstances the guilty plea was provided
- whether the offender was helpful during the investigation
- whether the offender was previously convicted of a drug trafficking offence, and
- whether it is in the interest of the public to impose a shorter sentence.

When the market value of drugs is greater than €13,000, or drugs are imported with a value greater than €13,000 –

- If there are no exceptional circumstances, the offender is liable to a minimum sentence of 10 years.

Section 15C<sup>5</sup> Supply of controlled drugs into prisons and places of detention

On summary conviction –

- Class B fine not exceeding €4,000 in District Court, or
- Imprisonment not exceeding 12 months at the court's discretion, or
- Both fine and imprisonment.

Or

On conviction on indictment –

- Fine of such an amount as the court considers appropriate, or
- Imprisonment not exceeding 10 years at the court's discretion, or
- Both fine and imprisonment.

Section 18\*<sup>†</sup> Forged or fraudulently altered prescriptions

On summary conviction –

- Class D fine not exceeding €1,000, or
- Imprisonment not exceeding 6 months at the court's discretion, or
- Both fine and imprisonment.

Or

On conviction on indictment –

- Fine of such an amount as the court considers appropriate, or
- Imprisonment not exceeding 3 years at the court's discretion, or
- Both fine and imprisonment.

Section 21 (1)<sup>†</sup> Attempts, etc. and miscellaneous other offences

a) In case the regulation in relation to which the offence was committed is a regulation made pursuant to Section 5(1)(a) of this Act, other than a regulation regulating the transportation of controlled drugs

On summary conviction –

- Class C fine not exceeding €2,500, or
- Imprisonment not exceeding 12 months at the court's discretion, or
- Both fine and imprisonment.

Or

On conviction on indictment –

- Fine of such an amount as the court considers appropriate, or
- Imprisonment not exceeding 14 years at the court's discretion, or
- Both fine and imprisonment.

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

On summary conviction –

- Class C fine not exceeding €2,500, or
- Imprisonment not exceeding 6 months at the court's discretion, or
- Both fine and imprisonment.

Or

On conviction on indictment –

- Fine of such an amount as the court considers appropriate, or
- Imprisonment not exceeding 2 years at the court's discretion, or
- Both fine and imprisonment.

Section 21 Offences other than those mentioned in subsections 1 or 2

On summary conviction –

- Class D fine not exceeding €1,000, or
- Imprisonment not exceeding 6 months at the court's discretion, or
- Both fine and imprisonment.

Section 23<sup>†</sup> Power of An Garda Síochána to search persons, vehicles, vessels, or aircraft

On summary conviction –

- Class E fine not exceeding €500.

Section 5<sup>†</sup> Printing, etc. of certain books, etc., communication of certain information, and possession of certain documents is an offence

On summary conviction –

- Where the offence is an offence under subsection (2) of that Section, Class C fine not exceeding €2,500, or
- In any other case, Class C fine not exceeding €2,500.

## **Criminal Justice (Psychoactive Substances) Act 2010**

Section 3<sup>1</sup> Prohibition of sale, etc. of psychoactive substances

On summary conviction –

- Class A fine not exceeding €5,000, or
- Imprisonment for a term not exceeding 12 months at the court's discretion, or
- Both fine and imprisonment.

Section 4<sup>1</sup> Prohibition of sale of certain objects

Or

On conviction on indictment –

Section 5<sup>1</sup> Prohibition of advertising of psychoactive substances, etc.

- Fine of such an amount as the court considers appropriate, or
- Imprisonment not exceeding 5 years at the court's discretion, or
- Both fine and imprisonment.

## **Road Traffic Act 2016**

Section 8 Offences involving certain drugs

Subsection 1(C) Signing a medical exemption certificate containing information that he/she knows to be false

On summary conviction –

- Class C fine not exceeding €2,500.

Section 11 Mandatory intoxicant testing

Section 12 Impairment testing

On summary conviction –

- Class A fine not exceeding €5,000, or
- Imprisonment for a term not exceeding 6 months at the court's discretion, or
- Both fine and imprisonment.

Section 13/13B Obligation to provide oral fluid and blood specimens in relation to certain offences involving drugs

## **Maritime Safety Act 2005**

Section 27 Conduct endangering vessels, structures, or individuals

On summary conviction –

- Fine not exceeding €5,000, or
- Imprisonment for a term not exceeding 6 months, or
- Both fine and imprisonment.

Or

On conviction on indictment –

- Fine not exceeding €100,000, or
- Imprisonment for a term not exceeding 2 years, or
- Both fine and imprisonment.

Section 28 Prohibition on operating vessels while under the influence of alcohol or drugs

On summary conviction –

- Fine not exceeding €5,000, or
- Imprisonment for a term not exceeding 3 months, or
- Both fine and imprisonment.

Section 29 Drunkenness, etc. of passengers or members of crew

On summary conviction –

- Fine not exceeding €5,000.

Section 30 Control of consumption of alcohol or drugs on board a vessel (commander or crew)

On summary conviction –

- Fine not exceeding €5,000, or
- Imprisonment for a term not exceeding 3 months, or
- Both fine and imprisonment.

Section 32 Prohibition on endangering vessels or persons on board

On summary conviction –

- Fine not exceeding €5,000, or
- Imprisonment for a term not exceeding 6 months, or
- Both fine and imprisonment.

Or

On conviction on indictment –

- Fine not exceeding €100,000, or
- Imprisonment for a term not exceeding 2 years, or
- Both fine and imprisonment.

### **Criminal Justice (Community Service) Act, 1983**

Section 7 Requirements under Community Service Order and failure to comply with such requirements

On summary conviction –

- Fine not exceeding £300.

\* Subject to Section 28, which gives power of court to remand offenders convicted, to obtain a report, and in certain cases to arrange for medical treatment.

† As amended by the Misuse of Drugs Act, 1984.

‡ As amended by the Criminal Justice Act 2007.

§ As amended by the Criminal Justice Act 2006.

|| As amended by the Criminal Justice (Psychoactive Substances) Act 2010.

Sources: <http://www.irishstatutebook.ie/> and <http://www.citizensinformation.ie/en/>

## Alternatives to punishment

Under current legislation in Ireland, possession or supply of illicit drugs are considered criminal offences. However, a range of options is available to the court in dealing with those who have committed a criminal offence. The legislature generally sets the maximum sentence that can be imposed within the drug legislation, and it is then a matter for the judiciary to decide what is the appropriate sentence in a particular case, taking into account all the circumstances surrounding the crime and the individual offender (personal communication, Department of Health, 2017). Options available to the court to deal with drug offences include: fines and custody (see Table T1.1.1.1 of this workbook), imposition of a Peace Bond/Probation Order, and suspended sentence (see Section T1.2.1 of the *Drug markets and crime* workbook for 2023 data).

In addition, different factors can operate either to mitigate an offence or as aggravating influences that can affect the punishment. In some cases, a court may issue alternatives to punishment, which are defined as “measures that are rehabilitative, such as treatment, education, aftercare, rehabilitation and social reintegration” (European Monitoring Centre for Drugs and Drug Addiction 2015) (p. 2).

In Ireland, under the Criminal Justice (Community Service) Act, 1983, as amended in 2011, a court may issue a Community Service Order as an alternative sentence. The premise behind the order is that the offender is required to carry out unpaid work for a minimum of 40 hours and up to a maximum of 240 hours. In order for a Community Service Order to be issued, the court must consider the offender’s circumstances, review a report about the offender from a probation and welfare officer, and determine the suitability of the offender to carry out work under such an order and whether arrangements can be made to do so.

Similarly, under the Probation of Offenders Act, 1907, Section 1(1) allows a court to make an order before proceeding to conviction to:

- Dismiss the information or charge, or
- Discharge the offender conditionally on his entering into a recognisance, with or without sureties, to be of good behaviour and to appear for conviction and sentence when called on at any time during such period, not exceeding 3 years.

Factors that influence this outcome include the character, antecedents, age, health, or mental condition of the person charged, or the trivial nature of the offence, or the extenuating circumstances under which the offence was committed. Section 1(1) cannot be applied to some offences; for example, drink driving offences.

Section 1(2) of the Probation of Offenders Act, 1907 is applied to indictable offences that are punishable with imprisonment. Under Section 1(1) and Section 1(2), offenders are supervised by probation officers.

Please see Section T2.2 of this workbook for further information on alternatives to punishment, such as the Garda Youth Diversion Programmes, the Adult Cautioning Scheme, and the Bail Supervision Scheme (BSS).

### **T1.1.2. Penalties vary by drug, quantity (i.e. market value), addiction, and recidivism.**

#### **Drug**

##### ***Sentencing in cannabis possession cases***

As per the MDA, 1977, Section 3 and Section 27(1)(a), as amended by the Criminal Justice Act, 1984, possession of cannabis for personal use is punishable by a fine on the first or second conviction.

From the third offence onwards, the offender can incur prison sentences of up to 1 year (summary) or up to 3 years (on indictment), or a fine, or both.

##### ***Sentencing in trafficking cases***

The different drug trafficking offences and their associated penalties are set out in Sections 15, 15A and 15B of the MDA, 1977 (as amended), and Section 3(1) of the Criminal Justice Act, 1994 (as amended), as follows: "Any person who has in his possession, whether lawfully or not, a controlled drug for the purpose of selling or otherwise supplying it to another in contravention of the regulations made under Section 5 of this Act, shall be guilty of an offence." The penalty on summary conviction may be a fine not exceeding €2,500, or up to 12 months' imprisonment, or both, while the penalty for conviction on indictment may be a fine, or imprisonment for life, or both.

#### **Quantity**

Drug trafficking offences are differentiated only by the market value of the product and not by the quantity, such that penalties for offences under Section 15A (possession), Section 15B (importation), and Section 27(3A) of the MDA, 1977 are similar to an offence under Section 15. If the market value of drugs is greater than €13,000, and there are no exceptional circumstances, an offender is liable to a presumptive mandatory minimum sentence of 10 years.

However, the following provisions are in place:

- A court can impose a sentence of less than 10 years for a first offence if it determines that there are exceptional circumstances.
- A court must impose a sentence of not less than 10 years if the accused has a previous conviction for a second or subsequent offence under Sections 15A or 15B of the MDA, 1977 or has been convicted under one of these Sections and has been convicted under the other Section on another occasion.

#### **Addiction**

An offender who suffers from an addiction comes under the remit of Section 27(3D) of the MDA 1977, which specifies that if an individual has exceptional and specific circumstances relating to the offence or the person convicted of the offence, it would be unjust in all circumstances to specify the minimum term of imprisonment of not less than 10 years. In this instance, when imposing a sentence on any individual with an addiction convicted of an offence under Sections 15A or 15B of the MDA, 1977, a court may:



- Under Section 27(3J):
  - a) ask if the offender was addicted to one or more drugs at the time that the offence was carried out, and
  - b) if satisfied that the offender was so addicted at the time, and that the addiction was a key factor in the offence being carried out, list the sentence for review after 50% of the sentence has expired.
- Under Section 27(3K), on reviewing the sentence under subsection (3J)(b):
  - a) suspend the remainder of the sentence on any conditions it considers fit, and
  - b) if it decides to exercise its powers, have regard to any matters it considers appropriate.

### **Recidivism**

In order to reduce repeat offending, legislative provisions are in place such that sentencing for second or subsequent offences is enhanced. Table T1.1.1.1 illustrates the variations in penalties for drug-related crimes. For example, under Section 3A of the MDA, 1977, in relation to a conviction on indictment for cannabis (section 27(a)) a second offence can result in a fine not exceeding €2,500, which is double that which may be given for a first offence. A third offence can result in a fine that the court considers appropriate, or imprisonment for a term not exceeding 3 years, or both a fine and imprisonment. See Section T3.2 of this workbook for recent figures for recidivism in Ireland.

### **Aggravating and mitigating factors**

Section 27(3D) of the MDA, 1977 sets out a number of different mitigating and aggravating factors (in paragraphs (b) and (c), respectively) that a court must consider when imposing a sentence under Section 15A or 15B, and when deciding whether or not to deviate from the mandatory minimum sentence. These factors are as follows:

- Aggravating factors include any previous drug trafficking convictions, other than under Sections 15A or 15B of the MDA, 1977, and whether the public interest would be served; for example, by preventing drug trafficking by the imposition of a lesser sentence.
- Mitigating factors include any matters that the court considers appropriate, including whether the person pleaded guilty to the offence, the stage at which they indicated the intention to plead guilty, the circumstances in which the indication was given, and whether the person materially assisted in the investigation of the offence.

Other than the issues described in this section within this workbook, there are no official guidelines for sentencing or prosecuting for the trafficking of illicit drugs.

### **T1.1.3 Legislation to control new psychoactive substances**

Since 2000, significant laws have been introduced, initially in response to organised crime, but later in response to head shops selling NPS. See also Pike (Pike 2008), Appendix II, for a listing of legislation enacted between 2001 and 2007 that impacts directly or indirectly on drug policy.

## **Criminal Justice (Psychoactive Substances) Act 2010**

The main legislation controlling NPS in Ireland is the Criminal Justice (Psychoactive Substances) Act 2010. The Act formed part of a multifaceted approach to reduce the availability of substances that were not controlled by the MDAs 1977–2017. Under the main provisions of the Criminal Justice (Psychoactive Substances) Act 2010, it is an offence to sell, import, or export NPS; to sell equipment that enables cultivation; and to advertise NPS.

There were no changes to this Act in 2023. See Table T1.1.1.1 for penalties associated with offences under this Act.

### **Supplementations to normal drug law**

Due to the evolving nature of the drug situation in Ireland, since their initial implementation, drug laws have been frequently amended with a number of supplementations, such as amendments, SIs, regulations, declarations, and exemptions, such as:

- S.I. No. 199/2010 – Misuse of Drugs Act 1977 (Controlled Drugs) (Declaration) Order 2010
- S.I. No. 200/2010 – Misuse of Drugs (Amendment) Regulations 2010
- S.I. No. 201/2010 – Misuse of Drugs (Designation) (Amendment) Order 2010
- S.I. No. 202/2010 – Misuse of Drugs (Exemption) (Amendment) Order 2010
- S.I. No. 551/2011 – Misuse of Drugs Act 1977 (Controlled Drugs) (Declaration) Order 2011
- S.I. No. 552/2011 – Misuse of Drugs (Amendment) Regulations 2011
- S.I. No. 553/2011 – Misuse of Drugs (Designation) (Amendment) Order 2011
- S.I. No. 554/2011 – Misuse of Drugs (Exemption) (Amendment) Order 2011
- S.I. No. 544/2012 – Misuse of Drugs (Licence Fees) (Amendment) Regulations 2012
- S.I. No. 323/2014 – Misuse of Drugs (Amendment) Regulations 2014
- S.I. No. 324/2014 – Misuse of Drugs (Designation) (Amendment) Order 2014
- S.I. No. 571/2014 – Misuse of Drugs Act 1977 (Controlled Drugs) (Declaration) Order 2014
- S.I. No. 583/2014 – Misuse of Drugs (Amendment) (No. 2) Regulations 2014
- S.I. No. 584/2014 – Misuse of Drugs (Designation) (Amendment) (No. 2) Order 2014
- S.I. No. 174/2017 – Misuse of Drugs (Designation) Order 2017
- S.I. No. 175/2017 – Misuse of Drugs (Exemption) Order 2017
- S.I. No. 531/2017 – Misuse of Drugs Act 1977 (Controlled Drugs) (Declaration) Order 2017
- S.I. No. 532/2017 – Misuse of Drugs (Amendment) Regulations 2017
- S.I. No. 533/2017 – Misuse of Drugs (Designation) (Amendment) Order 2017
- S.I. No. 281/2019 – Misuse of Drugs (Designation) (Amendment) Order 2019
- S.I. No. 82/2021 – Misuse of Drugs Act 1977 (Controlled Drugs) (Declaration) Order 2021
- S.I. No. 122/2021 – Misuse of Drugs (Controlled Drugs) (Designation) Order 2021
- S.I. No. 211/2022 – Misuse of Drugs Act 1977 (Controlled Drugs) (Designation) Order 2022
- S.I. No. 210/2022 – Misuse of Drugs (Amendment) Regulations 2022
- S.I. No. 176/2022 – Misuse of Drugs Act 1977 (Controlled Drugs) (Declaration) Order 2022, and
- S.I. No. 237/2023 – Misuse of Drugs Act 1977 (Controlled Drugs) (Designation) (Amendment) Order 2023.

The most recent supplementations to Irish drugs law in 2023 can be found in Section T3.1 of this workbook.

## **Misuse of Drugs (Amendment) Act 2016**

In an effort to deal with the transient nature of NPS, the Misuse of Drugs (Amendment) Act 2016 was enacted in July 2016. The Act includes the addition of NPS that have recently emerged on the Irish market. Please see Section T1.1.1 of this workbook for further information on this Act.

### **T1.1.4 Other topics of interest**

Other topics that are relevant to the understanding of the legal framework for responding to drugs in Ireland include those outlined throughout the remainder of this section.

#### **Drug driving**

Driving under the influence of drugs has been a statutory offence in Ireland since the introduction of the Road Traffic Act, 1961. Since its introduction, several amendments have been made to the Act, as detailed in the following subsections.

#### ***Road Traffic Act 2014***

The Road Traffic Act 2014 amended and extended the Road Traffic Acts 1961–2011, as follows:

- Section 11 empowered An Garda Síochána (AGS) to undertake intoxication impairment testing on people who are driving or attempting to drive a mechanically propelled vehicle in a public place under the influence of drugs.
- Section 12 amended the Road Traffic Act 2010 to allow for the taking, subject to medical approval, of a specimen of blood from an incapacitated (i.e. unconscious) person following a road traffic collision involving death or injury.

#### ***Road Traffic Act 2016***

The Road Traffic Act 2016 amended and extended the Road Traffic Acts 1961–2015 and provided for several measures to improve safety on Irish roads. The Act extended the definition of ‘analysis’ and provided a new definition of ‘medical exemption certificate’ to cater for individuals testing positive for drugs that were being taken for medical reasons. Under the Act, it is an offence: a) for certain drugs to be present above a certain level (see Table T1.1.4.1); and b) to attempt to drive a vehicle while under the influence. In addition, gardaí were given powers to carry out drug testing using special devices, and to set up checkpoints. Individuals are required to accompany a garda to a nearby location to carry out impairment tests safely and are obliged to provide oral fluid specimens if suspected of offences involving drugs. The Medical Bureau of Road Safety is tasked with analysing collected specimens. Penalties associated with road traffic offences are presented in Table T1.1.1.1.

Table T1.1.4.1 Drugs specified in the Road Traffic Act 2016

Reference no. (1)	Drug (2)	Level (units in whole blood) (3)
1	$\Delta^9$ -tetrahydrocannabinol (cannabis)	1 nanogram per millilitre (ng/mL)
2	11-nor-9-carboxy- $\Delta^9$ -tetrahydrocannabinol (cannabis)	5 ng/mL
3	Cocaine	10 ng/mL
4	Benzoyllecgonine (cocaine)	50 ng/mL
5	6-acetylmorphine (heroin)	5 ng/mL

### ***Road Traffic (Amendment) Act 2018***

The Road Traffic (Amendment) Act 2018 was enacted on 23 July 2018. The Act provides for automatic disqualification from driving in the case of a person paying a fixed charge in respect of drink driving offences. The aim of the Act is to amend the Road Traffic Act 2016; the Road Traffic Act 2010; the Road Traffic Act, 2002; the Road Traffic Act, 1994; and the Road Traffic Act, 1961, and to provide for related matters.

Please see Section T3.4 of this workbook for an outline of the provisions of the Road Traffic Act 2024.

### **Drug testing in the workplace**

Legislative provision has been made for mandatory drug and/or alcohol testing in certain work contexts (e.g. the Defence Forces, the maritime and railway industries) and in workplaces generally.

#### ***Defence Forces***

Due to the unique and challenging nature of working in the military or Defence Forces, personnel are required to be free of the presence or influence of any controlled drug or substances (Kehoe 2017). Compulsory random drug testing (CRDT), which was introduced in 2002, is intended as a deterrent. In 2009, an additional measure – targeted drugs testing – was introduced in order to improve the existing system. Targeted drugs testing measures mean that any member of the Defence Forces – that is, any person employed in the Army, Air Corps, Naval Service, or Reserve – who obtains a positive result following CRDT can agree, at the discretion of the relevant General Officer Commanding, to undertake a maximum of six targeted drug tests over 18 months (Department of Defence 2009). A positive result following CRDT results in a dishonourable discharge from the Defence Forces. Each year, 10% of Defence Forces personnel are tested (Kehoe 2017). There are no up-to-date data for CRDT and targeted drugs testing in 2023. Existing data (2009-2022) can be found in Section T2.3, Tables T2.3.1 and T2.3.2 in the *Drug markets and crime* workbook.

#### ***Maritime safety***

The Maritime Safety Act 2005 strengthens the law against the improper use of mechanically propelled personal watercraft (e.g. jet skis) and other recreational craft. There was no change to this Act in 2023. The relevant Sections of this Act are as follows:

- Section 28 prohibits operation of vessels in Irish waters while under the influence of alcohol or drugs.

- Section 29 entitles the commander of a vessel to refuse permission to a person intoxicated by alcohol or drugs to board a vessel.
- Section 30 prohibits the consumption of alcohol or drugs by any person on board a vessel.

Penalties for not complying with this legislation are provided in Section T1.1.1 of this workbook.

### ***Railway safety***

The Railway Safety Act 2005 provides for the testing of safety-critical workers for the presence of alcohol and/or drugs. Under the Act, the Railway Safety Commission (now the Commission for Railway Regulation) was established and given the power to:

- Approve codes of conduct in relation to intoxicants that must be upheld by safety-critical workers (Section 88), and
- Obtain a sample of a worker's blood or urine, in accordance with the sampling procedures and support services that railway undertakings are required to implement (Section 89).

In addition, in relation to the testing of safety-critical workers, the Commission for Railway Regulation is expected to provide an annual report on all measures provided for in the Act that are implemented.

There are two agencies that operate under this legislative framework: Iarnród Éireann and Transdev Ireland, which operates the Luas tram network in Dublin. These agencies are obliged to implement statutory-compliant safety management systems (Nic Lochlainn 2018). Both organisations are obliged to implement a statutory code of conduct for drugs and alcohol for safety-critical railway workers that outlines the workplace policy for testing workers for intoxicants. Disciplinary sanctions apply for non-compliance, up to and including dismissal. Safety is regulated by the Commission for Railway Regulation, and any accidents or incidents are investigated by the Railway Accident Investigation Unit. Random drug and alcohol testing is regularly carried out.

### ***Safety, health and welfare at work***

The Safety, Health and Welfare at Work Act 2005 provides for securing the safety, health, and welfare of persons at work. Under Section 13(1)(b), an employee must not be under the influence of intoxicants to the extent that they will endanger their own safety, health, or welfare at work, or that of any other person. In addition, under Section 13(1)(c), an employee must submit to any appropriate, reasonable, and proportionate tests by a competent practitioner if so required.

### ***Drug testing in prisons***

The Prisons Act 2007, Revised (updated to 30 November 2018) provides for the making of rules by the Minister for Justice for the regulation and good governance of prisons; for example, Section 35(2)(j) allows for the testing of prisoners for intoxicants, including alcohol and other drugs. Comprehensive prison rules were issued by the Department of Justice (DOJ) under S.I. No. 252/2007 – Prison Rules, 2007 and provided for the introduction of compulsory or mandatory drug testing of prisoners (see Section 26(5)).

## **Organised crime offences: Referral of cases to Special Criminal Court**

The Criminal Justice Act 2006 specified participation in a criminal organisation as an offence. Following on from this, Section 8 of the Criminal Justice (Amendment) Act 2009 declared that ordinary courts were inadequate as a means of securing the effective administration of justice, and the preservation of public peace and order, in relation to an offence under four provisions of Part 7 of the 2006 Act.

Offences under Part 7 of the Criminal Justice Act 2006 include:

- Section 71: a person who conspires to commit an offence inside or outside the State regardless of whether it takes place or not
- Section 72: a person who commits an offence in the State or a place outside the State for the purpose of enhancing the ability of a criminal organisation
- Section 73: a person who commits an offence for the benefit of, or at the direction of, a criminal organisation, and
- Section 76: an offence committed by a body corporate and proven to have been committed with the consent or neglect of any person being a director, manager, secretary, or officer, or someone acting in that capacity.

Under Section 8 of the Criminal Justice (Amendment) Act 2009, offences are deemed to be scheduled offences for the purposes of Part V of the Offences Against the State Act, 1939, as if the order was made under Section 36 of the 1939 Act in relation to it and subsection (3) of that Section, and Section 37 of the 1939 Act shall apply to such an offence accordingly.

None of these offences can be seen as influencing or limiting the powers exercised by:

- The Government under the provisions of Sections 35 or 36 of the Offences Against the State Act, 1939, and
- The Director of Public Prosecutions (DPP) under Section 45(2) of the Offences Against the State Act, 1939 to direct that a person is not sent for trial in the Special Criminal Court, which operates with three judges and without a jury.

Unless a resolution is put forward for it to continue, Section 8 of the Criminal Justice (Amendment) Act 2009 ceases to be in operation within 12 months of the Act being passed. Before a resolution is put forward, the Minister for Justice is required to present a report outlining how this Section has operated since it was last confirmed. For information on the most recent renewal provisions of Section 8, see Section T3.4 of this workbook.

## **Offences Against the State (Amendment) Act, 1998**

The Offences Against the State (Amendment) Act, 1998 amends and extends the Offences Against the State Acts 1939–1985. It was introduced in response to the Omagh bombing in 1998. The measures in the Act targeted four areas:

1. They changed the rules of evidence applied to the offence of membership of unlawful organisations.
2. They created new substantive offences relevant to the activities of unlawful organisations and those who support them.

3. They strengthened the hands of the courts regarding those supporting activities of unlawful organisations or engaging in offences on their behalf.
4. They extended the maximum period of detention permitted under Section 30 of the Offences Against the State Act, 1939.

For information on the most recent confirmation of this Act, see Section T3.4 of this workbook.

### **Revenue Commissioners Customs Division**

Following its enactment in June 2015, the Customs Act 2015 commenced in full in December 2016. Under the provisions of the Act, offenders can be penalised for the same offence under several pieces of legislation at the same time. Customs officers have the power to search, seize, and detain anything that may be used as evidence of an offence under the MDA, 1977. In addition, if a Customs officer believes that an individual is in possession of controlled drugs that are hidden internally, the officer is allowed to detain the individual and is required to hand the individual over to a member of AGS as soon as possible.

### **Postal service**

The Interception of Postal Packets and Telecommunications Messages (Regulation) Act, 1993 regulates the intervention of certain postal packets. Under Section 2 of the Act, and with conditions noted in Section 4, permission can be obtained from the Minister for Law Enforcement to intercept a package if it is for the purpose of a criminal investigation.

### **Public Transport Act 2016**

The Public Transport Act 2016 was enacted on 8 February 2016. The aim of the Act is to provide technical amendments to the following Acts:

- Dublin Transport Authority Act 2008
- Taxi Regulation Act 2013
- Road Traffic Act, 1961
- Railway Safety Act 2005, and
- State Airports Act 2004.

The amendment to the Dublin Transport Authority Act 2008 allows an authorised person or member of AGS who suspects that a person is committing or has committed an offence under Section 15 of the MDA, 1977 to remove or escort an individual from any form of public passenger transport. An arrest can be made:

- If justified, or
- If the individual is not willing to provide a name or address, or
- If the individual gives a false name and address.

### **European Union (Freezing and Confiscation of Instrumentalities and Proceeds of Crime) Regulations 2017**

Secondary legislation (S.I. No. 540/2017 – European Union (Freezing and Confiscation of Instrumentalities and Proceeds of Crime) Regulations 2017) was enacted in November 2017 to

implement Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union (EU). The Directive allows for law enforcement agencies of EU member states to confiscate and recover the profits that criminals make from serious and organised cross-border crime. It lays down minimum rules with respect to the freezing and confiscation of criminal assets through direct confiscation, value confiscation, extended confiscation, non-conviction-based confiscation (in restricted circumstances), and third-party confiscation.

### **Judicial Council Act 2019**

The Judicial Council Act 2019 was enacted on 23 July 2019. Sections 1, 2, 24(4), 25, 32–34, 44(6), 45, 65, and 66(3) commenced in September 2019. Sections 65, 66 (1–6), and 67–97 commenced in December 2019, and Sections 98 and 99 commenced in April 2021. The Act provides for the establishment of a Judicial Council, which will be an independent body that will promote and maintain excellence and high standards in the Irish justice system. In addition, it will provide a statutory basis for the training of judges and for the investigation of complaints against judges.

Under the provisions of the Act, the Judicial Council will also be responsible for establishing several subcommittees, including a Judicial Studies Committee; a Personal Injuries Guidelines Committee; a Sentencing Guidelines and Information Committee; and a Judicial Conduct Committee.

### **Parole Act 2019**

The Parole Act 2019 was enacted on 23 July 2019 and commenced in July 2021. The purpose of the Act is to confer responsibility for granting parole upon an independent statutory body. The Act is divided into three parts: Part 1 addresses preliminary and general matters; Part 2 addresses the Parole Board and its powers and composition; and Part 3 deals with parole applications, guiding principles, and the parole process.

### **Criminal Records (Exchange of Information) Act 2019**

The Criminal Records (Exchange of Information) Act 2019 was enacted on 26 December 2019 and commenced on 7 February 2020. The aim of the Act is to allow for the exchange of criminal records information between Ireland and other EU member states. The Act transposes two decisions into Irish law:

1. Council Framework Decision 2009/315/JHA of 26 February 2009, which gives effect to the organisation and content of the exchange of information extracted from the criminal record between EU member states, and
2. Council Decision 2009/316/JHA of 6 April 2009, which gives effect to the establishment of the European Criminal Records Information System in application of Article 11 of Framework Decision 2009/315/JHA.

The Act contains several provisions, including:

- Section 3, which provides for the recording of the nationality of convicted persons
- Section 4, which provides for the exchange of information where a person from another EU member state is convicted of an offence in Ireland



- Section 5, which provides for the exchange of information where an Irish national is convicted of an offence in another EU member state
- Section 6, which provides for the exchange of information from the Criminal Records Database to be used in criminal proceedings against an individual, who can be a national of Ireland or a national of another EU member state (a copy of the criminal record can be provided on request), and
- Section 9, which provides for time limits for replies to requests for information; these must be carried out no later than 10 working days from when the request was received.

Annex A of the Criminal Records (Exchange of Information) Act 2019 provides an outline of common offence categories where the exchange of information would come under this Act, including: crimes within the jurisdiction of the International Criminal Court; participation in a criminal organisation; terrorism; human and illicit trafficking; offences related to drugs or precursors and other offences against public health; offences against the State; offences against information systems and other computer-related crime; forgery; falsification of documents; and offences against traffic regulations.

### **Counterfeiting Act 2021**

The Counterfeiting Act 2021 was enacted on 5 July 2021 and commenced on 3 August 2021. The Act transposes Directive 2014/62/EU of the European Parliament (Part 2), which updates and replaces Council Framework Decision 2000/383/JHA. The Act provides for three EU instruments that address the authenticity of euro banknotes and euro coins, as well as measures that will protect the euro against counterfeiting. The Act strengthens and adds to existing offences in the Criminal Justice (Theft and Fraud Offences) Act, 2001.

### **Criminal Procedure Act 2021**

The Criminal Procedure Act 2021 was enacted on 24 May 2021 and commenced on 28 February 2022. The Act provides for preliminary trial hearings in respect of trials of certain criminal offences (Part 2) and for the provision of certain information to juries (Part 3). In addition, it allows for amendments to be made to the Criminal Procedure Act, 1967; the Criminal Justice Act, 1984; and the Criminal Procedure Act 2020, and other related matters (Part 4). The Act is expected to reduce delays and interruptions, increase efficiency in how criminal trials are carried out in Ireland, and reduce the length of trials (McEntee 2021b). In addition, preliminary hearings are expected to reduce the probability and frequency of the jury being sent away after being sworn in; this will reduce the impact on victims because there will be a higher likelihood that the trial will go ahead on the appointed day (McEntee 2021b).

### **Maritime Jurisdiction Act 2021**

The Maritime Jurisdiction Act 2021 was enacted on 22 July 2021. The Act provides for the consolidation of the State's maritime jurisdiction legislation and updates international law by giving effect to certain provisions of the United Nations Convention on the Law of the Sea and other related matters. The Act contains the following provisions:

- Under Section 10, it is an offence to carry out an offence on board a foreign ship that is under the jurisdiction of Ireland; those who do so can be arrested, tried, and punished in an Irish court.

- Under Section 22, if an offence is carried out on an Irish ship outside the Irish territorial zone, it is deemed an offence as if it was carried out by the individual in the State.
- Under Section 3, subsection A, rules applicable to all ships, Article 27, Section 1 (d), an arrest can be made, or an investigation can be carried out, in order to disrupt illicit drug trafficking.

### **Garda Síochána (Functions and Operational Areas) Act 2022**

The Garda Síochána (Functions and Operational Areas) Act 2022 was enacted on 4 May 2022. The Act facilitates the implementation of the new AGS operational model. It provides for legislative amendments that will allow structural changes to Garda districts. In addition, such that specified functions of members of the Garda Síochána under certain enactments may be performed by members of a different rank. A map showing the administration region boundaries of the new operational structure of AGS can be found in Section T2.2 in the *Drug markets and crime* workbook.

### **Defence Forces (Evidence) Act 2022**

The Defence Forces (Evidence) Act 2022 was enacted on 6 July 2022. The Act provides powers to military police to test for drugs and alcohol by taking bodily samples from military persons suspected of certain crimes for the purpose of investigations within the Irish jurisdiction and outside the jurisdiction when Defence Forces personnel are deployed overseas. It also provides for the establishment of a DNA (Military Police) Database System to be administered by Forensic Science Ireland. The Act is similar to the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014, which provides for the taking of DNA samples by AGS and for the establishment of a DNA database system with a view to assisting AGS in the investigation of crimes.

### **Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016**

The Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016, which was enacted on 11 February 2016, commenced in full on 29 April 2016 (Fitzgerald 2016). Changes to this legislation in 2017 were not related to drugs offences.

Under the Act, once specific conditions have been met, certain convictions held by an individual, subject to specified limitations, can be classified as spent after 7 years. At the time of the commission of the offence, the individual must be aged 18 years or over and be a natural person. The person should have served, undergone, or complied with the sentence or order enforced by the court, which should be of no more than 12 months' duration. In addition, the sentence should not be an excluded sentence. Only one conviction can be classified as spent. However, where an individual has received more than one sentence for two or more offences relating to the same event, this can be viewed as one conviction.

The main outcome of this Act is that, legally, individuals are under no obligation to disclose certain spent convictions after 7 years. It is believed that this legislation was an important milestone in the rehabilitation of offenders in Ireland (Fitzgerald 2016). Amendments to extend and overcome the limitations of this Act have been proposed. See Section T3.4 of this workbook for an update on the Criminal Justice (Rehabilitative Periods) Bill 2018, which aims to overcome limitations of this Act.

### **Criminal Justice (Suspended Sentences of Imprisonment) Act 2017**

Following on from the Criminal Justice (Suspended Sentences of Imprisonment) Bill 2016, the Criminal Justice (Suspended Sentences of Imprisonment) Act 2017 was enacted on 15 March 2017

and commenced on 8 January 2019. The aim of the Act is to amend Section 99 of the Criminal Justice Act 2006, which refers to the power to suspend sentences in the event of another offence being carried out by an individual who was already the subject of a suspended sentence. The need for this amendment was a result of a High Court judgment in April 2016, which purported that some of the provisions in this Section were unconstitutional.

Under the provisions of this Act, when a person carries out a triggering offence having already received a suspended sentence for a previous offence, following court proceedings and the imposition of a sentence for the triggering offence, the individual will be remanded to the court that imposed the order of the suspended sentence so that the matter of activation of the suspended sentence can be dealt with. If the conviction for the triggering offence is appealed, then the original suspended sentence will not be dealt with until the appeal is dealt with.

### **Criminal Justice Act 2017**

The Criminal Justice Act 2017 was enacted in July 2017. The aim of the Act is to strengthen the law on bail by making amendments to existing legislation, including the Criminal Justice Act, 1984; the Criminal Justice (Public Order) Act, 1994; the Criminal Justice (Drug Trafficking) Act, 1996; the Bail Act, 1997; the Criminal Justice Act 2007; and the Criminal Justice Act 2011, and to provide for related matters. Sections 1, 3, 5, 8–10, 11, and 13 of the Act commenced in August 2017.

### **Criminal Justice (Corruption Offences) Act 2018**

The main purpose of the Criminal Justice (Corruption Offences) Act 2018 was to provide a single Act to repeal and replace several Acts that dealt with corruption in Ireland (for example, the Public Bodies Corrupt Practices Act, 1889; the Prevention of Corruption Acts, 1906 and 1916; Section 38 of the Ethics in Public Office Act, 1995; the Proceeds of Crime (Amendment) Act 2005 (Part 5); and the Prevention of Corruption (Amendment) Acts, 2001 and 2010). In addition, it provides renewed provision for the main requirements of a number of international anti-corruption instruments already ratified by Ireland.

### **Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Act 2018**

The Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Act 2018 was enacted on 14 November 2018, and a Commencement Order was signed by the then Minister for Justice and Equality for all Sections (except Section 32) to come into effect on 26 November 2018. The Act amended the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 to give effect to certain provisions of Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC, and to provide for related matters.

The Act extends and adds to obligations in existing legislation on financial institutions and other businesses relating to anti-money laundering, such as carrying out customer due diligence and reporting suspicious transactions. Significant provisions of the Act include those relating to the powers of gardaí appointed to the Financial Intelligence Unit, and the extension of provisions requiring enhanced due diligence to be applied to politically exposed persons. Further amendments were made to the 2010 Act in 2021.

### **Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Act 2021**

The Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Act 2021 was enacted on 18 March 2021. The aim of the Act is to amend the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 in order to transpose Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU into national law. It also provides an outline of enhanced customer due diligence procedures that require greater transparency around ownership, reducing the likelihood of anonymous financial transactions. It is believed that targeting money laundering is vital in the fight against organised crime. Various crimes, such as drug trafficking, human trafficking, and fraud, rely on hiding and converting the proceeds of crime (Browne 2021). The Minister of State at the Department of Justice with special responsibility for Law Reform and Youth Justice, James Browne, believes that by pursuing the proceeds of crime, those responsible can be brought to justice.

### **Criminal Justice (Mutual Recognition of Probation Judgments and Decisions) Act 2019**

The Criminal Justice (Mutual Recognition of Probation Judgments and Decisions) Act 2019 was enacted on 15 May 2019. The main purpose of the Act is to give effect to Council Framework Decision 2008/947/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions. Hence, if an Irish person commits an offence while working or studying in another EU member state and is sentenced to a Probation Order, Community Service Order, or alternative measure under the supervision of the probation service in that member state, they can apply to return home and be supervised by the Irish Probation Service (Stanton 2019). Similarly, the Act will allow a resident of another EU member state who commits an offence in Ireland, for which they receive a sentence of probation, to return to their country of residence under the supervision of the probation service in that member state. The Act also allows for the transfer of serious offenders who are subject to post-release supervision.

### **Criminal Justice (Mutual Recognition of Decisions on Supervision Measures) Act 2020**

The Criminal Justice (Mutual Recognition of Decisions on Supervision Measures) Act 2020 was enacted on 26 November 2020 and commenced in February 2021. The Act aimed to transpose Council Framework Decision 2009/829/JHA of 23 October 2009 on the application, between EU member states, of the principle of mutual recognition to decisions on supervision measures as an alternative to provisional detention. The main purpose of the Act is to provide an Irish resident who is charged with an offence while in another EU member state to have their bail conditions monitored in Ireland instead of being remanded in custody in that EU member state. It also provides for an individual from another EU member state to be granted bail on condition that they are being monitored in the State where they normally reside.

### **Criminal Justice (Theft and Fraud Offences) (Amendment) Act 2021**

The Criminal Justice (Theft and Fraud Offences) (Amendment) Act 2021, which was initiated on 1 January 2020 to give effect to Directive (EU) 2017/1371 of the European Parliament and of the

Council of 5 July 2017 on the fight against fraud to the EU's financial interests by means of criminal law, was enacted on 18 March 2021. This Act amended the Criminal Justice (Theft and Fraud Offences) Act, 2001 and the Criminal Justice Act, 1994 and provided for related matters.

### **Criminal Justice (Amendment) Act 2021**

The Criminal Justice (Amendment) Act 2021 was enacted on 8 December 2021. The aim of the Act is to repeal second or subsequent mandatory sentences in the areas of firearms and misuse of drugs and older legislation. The Act is a consequence of a ruling by the Supreme Court on 15 May 2019 in *Wayne Ellis versus the Minister for Justice and Equality*, which found that subsection 27(A) of the Firearms Act, 1964 was unconstitutional. That subsection allows the Oireachtas to impose mandatory penalties but only if they apply to all persons. Constitutionally, this is not permitted, and the Supreme Court held that mandatory penalties should only be administered by the courts. This fault is also evident under Section 15A and subsections (3E) and (3F), and Section 27 of the Misuse of Drugs Act, 1977 (as amended).

Section 6 of the Criminal Justice (Amendment) Act 2021 provides for an amendment to Section 27 of the Misuse of Drugs Act, 1977 – possession or importation of drugs with a value over €13,000 – with the aim of repealing the mandatory minimum term of 10 years' imprisonment for second or subsequent offences. See Section T1.1 of this workbook for more information on the MDAs and an outline of existing penalties.

Section 9 of the Criminal Justice (Amendment) Act 2021 provides for the removal of a reference to the minimum mandatory provision in Section 24 of the Parole Act 2019, which states that a person serving a minimum term of imprisonment under the Misuse of Drugs Act, 1977 shall not be eligible for parole before expiry of the minimum term.

## **T1.2 Implementation of the law**

### **T1.2.1 Sentencing practice related to drug legislation**

Sentencing practice for the possession or importation of controlled drugs for the purpose of sale or supply was examined in 2014 by the Irish Sentencing Information System (Mackey 2013).

Four offences were covered in the study:

1. Possession of controlled drugs for unlawful sale or supply (MDA, 1977, Section 15, as amended)
2. Possession of controlled drugs, valued at €13,000 or more, for unlawful sale or supply (MDA, 1977, Section 15A, as amended)
3. Importation of controlled drugs for unlawful sale or supply (several provisions found in the Customs Acts which refers to all enactments pre and post Customs Act 1954; the MDAs 1977–1984, as amended; and the Misuse of Drugs Regulations, 1988), and
4. Importation of controlled drugs, valued at €13,000 or more, for unlawful sale or supply (MDA, 1977, Section 15B, as amended).

See Section T5.2 of this workbook for further information on this study.

### **T1.2.2 Sentencing practice related to legislation designed to control NPS**

To date, data are not available on actual sentencing practice related to legislation designed to control NPS.

### **T1.2.3 How implementation might differ from the text of laws**

The maximum penalty for an offence that is outlined in the legislation permits a court to deliberate on all the circumstances of a case and impose an apt penalty up to the maximum specified in the legislation (Fitzgerald 2017). The sentence imposed by the court must be proportionate not only to the crime, but also to the individual offender. Through this process, the court must identify where on the sentencing range a case should lie, and then take into consideration any mitigating factors that may exist (Fitzgerald 2017).

Several reports have criticised Ireland's approach to sentencing. The Law Reform Commission (LRC) (2011) examined legislation concerning mandatory sentencing with the aim of determining whether legislative provisions for sentences were appropriate and beneficial. One area specific to the MDAs is the presumptive mandatory minimum sentence. It was highlighted that despite legislation being passed for specific purposes, there were disparities in how that legislation was implemented by the courts (Law Reform Commission 2011). In a subsequent report, the LRC recommended that the presumptive sentencing regime for drug offences be repealed (Law Reform Commission 2013b). A similar conclusion was drawn by the Penal Policy Review Group, which recommended that no further mandatory sentences or presumptive minimum sentences be introduced, stating:

In addition, the continuation of existing presumptive minimum sentences and the threshold for their application in drugs and other offences should be reviewed ... with a view to determining if this type of sentencing satisfies the need for proportionality in sentencing and fulfils the objective of reducing crime. As an initial step to comply with the principle of proportionality, the Review Group recommended an increase in the value of drugs, currently €13,000, possession of which triggers the presumptive minimum sentence of 10 years to a level commensurate with that sentence. (Strategic Review Group on Penal Policy 2014) (p. 99)

In 2017, the LRC published *Issues Paper on Suspended Sentences* (Law Reform Commission 2017), which built on its 2013 publication, *Report on Mandatory Sentences* (Law Reform Commission 2013b). In August 2020, the LRC published a report on suspended sentences. This report, which formed part of the LRC's *Fourth Programme of Law Reform* (Law Reform Commission 2013a), builds on the LRC's previous report, *Issues Paper on Suspended Sentences* (Law Reform Commission 2017). It examines the legislation and the underlying principles behind the use of suspended sentences in Ireland. Centred on intensive research and widespread consultation with government and non-government agencies, practitioners, and experts, the report's authors concluded that a suspended sentence as a sanction is an appropriate flexible sentencing option that can be imposed in a court of law (Law Reform Commission 2020). Moreover, this approach is "compatible with sentencing aims of retribution, deterrence (general and specific) and rehabilitation" (Law Reform Commission 2020) (p. 62). See Section T3.3 of this workbook for further information on more recent work by the LRC.

## Drug testing in prisons

Please see Section T1.3.1 of the *Prison* workbook for information on the *Irish Prison Service Drugs Strategy 2023-2026* (Irish Prison Service 2023a)

## T2. Trends

### T2.1 Changes in penalties and definitions of core offences

There have been no changes to the definition of the core offences since 2000. In terms of identifying the beginning of a trend, the most significant changes in the criminal laws that apply to drug-related crime began following the summer 1996 assassination of Veronica Guerin, a high-profile journalist who had written a number of exposés about criminals linked to the illicit drug trade. This was a catalyst for the introduction of a range of legislative and policy initiatives in response to the drug problem at that time. Some examples of this legislation include the following:

- The Criminal Justice (Drug Trafficking) Act, 1996 allowed for the detention of suspected drug dealers for interrogation for up to 7 days and placed restrictions on the 'right to silence' (Keane 1997; Ryan 1997).
- The Criminal Assets Bureau Act, 1996 and the Proceeds of Crime Act, 1996 established the Criminal Assets Bureau (CAB) with the power to seize the illegally acquired assets of criminals involved in serious crimes, including drug dealing and distribution (McCutcheon and Walsh 1999). This legislation allows the State to remove the property of citizens – where it believes such property to be the proceeds of crime – by means of a civil process and without the requirement of a criminal conviction, thereby bypassing the traditional protections of the criminal law.
- The Bail Act, 1997, facilitated by the passage of a referendum, places restrictions on the right to bail and allows for preventive detention, something that was previously unconstitutional under Irish law (Kilcommins et al. 2004).
- The Criminal Justice Act, 1999 introduced mandatory minimum sentences of 10 years for drug dealing involving drugs with a street value of €13,000 or more.
- The Housing (Miscellaneous Provisions) Act, 1997 enabled local authorities to evict individuals for drug-related antisocial behaviour.
- The Non-Fatal Offences Against the Person Act, 1997 included provisions specifically addressing the use of HIV-infected syringes in robberies and aggravated burglaries. This piece of legislation, along with the Housing (Miscellaneous Provisions) Act, 1997, was introduced in response to pressure from local communities to address open drug dealing by some residents in local authority housing estates (Connolly 2006).

Since 2000, significant laws have been introduced, initially in response to organised crime, but later in response to head shops selling NPS. See also Pike (Pike 2008), Appendix II, for a list of legislation enacted between 2001 and 2007 that directly or indirectly impacts on drug policy.

More recently, other changes have occurred, including the following:

- The Proceeds of Crime (Amendment) Act 2016 was enacted on 27 July 2016. It amended the Proceeds of Crime Act, 1996 by providing for the administrative seizure and detention of property other than land by the CAB. Under the provisions of the 2016 Act:
  - A CAB officer can seize property initially for 24 hours if they have reasonable grounds for suspecting that it is the proceeds of a crime. If the CAB is carrying out an investigation with a view to applying to the High Court for an interim order or interlocutory order, this can be extended to 21 days.
  - The threshold value of property subject to the Act was reduced from €13,000 to €5,000.

## **T2.2 How the implementation of the law has changed since 2000**

Diversion is an important means of seeking to prevent crime, including drug-related crime, both before and after a crime has been committed. What follows is an outline of how the implementation of Irish law has changed since 2000.

Following a youth justice review, the Irish Youth Justice Service (IYJS) was established in 2005 within the Department of Justice and Equality (DOJE) to oversee and support the operation of the youth justice system and provisions of the Children Act, 2001 (Irish Youth Justice Service 2019b). The main objective was to develop a coordinated partnership approach among agencies working in the youth justice system, with the aim of improving service delivery and reducing youth offending. The IYJS's responsibilities were to:

- Develop a unified youth justice policy
- Devise and develop a national strategy to deliver this policy and service (more details on this strategy can be found under the heading 'Youth Justice Strategy 2021–2027' in this section)
- Link this strategy with other child-related strategies, where appropriate
- Manage and develop children detention facilities
- Manage the implementation of provisions of the Children Act, 2001 that relate to community sanctions, restorative justice conferencing, and diversion
- Coordinate service delivery at both national and local levels
- Establish and support consultation and liaison structures with key stakeholders, including at local level, to oversee the delivery of this service and response, and
- Develop and promote information sources for the youth justice sector to inform further strategies, policies, and programmes (Irish Youth Justice Service 2005).

The IYJS was later reorganised as a co-located office within the Department of Children and Youth Affairs (DCYA) and the DOJE, where the DCYA was responsible for the operation of detention facilities that are centralised at Oberstown Children Detention Campus (OCD) and the DOJE supported the operation of the Garda Juvenile Diversion Programme and related programmes and initiatives (Irish Youth Justice Service 2019a). In October 2020, administration and ministerial functions related to youth justice were transferred from the DCYA to the DOJE (see S.I. No. 435/2020



– Youth Justice (Transfer of Departmental Administration and Ministerial Functions) Order 2020). The DCYA is now known as the Department of Children, Equality, Disability, Integration and Youth.

### **Youth Justice Strategy 2021–2027**

On 15 April 2021, the Minister for Justice, Helen McEntee, and the Minister of State at the Department of Justice with responsibility for Law Reform and Youth Justice, James Browne, launched the new *Youth Justice Strategy 2021–2027* (Department of Justice 2021a). The strategy is centred on a developmental framework that aims to target ongoing and emerging challenges in youth justice (Department of Justice 2021a). A key strength of this strategy is that its development was informed by an expert steering group representing key stakeholders, such as the Department of Justice; Department of Health; Department of Children, Equality, Disability, Integration and Youth; the Probation Service; AGS; ODCD; Department of Education; Tusla – Child and Family Agency; University College Cork (UCC); University of Limerick; SOLAS; Children’s Rights Alliance; and Foróige. The steering group was assisted by experts, including Dr Louise Forde and Dr Katharina Swirak from the UCC Centre for Children’s Rights and Family Law, who provided content and guidance from a valuable evidence base (Department of Justice 2021a). In December 2022, the DOJ provided an update on the progress made in addressing the objectives and key actions identified in the *Implementation Statement 2022: Youth Justice Strategy 2021–2027* (Department of Justice 2023b). A synthesis of this statement can be found in Section T4.1 of this workbook.

### **Progress on Youth Justice Strategy: Implementation statements**

Each year, the Department of Justice publishes implementation statements outlining the progress made in addressing the objectives and key actions identified in the *Youth Justice Strategy 2021–2027*. The most recent update is outlined in Section T4.1 of this workbook.

### **Garda Youth Diversion Programmes**

Garda Youth Diversion Programmes have been in existence since 1963 and provide an opportunity to divert young offenders from criminal activity. Responsibility for the operation of the programmes lies with the Garda Youth Diversion Office, which is part of the Garda Youth Diversion Bureau (An Garda Síochána 2022). There are two programmes administered by specially trained gardaí, who are called Garda Juvenile Liaison Officers: the Garda Juvenile Diversion Programme and the Garda Youth Diversion Projects (GYDPs). They avail of restorative justice and restorative practices in order to try and target offending behaviour in young people aged under 18 years (An Garda Síochána n.d.). Under the Garda Juvenile Diversion Programme, when a child comes into contact with the justice system, the gardaí may, in certain circumstances, issue a caution and provide supervision instead of going to court. As part of the caution, it may also be a requirement that the child tries to address some of the upset that has been caused by their behaviour, for example by apologising to victims, following a curfew, or agreeing to take part in activities such as sport. They may also be referred to the GYDPs, which target young people aged 12–17 years who are engaged in criminal/antisocial behaviour that puts them at risk of remaining within the criminal justice system or at risk of continuing to engage in that behaviour (Irish Youth Justice Service 2019a).

GYDPs aim to bring about the conditions whereby the behavioural patterns of young people towards law and order can develop and mature through positive interventions and interaction with the project. The objectives of the GYDPs are to:

- Promote focused and effective interventions to challenge and divert young people away from offending behaviour
- Utilise GYDP resources in the areas of greatest need in order to establish effective crime prevention supports in cooperation with other youth service providers nationwide, and
- Actively promote crime prevention policy through focused educational interventions, influencing the positive development of young people towards becoming responsible citizens (Irish Youth Justice Service 2019a).

In order to obtain a place in these programmes, approval is sought from the GYDP referral committee, which assesses cases on an individual basis after taking the following areas into consideration:

- Completion of the Youth Level of Service/Case Management Inventory–Screening Version (YLS/CMI SV) assessment tool; those scoring above 3 are considered moderate to higher risk and are viewed as suitable for admission to the programme
- The ability and willingness of the young person to engage with the GYDP, and
- Whether participation in the GYDP is the most suitable support for the young person (Irish Youth Justice Service 2019b).

Once accepted into the GYDP, participants complete the Youth Level of Service/Case Management Inventory 2.0 (YLS/CMI 2.0). This is a more detailed assessment of the risks and needs of the young person and allows for a case management plan to be developed. This helps youth justice workers to identify and prioritise areas of risk/need that should be targeted in order to address the offending behaviour. Reassessments and case management reviews are undertaken every 6 months in order to monitor progress. Only trained personnel are allowed to use the YLS/CMI SV and YLS/CMI 2.0. Children aged between 10 and 11 years may also be considered at the discretion of the referral committee if there is a clear rationale for doing so; for example, when a child is considered to be at high risk.

There are currently 99 GYDPs in Ireland (Browne 2024). GYDPs are co-funded by the Irish Government and the European Social Fund (ESF) Operational Programme. In the new 2021–2027 European Social Fund Plus (ESF+) programme, €508 million has been allocated to Ireland (Eu Funds Ireland 2022). The ESF+ programme is managed by the ESF Managing Authority in the Department of Further and Higher Education, Research, Innovation and Science (Egan 2021). Additional funding of €18 million was also provided by the Irish Government (McEntee 2021a). Since then, further funding has been allocated: €6.7 million in 2021 (McEntee 2022), €832,000 in 2022 (once-off funding), €2.5 million in 2023 (Department of Justice 2022), and €2.9 million in 2024 (McEntee, 2024, 26 Sep). This brings the total budget for GYDPs to €33 million (McEntee, 2024, 26 Sep).

### **Evaluation report on Youth Diversion Projects**

The *Evaluation of Youth Diversion Projects* report was launched on 13 June 2023 by the Minister of State at the Department of Justice, James Browne (Research Matters Ltd 2023; Department of Justice 2023a). This was the first evaluation report on Youth Diversion Projects (YDPs) and was carried out by Research Matters Ltd between December 2021 and November 2022. The central aim was to create policy-relevant information relating to the structure, conduct, and impact of YDPs. The

findings were broken down into two categories: 1) structure, governance, and resource analysis, and 2) implementation of service analysis.

### ***Structure, governance, and resource analysis***

Good coherence was shown between the stakeholders in their understanding of the purpose of YDPs being centred on a belief that crime reduction can be achieved via increased life opportunities for young people. The support provided by national governance structures was viewed positively, while the governance of projects at a local level was deemed to work well in practice. At the local level, there was a feeling of being supported by national structures. This was evident through good partner cooperation and interaction, along with a commitment and willingness to engage. However, at project level, managers had reservations with regard to whether project committees should be involved in overall governance, risk, and financial management.

Budget analysis showed differences in how budgets were allocated, with three-quarters of the budgets being allocated to employee pay costs. This necessitates further exploration. In addition, there is no single pay scale in operation across projects. Managers, youth justice workers, and juvenile liaison officers were experienced and well educated; however, less than one-fifth of those employed in this area had achieved a qualification in youth justice. While youth justice workers reported high job satisfaction in relation to training opportunities, manager support, and the quality of service they provided, there were issues around promotion and professional supervision. The introduction of the MA degree under the Research Evidence into Policy Programmes and Practice (REPPP) project at the University of Limerick was welcomed.

### ***Implementation of service analysis***

The report authors presented a detailed analysis of the interventions implemented in GYDPs. Interventions that were applied targeted issues that arose in the GYDP plan. There was considerable diversity between the interventions. In more than 80% of GYDP plans, only one intervention in relation to education or employment was implemented. Only 16 GYDPs plans implemented interventions related to criminal behaviour. Due to the focus of the projects, this was viewed as a surprising outcome. However, it does lend support to another GYDP focus: namely, the building of better life chances for young people in order to reduce criminality (Research Matters 2023). On a positive note, the analysis of GYDP plans indicates that the planning and implementation of projects are aligned and shows that the nature and structure of projects target specific local needs.

### ***Limitations***

As acknowledged by the report authors, all approaches used to collect data have their own limitations. For example, although using online surveys is efficient and convenient, they do not capture the complexity of the contexts in which the GYDPs operate. There is also a potential for bias by those who complete such surveys. The response rate for surveys was also low; hence, the results should be interpreted with caution. The qualitative interviews overcame the survey limitations; however, interview participants were only from the eight case study sites. Young people, family members, and project committee members were identified by the site manager or coordinator of each site. Only young people who engaged with the projects were interviewed; those who disengaged were not. How project effectiveness was measured was another limitation due to difficulties in accessing relevant crime data. While Youth Level of Service (YLS) data provided some measures of effectiveness, this was based on professional judgements on assessments recorded in

the annual performance report file. However, the multiple methods used in the study mitigated some of these limitations to a certain degree.

### **Recommendations**

Numerous recommendations (N=52) arose from the evaluation. These focused on:

- Improvements in governance (n=11)
- Resourcing of YDPs (n=5)
- Personnel (n=7)
- Implementation of YDPs (n=7)
- Outcomes and impacts (n=6), and
- Further research and data development (n=16).

### **Conclusion**

The review authors were unable to determine whether the YDPs were effective in reducing crime; however, they are performing well in several locations, which does impact positively on crime reduction. Although recommendations for change have been made, project governance is considered good; cooperation is high; and experience, qualifications, and satisfaction of staff are high. There is evidence of best practice in implementation, while feedback from those participating is positive.

The evaluation report was welcomed by Minister Browne. He believed the report was an opportunity to appreciate the impact that YDPs have had and that the recommendations and insights provided will inform the future progress and direction of GYDPs. He thanked all those who participated in the evaluation and stated that the findings of the evaluation illustrate the “commitment and willingness among all participants to work towards a shared purpose, centred on the needs of vulnerable children and young people” (Department of Justice 2023a) (p. 2).

Further detail on the literature review, methods, and research questions of this evaluation can be found in Section T4.1 of the *Ireland: national report for 2023 – legal framework* (Health Research Board 2024).

Similar to the GYDPs, the Irish Probation Service has a Young Persons Probation (YPP) division of trained staff who work specifically with children and young people aged 12–18 years who come before the courts, or those who are in children detention schools or centres. This service has been in operation for 15 years (The Probation Service 2022).

The YPP service is underpinned by two key principles:

1. The detention of children and young people should only be used as a last resort, and
2. A belief that, in most cases, community sanctions are more effective and lasting (The Probation Service 2015).
3. YPP projects support and motivate young people to address the cause of their offending behaviour and to make positive changes in their lives so as to avoid further offending. Some of the areas of work include educational needs, self-care living skills, drug and alcohol misuse, and emotional and mental health. No new data are available from the Probation Service for 2023. In 2022, the Probation Service received 702 court referrals for young people, of which

665 pre-sanction reports were prepared for the Court (The Probation Service 2023). A total of 645 young people were supervised by the Probation Service in 2022 (The Probation Service 2023). Currently, there are seven YPP projects funded by the Probation Service (The Probation Service 2023).

The Drug Treatment Court (DTC) programme targets people with drug addiction problems who come before the District Court on minor criminal charges linked to their drug addiction and who plead guilty or have been convicted of the charge(s) (Courts Service 2019). In order to obtain a place in the DTC programme, the person must have pleaded guilty to or been convicted of non-violent crimes in the District Court. They (or their solicitor) can then ask the judge to remand them to the DTC. They are assessed by the Probation Service to determine their suitability/motivation to participate. The person must be:

- Serious about addressing their drug habit
- Willing to undergo treatment
- Over the age of 17 years, and
- Residing in Dublin (preferably with a Dublin 1, 2, 3, 6, 7, or 8 postcode) (Courts Service 2017).

The judge then decides whether to send the person to the DTC. Once a person is accepted into the programme, their charge(s) is/are put on hold. The DTC is supported by an interagency multidisciplinary team consisting of a DTC liaison nurse, a probation officer, an education coordinator, a DTC coordinator, gardaí working at the DTC, and other people who can help participants. The members of the team have specific roles in relation to each phase of the programme, and the DTC coordinator is their main point of interaction.

At the induction stage, potential participants meet the members of the team. For all participants, accessing drug treatment is essential. A participant can opt to try to detoxify in the community or in hospital, go drug free, or take methadone maintenance or methadone reduction treatment. The participant will come to an agreement about their treatment with the team and will attend counselling and group work. As well as the drug treatment, the participant will be required to take part in educational and/or other programmes within the community to give them new skills or to improve skills they may already have. Participants must abstain from their main drug of choice upon admission. As they progress through the programme, further testing is carried out for other drugs (Courts Service 2017).

For each participant, a Personal Progression Credits Chart is drawn up, where they get ongoing feedback as to how they are getting on in the programme. The programme consists of three phases: bronze, silver, and gold. Decisions on the participant's success at each phase are made by the judge based on information provided by the team. Participants are required make sufficient progress to ensure that they move through each phase in less than 12 months, but this is often dependent on the motivation and needs of the individual (Courts Service 2017).

The focus of this intervention is on addressing the participant's substance misuse issues and thereby supporting the offender to desist from crime, reducing the likelihood of further offending. The process is diversionary, providing a restorative justice alternative to a custodial sentence for persons with drug addiction who have pleaded guilty before, or have been convicted by, the District Court for minor, non-violent criminal charges connected to their addiction. In 2021, the DTC received eight

referrals from the District Court (The Probation Service 2022). Doing well in the programme could, on the recommendation of the DTC judge, result in a suspended sentence (Courts Service 2017).

The most recent national drugs strategy in Ireland, *Reducing Harm, Supporting Recovery: A health-led response to drug and alcohol use in Ireland 2017-2025* (Department of Health 2017), identifies the future direction and objectives of the DTC as a strategic action (see Section 3.1.3.4, p. 58 of the strategy document) (Department of Health 2017). In 2018, discussions about the future direction and objectives of the DTC were initiated by the Department of Health, and discussions have been carried out with the Courts Service to progress the independent evaluation of the DTC. While these discussions were expected to continue in 2019 with the aim of appointing independent evaluators by Q4 2019 (Drugs Policy Unit Department of Health 2019), progress has been slow (Drugs Policy and Social Inclusion Unit 2021). However, the DTC evaluation and recommendations for future direction have been identified as strategic priorities in the *National Drugs Strategy: Strategic Action Plan 2023-2024*, where the DOJ is to take the lead to identify funding to complete the work via a tendering process (Department of Health 2023). No further updates are available at this time.

### **Community courts**

The Strategic Review of Penal Policy group welcomed a proposal to pilot a community court in Ireland in 2014 and emphasised the need to ensure that such courts are adequately resourced. The support for community courts in Ireland has come from several areas, as follows:

- In a 2007 report making the case for community courts in Ireland, the National Crime Council recommended the establishment of such a court in Dublin's inner city to deal with "quality of life offences committed in the Store Street and Pearse Street Garda station catchment areas" (National Crime Council 2007) (p. 39).
- In early 2014, the Dublin City Business Association (DCBA) called for the establishment of a community court as a means of addressing low-level crimes such as vandalism, theft, antisocial behaviour, drug use, and drug dealing in the capital city. See Section 9.6.2 of the *2014 National Report (2013 data) to the EMCDDA by the Reitox National Focal Point* (Health Research Board 2014) for an account of a seminar on community courts organised by the DCBA).
- In July 2014, the Houses of the Oireachtas Joint Committee on Justice, Defence and Equality published its report on community courts, recommending that a pilot community court be established in central Dublin "under the supervision of a single judge, supported by an implementation group and with the support of local community groups and services" (Joint Committee on Justice Defence and Equality 2014) (p. 9).
- An interagency Working Group on Alternatives to Prosecution (WGAP) was established in 2017 by the Criminal Justice Strategic Committee to consider options for moving forward with the establishment of a community court (personal communication, Department of Health, 2017). Drawing on recommendations put forward by the Houses of the Oireachtas Joint Committee on Justice, Defence and Equality, the WGAP also looked at ways of targeting low-level offenders and effectively addressing offending behaviour through a community justice intervention programme (Flanagan 2017). Deputy Charlie Flanagan, who was Minister for Justice and Equality at that time, was keen "to build on this work and is considering a number of possibilities including the creation of a statutory conditional cautioning system

which is being considered in the context of a comprehensive inter-agency examination” (Flanagan 2017).

The Implementation Oversight Group was established in 2012 to oversee implementation of recommendations of the Penal Policy Review Group. Overall, eight progress reports have been published by the Implementation Oversight Group. The eighth and final report, submitted in 2019, was published by the Minister for Justice Simon Harris in May 2023 (Implementation Oversight Group to the Minister for Justice and Equality 2023). The report showed that the implementation progress made remains rated as E – no progress phase. The DOJE were responsible for Courts Policy. Areas that have been addressed include the following:

- A preliminary Courts Policy meeting was held in May 2015 with representatives of the DOJE and other Irish justice agencies to scope out implementation steps.
- A follow-up meeting with the DOJE and other justice agencies was held in October 2015.
- An outline Courts Policy strategy for assessment was sent to the then Minister for Justice and Equality (Implementation Oversight Group to the Minister for Justice and Equality 2019).

Areas still to be addressed include the following:

- The DOJE is to review changes made following consideration of recommendations and their impact on recommendations for a community court before making final decisions (Implementation Oversight Group to the Minister for Justice and Equality 2019).
- A Courts Policy meeting of relevant groups was arranged to consider alternatives under recommendations for the Adult Caution Scheme and the Garda Youth Diversion Programme, specifically conditional cautioning (Implementation Oversight Group to the Minister for Justice and Equality 2019).
- As the establishment of a community court is unlikely to progress, alternative options, including conditional cautioning, are under consideration (Implementation Oversight Group to the Minister for Justice and Equality 2019).

### **Adult Caution Scheme**

The Garda Síochána Adult Caution Scheme was implemented in Ireland in 2006 and only applies to offences committed on or after 1 February 2006 and to persons aged 18 years and over (An Garda Síochána 2020). It is a non-statutory scheme that operates under the common law and discretionary powers of AGS (personal communication, Department of Health, 2017). The main premise behind the Scheme is that it provides an alternative to prosecuting the offender for a crime where it is not in the public interest to prosecute. Gardaí consider three areas before administering a caution: the public interest, the decision to caution, and the views of the victim. The Adult Caution Scheme is mainly applied to first-time offenders (personal communication, Department of Health, 2017). The acting district officer or acting inspector administers the caution, and the offender accepts the caution in writing. In contrast with the Garda Youth Diversion Programme, supervision is not arranged under the Adult Cautioning Scheme (Working group to consider alternative approaches to the possession of drugs for personal use 2019). Moreover, giving a caution is not conditional on the offender carrying

out another task – for example, reimbursing the victim. It is rare for an offender to receive a second caution; approval from the Office of the Director of Public Prosecutions is required in order to do so.

The list of offences available for disposal under the Adult Caution Scheme did not originally include drug offences (Working group to consider alternative approaches to the possession of drugs for personal use 2019). In December 2020, following a collaboration between AGS and the DPP, four new offences were added to the Scheme, one of which was offences under Section 3 of the MDAs 1977 and 1984 (simple possession) in relation to cannabis and cannabis resin only (An Garda Síochána 2020). No other controlled drugs offences are permitted under the Adult Caution Scheme.

Despite the level of work that has been done, concerns were raised by AGS. In October 2019, as a result of issues with the administration of the GYDPs, the Policing Authority commissioned an external evaluation of the Adult Caution Scheme, which was published in February 2021 (Crowe 2021). While the value of the Adult Caution Scheme was highlighted in relation to low-level offences, several challenges were identified: for example, weak governance within AGS; insufficient data and management information; considerable variance in how the Scheme was implemented; recording of data on PULSE (Police Using Leading Systems Effectively) being inadequate and not controlled for quality; and limited training being provided to those operating the Scheme (The Policing Authority 2021). AGS has responded to the evaluation and has identified remedial actions that can be taken to improve how the Scheme is administered (The Policing Authority 2021).

For further information on Adult Cautions please see Section T3.1 of the *Drug policy* workbook.

### **Bail Supervision Scheme**

The Bail Supervision Scheme (BSS) provides another alternative option to detaining a young person who comes before the courts by offering the possibility of granting bail with intensive supervision. By reducing the need for remand places, this also provides an opportunity to focus on developing successful community resources designed to prevent young people from being detained in a youth justice facility and from continuing further down the path of criminality.

Central to the delivery of the BSS is the use of the Multisystemic Therapy (MST) model. First implemented by Extern in 2001, this evidence-based model of intervention is family based and seeks to change how young people function in their natural ecology (home, school, and the community) in ways that promote positive social behaviour, while at the same time reducing levels of antisocial behaviour. The delivery of MST is typically home based, and therapists have small caseloads of four to six families, which enables them to work intensively with each family, typically over a 3–5-month period. The therapists' working hours are flexible, ensuring that they are available when families need them and that families can access support 24 hours a day, 7 days a week through the 'on-call' system. The MST therapist consults with and coaches parents and carers on strategies that enable them to set and enforce appropriate rules and expectations, decrease the young person's involvement with negative peers, and promote association with positive peers and involvement with prosocial activities (Extern 2019).

BSS staff liaise with agencies, including AGS, ODCD, and YPP, as well as through meetings with the judge and staff in the Dublin District Children Court in Smithfield (Court 55), and with those involved in both defence and prosecution legal teams. They also liaise with a wide range of agencies within the ecology of the young people in the Scheme, including educational establishments, youth groups, community groups, and local sports groups (Extern 2019).



In November 2016, the DCYA commissioned Extern to provide a pilot BSS. The effectiveness of the BSS was reviewed and evaluated by researchers from the REPPP project in the School of Law, University of Limerick. The evaluation found that offending behaviours were reduced, young people had greater compliance with their bail conditions, and custodial sanctions were reduced.

Further information on the BSS evaluation can be found in Section T5.2 of this workbook.

## **T3. New developments**

### **T3.1 Changes in laws in the last year**

#### **Misuse of Drugs (Amendment) Regulations 2024**

S.I. No. 71/2024 – Misuse of Drugs (Amendment) Regulations 2024 was signed into Irish law on 1 March 2024. The purpose of these Regulations is to amend the Misuse of Drugs Regulations 2017 to insert Lisdexamfetamine into Schedule 8, Part 5, to allow registered nurses and registered midwives to prescribe Lisdexamfetamine for use in mental health or intellectual disability care.

#### **Misuse of Drugs (Amendment) Regulations 2023**

S.I. No. 150/2023 – Misuse of Drugs (Amendment) Regulations 2023 was signed into Irish law on 7 April 2023. The purpose of these Regulations is to amend the Misuse of Drugs Regulations 2017 to take account of permitted contamination levels of particular foodstuffs under Commission Regulation (EC) No 1881/2006 of 19 December 2006, as amended by Commission Regulation (EU) 2021/2142 of 3 December 2021 and Commission Regulation (EU) 2022/1393 of 11 August 2022.

#### **Misuse of Drugs (Amendment) (No. 2) Regulations 2023**

S.I. No. 156/2023 – Misuse of Drugs (Amendment) (No. 2) Regulations 2023 was signed into Irish law on 7 April 2023. The aim of these Regulations is to amend the Misuse of Drugs Regulations 2017 to allow persons travelling to the State from a Schengen area State to carry with them certain controlled drugs pursuant to their right under Article 75 of the Convention Implementing the Schengen Agreement of 14 June 1985, as applied to the State by Article 1 of Council Decision 2002/192/EC of 28 February 2002.

#### **Misuse of Drugs (Prescription and Control of Supply of Cannabis for Medical Use) (Amendment) Regulations 2023**

The purpose of S.I. No. 5/2023 – Misuse of Drugs (Prescription and Control of Supply of Cannabis for Medical Use) (Amendment) Regulations 2023 is to first update and replace the current Schedule 1 in the Misuse of Drugs (Prescription and Control of Supply of Cannabis for Medical Use) Regulations 2019 (as amended) (the “Principal Regulations”) in order to include additional cannabis products or preparations for medical use as “specified controlled drugs”. The purpose of the Principal Regulations is to allow additional cannabis products or preparations for medical use to be prescribed and supplied under certain circumstances for the treatment of persons with certain medical conditions under the care of a medical consultant.

## **Misuse of Drugs (Prescription and Control of Supply of Cannabis for Medical Use) (Amendment) (No. 2) Regulations 2023**

S.I. No. 200/2023 – Misuse of Drugs (Prescription and Control of Supply of Cannabis for Medical Use) (Amendment) (No. 2) Regulations 2023 was signed into Irish law on 2 May 2023. The aim of these Regulations was to update and replace Schedule 1 in the Misuse of Drugs (Prescription and Control of Supply of Cannabis for Medical Use) Regulations 2019 (as amended) to include additional cannabis products or preparations for medical use as “specified controlled drugs”.

### **T3.2 Changes in the implementation of the law in the last year**

#### **Court outcomes for drug offences**

The Courts Service publishes data on the outcomes of drug offences in its annual report (Court Services 2024). Data for 2023 can be found in Section T1.2.1 of the *Drug markets and crime* workbook.

#### **Prison sentences for drug offences**

On 30 November 2022, the number of persons in custody who were under sentence for controlled drug offences comprised 10.5% (389 out of 3,701) of the total prison population (Irish Prison Services 2023b). The difference between the share of the total prison population in 2022 and 2023 (11.3%; 386 out of 3,409) was a 0.8 percentage point increase (Irish Prison Services 2023b). Please see Section T1.2.1 of the *Prison* workbook for a breakdown of people serving sentences for drug-related offences, by sentence length, as of 30 November 2022.

#### **Recidivism**

The recidivism rate is the percentage of people who were convicted of a crime incident that was recorded within 3 years of the date of their Probation Order. Recidivism rates can serve as an indicator of whether penalties for offending act as a deterrent to future offending behaviour. The Central Statistics Office (CSO) provides recidivism data for Ireland from two sources: prisons and probation services. It is important to note that the figures for prison and probation recidivism rates are categorised as ‘Under Reservation’ because they do not meet the standards required of official statistics published by the CSO.

#### ***Prison reoffending statistics***

The most recent reoffending data available from the CSO indicate that 41% of prisoners released from prison in 2020 reoffended within 1 year of release, and under 45% of ‘fine’ offenders for the same period reoffended within 1 year. Details of 3-year custodial reoffending indicate that 61% of prisoners released in 2017 reoffended within 3 years (Central Statistics Office 2022a). Overall drug reoffences accounted for 11.4% (182 out of 1,593) of reoffending behaviour. Of those who reoffended, 6.0% (96 out of 1,593 offenders) were initially imprisoned for a controlled drug offence. A small proportion of those initially imprisoned for a controlled drug offence were reconvicted for the same offence type (1.3%; 21 out of 1,593 offenders) (Central Statistics Office 2022a).

#### ***Probation reoffending statistics***

Figure T3.2.1 shows probation reoffending rates classified by time period to first reoffence for cohorts from 2008 to 2019 (Central Statistics Office 2020; Central Statistics Office 2021; Central Statistics Office 2022b; Central Statistics Office 2023).

Between 2008 and 2013, a decreasing trajectory was shown for probation recidivism rates within the first 12 months. However, between 2013 and 2016, 12-month recidivism rates increased annually. Since 2016, a slight decrease in 12-month recidivism rates was evident between 2016 and 2017 (by 2 percentage points), 2017 and 2018 (by 1 percentage point), and 2018 and 2019 (by 3 percentage points). Between 2008 and 2013, a similar decreasing trajectory is evident for recidivism rates within 24 months of an individual being placed under the management of the Probation Service. Since 2016, the reoffending rate decreased by 2 percentage points annually between 2016 and 2017 and between 2017 and 2018.

Within 36 months of being placed under the management of the Probation Service, a decreasing trajectory in recidivism rates was seen between 2008 and 2013, from 55% to 45%. Recidivism rates have increased since 2013, particularly between 2013 and 2015, although there has been a slight decrease between 2015 and 2016 (by 1 percentage point) and again between 2016 and 2017 (by 1 percentage point). Data on 36-month probation reoffending rates are not available yet for 2018 and 2019.

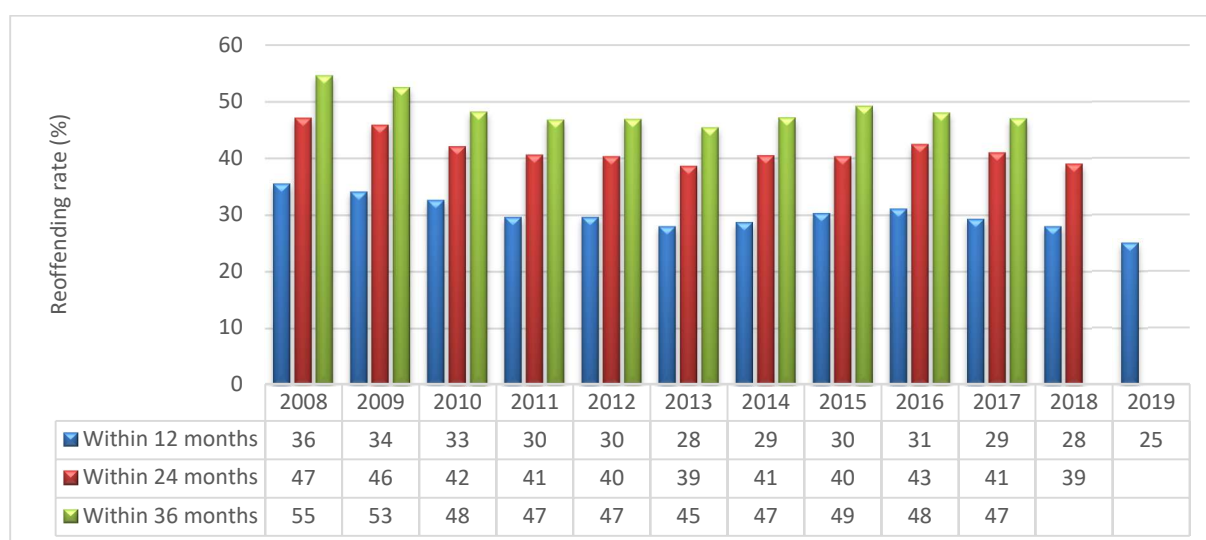


Figure T3.2.1 Probation reoffending rates classified by time period to first reoffence, 2008–2019 cohorts

Note: The reoffending rates for 2014, 2015, and 2016 provided by the CSO differ from those in other tables in this publication because post-release supervision orders are excluded in order to facilitate comparison with earlier periods.

Source: Central Statistics Office, 2023.

Figure T3.2.2 shows the rate of reoffending behaviour within 1 year among adult and young offenders who received Community Service Orders, Probation Orders, and post-release supervision orders between 2015 and 2019.

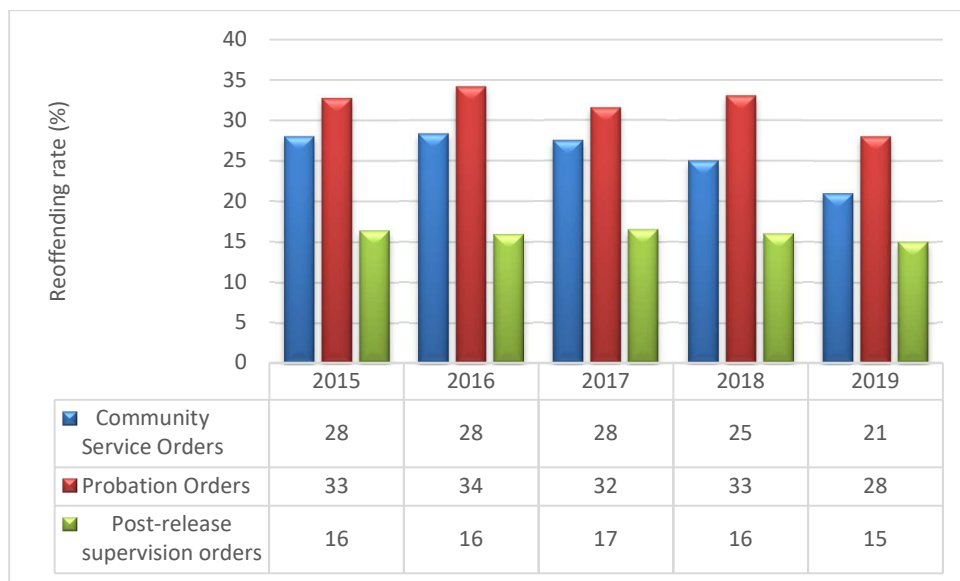


Figure T3.2.2 Proportion of Community Service Orders, Probation Orders, and post-release supervision orders received, 2015 and 2019

Source: Central Statistics Office, 2023.

Table T3.2.1 shows a breakdown of controlled drug offence referrals between 2012 and 2019. While the proportion of controlled drug offence referrals out of all probation referrals decreased between 2012 and 2015, a slight increase of 1 percentage point was evident between 2015 and 2016. A decrease of 1 percentage point was evident between 2016 and 2017, followed by a slight increase of 1 percentage point between 2017 and 2018. The proportion of controlled drug offences referrals out of all probation referrals increased from 13% in 2018 to 19% in 2019.

See Section T1.1.2 of this workbook for penalties for reoffending.

Table T3.2.1 Breakdown of controlled drug offence probation referrals, 2012–2019

Year	Total number of probation referrals	Total number of controlled drug offences referrals	Percentage
2012	2039	296	15%
2013	2074	257	12%
2014	1849	198	11%
2015	1250	148	12%
2016	1347	181	13%
2017	1368	168	12%
2018	1355	180	13%
2019	1323	172	19%

Source: Central Statistics Office, 2023.

### **T3.3 Evaluation of the law in the last year**

The Law Reform Commission (LRC) is responsible for reviewing and putting forward proposals for reform; for example, enacting legislation to clarify and modernise existing Irish legislation. The most recent report published by the LRC examined how the principles of suspended sentences are operated and applied in Ireland (Law Reform Commission 2020). Further information on this report can be found in Section T1.2.3 of this workbook.

In the LRC's *Report on Fifth Programme of Law Reform* (Law Reform Commission 2019), the Attorney General's Consultative Committee and the Oireachtas Joint Committee on Justice and Equality approved a project on structured sentencing. No update is available on this project.

Please see Sections T1.1.2, T1.2.1, T1.2.2, and T1.2.3 of this workbook for more information on sentencing in Ireland. The impact of legislation on the use of NPS was examined by Smyth *et al.* (2015) and Smyth *et al.* (2017) (see Section T5.2 of this workbook for further details on these studies).

### **T3.4 Major political discussions in the last year relating to legislation and implementation**

#### **Offences Against the State (Amendment) Act, 1998 and Criminal Justice (Amendment) Act 2009**

As has occurred in previous years, motions that Sections 2–4, 6–12, and 17 of the Offences Against the State (Amendment) Act, 1998 and Section 8 of the Criminal Justice (Amendment) Act 2009 should continue in operation from 30 June 2024 to 29 June 2025 were brought before the Dáil (McEntee 2024a) and the Seanad (Browne 2024) on 25 June 2024.

Prior to resolution, two reports were presented to the Houses of the Oireachtas on 20 June 2024 showing usage figures for the previous year (1 June 2023 to 31 May 2024) (McEntee 2024a).

Under the provisions of Section 30 of the Offences Against the State Act, 1939, 87 people were arrested during this reporting period; of these, 11 people were detained for offences contrary to the provisions of the Offences Against the State (Amendment) Act, 1998, and 76 people were detained/arrested for offences contrary to the provisions of the Offences Against the State Act, 1939. Four convictions were secured, and a further 24 persons are awaiting trial (Department of Justice, 2024c). What follows is a breakdown of the number of times sections of the 1998 Act was used:

- Section 2 – Membership of an unlawful organisation (inferences that may be drawn): 11 arrests
- Section 7 – Possession of Articles for Purposes Connected with Certain Offences: 3 arrests
- Section 9 – Withholding Information: 10 arrests
- Section 11 – Re-arrest under Section 30 of the 1939 Act: 2 arrests, and
- Section 14 – Offences under the Act to be Scheduled Offences: 13 arrests.

Arrests made that were relevant to the operation of Section 8 of the Criminal Justice (Amendment) Act 2009 pursuant to Section 8(6) of that Act were broken down into offences under Part 7 of the Criminal Justice Act 2006, in which Section 8 refers to:

- Section 71a – directing the activities of a criminal organisation: 13 arrests
- Section 72 – participating in or contributing to certain activities of a criminal organisation: 92 arrests
- Section 73 – committing an offence for a criminal organisation: 7 arrests, and
- Section 76 – liability for offences by bodies corporate: no arrests made under this Section in this reporting period (Department of Justice 2024d).

Since the enactment of the Criminal Justice (Amendment) Act 2009, 864 arrests have been made under the provisions of Section 8. There were 30 charges in total in relation to the 4 relevant provisions in respect of Section 8, of which 10 charges were brought before the Special Criminal Court (Department of Justice 2024d):

- Eighteen charges were related to the alleged breach of the provisions of Section 71A.
- Eleven charges were related to the alleged breach of the provisions of Section 72.
- One charge was related to the alleged breach of the provisions of Section 73.
- No charges were made pursuant to Section 76 (Department of Justice 2024d).

The division regarding the Offences Against the State (Amendment) Act, 1998 took place in the Dáil on 26 June 2024, and the question was declared carried (Yes=96, No=8, Refrained=31) (Ó Fearghaíl 2024). Section 8 of the Criminal Justice (Amendment) Act 2009 was not agreed to (Yes=65, No=85, Refrained=0) (Ó Fearghaíl 2024). The question for both motions was put forward and agreed in the Seanad on 26 June 2024 (Gallagher 2024).

In June 2023, Minister McEntee published two reports by the independent Review Group, which provided a review of all aspects of the Offences Against the State (Amendment) Act, 1998 under the chairmanship of Mr Justice Michael Peart (Independent Review Group 2023a; Independent Review Group 2023b). The DOJ has engaged with the recommendations of the review group from a policy, governance, and legislative perspective and is currently preparing a response to the review which Minister McEntee will present to the Government for approval. Minister McEntee continues to believe that these Acts and the Special Criminal Court have and still serve Ireland well (McEntee 2024a).

Further information on both Acts can be found in Section T1.1.4 of this workbook.

### **Criminal Justice (Engagement of Children in Criminal Activity) Act 2024**

The Criminal Justice (Engagement of Children in Criminal Activity) Act 2024 was enacted on 11 March 2024. The purpose of the Act is to provide for offences relating to the engagement of a child in criminal activity. Section 2 of the Act provides for the engagement of children in criminal activity,

- Under Section 2(1) of the Act, an adult who “compels, coerces or directs ... or deceives the child” (p. 1) for the purpose of engaging them in criminal behaviour shall be guilty of an offence.

- Under Section 2(2) of the Act, an adult who “induces or invites, or aids, abets, counsels or procures the child” (p. 2) for the purpose of engaging them in criminal behaviour shall be guilty of an offence.
- Under Section 2(3) of the Act, an adult can be convicted of an offence regardless of whether the child:
  - Engaged in the criminal activity
  - Intended to engage in the criminal activity, or
  - Has been prosecuted or found guilty of the offence of criminal activity.
- Under Section 2(4), any person found guilty of this offence will be liable:
  - On summary conviction to a Class A fine or imprisonment for up to 12 months or less, or both, or
  - On conviction on indictment to a fine or imprisonment for a term up to five years, or both.

Section 3 makes amendments to the Schedule to the Bail Act 1997.

- Under Section 3, the Schedule to the Bail Act 1997 was amended to include the following insertion after paragraph 44 – “offences under the Criminal Justice (Engagement of Children in Criminal Activity) Act 2024”. After paragraph 45 – “an offence under the Criminal Justice (Engagement of Children in Criminal Activity) Act 2024”.

The passage of this legislation was welcomed by Minister for Justice Helen McEntee and Minister of State for Law Reform James Browne (Department of Justice 2024a). It fulfils two Programme for Government commitments, which are: 1) to provide legislation to prevent children from being coerced into the selling and supplying of drugs and to address the issue of grooming children to partake in criminality; and 2) to criminalise adults who are responsible for grooming children to do so. It also fulfils objectives in the *Youth Justice Strategy 2021–2027* (Department of Justice 2021b).

Minister Browne stated that it “falls on us to protect the children of Ireland” and that it was only right to make “punishable the harm caused to children by drawing them into a life of crime” (Department of Justice 2024a) (p. 2). He went on to say that the legislation will make it “possible to prosecute the adult for both the crime that is committed by the child and for the harm done to the child” (Department of Justice 2024a) (p. 2), and that he believed that this is a “huge step in the right direction” (Department of Justice 2024a) (p. 2).

Minister McEntee acknowledged Minister Browne’s work in developing and steering the legislation through the Oireachtas along with the extension to the Greentown Project (Department of Justice 2024b). She believed that “it marks another step as we strive to deliver on our commitment to criminalise those who target some of the most vulnerable in our society, our children and young people, in order to commit offences” (Department of Justice 2024b) (p. 3). She added that “This legislation will be an effective tool for tackling organised crime. It will also protect children from the harmful effects of crime on their lives, their families’ lives and futures as citizens who are properly equipped to benefit fully from all that society has to offer” (Department of Justice 2024b) (p. 3).

## **Road Traffic Act 2024**

The Road Traffic Act 2024 was enacted on 17 April 2024. The purpose of the Act is to overcome anomalies evident in the existing legislation. It provides for changes to the penalty points regime (Part 2), speed limits (Part 3), and mandatory roadside testing of drivers involved in serious collisions for intoxicants, which will now include drug testing (Part 4). This section will focus on Part 4, which provides for several amendments to the Road Traffic Act 2010.

Under Section 12 of the 2024 Act, Section 9 of the Road Traffic Act 2010 is amended. Section 9 of the 2010 Act provides for four circumstances where gardaí can request breath specimens to test for drugs and alcohol if they are of the opinion that the person:

- a) Has consumed an intoxicant
- b) Is committing or has committed an offence under the Road Traffic Acts 1961–2011
- c) Is or has been involved in a collision with the vehicle, or
- d) Where an injury has been caused to the person, medical attention is required at the scene or where the person needs to go to hospital.

This meant that gardaí ‘shall’ test an individual’s breath for alcohol in situations (a) and (d) and ‘may’ do so in situations (b) and (c). However, in relation to drugs, the word ‘may’ is used for all circumstances. In situations (a) and (b), there was a requirement to test for alcohol but not for drugs. The new Act amends Section 9 so that the situations in which gardaí shall test for drugs and alcohol are now the same.

Sections 12 and 13 of the Road Traffic Act 2024 amend Sections 9 and 10 of the Road Traffic Act 2010 to include the insertion of subsections (2C) and (4A) after subsections (2A) and (4), respectively. Under both of these subsections, where a garda requires an oral fluid specimen from a person’s mouth, the individual is required to remain at the vehicle or nearby for at least 30 minutes after testing until the testing apparatus shows the presence or absence of drugs in the specimen.

Under Sections 14 and 15 of the Road Traffic Act 2024, amendments were made to Sections 22 and 23 of the 2010 Act. These amendments were wording changes that take account of the changes introduced under Sections 12 and 13 of the Road Traffic Act 2024.

## **Commencement**

Provisions for Part 4 of the Road Traffic Act 2024 commenced on 31 May 2024 (Department of Transport 2024). After signing the commencement order, Minister Chambers stated that:

The signing of the ‘mandatory drug testing’ provisions into law is an important milestone in our response to the trends we are witnessing on our roads. Driving under the influence is one of the four main causes of road fatalities and it is simply unacceptable. Ensuring that enforcement by An Garda Síochána is underpinned by robust road traffic legislation is a priority for me and my department. Government is committed to doing all it can to reverse the really alarming trends we have seen in recent times, where fatalities have been rising year-on-year. One life lost is one too many on our roads. I am committed to commencing the remaining provisions of the Act in the coming period, which will further enhance our response to the trend.  
(Department of Transport)



In order to ensure that gardaí have adequate roadside drug tests, the Department of Transport has sanctioned the acquisition of 10,000 additional DrugWipe test kits.

### **Policing, Security and Community Safety Act 2024**

The Policing, Security and Community Safety Act 2024 was enacted on 7 February 2024 and commenced in full on 17 May 2024. McEntee (2024b) welcomed the Act and stated that it is viewed as an essential part of the Government's policing reform plan – *A Policing Service for Our Future* (Government of Ireland 2019) – which was developed to implement recommendations from the *Future of Policing in Ireland* report (Commission on the Future of Policing in Ireland 2018). It fulfils commitments put forward in the *Programme for Government: Our Shared Future* (Fianna Fáil, Fine Gael, The Green Party 2020). The Act provides for the following:

- The strengthening of the governance, oversight, and accountability of AGS (for example, it provides for a Board of AGS and outlines how it will function; the independence of the Garda Commissioner along with their function and duties; and the recruitment of AGS and garda staff)
- The appointment of members of AGS and members of garda staff in order to improve the safety of, and the perception of safety in, communities through collaboration between relevant departments of State and public service bodies at national and local level, and for community engagement in the prevention of crime and harm and, for that purpose, the establishment of the National Community Safety Steering Group and its functions
- The establishment of the National Office for Community Safety and its functions in order to provide for local community safety partnerships
- The establishment of the Policing and Community Safety Authority and its functions
- The change of the Garda Síochána Ombudsman Commission, so that it shall be known as the Office of the Police Ombudsman, and the amendment and extension of its functions
- The appointment of the Police Ombudsman and Deputy Police Ombudsman
- The establishment of a body to be known as the office of Independent Examiner of Security Legislation and its functions
- The appointment of a person to be the Independent Examiner of Security Legislation, and
- The repeal of the Garda Síochána Act 2005, amendments to certain enactments, and other related matters.

### **Criminal Justice (Juvenile Offenders) Bill 2023**

The Criminal Justice (Juvenile Offenders) Bill 2023 was initiated on 29 March 2023. The aim of this Bill is to address gaps in the law in relation to juvenile offenders. The Bill provides for the following:

- Under Section 1, the Criminal Justice Act, 1990 will be amended so that a person convicted of murder for an offence carried out before they are aged 18 years will not receive the maximum penalty.
- Under Section 2, Section 151 of the Children Act 2001 will be amended to allow a court to have full discretion in setting the terms of detention or supervision orders.

- Under Section 3, Section 99 of the Criminal Justice Act 2006 related to suspended sentences will be expanded to include juveniles.

This Bill is currently before Seanad Éireann, Second Stage. No further updates are available at this time.

### **Misuse of Drugs (Cannabis Regulation) Bill 2022**

The Misuse of Drugs (Cannabis Regulation) Bill 2022 was initiated on 24 November 2022. The aim of the Bill is to provide amendments to the Misuse of Drugs Act, 1977 to allow a person who is aged at least 18 years to be in possession of cannabis and/or cannabis resin for personal use (Section 2). The onus of proving that the cannabis and/or cannabis resin is for personal use will be on the defendant (Section 3). The Bill is currently before Dáil Éireann, Second Stage.

### **Criminal Procedure and Related Matters Bill 2021**

The Criminal Procedure and Related Matters Bill 2021 was initiated in Seanad Éireann on 8 February 2021. The aim of the Bill is to provide for various amendments to aspects of criminal procedures, and to provide for related matters:

Section 4 and 6 provides for difficulties identified by the Supreme Court in relation to the presumptive mandatory minimum sentence in Section 27A of the Firearms Act, 1964. This can be departed from in exceptional and specific circumstances. Section 5 of the Bill indicates that Section 27(8) of the Firearms Act, 1964 provided for a second or subsequent Section 27A offence, a court had no discretion and had to impose the mandatory minimum sentence. The Supreme Court held that subsection (8) breached the separation of powers in removing judicial discretion in sentencing second or subsequent Section 27A offenders. An identical provision can be found in the presumptive mandatory minimum sentences for Section 15A drugs offences and is set out in subsections (3E) and (3F) of Section 27 of the Misuse of Drugs Act, 1977 (as amended). This provision suffers from a similar defect and will eventually be struck down by the supreme courts if not repealed. The Bill is currently before Seanad Éireann, Second Stage. No updates were available in 2023.

### **Proceeds of Crime (Gross Human Rights Abuses) Bill 2020**

The Proceeds of Crime (Gross Human Rights Abuses) Bill 2020 was initiated on 1 December 2020. This is a Private Members' Bill. Under the provisions of this Bill, certain conduct that is carried on outside of Ireland is considered criminal conduct for the purposes of the Proceeds of Crime Acts. Currently, under the Proceeds of Crime Acts 1996–2016, assets can be seized from corrupt foreign officials who have assets in Ireland. However, in order to apply the 1996 Act, a dual criminality test would need to be satisfied, such that the conduct that resulted in seizing those assets must be classified as an offence under Irish law and under the law of the foreign state (Howlin 2020). This may be difficult to establish (e.g. in the case of a senior official of a foreign state where the rule of law does not prevail). The aim of this Bill is to make the Proceeds of Crime Acts more easily applicable. The Bill has completed the First Stage, while the Second Stage was taken in Private Members' time. Since March 2022, the Bill has been at Third Stage and has been referred to the Select Committee. No further updates are available at this time.

### **Criminal Justice (Rehabilitative Periods) Bill 2018**

The Criminal Justice (Rehabilitative Periods) Bill 2018 is a Private Members' Bill that was initiated in December 2018. The Bill was initially proposed by Senator Lynn Ruane, who stated that the Criminal

Justice (Spent Convictions and Certain Disclosures) Act 2016 (see Section T1.1.4 of this workbook) is limited both in practice and when compared with other EU member states, and is not working, as it is not fair or proportionate (Ruane 2019). She believes that people have the capacity to change and that they deserve a second chance (Ruane 2019). The main purpose of the proposed Bill is to amend the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016 to provide for broader and fairer access to spent convictions, to provide for proportionality in determining the period before a conviction becomes spent, and to provide for related matters. Amendments were made to the text of the Bill at Committee Stage. This Bill has completed the Report and Final stages before Seanad Éireann. In order to ensure that it is robust and workable, some additional amendments are expected when it comes before Dáil Éireann (Naughton 2021). The Bill is still at Second Stage before Dáil Éireann, where the general principles are being debated.

## **T4. Additional information**

### **T4.1 Sources of information**

#### **Progress on Youth Justice Strategy – Implementation statement, 2022**

On 2 November 2023, the Department of Justice provided an update on the progress made addressing the objectives and key actions identified in the Youth Justice Strategy 2021–2027 (YJS) for 2022 (Department of Justice 2023b). The YJS is centred on a developmental framework that aims to target ongoing and emerging challenges in youth justice in Ireland (Department of Justice 2021b). A key strength of this strategy is that its development was informed by an expert steering group representing key stakeholders across Ireland. The implementation statement focuses on several strategic objectives identified in Appendix 3 of the strategy (Department of Justice 2021b).

#### **Governance, oversight, and consultation**

In 2022, the dedicated governance, oversight, and consultation structures were consolidated to provide support and guidance on the implementation of the strategy (Strategic Objective 1.1) (Department of Justice 2023b). Five meetings were held by the Youth Justice Governance and Strategy Group and the Youth Justice Oversight Group to organize work across agencies participating in the delivery of the strategy. Several topics were explored, for example,

- Criminal network disruption (Greentown Project)
- Research Evidence into Policy Programmes and Practice (REPPP)
- Training for youth justice front-line professionals
- Youth Joint Agency Response to Crime Evaluation
- Children in Detention – Oberstown child-centred operating framework (Department of Justice 2023b)
- Management of young adults in the prison system

The North/South Youth Justice Project Advisory Group met twice in 2022 (Belfast and Dublin). Topics discussed in these meetings focused on:

- Youth Justice Strategy 2021–2027 Implementation
- Youth Justice research plans through a Shared Island Initiative
- Joint Inspection report on Woodlands Juvenile Justice Centre (NI)

## **Research Evidence into Policy Programmes and Practice**

The research partnership between the Department of Justice and the REPPP team at the University of Limerick continued their work in 2022 supporting several 'innovative and internationally recognized projects' (Strategic Objective 1.2) (Department of Justice 2023b) (p.5). Their focus was centred on action-research and supporting projects such as the Greentown project and Local Leadership Programmes (N=6).

## **Youth Diversion Project development**

YDPs (n=106) were funded by DOJ in 2022 (Strategic Objectives 2.8 and 2.9). Additional funding of €6.7 million was allocated from the Exchequer to support the development of existing YDPs and several specialised projects and programmes targeting problematic offending for hard-to-reach young people. In addition, local services were recruited on a 2-year trial basis to synthesis learning from the international evidence with the aim of informing practice.

## **Ongoing service development objectives of the strategy**

The work of key stakeholders continued in 2022, as outlined below.

### **Garda National Youth Diversion Bureau**

The Garda National Youth Diversion Bureau (GYDB) continued to work on a range of new and ongoing initiatives in 2022. For example, a Juvenile Liaison Officer (JLO) Training Conference was held in May 2022 bringing together JLO's from across Ireland along with GNYDB employees to discuss a range of topics. They continued to promote the Diversion Programme through training seminars, delivering presentations at the Garda College, training restorative justice and mediation skills to newly appointed Garda JLOs. The GNYDB aims to increase the use of restorative justice by involving victims as part of the caution process in the Diversion Programme. In 2022, 568 restorative cautions were made, which was higher than those reported in 2021 (37%, N=416).

### **Probation Service**

In 2022, the Probation Service carried out 702 court referrals, prepared 665 pre-sanction reports for the courts, and supervised 645 young people in the community. In addition, they collaborated with other justice agencies, working closely with juvenile liaison officers and Garda youth crime case managers. An in-reach service at Oberstown Children Detention Campus was provided twice a week, where offence-focused programmes and individual work with children and young people were carried out. Placement Planning meetings are organised throughout the young person's detention. Probation Officers ensure that the rehabilitation of the young person into their community is planned and happens in a safe and seamless way.

### **Training for Youth Diversion Projects**

In 2022 the Probation Service's Youth Diversion Best Practice Development Team BPDT facilitated training to support Youth Justice Workers along with the REPP Action Research Project. Several topic

areas were addressed, for example, restorative practices, Risk Assessment Tool, exploring anger, motivational interviewing, early intervention, planning for success.

## **Conclusion**

This is the second implementation statement of the progress being made to achieve objectives under the Youth Justice Strategy, 2021-2027. As evidenced by the statement, while a lot of work has been done, this work is ongoing. The strategy is centred on a developmental framework, thus along with developing and implementing suitable structures and systems, it allows flexibility to respond to new issues as they arise (Department of Justice 2021b) Hence, the strategy is a living document (Department of Justice 2021b). Further progress reports are expected annually.

## **T4.2 New areas of specific importance**

### **Citizens' Assembly on Drug Use**

The Irish Government has made a commitment to holding a Citizens' Assembly in order to bring citizens together to consider matters related to drug use. Further information on this Assembly can be found in Section T3.1 of the *Drug policy* workbook.

## **T5. Sources methodology and references**

### **T5.1 Sources**

Courts Service	<a href="http://www.courts.ie/">http://www.courts.ie/</a>
Defence Forces	<a href="https://www.military.ie/en/#1">https://www.military.ie/en/#1</a>
Department of Health	<a href="https://health.gov.ie/">https://health.gov.ie/</a>
Department of Justice	<a href="http://www.justice.ie/">http://www.justice.ie/</a>
Extern	<a href="https://www.extern.org/">https://www.extern.org/</a>
Forensic Science Ireland	
Garda Ombudsman	<a href="https://www.gardaombudsman.ie/">https://www.gardaombudsman.ie/</a>
An Garda Síochána	<a href="http://www.garda.ie/">http://www.garda.ie/</a>
Health Products Regulatory Authority	<a href="http://www.hpra.ie/">http://www.hpra.ie/</a>
Health Research Board National Drugs Library	<a href="http://www.drugsandalcohol.ie/">http://www.drugsandalcohol.ie/</a>
Houses of the Oireachtas	<a href="https://www.oireachtas.ie/">https://www.oireachtas.ie/</a>
Irish Prison Service	<a href="https://www.irishprisons.ie/">https://www.irishprisons.ie/</a>
Irish Statute Book	<a href="http://www.irishstatutebook.ie/">http://www.irishstatutebook.ie/</a>
Probation Service	<a href="http://www.probation.ie/">http://www.probation.ie/</a>

Law Reform Commission

<http://www.lawreform.ie/>

Policing Authority

<http://www.policingauthority.ie/>

Revenue Commissioners

[www.revenue.ie](http://www.revenue.ie)

## T5.2 New studies

There is one new report included in this workbook (see Section T4.1).

### Cited previously

Smyth BP, Lyons S and Cullen W. Decline in new psychoactive substance use disorders following legislation targeting headshops: Evidence from national addiction treatment data. *Drug Alcohol Rev*, 2017; 36(5), 609–617. Available from: <http://www.drugsandalcohol.ie/27172/>

### Abstract

NPS have hedonic effects that may lead to dependence. Head shops selling NPS increased in number in Ireland from late 2009, and legislation was enacted in May and August of 2010 that caused their closure. It was unknown whether such events impacted on the rate of NPS use disorders. A population-based study was carried out using the Irish national database of episodes of addiction treatment between 2009 and 2012. Trends in the rate of NPS-related treatment episodes among young adults were examined.

Of the 31,284 episodes of addiction treatment commenced by adults aged 18–34 years, 756 (2.4%) were NPS related. In 2012, the 12-month moving average rate had fallen 48% from its peak in 2010, from 9.0/100,000 to 4.7/100,000. Joinpoint analysis indicated that the rate of NPS-related episodes increased by 218% (95% confidence interval (CI): 86 to 445;  $p=0.001$ ) every 4 months until the first third of 2010. From that point, the rate declined by 9.8% (95% CI: –14.1 to –5.4;  $p=0.001$ ) per 4-month period. There was no significant trend change in the rate of non-NPS-related treatment episodes.

Over the 2 years after the enactment of prohibition-styled legislation targeting NPS and head shops, the rate of NPS-related addiction treatment episodes among young adults declined progressively and substantially. No coinciding trend change in the rate of episodes linked to other drug groups was found.

Smyth BP, James P, Cullen W and Darker CD. “So prohibition can work?” Changes in use of novel psychoactive substances among adolescents attending a drug and alcohol treatment service following a legislative ban. *Int J Drug Policy*, 2015; 26(9), 887–889. Available from: <http://www.drugsandalcohol.ie/24190/>

### Abstract

Background: Legislative changes targeting NPS were introduced in Ireland over the summer of 2010 and resulted in the closure of 90% of head shops. The authors sought to examine the use of NPS among adolescents attending addiction treatment both before and after this legislation was enacted.

Methods: The authors included all adolescents entering assessment at one outpatient service, comparing the 6 months immediately prior to the legislation being enacted in May 2010 with the same 6-month period the following year. Clinicians identified problematic use of between one and

four substances for each patient. Information was also recorded on recent (within the past 3 months) use of NPS.

Results: There were 94 treatment episodes included, with a mean age of 16.8 years. Problematic use of any NPS fell from 14 patients (34%) in the pre-legislation period to 0 ( $p<0.001$ ) in the post-legislation period. There was also a significant decline in recent use of any NPS (82% versus 28%;  $p<0.001$ ). Recent use of cocaine and amphetamines also declined, but problematic use of these drugs was unchanged.

Conclusion: Use of NPS among adolescents attending drug and alcohol treatment was substantially reduced 6–12 months after the introduction of legislation prohibiting the sale of NPS and the resultant closure of most head shops.

Mackey K. Analysis of sentencing for possession or importation of drugs for sale or supply. Dublin: Irish Sentencing Information System; 2013. Available from: <http://www.drugsandalcohol.ie/21866/>

This study examined the sentencing practices of the courts in relation to the offences of possession or importation of controlled drugs for the purpose of sale or supply. Four offences were examined in the study:

1. Possession of controlled drugs for unlawful sale or supply (Section 15 of the Misuse of Drugs Act, 1977, as amended)
2. Possession of controlled drugs (valued at €13,000 or more) for unlawful sale or supply (Section 15A of the Misuse of Drugs Act, 1977, as amended)
3. Importation of controlled drugs for unlawful sale or supply (several provisions found in the Customs Acts; Misuse of Drugs Acts 1977–1984, as amended; and Misuse of Drugs Regulations, 1988), and
4. Importation of controlled drugs (valued at €13,000 or more) for unlawful sale or supply (Section 15B of the Misuse of Drugs Act, 1977, as amended).

Convictions under Sections 15A or 15B attract a “basic presumptive sentence” of 10 years or more (Mackey 2013 p. 23). A sentencing court may, however, impose a lower sentence where there are mitigating factors that amount to “exceptional and specific circumstances” (Mackey 2013, p. 10), which would render the imposition of a sentence of 10 years or more “unjust in all the circumstances” (Mackey 2013, p. 38). Mackey’s study was presented in three parts:

- Part I analysed the legislative basis for these drug trafficking offences and the reserved judgments of the superior courts.
- Part II examined the application of sentencing principles in relation to the “basic presumptive sentence” (Mackey 2013, p. 23) provided for in Sections 15A and 15B of the Misuse of Drugs Act, 1977, as amended.
- Part III examined 79 judicial decisions involving 81 offenders before the Court of Criminal Appeal from 2009 to 2012. Twenty of these judgments related to ordinary offences and 59 to offences carrying the presumptive sentence.

The analysis of cases provided in this study led to the conclusion that there were four primary factors that featured most prominently in the construction of sentences for drug trafficking offences:

1. The quantity or value of the controlled drug or drugs
2. The type of the controlled drug or drugs
3. The role of the offender, and
4. The condition of the offender.

Tolan G and Seymour M. Increasing the potential for diversion in the Irish Criminal Justice System: the role of the Garda Síochána Adult Cautioning Scheme. *Ir J Appl Soc Stud*, 2014; 14(1), 60–71.

Available from: <http://arrow.dit.ie/ijass/vol14/iss1/7>

#### **Abstract**

Established in 2006, the Garda Síochána Adult Caution Scheme provides a mechanism to divert adult offenders aged 18 years and over from the criminal justice system by way of a formal police caution in lieu of prosecution before the courts. Drawing on statistical data provided by the CSO, this paper explores the use of the Scheme over a 5-year period from 2006 to 2010. It identifies the types of offences for which cautions are most commonly administered, the age and gender profile of offenders involved, variability in the application of the Scheme across the country, and the extent to which offenders come to the attention of AGS post-caution. Overall, the paper analyses the role of adult cautioning in the Irish context and provides some observations on the potential for increased diversion through expanding the remit of the Scheme in future years.

Naughton C, Redmond S and Coonan B. Evaluation of The Bail Supervision Scheme for Children (Pilot Scheme). Dublin: Department of Children and Youth Affairs; 2019. Available from:

<https://www.drugsandalcohol.ie/31491/>

#### **Abstract**

In December 2019, Katherine Zappone, Minister for Children and Youth Affairs, launched the report *Evaluation of The Bail Supervision Scheme for Children (Pilot Scheme)* (Naughton, Catherine, *et al.* 2019). The evaluation, which was commissioned by the Department of Children and Youth Affairs (DCYA), was carried out by the Research Evidence into Policy Programmes and Practice (REPPP) project research team at the School of Law, University of Limerick. The overall aim of the evaluation was to examine behavioural change outcomes and the processes that contributed to those outcomes between May 2017 and June 2018. The DCYA commissioned Extern to deliver the pilot BSS intervention to children deemed to be at high risk of being detained in a prison in Dublin.

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Browne, J. 2024. Seanad Éireann debate: Offences Against the State (Amendment) Act 1998 and Criminal Justice (Amendment) Act 2009: Motions, Vol 301 No 9. Available at: <https://www.oireachtas.ie/en/debates/debate/seanad/2024-06-25/13/> [Accessed 31 October 2024].

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## **European Monitoring Centre for Drugs and Drug Addiction**

The European Drugs Agency(EUDA) is a decentralised EU agency based in Lisbon. The EUDA provides the EU and its member states with information on the nature, extent, and consequences of, and responses to, illicit drug use. It supplies the evidence base to support policy formation on drugs and addiction in both the EU and member states.

There are 30 national focal points that act as monitoring centres for the EUDA. These focal points gather and analyse country data according to common data collection standards and tools and supply these data to the EUDA. The results of this national monitoring process are supplied to the EUDA for analysis, from which it produces the annual *European Drug Report* and other outputs.

The Irish Focal Point to the EUDA is based in the HRB. The focal point writes and submits a series of textual reports, data on the five epidemiological indicators, and supply indicators in the form of standard tables and structured questionnaires on response-related issues, such as prevention and social reintegration. The focal point is also responsible for implementing Council Decision 2005/387/JHA on the information exchange, risk assessment and control of new psychoactive substances.

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Central Treatment List

Coroner Service

Customs Drugs Law Enforcement, Revenue

Department of Children, Equality, Disability, Integration and Youth

Department of Education

Garda National Drugs and Organised Crime Bureau

Drugs Policy Division, Department of Justice

Drugs Policy and Social Inclusion Unit, Department of Health

Forensic Science Ireland

Health Protection Surveillance Centre, Health Service Executive

Hospital In-Patient Enquiry scheme, Health Service Executive

Irish Prison Service

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