CHAPTER 537

DRUG DEPENDENCE (TREATMENT NOT IMPRISONMENT) ACT

To provide for the treatment of persons in possession of small quantities of prohibited drugs for personal use and for other measures for the rehabilitation of persons suffering from drug dependence.

15th April, 2015*

ACT I of 2015.as amended by Acts V of 2018, XXXII of 2018, IV of 2020, XXXVI of 2021,LXVI of 2021 and VII of 2025.

1. The short title of this Act is the Drug Dependence (Treatment not Imprisonment) Act. Short title.

2. In this Act, unless the context otherwise requires: Interpretation.

"conviction" also includes the voluntary payment of a penalty without proceedings as provided under this Act or under the Commissioners for Justice Act; Cap. 291. *Amended by: V.2018.2.*

"Cannabinoid" means one of a group of compounds found only in any plant of the genus Cannabis;

"drug laws" means the Medical and Kindred Professions Ordinance and the Dangerous Drugs Ordinance. Cap. 31. Cap. 101.

"Good Manufacturing Practice" means the part of quality assurance which ensures that products are consistently produced and controlled in accordance with the quality standards appropriate to their intended use and in line with the current detailed good manufacturing practice guidelines published by the European Union Commission;

"Minister" means the Minister responsible for Justice; unless otherwise specified.

"prohibited drug" means any drug which may form the object of criminal proceedings under article 120A of the Medical and Kindred Professions Ordinance or under article 22 of the Dangerous Drugs Ordinance. Cap. 31. Cap. 101.

"synthetic Cannabinoids" means substances with structural features which allow binding to one of the known cannabinoid receptors, i.e. CB1 or CB2, present in human cells and compounds with similar chemical structures.

3. (1) Subject to the provisions of sub-article (2), the provisions of this Act, including the procedures, measures and punishments provided in this Act in respect of offences against the drug laws, shall apply notwithstanding and to the exclusion of the provisions of the drug laws. No direction shall be required from the Attorney General for the purposes of commencement of proceedings under articles 4 and 5. Application of this Act.

(2) The drug laws shall continue to apply except in respect of any matter explicitly provided for in this Act.

* See article 1(1) of the Act as originally promulgated, and Legal Notice 93 of 2015.

Possession for personal use of prohibited drug. *Amended by: LXVI.2021.29.*

4. (1) Where a charge of possession of a prohibited drug other than the drug cannabis in a quantity of less than two grams or of two pills of the drug 'ecstacy' or of two other prohibited pills, irrespective of purity, in circumstances which do not give rise to reasonable grounds to believe that the prohibited drug is not for personal use by the person in possession thereof, that person shall be tried in accordance with the Commissioners for Justice Act and shall be liable, on conviction by the Commissioner for Justice, hereinafter referred to as "the Commissioner", assigned by the Minister to hear drug offence cases, to a penalty of between seventy-five euro (€75) and one hundred and twenty-five euro (€125):

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Provided that the Minister may by means of regulations made by virtue of this Act establish amounts and levels of purity in respect of different types of prohibited drugs which shall give rise to a legal presumption that a person found in possession of the said amounts of prohibited drugs, whether of a specified purity or not, was in possession of those prohibited drugs for personal use or for trafficking, as the case may be.

(2) Where, in proceedings commenced before the Commissioner in terms of sub-article (1) a question arises as to whether a substance constitutes a prohibited drug, the Commissioner shall refer such question to the Drug Offenders Rehabilitation Board which shall report back on its findings to the Commissioner.

(3) Any prohibited drugs confiscated or exhibited in the course of proceedings before the Commissioner in terms of sub-article (1) shall be sent by the Registrar of the Tribunal to the Registrar of the Criminal Court for destruction. Due record shall be kept of such sending.

(4) Where a person charged with an offence as provided for in sub-article (1) is a person not habitually resident in Malta any penalty due in terms of the provisions of the said sub-articles shall, unless the charge is contested, be paid in its minimum through electronic means and without proceedings before the Commissioner, at any place and in such manner as may be established by the Minister. Such payment may only be made through credit card or other bank transfer within twelve hours from the time when the said person is notified of the charge during which time the Executive Police shall have the power to keep the said person in detention until payment is made:

Provided that where a charge to which this sub-article applies is contested or where no payment of the penalty as provided above in this sub-article is made, the provisions of this Act shall cease to apply in respect of the person to be charged and the case shall proceed in accordance with the provisions of the drug laws.

For the purposes of this sub-article "contested" means giving notice of contestation even if verbally.

Possession for personal use and consumption of the drug cannabis. *Added by: LXVI.2021.30.*

4A. (1) Notwithstanding the provisions of any other law, the possession by a person over the age of eighteen (18) years of the drug cannabis in an amount not exceeding seven grams, in circumstances in which it may be reasonably deemed that such possession is for the personal use of such person, shall not constitute an offence, and that person shall not be subject to being taken into custody under arrest saving when there is a reasonable suspicion of trafficking or dealing in the drug cannabis:

Provided that any person under the age of eighteen (18) years found in such possession of the drug cannabis shall be subject to being summoned to appear before the Commissioner for Justice who, after taking cognizance of the case may propose that such person should submit himself to a care plan or to treatment. In making such a proposal the Commissioner for Justice may consult the Drug Offenders Rehabilitation Board and such other person or public authority as the Commissioner for Justice deems appropriate.

(2) Where a charge for breach of the drug laws consists of a charge of possession of the drug cannabis in a quantity of more than seven grams but not more than twenty-eight grams, irrespective of purity, in circumstances which do not give rise to reasonable grounds to believe that the prohibited drug is not for personal use by the person in possession thereof, that person shall be tried in accordance with the Commissioners for Justice Act and, upon conviction by the Commissioner for Justice assigned by the Minister to hear drug offence cases, shall be liable to a penalty of between fifty euro (€50) and one hundred euro (€100): Cap. 291.

Provided that the person shall not be subject to being taken into custody under arrest saving when there is a reasonable suspicion of trafficking or dealing in the drug cannabis.

(3) A person who consumes the drug cannabis, other than as may be authorised for medical reasons, in a public place, which includes any place to which the public has or is permitted to access whether on payment or otherwise, shall be liable to a penalty of two hundred and thirty-five euro (€235), to be imposed in accordance with the provisions of the Commissioners for Justice Act. Cap. 291.

(4) A person who consumes the drug cannabis in any place, whether public or private, in the presence of any person under the age of eighteen (18) years, being aware that such person is under the age of eighteen (18) years, shall be liable to a penalty of not less than three hundred euro (€300) and not more than five hundred euro (€500), to be imposed in accordance with the provisions of the Commissioners for Justice Act. Cap. 291.

(5) In all circumstances detailed under the preceding sub-articles of this article, the drug cannabis shall be seized by the Executive Police only if found in excess of seven grams or if there is a

reasonable suspicion of trafficking or dealing in the drug cannabis. Following its exhibition in the course of proceedings, the seized drug shall be sent to the Registrar of the Criminal Court for destruction. Due record shall be kept of such fact.

(6) A person over the age of eighteen (18) years charged with a breach of the provisions of this article other than with a breach of sub-article (4), may, unless the charge is contested, pay any penalty due in its minimum through electronic means and without proceedings before the Commissioner, at any place and in such manner as may be established by the Minister.

Second offence with a period of two years.

5. (1) In the case of a second or subsequent conviction for possession of a prohibited drug for personal use within a period of two years from the date of the first conviction the offender shall also be tried before a Commissioner for Justice appointed in terms of the Commissioners for Justice Act and shall be liable to the same penalties and be subject to the same procedures as provided in article 4:

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Provided that upon a conviction for the second or subsequent offence of a person habitually resident in Malta the Commissioner for Justice shall order the person convicted to appear before the Drug Offenders Rehabilitation Board established under article 6.

(2) Notwithstanding the provisions of sub-article (1), in the case of a second or subsequent conviction as referred to in sub-article (1), where the prohibited drug involved in the offence is cannabis or cannabis resin the Commissioner for Justice shall only refer the convicted person to the Drug Offenders Rehabilitation Board if, after considering the circumstances of the offence and of the offender, he is satisfied that there are reasonable grounds to believe that the circumstances of the convicted person give rise to a probability that he is abusing or is likely to abuse prohibited drugs other than cannabis or cannabis resin.

Non-appearance before the Board.

(3) The Commissioner for Justice shall in all cases make an order for appearance before the Drug Offenders Rehabilitation Board in the case of any person who is charged with a second or subsequent offence in terms of sub-articles (1) or (2) and who either opts to pay the penalty without proceedings in terms of the Commissioners for Justice Act or fails to appear before the Commissioner when duly summoned.

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(4) Where a person is referred to the Drug Offenders Rehabilitation Board in terms of sub-articles (1), (2) or (3), the said Board shall summon the said person to appear before it and shall, after conducting such examinations on the said person as are proportionate and as it considers necessary, and if it finds that the said person has a drug dependence problem which merits treatment, the said Board shall issue such orders to that person as appear to the Board to be necessary for the purpose of assisting that person to come out of his drug dependence.

(5) Any person who after being referred to the Drug Offenders

Rehabilitation Board fails, without reasonable justification, to appear before the Board on any occasion when he is to so appear, or who fails without reasonable justification to comply with an order issued to him by the Board shall be guilty of an offence against this Act and shall be liable on conviction by the Court of Magistrates to a fine (*multa*) of between one hundred euro (€100) and five hundred euro (€500) or to imprisonment for a period of three months or to both such fine and imprisonment.

Drug Offenders Rehabilitation Board.
Amended by: XXXII.2018.21; XXXVI.2021.11; VII.2025.10.

6. (1) There shall be a Board to be known as the Drug Offenders Rehabilitation Board which shall consist of:

(*a*) a Chairman who shall be appointed by the Minister who shall be either a retired Judge or a retired Magistrate or a person who shall have exercised the profession of advocate for a period of at least twelve years;

(*b*) one member who shall be appointed by the Minister upon the recommendation of the Minister responsible for social policy;

(*c*) one member who shall be appointed by the Minister upon the recommendation of the Minister responsible for home affairs;

(*d*) one member who shall be appointed by the Minister upon the recommendation of the Minister responsible for health;

(*e*) three (3) members who shall be appointed by the Minister:

Provided that the persons appointed in accordance with paragraphs (*b*), (*c*) and (*d*) shall be appointed from amongst persons practicing professions or carrying out duties which are relevant to the rehabilitation of persons suffering from drug dependence and the persons appointed in accordance with paragraph (*e*) shall be appointed from amongst retired public officers who in the opinion of the Minister are appropriate to serve on the Board and, or from amongst other persons who are competent within the field of rehabilitation from drug dependence.

(2) The Minister may appoint more than one formation of the Board in accordance with the method of appointment provided in sub-article (1).

(2a) Four (4) members, including the Chairman of the Board shall constitute a *quorum* in its meetings.

(3) In the case of equality of votes the Chairman of the Board shall have a casting vote.

(4) The Drug Offenders Rehabilitation Board shall have the following powers and functions:

(*a*) to interview and examine any person who is referred to it by the Commissioner for Justice or by a Court in terms of the provisions of this Act or of any other law;

(*b*) to order the taking of such blood or urine samples from

any person referred to it;

(*c*) to obtain any information, technical assistance or expert advice from any Government department or agency or from any body set up by law for the purpose of assessing the situation of any person referred to itand to provide assistance to any person referred to it in particular with regard to any mental health issues and to assist any such person to overcome the social threats of addiction such as the absence of a fixed place of abode and unemployability and for this purpose the Board shall be entitled to consult the Housing Authority and JobsPlus;

(*d*) to take such proportionate measures as may appear to the Board to be necessary for the purpose of assisting the person referred to it to combat drug dependence problems;

(*e*) to issue such orders or recommendations, which may also include orders restrictive of freedom of movement, for treatment or rehabilitation to any person referred to it for the purpose of assisting such person to combat drug dependence problems;

(*f*) to advise and assist the Commissioner for Justice, the Court of Magistrates or any other Court of criminal jurisdiction upon the request of the said Commissioner for Justice or Court in relation to measures related to proceedings before the Commissioner for Justice or the Court, or in matters relating to the assistance and rehabilitation of drug offenders and persons charged with offences under the drug laws or with offences which are related, directly or indirectly to drug dependence;

(*g*) to oversee and advise about the establishment and operation of a programme aimed at providing psychological support to family members and other persons with a close connection to persons suffering from drug dependence problems;

(*h*) to work in co-ordination with the justice, social policy, police, health and judicial training authorities for the organization of training for practitioners involved in activities related to the control of drug abuse and drug related behaviour;

(*i*) to perform any other function related to the rehabilitation of drug abusers as the Minister may from time to time by regulations assign to it.

(5) Generally, for the purpose of exercising its powers and functions, the Board shall have, *mutatis mutandis*, all such powers as are by the provisions of Book Second of the Criminal Code vested in the Court of Magistrates.

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(6) In the performance of its functions, the Board shall act with independence and impartiality and it shall be subject to the general supervision of the courts of criminal jurisdiction as provided in this

article.

(7) Where any person who is referred to the Board by a court wishes to contest a decision taken with regard to him or her by the Board:

(*a*) that person may file an application for the said purpose before the court by which he or she was referred to the Board;

(*b*) the said court shall, in considering the application, give due consideration to the grounds of complaint, to the reasons for the decision of the Board, and to any other information which it may demand from the Board; and

(*c*) the court may either confirm its agreement with the decision of the Board or refer the matter back to the Board with direction for the variation of the decision.

(8) The procedure provided for in sub-article (7) shall also apply to decisions taken by the Board in respect of persons who are referred to it by a Commissioner for Justice in which case the application referred to in paragraph (a) of sub-article (7) shall be filed before the Court of Magistrates as a Court of Criminal Judicature in the island where the applicant resides.

Cultivation of the plant cannabis for personal use. *Added by: LXVI.2021.31.*

7. (1) Notwithstanding the other provisions of this Act or of any other law, the cultivation of up to four plants of the drug cannabis, and the possession of not more than fifty grams of dried cannabis, for personal use, by a person over the age of eighteen (18) years, within the residential address appearing on an official document showing his place of residence, such as a national identity card or other identity document, shall not constitute an offence, and that person shall not be subject to being taken into custody under arrest only by reason of such cultivation and possession at the said address:

Provided that:

(a) such cultivation shall not occur in a space which is visible to the public;

(b) the Executive Police shall in all cases seize the dried cannabis found on the premises only if it is in excess of fifty grams. Where after the seizure of the dried cannabis it results that there are no grounds to institute proceedings due to the fact that the amount of cannabis seized was within the limits permissible by law the Police shall send the seized cannabis to the Authority on the Responsible Use of Cannabis or other public authority as the Minister may by order in the gazette appoint for the purpose so that it shall be returned to its owner subject to such conditions as such authority or authority may establish. Due record shall be kept of

such facts:

Provided further that no action shall lie against the Police if the seized cannabis after having been weighed with precision results to have been in a quantity which does not exceed fifty grams.

(2) Nothing in this article shall be interpreted as authorising the cultivation of more than four plants of the plant cannabis irrespective of the number of residents within any given residential address and irrespective of the strains of such plants.

(3) For the purposes of this article and of article 7A "dried cannabis" means the dried inflorescence and the dried leaves of the plant cannabis.

Organisations of individuals. *Added by: LXVI.2021.31.*

7A. (1) Notwithstanding the other provisions of this Act or of any other law it shall be permissible to establish, and an individual may be a member of, an organisation the membership of which shall consist only of individuals in their personal capacity and acting only in their own name the only purpose of which being the cultivation of the plant cannabis exclusively for its members in a collective manner to distribute it only to those members.

(2) An organisation as referred to in sub-article (1) shall comply with the following provisions:

(a) it shall be registered with the Authority on the Responsible Use of Cannabis and prior to commencing its operations it shall obtain a permit from the said Authority to operate, which permit may be subject to general or particular conditions;

(b) it shall operate on a non-profit basis in accordance with the definition in article 2 of the Voluntary Organisations Act in such a manner that the provisions of the First Schedule of the said Act shall *mutatis mutandis* and to the extent to which they maybe applied, apply to the said organisation;

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(c) it shall distribute cannabis only to its members and it shall not permit any other person not being its member to be present in any premises which it operates;

(d) it shall have distinctive marks on the containers in which it distributes cannabis in a manner which renders the distribution of the said containers by it identifiable and it shall carry out controls of the quality of cannabis distributed;

(e) it shall not have more than five hundred members or such other number of members as the Authority on the Responsible Use of Cannabis may determine by order in the Gazette;

(f) it shall not be allowed to advertise its activities in any manner and no indication by signs, words or designs,

or otherwise of activities related to cannabis or to the cannabis culture shall be allowed to be shown from any premises managed by the organisation on the outside or in a way which is visible from the outside;

(g) any premises managed by the organisation shall not be within a distance of less than two hundred and fifty metres from the perimeter of a school, a club or a youth centre;

(h) it shall ensure that the presence of premises managed by it does not cause nuisance in the locality where it is situated, also including nuisance because of loitering, and ensure that every premises managed by it is in conformity with every law and regulation on health and safety as in force from time to time;

(i) that the persons who manage the organisation and the persons who render service in the premises managed by it shall be of good conduct and the organisation shall register them as such with the Authority on the Responsible Use of Cannabis;

(j) that no person under the age of eighteen (18) years may be a member of the organisation or be present in any premises managed by it;

(k) that at no time shall there be more than five hundred grams of dried cannabis in any premises managed by it or in its possession;

(l) that it shall not cultivate more cannabis plants that such number authorised by the Authority on the Responsible use of Cannabis and that it shall abide by all conditions and controls as such Authority may impose, including conditions relating to the places where cultivation may take place, where cannabis plants are dried and how they shall be transported;

(m) that the cannabis distributed to members should be in a sealed container the shape of which and the words or designs written or printed thereon shall require the approval of the Authority on the Responsible Use of Cannabis;

(n) that no alcoholic products shall be sold from any premises managed by the organisation;

(o) that the organisation shall cooperate fully and honestly at all times in any inspections which may be made in its regard from time to time by the public authorities, also including inspections held for the purpose of verifying what quantity and quality of cannabis is being distributed to the members of the organisation and to establish that the law is being observed;

(p) that it shall render account in writing every three (3) months to the Authority on the Responsible Use of Cannabis on the amount of cannabis distributed amongst the members of the organisation and about the number of members of the organisation without giving

their personal details;

(q) that it shall keep a register of its members which shall include as a minimum the names and copies of the identity card or of another official identity document or of the passport of the said members. Such register shall be kept in a manner which complies with any law on data protection as applicable from time to time;

(r) that it shall not permit the same member to receive more than seven grams of cannabis in a single day or more than fifty grams of cannabis in any calendar month;

(s) that it shall not accept as members or in the continuation in its membership persons who are members of another organisation of the same type;

(t) that it shall abide by all conditions as the Minister may by regulations which may be issued on the basis of this article from time to time establish;

(u) that the owners, management and membership of the organisation shall consist only of individuals and shall not include legal persons or other legal entities.

(3) Every organisation as referred to in sub-article (1) shall be allowed to distribute unsterilized seeds of the plant cannabis to its members in sealed packets, with regard to the shape and presentation of which paragraph (m) of sub-article (2) shall *mutatis mutandis* apply, in a total quantity of not more that twenty seeds per calendar month to each member.

(4) Any person who permits a person under the age of eighteen (18) years to be present in premises managed by an organisation as referred to in sub-article (1) shall be liable on being found guilty to a penalty of not less than five hundred euro (€500) and not more than one thousand euro (€1000) which shall be imposed in accordance with the provisions of the Commissioners for Justice Act.

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(5) The Minister responsible for the Authority on the Responsible Use of Cannabis Act may make regulations for the better implementation of the provisions of this article and, without prejudice to the generality of the aforesaid, such regulations may also provide for the manner in which and the reasons for which any authorisation, permission or licence related to the provisions of this article shall be issued, be made subject to other conditions, and, in the case of breach of the law or regulations, be withdrawn or suspended, the fees payable in respect of any authorisation, permit or licence and the penalties to which a person who fails to observe the law or regulations shall be subject which penalties shall not exceed a penalty of ten thousand euro (€ 10,000) and shall be imposed after trial in accordance with the Commissioners for Justice Act.

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(6) Any organisation as referred to in sub-article (1) and every

member thereof which in their activities abide by the provisions of this article and any regulations, conditions or orders issued thereunder shall be tolerated in their activity within the limits of what is provided in this article and they shall be exempt from being made subject to proceedings under this Act or under the drug laws for anything done by them in accordance with this article.

Drugs Court.
Amended by: XXXII.2018.22. VII.2025.11.

8. (1) Where the accused is charged with an offence against the drug laws with regard to a quantity of prohibited drugs which, irrespective of the kind of drug or of the purity, which does not exceed the quantity of any one of the drugs listed in the Schecdule, or is charged with the commission of any crime not liable to a punishment of more than seven years imprisonment, and the conditions referred to in sub-article (2) are satisfied, the Court may, after hearing submissions made on behalf of the accused and on behalf of the prosecution and after hearing any witness which the Court considers it necessary to hear, issue a decree whereby the Court will assume the function of a Drugs Court.

(2) The conditions to be satisfied for the purpose of sub-article (1) are the following:

(*a*) that the offence against drug laws or against any other law with which the accused is charged was committed during a period of drug dependence and the offence is substantially attributable to the proven drug dependence of the accused;

(*b*) that the offence against any law other than the drug laws with which the accused is charged does not consist of a wilful offence against the person or of a crime committed whilst the accused was in possession of arms proper or with the use of fire or explosives:

Provided that the Court in its discretion shall have the right, after considering the gravity of the offence with which the person is charged, not to apply the exclusion stipulated in this paragraph if the wilful offence against the person is not one subject to a punishment of imprisonment for a period of more than two (2) years which was not committed with the use or possession of a firearm, fire or explosives, and once the Court is satisfied that the application of the said exclusion would create a prejudice disproportionate to the actual gravity of the offence to the detriment of the opportunity of the accused to rehabilitate himself from the drug dependence;

(*c*) that there are objective reasons which indicate that the accused is likely to be rehabilitated from drug dependence or that he has made substantial progress or effort to free himself of drug dependence.

(3) When the Court issues a decree that it is to assume the functions of a Drugs Court, the Court shall proceed to refer the accused before the Drug Offenders Rehabilitation Board which shall be entitled to give such orders in respect of the accused as provided in article 6.

(3A) In the event that the Drug Offenders Rehabilitation Board receives a referral in respect of a person who has already been referred before the Board and whose case is still pending before it, the Board shall inform the referring Court of that fact and it shall continue to consider the case only under the first referral:

Provided that the Board shall communicate its findings and decisions on the first referral to any Court which would have referred the same person to it.

(4) In the event that the accused fails to comply with the orders of the Drug Offenders Rehabilitation Board or if the Board, after examining the facts, considers that the accused is not showing commitment to his rehabilitation, the Board shall, without prejudice to any liability of the accused under article 5(5), whilst giving reasons for its decision, recommend to the Court to revoke its decision to convert itself into a Drugs Court and to proceed with the trial.

(5) Where the Drug Offenders Rehabilitation Board, within a period of not more than eighteen months from when the accused was referred to it, considers that the accused although having previously suffered from drug dependence is free from drug dependence, or has managed to substantially free himself of drug dependence, the Board shall report that fact in an explained report submitted to the Court and it shall refer the accused back to the Court:

Provided that the Board shall have the power to extend the period of eighteen months referred to in this sub-article where it considers that there are exceptional circumstances which justify that extension. The Board's decision regarding the extension shall give reasons and shall be notified to the Court.

(6) After receiving the report referred to in sub-article (5), the Court shall order the Registrar of the Criminal Courts and Tribunals to provide a list of all criminal cases pending against the accused, other than such cases:

(*a*) where the Court of Magistrates does not have and cannot be granted competence;

(*b*) which relate to offences involving charges referred to in paragraph (2)(b); and

(*c*) where the Court has decided not to apply the said sub-article,

and the Court shall, insofar as it deems the measure to be in the best interest of the rehabilitation of the accused and after having taken into consideration the interests of the proper administration of justice and of the victims, order that a copy of the said report is admitted in the acts of the aforementioned cases and be binding upon the courts taking cognizance of the respective cases against the accused insofar as such report is, in the opinion of the said Courts, relevant to the circumstances of the cases pending before them.

(6A) *Deleted by Act VII.2025.11.*

(7) In cases where the Court receives a report prepared in accordance with sub-article (5) the Court may, notwithstanding any

other law, in the event of any conviction, decide not to apply any minimum term of mandatory imprisonment or the exclusion of the application of a probation order or of the suspension of a term of imprisonment applicable to any offence in respect of which the accused is found guilty:

Provided that the Court shall only refrain from applying a mandatory minimum term of imprisonment or the exclusion of the application of a probation order or of the suspension of a term of imprisonment if it is satisfied on a balance of probabilities that the offence of which the accused has been found guilty was mainly attributable to his drug dependence:

Provided further that in those cases where the Court has received a report prepared in accordance with sub-article (5) and decides to impose an order in accordance with the Probation Act or to grant a suspended sentence, in such cases where subsequently the person convicted commits another offence during the operative period of the said order or suspended sentence, such person shall be considered to have breached the said order or the conditions of the suspended sentence and consequently such person shall be judged afresh for the original offence for which the probation order or suspended sentence was granted. Cap. 446.

(8) In giving judgement in cases to which sub-articles (5), (6) and (7) apply, the Court may also order that any offence of which the accused has been found guilty, other than an offence for which the accused has been sentenced to imprisonment without the application of article 28A of the Criminal Code, shall not be taken into account for the purposes of the issue of a conduct certificate under the Conduct Certificates Ordinance after the lapse of a period being a minimum of one year and a maximum of three years from the date of the Court's judgement unless the offender relapses. Cap. 9. Cap. 77.

(9) There shall be no right of appeal from a decision of the Court to assume the functions of a Drugs Court or to decline a request to do so, or from any decision of the Drug Offenders Rehabilitation Board.

(10) Where the accused has been referred to the Drug Offenders Rehabilitation Board as provided in this article the accused shall, during the period whilst he is so referred, be brought before the Court at intervals of not more than three months for the Court to be updated, whether orally or in writing, by the Board with regard to the progress of the rehabilitation or treatment of the accused.

(11) During the time when the accused is referred to the Drug Offenders Rehabilitation Board the Court shall continue to hear the case against the accused as though no such referral was made but it shall not pass judgement.

Sentencing Policy Advisory Board.

9. (1) There shall be a Board to be known as the Sentencing Policy Advisory Board which shall consist of such number of persons not being less than three or more than six as the Minister may from time to time appoint.

(2) The function of the Board shall be to suggest policies for the sentencing of persons found guilty of drug and drug related

offences in such a manner as to aim at achieving consistency in the punishments given for such offences by different courts.

(3) The Minister, after consultation with the Commission for the Administration of Justice, may by regulations extend the competence of the Sentencing Policy Advisory Board to other offences.

(4) Upon drafting sentencing policies the Board shall report to the Minister who shall refer the draft policies for an opinion from the Commission for the Administration of Justice, making such comments in writing as the Minister may deem appropriate.

(5) The Commission for the Administration of Justice shall issue its opinion on the draft sentencing policies within six months from the end of the month during which these are communicated to it by the Minister:

Provided that if the opinion of the Commission for the Administration of Justice is not received by the Minister within a period of thirty days following the expiry of the period of six months referred to in this sub-article, the Minister shall be entitled to proceed to adopt and publish the said sentencing policies or to extend the said period of six months upon the request of the Commission if he considers that such extension is justified:

Provided further that where the Commission for the Administration of Justice has approved a sentencing policy this shall be published by the Minister as so approved unless the Minister, for reasons to be stated in writing, considers it necessary to depart from the approved policy.

Use of medicinal preparations of cannabis. *Amended by: V.2018.3.* Cap. 464. Cap. 458.

10. (1) A licenced medical practitioner who is duly registered in accordance with the Health Care Professions Act, shall be entitled to prescribe to patients medicinal preparations of the plant cannabis and synthetic Cannabinoid products licensed under the Medicines Act or manufactured under Good Manufacturing Practice, if it is considered that there is no viable alternative to such prescription due account being taken of any protocols which may be in force from time to time in respect of the prescription of medicines, of the interests of the patient and of the costs.

(2) None of the preparations referred to in sub-article (1) may be indicated for smoking or in any form meant for smoking.

Cap. 458. S.L.31.18.

(3) The provisions of the Medicines Act, shall, *mutatis mutandis,* apply and the provisions of the Drugs (Control) Regulations shall also, *mutatis mutandis*, apply with regard to the control card:

Provided that no urgent prescriptions shall be allowed in relation to these preparations.

(4) The medical practitioner shall apply for the preparations referred to in sub-article (1) only on a named patient basis as directed by the Superintendent of Public Health.

(5) Preparations referred to in sub-article (1) can only be dispensed by a pharmacist from a licensed pharmacy.

(6) Preparations referred to in sub-article (1) can only be imported by a licensed wholesale dealer or a licensed manufacturer.

Persons providing assistance to a person suffering from a drug overdose.

11. (1) Any person who provides assistance to another person suffering from a drug overdose by taking such person to a hospital or to a place where he can receive appropriate medical care or who seeks the assistance of the competent authorities for such a purpose shall, without prejudice to his liability for any other offence, not be liable to be prosecuted for having shared or consumed a prohibited drug in a quantity for personal use with the person suffering from the said overdose.

(2) Where the person providing assistance in accordance with sub-article (1) shall be liable to prosecution for any other offence directly connected with the overdose of the assisted person the punishment to which such person shall be liable on conviction shall be reduced by one degree.

Power to make regulations. Amended by: V.2018.4

12. (1) The Minister may make regulations for the better implementation of any of the provisions of this Act and, without prejudice to the generality of the foregoing, such regulations may make provision:

(*a*) for establishing procedures to be followed by Commissioners for Justice taking cognizance of cases under this Act and in respect of the procedure to be followed by the Drug Offenders Rehabilitation Board;

(*b*) for the organization of schemes of community service and to provide that such schemes may, with the authorisation of a Court or of a Commissioner for Justice, as the case may be, be used as an alternative to any pecuniary penalty which may be imposed by a Court or by a Commissioner for Justice under this Act;

(*c*) for varying the amount of penalties that may be imposed by Commissioners for Justice under this Act provided that the maximum penalty so established shall not exceed five hundred euro (€500);

(*d*) for providing for procedures to be followed for the immediate payment of penalties without proceedings in respect of penalties to which a person may become liable under this Act;

(*e*) for providing, in a proportionate manner, for the non-renewal of licences or other authorisations of any kind to a person convicted of any offence consisting of simple possession of a drug for personal use until a penalty due is actually paid;

(*f*) for prescribing anything that may be prescribed under this Act.

(2) The Minister responsible for health may make regulations for the better implementation of the provisions of article 10.

Exclusions from applicability of this Act.
Amended by: XXXVI.2021.12; VII.2025.12.

13. This Act shall not apply:

(*a*) where the offence consists in the sale, supply, administration or offer of prohibited drugs to a minor, to a woman with child or to a person who is following a programme for cure and rehabilitation from drug dependence and to which the second proviso to sub-article (2) of article 120A of the Medical and Kindred Professions Ordinance or the second proviso to sub-article (2) of article 22 of the Dangerous Drugs Ordinance apply; or

Cap. 31.

Cap. 101.

(*b*) where the offence against the drug laws is one committed in or in relation to a prison or other place of detention:

Provided that paragraph (b) shall not apply when all the following circumstances subsist:

(*a*) where the offence with which the accused is charged results from the possession of a small amount of prohibited drug and the accused is not charged with drug trafficking or with possession of a prohibited drug in circumstances which indicate that such possession was not for the personal use of the accused;

(*b*) where the offence with which the accused is charged was committed during a period of drug dependence and the offence is substantially attributable to the proven drug dependence of the accused; and

(*c*) the accused is no longer a prisoner as defined in article 2 of the Prisons Act or is no longer detained in another place of detention.

Cap. 260.

Added by: VII.2025.13.

SCHEDULE
(article 8)

Quantity of prohibited drugs for the purposes of article 8(1):

1. amphetamine: less that 300 grams

2. cannabis: less than 300 grams

3. ecstasy: less than 300 pills

4. heroin and cocaine: less than 100 grams

5. ketamine: less than 150 grams

6. LSD: less than 300 squares

7. Any other prohibited drug: less than 300 pills or 300 squares in the case of a drug in the form of pills or squares, or less than 100 grams in the case of drugs in any other form not being pills or squares.