



24.11.2014

---

# DRUG DEPENDENCE (TREATMENT NOT IMPRISONMENT) BILL

The main points of the Drug Dependence (Treatment not imprisonment) Bill are:

- Prosecutions for the possession for personal use of small quantities of drugs (maximum of 2 grams or of 2 'ecstasy' pills or equivalent) will be carried out by the Police in accordance with the Commissioners for Justice Act and will be subject to penalties ranging from €75 to €125. Possession for personal use of cannabis or of cannabis resin will be subject to a lesser range of penalties (€50 to €100).
- Upon the second conviction or voluntary payment of the penalty before the Commissioner for Justice a person shall be referred to the proposed Drug Offenders Rehabilitation Board which will take steps to assist rehabilitation. A person convicted for a second or subsequent offence of possession of cannabis or of cannabis resin will only be referred to the Drug Offenders Rehabilitation Board if the Commissioner for Justice is satisfied that the offender is likely to abuse other drugs or if the offender does not appear before the Commissioner even if the penalty has been voluntarily paid;
- The Court of Magistrates hearing a case involving drug offences which according to the recently published guidelines are not to be referred to the Criminal Court or involving other offences not subject to more than seven years imprisonment where the offence charges 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; may, if it is satisfied that the cause of the offence is drug dependence, convert itself into a Drugs Court and refer the accused for treatment to the Drug Offenders Rehabilitation Board. If the accused does not co-operate with the Board the case will be referred back and will continue to be heard as if such referral was never made.

- If within a period of 18 months the Board reports to the Court that the rehabilitation was successful the Court will be entitled to recall all criminal prosecutions pending before the Courts against the accused and falling within its competence or extended competence (10 years imprisonment) to be heard before it and will also be entitled not to apply any mandatory period of imprisonment established by law or to apply a probation order or a suspended sentence.
- During the time when the accused is referred to the Drug Offenders Rehabilitation Board the case shall continue to be heard but may not be decided.
- Cultivation of one plant of cannabis yielding a small quantity for personal use will no longer be subject to a mandatory period of imprisonment or to the exclusion of application of a probation order or a suspended sentence.
- Medicinal preparations of the plant cannabis may be prescribed by a specialist physician if no viable alternative exists.
- The use of the plant cannabis may also be prescribed by a specialist physician with the approval of the Superintendent of Public Health who may also impose conditions.
- A Sentencing Policy Advisory Board will be established with the purpose of drafting sentencing policies in respect of drug offences in order to try and ensure consistency between the punishments given by different Courts. The Minister may extend the remit of the Board to other offences.
- Possession of prohibited drugs will still be subject to arrest especially in order to enable the police to investigate more serious related crime.
- The benefits of the Act will not apply to persons dealing in drugs in the vicinity of schools, youth clubs or similar institutions, to drug offences related to correctional facilities and to persons selling drugs to minors, pregnant women or to persons who are undergoing a drug rehabilitation programme.