

Focal Point Ireland: national report for 2017 - Legal framework

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

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Table of Contents

0. Summary	3
0.1 Characteristics of drug legislation and national guidelines.....	3
0.2 Variation of penalties by drug / quantity / addiction / recidivism	3
0.3 Laws for controlling NPS.....	3
1. National profile.....	3
1.1 Legal framework.....	3
1.1.1 Characteristics of drug legislation	3
1.1.3 Legislation to control New Psychoactive Substances (NPS).....	10
1.1.4 Other topics of interest.....	10
1.2 Implementation of the law	13
1.2.1 Sentencing practice related to drug legislation	13
1.2.2 Sentencing practice related to legislation designed to control NPS	13
1.2.3 How implementation might differ from the text of laws	14
2. Trends.....	15
2.1 Changes in penalties and definitions of core offences.....	15
2.2 How the implementation of the law has changed since 2000.....	16
3. New developments	19
3.1 Changes in laws in the last year	19
3.2 Changes in the implementation of the law in the last year	22
3.3 Evaluation of the law in the last year.....	23
3.4 Major political discussions in the last year relating to legislation and implementation.....	23
4. Additional information.....	25
4.1 Sources of information	25
4.2 New areas of specific importance.....	27
5. Sources methodology and references	27
5.1 Sources.....	27
5.2 References.....	27
Acknowledgements	31

0. Summary

0.1 Characteristics of drug legislation and national guidelines

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, other than by prescription, of most psychoactive substances as criminal offences. The principal criminal legislative framework is laid out in the Misuse of Drugs Acts (MDA) 1977–2016. Since the commencement of the Misuse of Drugs Act 1977, the legislation has been amended via statutory instruments (SIs) 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 courts.

0.2 Variation of penalties by drug / quantity / addiction / recidivism

Fines and sentence lengths for drug-related crime vary by legislation, by 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 been suspended. In order to reduce the likelihood of repeat offending, second or subsequent offences are penalised more severely than first offences.

0.3 Laws for controlling NPS

The main legislation that provides for the control of new psychoactive substances (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 MDA 1977–2007 legislation. Under the main provisions of the 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. To date, the implementation of this legislation has not been evaluated.

1. National profile

1.1 Legal framework

1.1.1 Characteristics of drug legislation

As stated in previous Legal 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, other than by prescription, of most psychoactive substances as criminal offences. The principal criminal legislative framework is laid out in the Misuse of Drugs Acts (MDA) 1977 and 1984, and the Misuse of Drugs Regulations 1988. 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 under five schedules the various substances to which the laws apply.

The vast majority of drug offences reported come under one of three Sections of the MDA 1977:
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)
Section 21: obstructing the lawful exercise of a power conferred by the Act (obstruction).

Other MDA 1977 offences regularly recorded relate to the importation of drugs:

Section 5: regulations to prevent misuse of controlled drugs

Section 17: cultivation of cannabis plants

Section 18: use of forged prescriptions.

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

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. Following an emergency sitting of the Oireachtas, the Misuse of Drugs (Amendment) Act 2015 was passed and then signed into law by the President within 48 hours. The new legislation added the substances previously controlled under government order to the Schedule to the MDA 1977, thereby providing that they would once more be controlled. In order to reaffirm the controls that might apply to these substances, the legislation also confirmed a number of ministerial orders and regulations made under the Act, thereby giving these instruments statutory effect as though they were an Act of the Oireachtas. Please see Section 3.1 of the 2016 Legal workbook for further information.

Misuse of Drugs (Amendment) Act 2016

Following increased drug-related violence, as well as the emergence of NPS in the Irish drug market, it became necessary to expedite a shortened version of the Misuse of Drugs (Amendment) Act 2016, which was enacted on 27 July 2016. The aim of the Act was to amend schedules to the Misuse of Drugs Acts 1977–2015. The main provisions of the 2016 Act include the addition of new substances, revocation of regulations and orders confirmed in the Misuse of Drugs (Amendment) Act 2015, and some technical amendments. Commencement of the Act will involve a two-step process. The first stage involves the control of substances in the Act. The second stage involves the drafting of regulations which are required in order to enable legitimate users (for example, patients with prescriptions) to access controlled substances. Under S.I. No. 173/2017, Misuse of Drugs Regulations 2017 came into effect on 4 May 2017. Further information on the Regulations can be found in Section 3.1 of this workbook. On the same day, under S.I. No. 172/2017, Sections 1, 2, 3, 5, 7 (c, d, and e) and 8 came into operation. Please see Section 3.1 of the 2016 National Report (Legal workbook) for further information on this Act and 3.1 of this workbook for an update on the commencement date.

Penalties for drug offences in Ireland

As stated in the 2016 National Report (Legal workbook), Table 1.1.1 shows a summary of penalties provided for under Section 27 of the MDA 1977, for various Sections of the MDA 1977, Criminal Justice (Psychoactive Substances) Act 2010, Road Traffic Act 2014, and Maritime Safety Act 2005. The fines and sentence lengths vary by legislation, by Section that offenders are being prosecuted for, and also by whether it is a first, second or subsequent offence.

Table 1.1.1 Summary of penalties received for drug offences in Ireland

Subject to Section	Penalty
Misuse of Drugs Acts 1977–2016	
Section 3 [†] Restriction on possession of controlled drugs	First offence:
a) Where controlled drug is cannabis or cannabis resin and court is satisfied that possession was for own use	<ul style="list-style-type: none">on summary conviction – Class D fine not exceeding €1,000, oron conviction on indictment – fine not exceeding €1,270.
	Second offence:
	<ul style="list-style-type: none">on summary conviction – Class D fine not exceeding €1,000, oron conviction on indictment – fine not exceeding €2,540.
	Third and subsequent offences:
	<ul style="list-style-type: none">on summary conviction – Class C fine not exceeding €2,500 or imprisonment not exceeding 12 months at court's discretion or both fine and imprisonment, or

Subject to Section	Penalty
b) Any other case	<ul style="list-style-type: none"> • on conviction on indictment – fine of such amount court considers appropriate or at court’s discretion, imprisonment for a term not exceeding three years, or both fine and imprisonment. <p>On summary conviction –</p> <ul style="list-style-type: none"> • Class C fine not exceeding €2,500, or • imprisonment not exceeding 12 months at court’s discretion, or • both fine and imprisonment. <p>Or</p> <p>On conviction on indictment –</p> <ul style="list-style-type: none"> • fine of such amount as court considers appropriate, or • imprisonment not exceeding seven years at court’s discretion, or • both fine and imprisonment.
<p>Section 6[†] Directions prohibiting prescribing, supply etc. of controlled drugs by practitioners or pharmacists convicted of offences</p> <p>or</p> <p>Section 7[†] Special directions prohibiting prescribing etc. of controlled drug in certain cases</p> <p>or</p> <p>Section 16 Prohibition of certain activities etc. relating to opium</p> <p>or</p> <p>Section 17[†] Prohibition of cultivation of opium poppy or cannabis plant</p> <p>or</p> <p>Section 19[†] Occupiers etc. permitting certain activities to take place on land, vehicle or vessels to be guilty of an offence</p> <p>or</p> <p>Section 20[†] Offences relating to acts outside the State</p>	<p>On summary conviction –</p> <ul style="list-style-type: none"> • Class C fine not exceeding €2,500, or • imprisonment not exceeding 12 months at court’s discretion, or • both fine and imprisonment <p>Or</p> <p>On conviction on indictment –</p> <ul style="list-style-type: none"> • fine of such amount as court considers appropriate, or • imprisonment not exceeding 14 years at court’s discretion, or • both fine and imprisonment.
Section 15 ^{††} Possession of controlled drugs for unlawful sale or supply	<p>On summary conviction –</p> <ul style="list-style-type: none"> • Class C fine not exceeding €2,500 in District Court, or • imprisonment not exceeding 12 months at court’s discretion, or • both fine and imprisonment. <p>Or</p> <p>On conviction on indictment –</p> <ul style="list-style-type: none"> • 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 • both fine and imprisonment.
<p>Section 15A[†] Offence relating to possession of drugs with value of €13,000 or more</p> <p>or</p> <p>Section 15B[†] Importation of controlled drugs in excess of certain value (amounts to €13,000 or more)</p>	<p>Offences under Section 15A or 15B,</p> <p>On conviction on indictment –</p> <ul style="list-style-type: none"> • 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. <p>The court can:</p> <ul style="list-style-type: none"> • 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:

Subject to Section	Penalty
<p>or Section 15C⁰ Supply of controlled drugs into prisons and places of detention</p>	<ul style="list-style-type: none"> ○ whether offender pleaded guilty to the offence ○ when and under what circumstances the guilty plea was provided ○ whether offender was helpful during the investigation ○ whether offender was previously convicted of a drug trafficking offence, and ○ whether it is in the interest of the public to impose a shorter sentence. <p>When market value of drugs is greater than €13,000, or drugs are imported with a value greater than €13,000 –</p> <ul style="list-style-type: none"> • if there are no exceptional circumstances, offender is liable to a minimum sentence of 10 years. <p>On summary conviction –</p> <ul style="list-style-type: none"> • Class B fine not exceeding €4,000 in District Court, or • imprisonment not exceeding 12 months at court's discretion, or • both fine and imprisonment. <p>Or</p> <p>On conviction on indictment –</p> <ul style="list-style-type: none"> • fine of such an amount as the court considers appropriate, or • imprisonment not exceeding 10 years at court's discretion, or • both fine and imprisonment.
<p>Section 18^{+†} Forged or fraudulently altered prescriptions</p>	<p>On summary conviction –</p> <ul style="list-style-type: none"> • Class D fine not exceeding €1,000, or • imprisonment not exceeding six months at court's discretion, or • both fine and imprisonment. <p>Or</p> <p>On conviction on indictment –</p> <ul style="list-style-type: none"> • fine of such an amount as the court considers appropriate, or • imprisonment not exceeding three years at court's discretion, or • both fine and imprisonment.
<p>Section 21[†] (1) Attempts etc. and miscellaneous other offences</p>	<p>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</p> <p>On summary conviction –</p> <ul style="list-style-type: none"> • Class C fine not exceeding €2,500, or • imprisonment not exceeding 12 months at court's discretion, or • both fine and imprisonment. <p>Or</p> <p>On conviction on indictment –</p> <ul style="list-style-type: none"> • fine of such an amount court considers appropriate, or • imprisonment not exceeding 14 years at court's discretion, or • both fine and imprisonment.
<p>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</p>	<p>On summary conviction –</p> <ul style="list-style-type: none"> • Class C fine not exceeding €2,500**, or • imprisonment not exceeding six months at court's discretion, or • both fine and imprisonment. <p>Or</p> <p>On conviction on indictment –</p> <ul style="list-style-type: none"> • fine of such an amount court considers appropriate, or • imprisonment not exceeding two years at court's discretion, or • both fine and imprisonment.
<p>Section 21 Offences other than</p>	<p>On summary conviction –</p>

Subject to Section	Penalty
those mentioned in subsections 1 or 2	<ul style="list-style-type: none"> • Class D fine not exceeding €1,000**, or • imprisonment not exceeding six months at court's discretion, or • both fine and imprisonment.
Section 23 [†] Power of Garda Síochána to search persons, vehicles, vessels or aircraft	<p>On summary conviction –</p> <ul style="list-style-type: none"> • Class E fine not exceeding €500**.
Section 5 [†] Printing etc. of certain books etc., communication of certain information and possession of certain documents an offence	<p>On summary conviction –</p> <ul style="list-style-type: none"> • where the offence is an offence under subsection (2) of that Section, a 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 [§] Prohibition of sale, etc. of psychoactive substances	<p>On summary conviction –</p> <ul style="list-style-type: none"> • Class A fine not exceeding €5,000, or • imprisonment for a term not exceeding 12 months at court's discretion, or • both fine and imprisonment.
Section 4 [§] Prohibition of sale of certain objects	Or
Section 5 [§] Prohibition of advertising of psychoactive substances, etc.	<p>On conviction on indictment –</p> <ul style="list-style-type: none"> • fine of such an amount as court considers appropriate, or • imprisonment not exceeding five years at court's discretion, or • both fine and imprisonment.
Road Traffic Act 2016	
Section 8 offences involving certain drugs Signing a medical exemption certificate containing information which he/she knows to be false	<p>On summary conviction –</p> <ul style="list-style-type: none"> • Class C fine not exceeding €2,500.
Section 11 Mandatory intoxicant testing Section 12 Impairment testing Section 13/13B Obligation to provide oral fluid and blood specimens in relation to certain offences involving drugs Failure to provide breath or oral fluid or blood specimen at request of Garda or failure to perform impairment test	<p>On summary conviction –</p> <ul style="list-style-type: none"> • Class A fine not exceeding €5,000, or • imprisonment for a term not exceeding six months at court's discretion, or • both fine and imprisonment.
Maritime Safety Act 2005	
Section 28 Prohibition on operating vessels while under influence of alcohol or drugs	<p>On summary conviction –</p> <ul style="list-style-type: none"> • Class A fine not exceeding €5,000, or • imprisonment for a term not exceeding three months, or • both fine and imprisonment.
Section 29 Drunkenness, etc., of passengers or members of crew	<p>On summary conviction –</p> <ul style="list-style-type: none"> • Class A fine not exceeding €5,000.
Section 30 Control of consumption of alcohol or drugs on board a vessel (commander or crew)	<p>On summary conviction –</p> <ul style="list-style-type: none"> • Class A fine not exceeding €5,000, or • Imprisonment for a term not exceeding three months, or • both fine and imprisonment.

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

** Following guidance received from Law Reform Commission, these figures have been amended since the last report

†As amended by Misuse of Drugs Act 1984

°As amended by Criminal Justice Act 2006

‡ As amended by Criminal Justice Act 2007

§ As amended by 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 drugs 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 (Department of Health, 2017, personal communication). Options available to the court to deal with drug offences include: fines and custody (see Table 1.1.1), imposition of a Peace Bond/Probation Order, suspended sentence (see Section 3.1 in this workbook), etc.

In addition, different factors can operate either in mitigation of an offence or as aggravating influences which can influence 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). Examples in Ireland include:

Under the Criminal Justice (Community Service) Act, 1983, a court may issue a ‘community service order’. The premise behind the order is that the offender is required to carry out unpaid work for a minimum of 40 hours 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 recognizance, 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 three years.

Factors that influence this outcome include the character, antecedents, age, health, or mental condition of the person charged, or to 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) is applied to indictable offences that are punishable with imprisonment. Under Section 1(1) and 1(2), offenders are supervised by probation officers.

Another example that commenced as a pilot study in 2001 is the Drug Treatment Court. See Section 2.2 of this report for further information.

1.1.2. Penalties vary by drug, quantity (i.e. market value), addiction, and recidivism.

Drug

Sentencing in cannabis possession cases

As per the MDA 1977, sections 3 and 27(1)(a), 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 one year (summary), or up to three years (on indictment), or a fine, or both.

Sentencing in trafficking cases

In Ireland, 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 and/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 is 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 on the other on another occasion.

Addiction

An offender that suffers from an addiction comes under the remit of Section 27(3D), 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 Section 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 to 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 1.1.1 illustrates the variations in penalties for crimes, for example under Section 3A of the MDA 1977, in relation to a conviction on indictment for cannabis, a second offence can result in a fine not exceeding €2,540, 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 three years, or both a fine and imprisonment. See section 3.2 of this workbook for recent figures for recidivism.

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, and when deciding whether or not to deviate from the mandatory minimum sentence.

- 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 he or she 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, there are no official guidelines for sentencing or prosecuting for the trafficking of illicit drugs.

1.1.3 Legislation to control New Psychoactive Substances (NPS).

In May 2010, in an attempt to address the ongoing problem of the sale of 'legal high' substances in 'head shops', the Government introduced a number of statutory instruments (SIs), which supplemented existing drug legislation (see section 2.1 for further information). Under these SIs, approximately 200 substances were declared as controlled drugs.

The Criminal Justice (Psychoactive Substances) Act 2010 As stated in the Legal framework section of the *2016 National Report*, the main legislation controlling new psychoactive substances (NPS) in Ireland 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 MDA 1977–2007 legislation. Under the main provisions of the Act, it is an offence to sell, import or export substances; to sell equipment that enables cultivation; and to advertise substances. Further information can be found in the *2016 National Report (Legal workbook)*. See Table 1.1.1 for penalties associated with this offence.

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 3.1 of the *2016 National Report (legal workbook)* for further information.

See Section 3.1 of this workbook for an update on emerging changes to NPS legislation.

1.1.4 Other topics of interest

As highlighted in the Legal framework section of the *2015 and 2016 National Reports*, topics that are relevant to the understanding of the legal framework for responding to drugs in Ireland include:

Drug driving

'Driving under the influence of drugs' (DUID) has been a statutory offence in Ireland since the introduction of the Road Traffic Act, 1961. Since that time, the Act has been amended a number of times:

- Section 11 of the Road Traffic Act 2014 empowered the 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 of the Road Traffic Act 2014 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.

The new Road Traffic Act 2016, which was enacted in December 2016, amended sections in the previous Acts. For further information on the amendments, please see Section 3.4 of this workbook.

Drug testing in the workplace

Legislative provision has been made for mandatory drug and/or alcohol testing in certain work contexts, e.g. defence forces, maritime and railway industries, and 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, 11 April). 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 personnel employed in the Army, Air Corps, Naval Service or Reserve who obtains a positive result in 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, 24 April). A positive CRDT test results in dishonourable discharge

from the Defence Forces. Each year, 10% of Defence Forces personnel are tested (Kehoe 2017, 11 April). Data for CRDT and targeted drugs testing can be found in Section 2.3, Tables 2.4.3 – 2.4.5 in the Drugs and Crime workbook 2017.

Maritime safety

The Maritime Safety Act 2005 strengthens the law against improper use of mechanically propelled personal watercraft (e.g. jet skis) and other recreational crafts.

- 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 1.1.1.

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 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)
- obtain a sample of a worker's blood or urine, in accordance with sampling procedures and support services, which railway undertakings are required to implement (section 89).

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

Safety, health and welfare at work

The Safety, Health and Welfare at Work Act 2005 states in Section 13(1)(b) that employees must not be under the influence of intoxicants to the extent that he or she will endanger his or her own safety, health or welfare at work, or that of any other person. Additionally, under Section 13(1)(c), an employee must submit to any appropriate, reasonable and proportionate tests by a competent practitioner is so required.

Drug testing in prisons

The Prisons Act 2007 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 under SI 252 of 2007, and provided for the introduction of compulsory or mandatory drug testing (MDT) of prisoners. For further information on its implementation, see section 1.2.3.

Organised crime offences – referral of cases to Special Criminal Court

The Criminal Justice Act 2006 specified, for the first time, 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 each of the following provisions of Part 7 of the Act of 2006.

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: Any person who commits an offence for the benefit of, or at direction of, a criminal organisation
- 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 Act, offences are deemed to be scheduled offences for the purposes of Part V of the Offences Against the State Act of 1939, as if the order was made under Section 36 subsection (3) of that section and Section 37 of the 1939 Act.

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

- the Government under provisions of section 35 or 36 of the Act of 1939
- the Director of Public Prosecutions (DPP) under Section 45(2) of the Act of 1939 to direct a person not be 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 Justices (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, Equality and Law Reform is required to present a report outlining how this Section has operated since it was last confirmed. For information on the recent confirmation of Section 8, see section 3.4 of this workbook.

Revenue commissioners customs division

Following enactment in June 2015, the Customs Act 2015 commenced in full in December 2016.

Under Section 24, an offence may be penalised at the same time under different legislations; for example, drug smuggling would be contrary to the Customs Act 2015 and also to misuse of drugs legislation.

Under Section 30, Customs officers are allowed to search, seize and detain anything which may be used as evidence for proceedings for an offence under the MDA 1977. In addition, if a Customs officer has reason to believe that an individual is in possession of controlled drugs which are hidden internally, the officer is allowed to detain the individual and is required to hand the individual over to a member of the Garda Síochána 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.

The conditions identified in Section 4 include:

- investigations carried out by the Garda Síochána of offences that are deemed or suspected to be serious
- where investigations not involving interception have failed or are likely to fail to produce sufficient evidence or information, and where interception of a postal packet sent between two addresses would be of material assistance on its own or combined with other information or evidence, Or –
- in the case of an offence that is apprehended but has not yet been committed, where a Garda investigation is being carried out with the aim of preventing the offence or allowing it to be detected
- where investigations not involving interception have failed or are unlikely to prevent or detect the offence
- where it is considered reasonable to assume that interception will prevent or detect the offence in question.

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, 22 June).

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 seven 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. Additionally, 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 same event, this can be viewed as one conviction. Further information on this Act can be found in the Legal Framework section of the *2016 National Report*.

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
- State Airports Act 2004.

The amendment to the Dublin Transport Authority Act 2008 allows an authorised person or member of the Garda Síochána 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.

Street sale of prescription drugs

Under the 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 pharmacy by 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 1, (Health Research Board 2012).

1.2 Implementation of the law

1.2.1 Sentencing practice related to drug legislation

As stated in the 2015 Legal workbook (Health Research Board and Irish National Focal Point to the European Monitoring Centre for Drugs and Drug Addiction 2016), sentencing practice for possession or importation of controlled drugs for the purpose of sale or supply was examined by the Irish Sentencing Information System (Mackey 2014). Four offences were covered in the study:

- possession of controlled drugs for unlawful sale or supply (MDA 1977 section 15, as amended)
- possession of controlled drugs, valued at €13,000 or more, for unlawful sale or supply (MDA 1977 section 15A, as amended)
- importation of controlled drugs for unlawful sale or supply (several provisions found in the Customs Acts, MDA 1977–1984, as amended, and the Misuse of Drugs Regulations 1988)
- importation of controlled drugs, valued at €13,000 or more, for unlawful sale or supply (MDA 1977 Section 15B, as amended).

See section 1.2.1 of the 2016 Legal workbook for further information.

1.2.2 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 NPSs.

1.2.3 How implementation might differ from the text of laws

In a recent written answer by the Tánaiste, Frances Fitzgerald, an outline was provided of the main approach to sentencing in Ireland.

First, the Oireachtas specifies the maximum penalty for an offence in the legislation. This 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, 12 April). 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, 12 April). As stated in the 2015 Legal workbook, the Law Reform Commission (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 Misuse of Drugs Acts 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 Law Reform Commission recommended that the presumptive sentencing regime for drug offences be repealed (Law Reform Commission 2013). A similar conclusion was drawn by the Strategic Review Group on Penal Policy, who 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.’” (p. 99) (Strategic Review Group on Penal Policy 2014).

Please see Section 1.2.3 of the Legal Workbook in the *2016 National Report* for further information on these papers. In 2017, the Law Reform Commission published an *Issues paper: Suspended Sentences*, which builds on their 2013 publication, *Report on Mandatory Sentencing* (Law Reform Commission) (see Section 3.3 of this workbook).

Drug testing in prisons

The Irish Prison Service (IPS) has recently advised the Minister for Justice and Equality that formal mandatory testing ceased in 2013. The reason for this was that tests could only detect some types of drugs, and as a result, testing did not provide ‘value for money or operational outcomes needed by the prison service’ (Fitzgerald 2016, 16 June). However, some drug testing does occur for medical and operational reasons. The Minister was further advised that the IPS is currently considering a new scheme to help sentence management decisions in deciding whether prisoners are ready for temporary release, remission, or transfer to open centres (Fitzgerald 2016, 16 June). The IPS has identified this action in their current strategy – *Strategic Plan 2016-30282016–2018* (Irish Prison Service 2016).

More details on this strategy can be found in Section 1.3.1 of the 2017 National Report - Prison workbook. Additional information on drug testing in prisons from a legal perspective can be found in Section 1.1.4 of the 2016 National Report – legal workbook.

2. Trends

2.1 Changes in penalties and definitions of core offences

As stated in the Legal Frameworks of previous *National Reports* (2014, 2015 and 2016), 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 applicable to drug-related crime began in 1996 following the assassination, in the summer of that year, 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 a range of legislative and policy initiatives introduced in response to the drug problem at that time; for example:

- The Criminal Justice (Drug Trafficking) Act, 1996 allowed for the detention of suspected drug dealers for interrogation for up to seven days, and placed restrictions on the 'right to silence' (Keane 1997) (Ryan A 1997).
- The Criminal Assets Bureau Act, 1996 and the Proceeds of Crime Act, 1996 established the Criminal Assets Bureau with the power to seize the illegally acquired assets of criminals involved in serious crimes, including drug dealing and distribution (McCutcheon J and Walsh D 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 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 listing of legislation enacted between 2001 and 2007 that directly or indirectly impacts on drug policy.

More recently, other changes have occurred:

- The Proceeds of Crime (Amendment) Act 2016, which is viewed as a key legislative change, 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 Criminal Assets Bureau (CAB).
 - Under Section 1A, a Bureau 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 a High Court for an interim order or interlocutory order, this can be extended to 21 days.
 - Sections 4, 5, and 6 amend Sections 2, 3, and 8 of the Principal Act by reducing the threshold value of property subject to the Act from €13,000 to €5,000.

Supplementations to normal drug law

Although there have been no significant changes to normal drug law since 2000, there have been a number of supplementations; for example, a number of amendments, statutory instruments, regulations and declarations have been made to the MDA 1977 since its initial implementation:

- S.I. No. 199/2010 – Misuse of Drugs Act 1977 (Controlled Drugs) (Declaration) Order 2010 declared a range of ‘legal highs’ to be controlled drugs.
- To give effect to this decision, on the same day, the Minister for Health and Children signed:
 - 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.

Under these statutory instruments, approximately 200 ‘legal high’ substances, which had been on sale in head shops and a vast majority of which included products of public health concern, were declared to be controlled drugs. Further information on NPS can be found in Section 1.1.3 of this workbook.

Due to the continually changing nature of the Irish drug market, drug legislation is consistently under review. Since 2010, other amendments have been made via orders, declarations, regulations and exemptions to the list of controlled drugs. For example:

- 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.

2.2 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.

- The Garda Diversion programme has been in existence since 1963 and provides an opportunity to divert young offenders from criminal activity. There are two programmes: the Garda Juvenile Diversion Programme (GJDP) and the Garda Youth Diversion Projects (GYDPs). They avail of restorative justice and restorative practices to try and target offending behaviour in young people under the age of 18 years (An Garda Síochána n.d.). Under the GJDP, when a child comes into contact with the justice system, 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 are local community activities that are carried out with children. They aim to move children away from crime by helping develop a sense of community and encouraging participation in social activities, which can include education, employment training, sport, art, or music (Department of Children and Youth Affairs n.d.). In 2015, there were 19,513 referrals to the Diversion Programme; 35% were

considered unsuitable, 31% were dealt with by informal caution, and 20% were dealt with by formal caution (Irish Youth Justice Service 2005)

The Irish Youth Justice Services (IYJS) allocated €12 million to GYDPs and other youth justice community projects around the country in 2016; the expenditure for 2017 is the same (Fitzgerald 2017, 17 January) There are currently 106 programmes being funded through the IYJS. These are running nation-wide under the supervision and direction of the Garda National Juvenile Office (Fitzgerald 2017, 17 January) The Minister goes on to say that the projects are being enhanced and developed consistently; for example, a comprehensive risk/needs assessment tool to determine the level of recidivism in young people has recently been introduced, along with case management plans which allow for interventions to be tailored to the young person's needs. Recent developments that may have implications for future programmes include the establishment of a review group to examine the operation of the Diversion Programme, and the Penal Policy Review Group (PPRG) has recommended that the programme be extended to include young people aged 18 to 24 years (Fitzgerald 2017, 17 January).

- In 2005, the IYJS was established 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. Its responsibilities were to:
 - Develop a unified youth justice policy
 - Devise and develop a national strategy to deliver this policy and service
 - Link this strategy where appropriate with other child related strategies
 - Manage and develop children detention facilities
 - Manage the implementation of provisions of the Children Act 2001 which relate to community sanctions, restorative justice conferencing and diversion
 - Coordinate service delivery at both national and local level
 - Establish and support consultation and liaison structures with key stakeholders including at local level to oversee the delivery of this service and response
 - Develop and promote information sources for the youth justice sector to inform further strategies, policies and programmes (Irish Youth Justice Service 2005).

Garda Síochána statistics show that the types of offences committed by children under the age of 18 years are primarily theft, alcohol-related criminal damage, assault, traffic offences, drugs possession, public order offences, and burglary.

- First established on a pilot basis in 2001, the Drugs Treatment Court (DTC) is a specialised District Court which offers long-term, court-monitored treatment, including career and education support, to offenders with drug addictions as an alternative to a prison sentence. The idea is that by dealing with the addiction, the need to offend is no longer present. In the first instance, offenders who are referred are assessed for participation by the Probation Service and, subject to suitability/motivation, their progress will be monitored by the Drugs Treatment Court and monitored/supported through an interagency model (Department of Health, 2017, personal communication). The focus of this intervention is on addressing the substance misuse issues and thereby supporting the offender to desist from crime, reducing the likelihood of further offending. The process is diversionary and can prevent progression to conviction for those referred. It has been noted that this intervention is cross-cutting, involving an alternative to imprisonment and referral to treatment and education interventions (Department of Health, 2017, personal communication).

The most recent Irish national drug strategy, *Reducing Harm, Supporting Recovery: A health-led response to drug and alcohol use in Ireland 2017–2025* (Department of Health 2017). Further

information on the strategy can be found in Section 1.1.1 of the current Policy workbook. The strategy has identified the future direction and objectives of the Drugs Treatment Court as a strategic action (see Section 3.1.3.4, p. 58) (Department of Health 2017). To achieve this action, an independent evaluation of the DTC is to be established. In the meantime, the DTC will continue until the evaluation outcomes are available. Although the catchment area for the DTC is County Dublin, participants from other parts of Ireland have been facilitated (Fitzgerald 2017, 16 February). Since 2001, the highest number of referrals (174) occurred in 2016, which was an increase of 77% from the number of referrals in 2015 (Courts Service 2017). Doing well on the programme could, on the recommendations of the DTC judge, result in a suspended sentence (Courts service n.d.). Those who graduate at a gold level are considered completely free of drugs; in 2016, five participants achieved this level (Fitzgerald 2017, 16 February). Personal communication from the Department of Health indicates that the Minister for Justice and Equality is currently examining options as a way forward for the operation of the Drugs Treatment Court. The matter will be progressed alongside wider justice reforms that are also under consideration, such as the proposal to establish a Community Court. An independent review of the Drugs Treatment Court could inform the Minister's deliberations, and the initiative should continue to be supported in the meantime (Department of Health, 2017, personal communication).

- Community Courts

- In a 2007 report making the case for Community Courts in Ireland, the National Crime Council (NCC) 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).
- 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* (Health Research Board 2014)) for an account of a seminar on Community Courts organised by the DCBA.
- In July 2014, the Oireachtas Joint Oireachtas 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)}. Responding to the recommendation, the Minister for Justice and Equality, Frances Fitzgerald TD, stated her intention to bring forward proposals for the establishment of such a court: 'I believe that appropriate planning is the key to getting an effective court in place and it will also entail significant consultation with all stakeholders including the community itself' (Department of Justice and Equality 2014)}.
- An interagency working group on Alternatives to Prosecution was established by the Criminal Justice Strategic Committee to think about options for moving forward with the establishment of a Community Court (Department of Health, 2017, personal communication). Drawing on recommendations put forward by the Oireachtas Joint Oireachtas Committee on Justice, Defence and Equality, the working group also looked at ways of targeting low-level offenders and effectively addressing offending behaviour through a community justice Intervention programme (Flanagan 2017, 5 July). The Minister for Justice and Equality, Deputy Charlie Flanagan, is 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, 5 July).

- The Garda Síochána Adult Cautioning Scheme has been in existence since February 2006 for offenders aged 18 and over (An Garda Síochána 2009). The Adult Cautioning Scheme is a non-statutory scheme which operates under the common law and discretionary powers of An Garda Síochána (Department of Health, 2017, personal communication). 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. It is mainly applied to first-time offenders (Department of Health, 2017, personal communication). The working group on Alternatives to Prosecution referred to in the previous point believes that the Garda Síochána Adult Cautioning Scheme has the potential to respond more effectively to one-off and repeat low-level offending, and is therefore viewed as something that restorative justice can build on (Fitzgerald F 2016, 31 May). Similar recommendations have been put forward by the Strategic Review of Penal Policy and the Garda Síochána Inspectorate (Department of Health, 2017, personal communication). The Inspectorate further believes that the scheme should encompass first-time offences that involve controlled substances for personal use ('simple possession') (Department of Health, 2017, personal communication). The scheme's focus is on prompt processing, aimed at reducing the risk of reoffending while also ensuring that referrals to appropriate services are immediate (Fitzgerald F 2016, 31 May). The main issue in advancing diversion programmes in Ireland is determining which model is most suited to the Irish context. A recent study which examined the use of the Adult Cautioning Scheme in Ireland over five years (2006–2010) concluded that the Adult Cautioning Scheme is not only another route to divert offenders, but that it also has the capacity to be extended to cover a greater variety of offenders (Tolan and Seymour 2014). The recommendations are currently under consideration by the relevant authorities and a decision is expected shortly (Department of Health, 2017, personal communication).
- Following a series of pilots started in 2007, the Irish Sentencing Information System (ISIS) now maintains an online database with information on sentencing in the criminal courts. The aim is to have a computerised information system on sentences and other penalties imposed for offences in criminal proceedings, which may inform judges when they are considering the sentence to be imposed in an individual case. The sentencing information system enables a judge, by entering relevant criteria, to access information on the range of sentences and other penalties that have been imposed for particular types of offences in previous cases. The project is overseen by a steering committee of judges, together with an expert on sentencing law, appointed by the Courts Service Board. See Section 1.2.1 of the *2016 National Report - Legal workbook* for an account of the most recently available issues paper - *Analysis of sentencing for possession or importation of drugs for sale or supply* published by ISIS on the sentencing practice of the courts in relation to the offences of possession or importation of controlled drugs for the purpose of sale or supply.

3. New developments

3.1 Changes in laws in the last year

Road Traffic Act 2016

Following on from the Road Traffic Bill 2016, the Road Traffic Act 2016 was enacted on 27 December 2016. The Act amends and extends the Road Traffic Acts 1961 to 2015 and provides for a number of measures to improve safety on Irish roads. A new offence for driving with the presence of certain drugs present was established and a number of amendments were made to help tackle driving under the influence of drugs, for example:

Section 7 amended the definition of 'analysis' to include 'determining the concentration of alcohol in a specimen of breath, blood or urine' the concentration of a drug specified in column (2) of the Schedule in a specimen of blood and any operation used in determining the presence (if any) of a drug or drugs in a specimen of blood or urine, and cognate words shall be construed accordingly; (p. 7). This was essential in order to allow the Medical Bureau of Road Safety to implement new tasks specific to the new offences. Section 7(c) provides a new definition for 'medical exemption certificate' so that cases where individuals that are tested positive for a drug that is required for medical reasons are catered for.

Section 8 amends Sections 4 and 5 of the Road Traffic Act 2010 which focuses specifically on driving and being in charge of a mechanically propelled vehicle by creating two new offences. Under Sections 4 and 5 of the 2010 Act it is an offence to drive or be in charge of a mechanically propelled vehicle while under the influence of an intoxicant. This suggests that an intoxicant and impairment must be proven. Section 8 of this Act makes it a) an offence for certain drugs to be present above a certain level (see Table 3.1.1) and b) an offence for an individual who intends or attempts to drive a vehicle. This offence does not apply if a person has a medical exemption certificate signed by the doctor who prescribed it at the time the drug was found.

Table 3.1.1 Drugs specified in Road Traffic Act 2016

Reference No (1)	Drug (2)	Level (units in whole blood (3))
1	Δ 9-Tetrahydrocannabinol (Cannabis)	1ng/ml
2	11-nor-9-carboxy- Δ 9-tetrahydrocannabinol (Cannabis)	5ng/ml
3	Cocaine	10ng/ml
4	Benzoylcegonine (Cocaine)	50ng/ml
5	6-Acetylmorphine (Heroin)	5ng/ml

Section 10 amended Section 9 of the 2010 Act by giving powers to gardaí to carry out drug testing using special devices that show whether drugs are present in oral fluid.

Section 11 amended Section 10 of the 2010 Act such that a Garda Inspector has the authority to establish a checkpoint and may require the individual in charge of the vehicle to provide a specimen of breath or oral fluid.

Section 12 amended Section 11 of the 2010 Act such that an individual must accompany a Garda to a place at or near by to carry out an impairment test safely.

A new Section 13a and 13b were inserted, which obligates an individual to a) provide an oral fluid specimen following arrest and b) to provide a blood specimen when suspected of certain offences involving drugs.

Penalties associated with offences under Sections 8, 11, 12, 13/13b can be found in Table 1.1.1, Section 1.1 of this workbook.

Section 14 amended Section 17(1) of the 2010 Act, which provides that the Medical Bureau of Road Safety should analyse specimens under Section 15, as soon as is appropriately possible to determine the concentration of alcohol, presence and or concentration of drug or drugs.

Sections seven to 14 came into operation on 30 March 2017.

Criminal Justice (Suspended Sentences of Imprisonment) Act 2017

Following on from the Criminal Justice (Suspended Sentences of Imprisonment) Bill 2016, Criminal Justice (Suspended Sentences of Imprisonment) Act 2017 was enacted on 15 March 2017. The aim of the Act was to amend Section 99, 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 to happen as a result of High Court Judgment in April 2016 which purported that some of the provisions in this Section was unconstitutional.

Under the provisions of the new Act, when a person carries out a 'triggering offence' having already obtained a suspended sentence for a previous offence, following court proceedings and imposing 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.

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. In the Introduction, the Act is summarised as: 'An Act to provide for the establishment, licensing, operation and regulations 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.'

The Act will:

- Provide an exemption for licensed providers whereby it is currently an offence to permit the preparation or possession of a controlled substance in premises
- Exempt authorised users from the offence of possession of controlled drugs under certain conditions, when in the facility and with the permission of the licence holder
- Enable the Minister to consult with the Health Service Executive (HSE), An Garda Síochána, or others on matters relating to a supervised injecting facility, including its establishment, ongoing monitoring and review
- Possession of controlled drugs will continue to be an offence outside a supervised injecting facility. Possession for sale or supply will remain an offence both inside and outside a supervised injecting facility.

The Minister for Health will issue a licence for the first (pilot) facility to open. While the Act does not define the location of the supervised injecting facility (SIF), it is envisaged that the first facility will be established in Dublin city centre, where public injecting occurs. The location will be selected to address, most effectively, the requirements and concerns of the service users and the wider community. The HSE is responsible for establishing the SIF in 2017. It has established a working group to gather data, consider possible options, and undertake public consultation before any decision is made on a specific location. The Department of Health estimates that the annual cost of running the SIF will be in the region of €1.5 million. The HSE has been allocated €750,000 in 2017 to set up the facility before the end of the current year.

Misuse of Drugs Regulations 2017

The Misuse of Drugs Regulations 2017 came into operation in May 2017. Part 3 of the regulations, imposes restrictions on the production, supply, importation, and exportation of controlled drugs as specified in Schedules 1 to 5 of the Regulations, which refers to drugs that are controlled under the Misuse of Drugs Acts 1977 to 2016. Under these Regulations, the following provisions are provided for:

- Allows legitimate users to continue to possess certain controlled drugs (Department of Health 2017, personal communication)
- Restrictions vary depending on whether drugs are used for medical or scientific purposes and whether their potential for misuse.
- The types of individuals that may have controlled drugs are specified along with the conditions where possession is not an offence.
- Requirements for controlled drug prescriptions and record keeping
- Restrictions on possession and importation of other controlled drugs to benzodiazepines and z-drugs extended
- New requirements regarding documentation relating to exportation of controlled drugs and how they are disposed of
- Higher standard of prescription required for benzodiazepines and z-drugs (Department of Health 2017, personal communication)
- Provisions have also been provided for the possession of forged prescriptions.
- Authority has been provided for inspectors of the Department of Agriculture, Food and the Marine to legally possess cannabis as part of their role.

Criminal Justice Act 2017

The Criminal Justice Act 2017 was enacted in July 2017. The aim of the Act was 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.

Revenue Commissioners Customs Division

Following the enactment in June 2015, The Customs Act 2015 commenced in December 2016. Further information on this Act can be found in Section 1.1.4 of this workbook.

3.2 Changes in the implementation of the law in the last year

The Courts Service publishes data on the outcomes for drug offences in its annual report. The latest report relates to the year 2016 (Courts Service 2017). In 2016, the District Court received 382,325 offences, and made orders in respect of 284,678 – a 4.7% decrease on the 298,797 orders made in 2015. Orders made in respect of drug offences increased by nearly 7% between 2015 (12,310) and 2016 (13,127). Of these, 3,149 were struck out or dismissed, 2,274 led to a fine, 1,779 led to probation, and 380 led to imprisonment or detention.

A total of 14,255 offences were received in the Circuit Court, (a higher court with the jurisdiction to impose more severe sentences,) involving 4,443 defendants. It is important to note that there may be more than one offence brought against a defendant (Courts Service 2017). There were 1,576 drug offences involving 473 defendants; 951 resulted in a guilty plea, while 191 led to imprisonment (Courts Service 2017). For further information, see Drug market and crime workbook Section 1.2.1 and Tables 1.2.1.1 to 1.2.1.6.

Prison sentences for drug offences

On 30 November 2016, there were 3,716 prisoners in custody across the prison system. Of these, 350 or 9%, were serving sentences for drug-related offences (Irish Prison Service 2017). Please see Section 1.2.2, Table 1.2.2.1 of the Prison workbook for a breakdown of people serving sentences for drug-related offences by category and sentence length, at 30 April 2016.

Recidivism

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. The most recent recidivism data available for prisoners indicate that 45.1% of those released in 2010 reoffended within three years, which was 2.4% lower than in 2009 (Central Statistics Office 2016b). Of those who reoffended, 46.6% were initially imprisoned for a controlled drug offence. Although the largest proportion of reoffenders were reconvicted for controlled drug offences (31%), reconvictions were also evident for other offence categories, for example:

- public order and other social code offences (28%)
- theft and related offences (14%)
- burglary and related offences (7%)
- dangerous or negligent acts (6%)
- attempts, threats to murder, assaults, harassments and related offences (5%) (Central Statistics Office 2016b).

The rate of reoffending behaviour in adult and young offenders who received probation and community service orders in 2010 was 37.5% which was .2% higher than in 2009 (37.3%) (Central Statistics Office 2016a). Of those who reoffended, 36% were initially referred for controlled drug

offences. Although 22% of reoffenders were referred again for controlled drug offences, other offence categories were also evident, for example:

- public order and other social code offences
- theft and related offences
- attempts/threats to murder, assaults, harassments and related offences
- offences against government justice procedures and organisation of crime

See Section 1.1.2 of this workbook for penalties for reoffending.

3.3 Evaluation of the law in the last year

The Law Reform Commission (LRC) is responsible for reviewing, putting forward proposals for reform, for example, enacting legislation to clarify and modernise Irish legislation (Law Reform Commission 2017). In 2017, the LRC published an Issues paper on Suspended Sentences, which built on previous work, such as 1996 report on Sentencing and its 2013 report on Mandatory Sentences. The main reason this topic was chosen for review was that the suspended sentence is viewed first as a vital sentencing option. Secondly, it had not been reviewed previously (Law Reform Commission 2017). It was noted that in some cases suspended sentences were not permitted, for example, murder, and for certain types of drug and firearm offences. An analysis on sentencing information indicated that suspended sentences are applied less often to serious offences and more often to offences that are less serious. The Commission is now looking for views from interested parties on the problems related to suspended sentences, for example:

- Are the principles applied appropriately or would it be beneficial to develop sentencing guidance?
- It is unclear why the use of suspended sentences has declined.

Also, in light of the recent enactment of the Criminal Justice (Suspended Sentences of Imprisonment) Act 2017 (see Section 3.1), views are being sought on whether more reforms are needed regarding procedures and activation processes involved in suspended sentences (Law Reform Commission 2017).

As stated in previous workbooks, an examination of sentencing for possession or importation of drugs for sale or supply was carried out by the Irish Sentencing Information System (Mackey 2014). While Smyth et al. (2015) examined whether legislation impacted on the use of NPS in adolescents attending a drug and alcohol treatment service (Smyth, Bobby P., *et al.* 2015) (see Section 1.1.3 and 3.3 of the 2016 National Report - Legal workbook).

3.4 Major political discussions in the last year relating to legislation and implementation.

Criminal Justice (Amendment) Act 2009

As has occurred in previous years, on 20 June 2017, the motion that Section 8 of the Criminal Justice (Amendment) Act 2009 should continue in operation from 30 June 2017 to 29 June 2018 was brought before the Seanad (Conway 2017, 20 June). The Seanad divided (Tá, 20; Níl, 5), and the motion was carried. The division took place in the Dáil on 20 June 2017, and the question was declared carried (Tá 72; Níl 28). It was noted that no trials took place in the Special Criminal Court in the previous 12 months (Stanton 2017, 20 June), 20 June}. Further information on Section 8 can be found in Section 1.1.4 of this workbook.

Parole Bill 2016

As stated in the 2016 National Report, the Parole Bill 2016 was initiated on 25 May 2016. The Select Committee on Justice and Equality completed its consideration and made amendments to the Parole Bill 2016 in May 2017 (2017, 24 May).

The main objectives of the Bill are to:

- Establish an independent Parole Board on a statutory basis
- Give the independent statutory board responsibility for decisions to grant parole, thereby removing responsibility for granting parole from the Minister for Justice and Equality
- Establish clear criteria for granting parole so that citizens, victims of crime and prisoners know how to apply and how parole is granted
- Allow victims of crime a say in the process (O'Callaghan 2016, 15 June).

Controlled Drugs and Harm Reduction Bill 2017

A Controlled Drugs and Harm Reduction Bill 2017 was brought before the Seanad by an Independent Senator in May 2017. The aim of the Bill is to amend the legislation to provide for the decriminalisation of controlled drugs when the amount in possession is for personal use (Department of Health 2017, personal communication). Further detail on this Bill can be found in Section 3.1 of the Policy workbook.

Sentencing Council Bill 2017

A private member's bill, the Sentencing Council Bill, was initiated in February 2017 by Jonathan O'Brien. The aim of the Bill is to establish a Sentencing Council and to provide for related matter. The main function of the Council will be to prepare sentencing guidelines relating to the sentencing of criminal offenders. Guidelines may be general in nature or limited to a particular offence, category of offence or a particular category of offender. While introducing the Bill, Mr O'Brien acknowledged that:

'sentencing for some crimes has increased over the past number of years. However, there does appear to be a wide level of disparity for sexual offences and other offences.'

'research on judicial sentencing habits conducted that has shown sentence lengths ranging from fourteen days to five months in an assault case; while for a theft case, sentences ranged between thirty days and nine months and between two and twelve months in road traffic and burglary cases.'

'it is essential that there is public confidence in consistency of sentencing.'

'A Sentencing Council can promote a clear, fair, and consistent approach to sentencing and I am hopeful this Bill will receive support across the board' (Sinn Féin 2017).

The Bill is currently before Dáil Éireann, First Stage.

Decriminalisation

A key debate that has continued in Ireland in the past 12 months centres on decriminalisation (see Section 3.1 of this year's Policy workbook). A national survey carried out by CityWide Drugs Crisis Campaign examined attitudes towards drug users and decriminalisation, and concluded that opinions regarding changing the law on drugs were mixed. Further details on the outcomes of this study can be found in Section 4.1.2 of this year's Policy workbook).

New legislation controlling NPS

In a recent communication with the Department of Health, it has been stated that amendments to the Misuse of Drugs legislation are being planned for this autumn (Department of Health 2017, personal communication).

NPS are controlled under the Misuse of Drugs Acts by means of generic control whereby families of substances that are structurally related are controlled rather than individual substances. This approach facilitates a quick response to new emerging substances. A second piece of legislation, the Criminal Justice (Psychoactive Substances) Act 2010 makes it an offence to sell or supply new psychoactive substances not controlled under the Misuse of Drugs Acts (see Section 1.1.3 of this workbook).

The aim of the amendments is to ensure that control measures can be implemented for new psychoactive substances which were identified at the sixtieth session of the UN Commission on

Narcotic Drugs in March 2017. A total of 10 new substances were recommended, six of which are already controlled. The new substances to be controlled are:
U-47700 – 3,4-dichloro-N-(2-dimethylamino-cyclohexyl)-N-methyl-benzamide
EPH (Ethylphenidate) – ethyl phenyl(piperidin-2-yl)acetate
MPA (Methiopropamine) - methiopropamine is N-methyl-1-(thiophen-2-yl)propan-2-amine
XLR-11 – [1-(5-fluoropentyl)-1H-indol-3-yl](2,2,3,3-tetramethylcyclopropyl) methanone (Department of Health 2017, personal communication).

Community Justice Intervention

A working group within the Justice Sector has been examining proposals for the development of a 'Community Justice Intervention' initiative aimed at tackling low-level adult offenders (i.e. those committing relatively minor offences in specific offence categories) and effectively addressing their offending behaviour. This would be a diversion from the courts system and would have the potential to respond more effectively to one-off and repeat low-level offending, with the emphasis on speedy processing aimed at reducing the risk of reoffending and also to provide quick referral to the necessary services for those who need them. This work is at the very early stages and is ongoing (Department of Health, 2017, personal communication).

4. Additional information

4.1 Sources of information

A new paper by Smyth et al. explored the relationship between changes in legislation related to new psychoactive substances (NPS) and their problematic use (Smyth, Bobby P, *et al.* 2017). In 2010, new psychoactive substances (NPS) were the subject of two new pieces of legislation in Ireland. The first (enacted in May 2010), expanded the list of substances controlled under the Misuse of Drugs Act 1977–1984 to include over 100 NPS. The second, the Criminal Justice (Psychoactive Substances) Act 2010 (enacted in August), differed from the established approach to drug control under Ireland's Misuse of Drugs Act in that it covered the sale of substances by virtue of their psychoactive properties, rather than the identity of the drug or its chemical structure. It was aimed at vendors of NPS and effectively made it an offence to sell a psychoactive substance. This 'two-pronged legislative approach' was largely in response to an increase in the number of so-called 'head shops' selling NPS from late 2009 to a peak of 102 premises in May 2010. By October 2010, only 10 head shops were still open, and by late 2010 An Garda Síochána indicated that none of the remaining shops were selling NPS.

Legislative bans such as these have attracted debate internationally as to their effectiveness in impacting on the overall availability and use of NPS in particular problematic use (Dillon 2016). Smyth et al. explored whether 'the arrival and subsequent departure of the head shops coincided with changes in presentation of problem NPS use among adults attending addiction treatment services in Ireland'.

Methods

The Smyth et al. paper is based on analysis of data from the National Drug Treatment Reporting System (NDTRS), an epidemiological database on treated drug and alcohol misuse in Ireland (Health Research Board 1990). It collects self-reported information on service users' main problem drug and up to three additional problem drugs. Problem drug use is 'generally understood [in the NDTRS] to equate to dependence or harmful use as described in ICD-10'. The system does not use a unique patient identifier and therefore the units of analysis reported on in the paper were treatment episodes, except where analysis focused on the cases of those never previously treated for drug use. A treatment episode was considered to be NPS related, where an NPS was identified as a 'main' or 'additional' problem drug. A range of statistical analyses were carried out on the data, including odds ratios and joinpoint regression (further detail is available in the Smyth et al. paper). To reflect the timeline of changes in problem NPS use in Ireland and the introduction of the relevant legislation, the paper examined episodes of treatment recorded in the NDTRS between 2009 and 2012 at four-month intervals.

Key findings

Key findings included that:

- NPS use can cause substance use disorders and create treatment demand. In what Smyth et al. called ‘the head shop era’ (i.e. January–August 2010), 4.2% of treatment episodes among 18–34-year-olds were NPS related. This compared with 2.4% of treatment episodes for the same age group over the three-year period 2009–2012.
- Between 2009 and 2012, the NPS group had a higher proportion of males when compared to the non-NPS group and had a younger age profile. The median age of the NPS group was 25 years compared to 35.6 years for the non-NPS group.
- A decline in treatment episodes for NPS followed the enactment of the second piece of legislation that effectively ended ‘the head shop era’ in August 2010. The rate of NPS-related treatment episodes increased rapidly from the period September to December 2009, through early 2010, and peaked between May and August 2010. It decreased progressively after that point (see Figure 4.1.1). Smyth et al. highlighted that the rate of NPS-related treatment episodes did not just ‘plateau’ following the enactment of the legislation causing the head shops to close. Rather, it ‘declined progressively by almost 50%’ over the subsequent two years.
- Similar changes were not found for non-NPS related treatment episodes over the same time period (2009–2012).
- While there was an overall decrease in NPS treatment episodes after August 2010, where they did occur NPS stimulant powders accounted for an increased proportion of them. By contrast, while the proportion of NPS cannabis-like substances declined.
- The rate of NPS-related treatment episodes declined more acutely among young people who had never before sought addiction treatment, when compared to overall treatment episodes.
- An NPS was the main problem drug in 39% of NPS-related treatment episodes in 2010, but this fell to 16% in 2012. Therefore, even though NPS continued to feature in treatment episodes after the head shops had closed, they were more likely to be a ‘peripheral problem’.

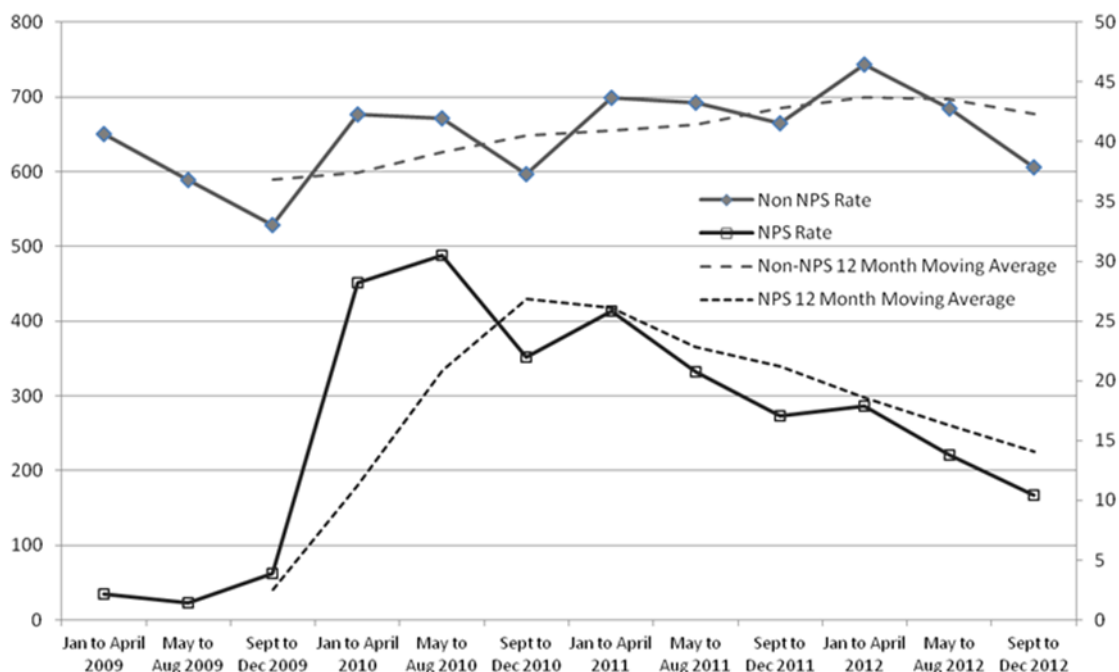


Figure 4.1.1 – Rate of addiction treatment episodes among people aged 18–34-years from 2009 to 2012, comparing episodes related to NPS to those related to other substances.

While acknowledging other possible explanations, the authors note that their findings ‘are consistent with a hypothesis that the legislation and consequent closure of the head shops contributed to a reduction in NPS-related substance use disorders in Ireland’. They concluded that:

While policy responses based on prohibition-type principles appear to have fallen out of favour globally in the past decade, the experience of Ireland's response to NPS suggests that such policies remain a legitimate component of society's response to this complex and ever-changing challenge.

However, more recent data from the NDTRS show that NPS use is still problematic in Ireland and is showing a slight increase. While reported use of an NPS as a main drug of problem use among all age groups peaked in 2010, at 2.5% of all cases treated, and dropped to 0.4% of all cases treated in 2012, since then it has increased slightly to represent 0.9% of all cases treated in 2015 (Dillon 2016)

4.2 New areas of specific importance

Cannabis for Medicinal Use Regulation Bill 2016

As identified in the *2016 National Report*, extensive debate has arisen regarding medicinal cannabis (see Section 5 of the *2016 National Report* (Legal framework) for further information). Primarily, two main sources can be identified. First, the Cannabis for Medicinal Use Regulation Bill 2016 was proposed. This is a Private Members Bill, which is a bill that can be initiated by any member of either Houses of the Oireachtas (Parliament). It is not part of the Government's planned legislation, and such Bills are rarely passed into law (Department of Health, 2017, personal communication). The Bill was initially referred to the Select Committee in December 2016. The final report was published in July 2017 (Joint Committee on Health 2017). Committee recommendations are reported in Section 3.1 of this year's Policy workbook. Second, the Health Products Regulatory Authority (i.e. The Irish Medicines Regulator) was commissioned to carry out a scientific review of the evidence by the Government (Health Products Regulatory Authority 2017). This has resulted in the development of an Access Programme, which should commence later in the year and secondary legislation (see Section 3.1 of this year's Policy workbook).

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

New regulations are currently being drafted to replace the Misuse of Drugs (Supervision of prescription and supply of methadone) Regulations, 1998. They are based on recommendations put forward by an Expert Group and will increase the scope of the previous regulations by including certain buprenorphine preparations which can be prescribed for the treatment of opioid dependence. It is hoped that the new regulations will result in a phased increased access to buprenorphine for a cohort of patients in specific circumstances (Department of Health, personal communication, 2017).

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European Monitoring Centre for Drugs and Drug Addiction

The European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) is a decentralised EU agency based in Lisbon. The EMCDDA provides the EU and its Member States with information on the nature, extent, consequences and responses to illicit drug use. It supplies the evidence base to support policy formation on drugs and addiction in both the European Union and Member States.

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

The Irish Focal Point to the EMCDDA is based in the Health Research Board. 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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