

Abbozz ta' Liġi msejjah

ATT biex jipprova għat-trattament ta' persuni fil-pussess ta' kwantitajiet żgħira ta' droga projbita għall-użu personali u għal miżuri oħra għar-rijabilitazzjoni ta' persuni dipendenti mid-droga.

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità tal-istess, hareġ b'liġi dan li ġej:-

1. (1) It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2014 dwar Dipendenza fuq id-Droga (Trattament mhux Prigunerija). Titolu fil-qosor u bidu fis-sehħ.

(2) Dan l-Att għandu jidhol fis-sehħ f'dik id-data li l-Ministru jista. permezz ta' Ordni fil-Gazzetta jistabbilixxi u dati differenti jistgħu jiġu stabbiliti fir-rigward ta' dispożizzjonijiet jew għanijiet differenti ta' dan l-Att.

2. F'dan l-Att sakemm ir-rabta tal-kliem ma tehtiegħ xort'oħra: Tifsir.

"drogi projbiti" tfisser kull droga li tista' tkun is-sugġett ta' proċeduri kriminali taht l-artikolu 120A tal-Ordinanza dwar il-Professjoni Medika u l-Professjonijiet li għandhom x'jaqsmu magħha jew taht l-artikolu 22 tal-Ordinanza dwar il-Mediċini Perikolużi; Kap. 31. Kap. 101.

Kap. 31. "Liġijiet dwar id-Droga" tfisser l-Ordinanza dwar il-Professjoni Medika u l-Professjonijiet li għandhom x'jaqsmu magħha u l-Ordinanza dwar il-Mediċini Perikolużi;

Kap. 101. "meta jinsab hati" tinkludi il-ħlas volontarju ta' penali mingħajr proċeduri kif previst taħt dan l-Att jew taħt l-Att dwar il-Kummissarji għall-Ġustizzja;

Kap. 291. "Ministru" tfisser il-Ministru responsabbli għall-Ġustizzja.

Applikazzjoni ta' dan l-Att.

3. (1) Bla ħsara għad-dispożizzjonijiet tas-subartikolu (2), id-dispożizzjonijiet ta' dan l-Att inkluż il-proċeduri, miżuri u pieni previsti f'dan l-Att fir-rigward ta' reati kontra l-liġijiet dwar id-droga, għandhom japplikaw minkejja u għall-eskluzjoni tad-dispożizzjonijiet tal-liġijiet dwar id-droga.

(2) Il-liġijiet dwar id-droga għandhom jibqgħu fis-seħħ bl-eċċezzjoni ta' kwalunkwe materja esplicitament prevista f'dan l-Att.

Pussess ta' droga projbita għall-użu personali.

4. (1) Fejn akkuża ta' ksur tal-liġijiet dwar id-droga tikkonsisti f'akkuża ta' pussess ta' droga projbita fi kwantità ta' anqas minn żewġ grammi jew żewġ pilloli tal-'ecstasy' jew pilloli simili, irrispettivament mill-purità, f'ċirkostanzi li ma jwasslux li wieħed raġonevolment jemmen li d-droga projbita mhijiex għall-użu personali tal-persuna li għandha l-pussess tagħha, dik il-persuna għandha tkun soġġetta għal proċess skont l-Att dwar il-Kummissarji għall-Ġustizzja, u meta tinstab hatja mill-Kummissarju għall-Ġustizzja assenjat mill-Ministru sabiex jisma' każijiet dwar reati ta' droga tehel penali bejn ħamsa u sebgħin euro (€75) u mija u ħamsa u għoxrin euro (€125).

(2) Minkejja d-dispożizzjonijiet tas-subartikolu (1) fejn id-droga projbita li fir-rigward tagħha persuna hija mixlija skont is-subartikolu (1) tikkonsisti fid-droga kannabis jew rezina tal-kannabis, il-penali applikabbli għandha tkun bejn ħamsin euro (€50) u mitt euro (€100).

(3) Fejn, fi proċeduri mibdija quddiem il-Kummissarju għall-Ġustizzja skont it-termini tas-subartikoli (1) jew (2), titqajjem kwistjoni dwar jekk is-sustanzja tikkonsistix fi droga projbita, il-Kummissarju għandu jirreferi l-kwistjoni lill-Bord dwar ir-Rijabilitazzjoni ta' Persuni li Nqabdu bid-Droga li għandu jirraporta lura s-sejbiet tiegħu lill-Kummissarju.

(4) Kull droga projbita kkonfiskata jew eżibita matul il-proċeduri quddiem il-Kummissarju għall-Ġustizzja skont it-termini tas-subartikoli (1) jew (2) għandha tintbagħat mir-Registratur tat-Tribunal lir-Registratur tal-Qorti Kriminali sabiex tinqered. Għandha

tinzamm nota ta' dan il-fatt.

(5) Fejn persuna mixlika b'reat kif previst fis-subartikoli (1) jew (2) tkun persuna li mhijiex abitwalment residenti f'Malta kull penali dovuta skont it-termini tad-dispożizzjonijiet tal-imsemmija subartikoli għandha, sakemm il-penali mhijiex kontestata, tithallas fil-minimu tagħha permezz ta' mezzi elettronici u mingħajr proċeduri quddiem il-Kummissarju tal-Ġustizzja, fi kwalunkwe post u b'dak il-mod kif il-Ministru jista' jistabbilixxi. Dan il-ħlas jista' jsir biss permezz ta' karta ta' kreditu jew trasferiment iehor bankarju fi żmien tna-x-il siegħa mill-ħin li fih l-imsemmija persuna tiġi notifikata bl-akkuża matul liema ħin il-Pulizija Eżekuttiva għandhu jkollha s-setgħa li żżomm tali persuna taħt detenzjoni sakemm isir il-ħlas:

Iżda fejn akkuża li għaliha japplika dan is-subartikolu tiġi kontestata jew fejn ma jsir l-ebda ħlas tal-penali kif previst hawn qabel f'dan is-subartikolu, id-dispożizzjonijiet ta' dan l-Att għandhom jieqfu milli japplikaw fir-rigward tal-persuna mixlija u l-każ għandu jkompli skont id-dispożizzjonijiet tal-ligijiet dwar id-droga.

Għall-finijiet ta' dan is-subartikolu "kontestat" tfisser avviz ta' kontestazzjoni ukoll b'mod verbali.

5. (1) Fil-każ li persuna tinsab haġja għat-tieni darba jew għal darba sussegwenti dwar pussess ta' droga projbita għall-użu personali fi żmien perjodu ta' sentjen mid-data tal-ewwel kundanna, il-persuna li twettaq ir-reat għandha tiġi akkużata quddiem Kummissarju għall-Ġustizzja appuntat skont it-termini tal-Att dwar l-Amministrazzjoni tal-Ġustizzja u tehel l-istess penali u tkun suġġetta għall-istess proċedura skont l-artikolu 4:

It-tieni reat fi
żmien perjodu
ta' sentejn.
Kap. 291.

Iżda meta il-persuna li tinsab haġja għat-tieni darba jew għal darba sussegwenti tkun abitwalment residenti f'Malta, il-Kummissarju tal-Ġustizzja għandu jordna li l-persuna misjuba haġja tidher quddiem il-Bord ta' Rijabilitazzjoni ta' Persuni li Nqabdu bid-Droga stabbilit skont l-artikolu 6.

(2) Minkejja d-dispożizzjonijiet tas-subartikolu (1), fil-każ li persuna tinsab haġja għat-tieni darba jew għal darba sussegwenti kif imsemmi fis-subartikolu (1), fejn id-droga projbita involuta fir-reat hija kannabis jew rezina tal-kannabis, il-Kummissarju għall-Ġustizzja għandu jirreferi l-persuna misjuba haġja lill-Bord ta' Rijabilitazzjoni ta' Persuni li Nqabdu bid-Droga biss jekk, wara li jikkunsidra ċ-ċirkostanzi tar-reat u tal-ħati, ikun sodisfatt li jkollu tassew għaliex jaħseb li ċ-ċirkostanzi tal-persuna misjuba haġja jwasslu għall-probabbiltà li qieghda tabbuża jew x'aktarx tabbuża minn drogi

projbiti barra mill-kannabis jew rezina tal-kannabis.

Nuqqas ta' dehra quddiem il-Bord.

Kap. 291.

(3) Il-Kummissarju għall-Ġustizzja għandu fil-każijiet kollha jorġo ordni ta' dehra quddiem il-Bord ta' Rijabilitazzjoni ta' Persuni li Nqabdu bid-Droga fil-każ li persuna tiġi akkuzata bit-tieni reat jew reat sussegwenti skont it-termini tas-subartikoli (1) jew (2) u li jew tagħzel li thallas il-penali mingħajr proċeduri skont it-termini tal-Att dwar il-Kummissarji tal-Ġustizzja jew tonqos milli tidher quddiem il-Kummissarju meta debitament imħarrka.

(4) Fejn persuna tinbagħat quddiem il-Bord ta' Rijabilitazzjoni ta' Persuni li Nqabdu bid-Droga skont it-termini tas-subartikoli (1), (2) jew (3), l-imsemmi bord għandu jħarrek lill-imsemmija persuna sabiex tidher quddiemu u għandu, wara li jagħmel dak l-istħarriġ dwar dik l-imsemmija persuna kif huwa proporzjonat u kif iqis neċessarju, u jekk isib li l-imsemmija persuna għanda problema ta' dipendenza fuq id-droga li għandha bżonn trattament, l-imsemmi Bord għandu jorġo dawk l-ordnijiet lil dik il-persuna li l-Bord iqis neċessarji għall-għan li jassisti lil dik il-persuna sabiex toħroġ mid-dipendenza fuq id-droga.

(5) Kull persuna li wara li tiġi riferita lill-Bord ta' Rijabilitazzjoni ta' Persuni li Nqabdu bid-Droga tonqos, mingħajr ġustifikazzjoni raġonevoli, milli tidher quddiem il-Bord f'xi okkażjoni li tkun mistennija tidher, jew tonqos mingħajr ġustifikazzjoni raġonevoli milli tosserva xi ordni maħruġ lilha mill-Bord tkun hatja ta' reat kontra dan l-Att u tehel meta tinsab hatja mill-Qorti tal-Maġistrati multa ta' bejn mitt euro (€100) u ħames mitt euro (€500) jew priġunerija għal perjodu ta' tliet xhur jew dik il-multa u priġunerija flimkien.

Bord ta' Rijabilitazzjoni ta' Persuni li Nqabdu bid-Droga.

6. (1) Għandu jkun hemm Bord li jkun magħruf bħala l-Bord ta' Rijabilitazzjoni ta' Persuni li Nqabdu bid-Droga li għandu jikkonsisti minn:

(a) *Chairman* maħtur mill-Ministru li għandu jew ikun Imħallef irtirat jew Maġistrat irtirat jew persuna li eżercitat il-professjoni ta' avukat għal mill-anqas tnaqas il sena;

(b) membru maħtur mill-Ministru fuq rakkomandazzjoni tal-Ministru responsabbli għall-Politika Soċjali;

(c) membru maħtur mill-Ministru fuq rakkomandazzjoni tal-Ministru responsabbli għall-Affarijiet Interni;

(d) membru maħtur mill-Ministru fuq

rakkomandazzjoni tal-Ministru responsabbli għas-Saħħa.

(2) Il-Ministru jista' jahtar aktar minn formazzjoni waħda tal-Bord skont il-metodu ta' hatra previst fis-subartikolu (1).

(3) Fil-każ ta' voti indaqs, iċ-*Chairman* tal-Bord għandu jkollu vot decisiv.

(4) Il-Bord ta' Rijabilitazzjoni ta' Persuni li Nqabdu bid-Droga għandu jkollu s-setgħat u l-funzjonijiet li ġejjin:

(a) li jintervista u jeżamina kull persuna li hija riferita lilu mill-Kummissarju għall-Ġustizzja jew minn Qorti skont it-termini tad-dispożizzjonijiet ta' dan l-Att jew kull liġi oħra;

(b) li jordna t-teħid ta' dawk il-kampjuni tad-demem u tal-awrina minn kull persuna riferita lilu;

(ċ) li jikseb informazzjoni, assistenza teknika jew parir espert minn kull dipartiment tal-Gvern jew aġenzija jew minn xi organu mwaqqaf bil-liġi sabiex jeżamina s-sitwazzjoni ta' xi persuna riferita lilu;

(d) li jieħu dawk il-miżuri proporzjonati kif il-Bord jidhirlu li huma neċessarji sabiex jassisti lil persuna riferita lilu sabiex tassisti fil-ġlieda kontra l-problemi tad-dipendenza fuq id-droga;

(e) li joħroġ dawk l-ordnijiet jew rakkomandazzjonijiet, li jistgħu wkoll jinkludu dawk l-ordnijiet li jirrestringu l-moviment hieles, għat-trattament jew rijabilitazzjoni ta' xi persuna riferita lilu sabiex tassisti fil-ġlieda kontra l-problemi tad-dipendenza fuq id-droga;

(f) li jagħti parir u jassisti lill-Kummissarju għall-Ġustizzja, il-Qorti tal-Maġistrati jew kull Qorti oħra ta' ġurisdizzjoni kriminali fuq talba tal-imsemmi Kummissarju għall-Ġustizzja jew Qorti fir-rigward ta' miżuri li għandhom x'jaqsmu ma' proċeduri quddiem il-Kummissarju għall-Ġustizzja jew il-Qorti, jew f'materji li għandhom x'jaqsmu mal-assistenza u r-rijabilitazzjoni ta' persuni hatja ta' abbuż tad-droga u persuni akkużati b'reati taħt il-liġijiet dwar id-droga jew b'reati li huma direttament jew indirettament relatati mad-dipendenza fuq id-droga;

(g) li josserva b'mod generali u jagħti pariri dwar l-istabbiliment u t-tħaddim ta' programm immirat sabiex jipprovi sostenn psikologiku lill-membri tal-familja u persuni

oħra b'konnessjoni mill-qrib ma' persuni li jsofru minn problemi ta' dipendenza fuq id-droga;

(h) li jaħdem b'mod koordinat mal-awtortijiet tal-gustizzja, tal-politika soċjali, tal-pulizija, tas-saħħa u tat-taħriġ ġudizzjarju għal-organizzazzjoni ta' taħriġ għall-prattikanti involuti f'attivitajiet relatati mal-kontroll tal-abbuż mid-droga u mgħiba relatata mad-droga;

(i) li jaqdi kull funzjoni oħra li tirrigwarda r-rijabilitazzjoni ta' persuni li jabbużaw mid-droga kif il-Ministru jista' jassenjalu minn żmien għal żmien, permezz ta' regolamenti.

(3) B'mod ġenerali, sabiex jeżerċita s-setgħat u l-funzjonijiet tiegħu l-Bord jkollu, *mutatis mutandis*, is-setgħat kollha li huma vestiti fil-Qorti tal-Magistrati skont id-dispożizzjonijiet tat-Tieni Ktieb tal-Kodiċi Kriminali.

Kultivazzjoni tal-pjanta tal-kannabis.

7. Persuna li tinsab haġja ta' kultivazzjoni tal-pjanta tal-kannabis fi kwantità żgħira li ma taqbiżx pjanta waħda, f'ċirkostanzi fejn il-Qorti tkun sodisfatta li tali kultivazzjoni kienet għall-użu personali m'għandhiex tehel terminu mandatorju ta' prigunerija u m'għandhiex tkun soġġetta għall-esklużjoni tal-applikazzjoni ta' ordni ta' *probation* jew ta' sospensjoni ta' terminu ta' prigunerija previsti fil-liġijiet dwar id-droga.

Qorti dwar id-Droga.
Kap. 101.
Kap. 31.

8. (1) Meta l-persuna akkużata hija mixlija b'reat kontra l-liġijiet dwar id-droga fir-rigward ta' kwantità ta' droga projbita li, irrispettivament mit-tip tad-droga jew mill-purità ma taqbiżx il-kwantità ta' droga elenkata fil-Linji Gwida li jinsabu fir-Raba' Skeda tal-Ordinanza dwar il-Mediċini Perikolużi jew fir-Raba' Skeda tal-Ordinanza dwar il-Professjoni Medika u l-Professjonijiet li għandhom x'jaqsmu magħha bħala kwantità ta' droga li tindika li l-persuna akkużata m'għandhiex tiġi riferita għal proċeduri quddiem il-Qorti Kriminali, jew hi akkużata bit-tweqqieg ta' xi reat li ma li għalih hemm piena ta' mhux aktar minn seba' snin prigunerija, u l-kundizzjonijiet imsemmija fis-subartikolu (2) huma sodisfatti, il-Qorti tista', wara li tisma' s-sottomissjonijiet magħmula f'isem il-persuna akkużata u f'isem il-prosekuzzjoni u wara li tisma' kull xhud li l-Qorti tqies bħala neċessarju li jinstema' u wara li tikkonsulta mal-Bord ta' Rijabilitazzjoni ta' Persuni li Nqabdu bid-Droga, toħroġ digriet li permezz tiegħu l-Qorti tassumi l-funzjoni ta' Qorti dwar id-Droga.

(2) Il-kundizzjonijiet li għandhom jiġu sodisfatti għall-finijiet tas-subartikolu (1) huma dawn li ġejjin:

(a) li r-reat kontra l-ligijiet dwar id-droga jew kontra kull ligi ohra li bih il-persuna akkużata hi mixlija hu sostanzjalment attribwibbli għad-dipendenza ppruvata gravi u medika fuq id-droga tal-akkużat; u

(b) li r-reat kontra xi ligi ohra li mhix il-ligijiet dwar id-droga li bih il-persuna akkużata hi mixlija ma jikkonsistix f'reat volontarju kontra l-persuna jew f'att kriminali mwettaq waqt li l-persuna akkużata kienet fil-pussess ta' armi regolari jew bl-użu ta' nar jew splussiv; u

(c) li hemm raġunijiet oġġettivi li jindikaw li l-persuna akkużata x'aktarx tigi rijabilitata mid-dipendenza fuq id-droga jew li għamlet progress jew sforz sostanzjali sabiex teħles mid-dipendenza mid-droga.

(3) Meta l-Qorti tohrog digriet li ser tassumi l-funzjonijiet tal-Qorti dwar id-Droga, il-Qorti għandha tipproċedi sabiex tirreferi l-persuna akkużata quddiem il-Bord ta' Rijabilitazzjoni ta' Persuni li Nqabdu bid-Droga li jkollu s-setgħa li jagħti dawk l-ordnijiet fir-rigward tal-persuna akkużata kif previst fl-artikolu 6.

(4) Fil-każ fejn il-persuna akkużata tonqos milli tosserva l-ordnijiet tal-Bord ta' Rijabilitazzjoni ta' Persuni li Nqabdu bid-Droga jew jekk il-Bord, wara li jeżamina l-fatti jikkonsidra li l-persuna akkużata mhijiex turi impenn lejn ir-rijabilitazzjoni tagħha, il-Bord għandu, mingħajr preġudizzju għal kull responsabbiltà tal-akkużat taħt l-artikolu 5(5), jirrakkomanda li l-Qorti tirrevoka d-deċiżjoni tagħha sabiex li tikkonverti lilha nnfisha għal Qorti dwar id-Droga u tipproċedi bil-kawża.

(5) Fejn il-Bord ta' Rijabilitazzjoni ta' Persuni li Nqabdu bid-Droga, fi żmien perjodu ta' mhux aktar minn tmintax-il xahar minn meta persuna akkużata kienet riferita lilu, jikkunsidra li l-persuna akkużata sostanzjalment rmxxielha teħles lilha nnfisha mid-dipendenza fuq id-droga, il-Bord għandu jirrapporta dak il-fatt lill-Qorti u għandu jirreferi lill-persuna akkużata lura lil Qorti.

(6) Wara li tirċievi r-rapport imsemmi fis-subartikolu (5), il-Qorti għandha tordna lir-Registatur tal-Qrati Kriminali u t-Tribunali Kriminali sabiex jgħaddilha lista tal-każijiet kriminali kollha pendenti kontra l-persuna akkużata, ħlief ta' dawk li dwarhom Qorti tal-Maġistrati ma għandhiex jew ma tistax tingħata kompetenza u reati li jinvolvu akkużi kif imsemmi fis-subartikolu (2)(b), u għandha, safejn tikkunsidra din il-mizura bħala li tkun fl-aħjar interessi tar-rijabilitazzjoni tal-persuna akkużata, wara li tqis b'mod xieraq l-interessi tal-amministrazzjoni xierqa tal-gustizzja u tal-vittmi, terga

ssejjah lura dawk il-każijiet li jaqgħu taħt il-kompetenza tal-Qorti tal-Maġistrati jew li għalihom il-kompetenza tal-Qorti tal-Maġistrati tista' tiġi estiża sabiex dawn jinstemgħu u jiġu deċiżi quddiemha jekk il-Qorti tkun il-Qorti tal-Maġistrati u fil-każ li tkun il-Qorti Kriminali jiġu deċiżi quddiemha konsistenti biss minn Imħallef:

Izda f'każijiet li għalihom japplika dan is-subartikolu, fejn reat msemmi f'dan is-subartikolu jaqbeż il-kompetenza tal-Qorti iżda jikkonsisti f'reat li għalih il-kompetenza tal-Qorti tista' tiġi estiża, il-kompetenza tal-Qorti għandha titqies li giet estiża permezz tal-liġi bis-saħħa tad-digriet li jsejjah lura dawn il-każijiet sabiex jinstemgħu u jiġu deċiżi quddiemha mingħajr ma jkun mehtieġa ebda kunsens jew formalità oħra.

(7) Fil-każijiet fejn jissejġu lura każijiet oħra skont it-termini tas-subartikolu (6) il-Qorti tista', minkejja kull liġi oħra, fil-każ fejn persuna tinsab haġta, tiddeċiedi li tapplikax it-terminu minimu mandatorju ta' priġunerija jew l-esklużjoni tal-applikazzjoni tal-ordni ta' *probation* jew tas-sospensjoni ta' terminu ta' priġunerija applikabbli għal xi reat li, fir-rigward tiegħu, il-persuna akkużata tinstab haġta:

Izda l-Qorti għandha tieqaf milli tapplika it-terminu minimu mandatorju ta' priġunerija jew l-esklużjoni tal-applikazzjoni tal-ordni ta' *probation* jew tas-sospensjoni ta' terminu ta' priġunerija fil-każ biss li tkun sodisfatta fuq bilanċ ta' probabbiltajiet li r-reat li dwaru l-persuna akkużata nstabet haġta kien prinċiparjament attribuwibbli għad-dipendenza tagħha fuq id-droga.

(8) Fl-ghoti tas-sentenza fil-każijiet li għalihom japplikaw is-subartikoli (5), (6) u (7), il-Qorti tista' wkoll tordna li kull reat li dwaru l-persuna akkużata nstabet haġta, minbarra reat li għalih il-persuna akkużata ingħatat sentenza ta' priġunerija mingħajr l-applikazzjoni tal-artikolu 28 tal-Kodiċi Kriminali, m'għandux jittiehed f'konsiderazzjoni għall-finijiet tal-ħruġ ta' ċertifikat tal-kondotta skont l-Ordinanza dwar iċ-Ċertifikati tal-Kondotta wara li jgħaddi perjodu li jkun minimu ta' sena u massimu ta' tlett snin mid-data tas-sentenza tal-Qorti sakemm il-ħati ma jsirx reċidiv.

(9) M'għandu jkun hemm l-ebda dritt ta' appell minn deċiżjoni tal-Qorti li tassumi l-funzjonijiet ta' Qorti dwar id-Droga jew li tiċhad talba sabiex tagħmel dan, jew minn xi deċiżjoni tal-Bord ta' Rijabilitazzjoni ta' Persuni li Nqabdu bid-Droga.

(10) Fejn il-persuna akkużata giet riferita lill-Bord ta' Rijabilitazzjoni ta' Persuni li Nqabdu bid-Droga kif previst f'dan l-artikolu l-persuna akkużata għandha, matul il-perjodu li fih il-persuna

Kap. 9.

Kap. 77.

tkun hekk riferita, titressaq quddiem il-Qorti f'intervalli ta' mhux aktar minn tlett xhur sabiex il-Qorti tkun agġornata, verbalment jew bil-miktub, mill-Bord fir-rigward tal-progress tar-rijabilitazzjoni jew it-trattament tal-persuna akkużata.

(11) Matul iż-żmien meta l-persuna akkużata tkun riferita quddiem il-Bord ta' Rijabilitazzjoni ta' Persuni li Nqabdu bid-Droga il-Qorti għandha tkompli tisma' l-każ kontra l-persuna akkużata daqs li kieku dan ir-riferiment sar iżda m'għandhiex tagħti deċiżjoni.

9. (1) Għandu jkun hemm Bord li jkun magħruf bħala l-Bord Konsultattiv għall-Politika dwar l-Għoti tas-Sentenzi li għandu jikkonsisti minn dak in-numru ta' persuni li ma jkunx anqas minn tlieta u mhux aktar minn sitta kif il-Ministru jista' jahtar minn żmien għal żmien.

Bord
Konsultattiv
għall-Politika
dwar l-Għoti
tas-Sentenzi.

(2) Il-funzjoni tal-Bord għandha tkun li jissuggerixxi politika għall-għoti ta' sentenzi fuq' persuni li jkunu nstabu hatja reati tad-droga jew reati relatati mad-droga b'dak il-mod sabiex tintlaħaq konsistenza fil-pieni mogħtija għal dawn ir-reati minn qrati differenti.

(3) Il-Ministru, wara konsultazzjoni mal-Kummissjoni għal Amministrazzjoni tal-Ġustizzja, jista' permezz ta' regolamenti jestendi l-kompetenza tal-Bord Konsultattiv għall-Politika tal-Għoti tas-Sentenzi għall-reati oħra.

(4) Mat-tfassil tal-politika għall-għoti tas-sentenzi il-Bord għandu jirrapporta lill-Ministru li għandu jirreferi l-politika abbozzata għall-opinjoni tal-Kummissjoni għall-Amministrazzjoni tal-Ġustizzja, waqt li jagħmel dawk il-kummenti bil-miktub kif il-Ministru jista' jqis bħala xierqa.

(5) Il-Kummissjoni għall-Amministrazzjoni tal-Ġustizzja għandha toħroġ l-opinjoni tagħha fuq l-abbozz tal-politika għall-għoti tas-sentenzi fi żmien sitt xhur minn tmien ix-xahar li matulu dik il-politika abbozzata tkun giet komunikata lilha mill-Ministru:

Iżda jekk l-opinjoni tal-Kummissjoni għall-Amministrazzjoni tal-Ġustizzja ma tiġix riċevuta mill-Ministru fi żmien tletin jum min wara l-iskadenza tal-perjodu ta' sitt xhur imsemmi f'dan is-subartikolu, il-Ministru jkun jista' jipproċedi bl-adozzjoni tal-imsemmija politika għall-għoti tas-sentenzi jew jestendi l-imsemmi perjodu ta' sitt xhur fuq talba tal-Kummissjoni, jekk jikkunsidra li tali estensjoni hija ġustifikata:

Iżda wkoll fejn il-Kummissjoni għall-Amministrazzjoni tal-Ġustizzja tapprova l-politika għall-għoti tas-sentenzi din il-politika għandha tiġi ppublikata mill-Ministru hekk kif approvata

sakemm il-Ministru, għal raġunijiet mistqarra bil-miktub, ma jikkunsidrax li jkun neċessarju li ma josservax il-politika approvata.

Użu ta' kannabis għal finijiet mediċi.
Kap. 464.

10. (1) Tabib konsulent speċjalizzat debitament registrat taħt l-Att dwar il-Professjonijiet tas-Saħħa jkun intitolat li jippreskrivi preparazzjonijiet mediċinali li jkun fihom estratti mill-pjanta tal-kannabis jekk jikkunsidra li ma hemmx alternattiva vijabbli għal tali preskrizzjoni, meta jitqiesu l-interessi tal-pazjent u l-ispejjeż.

Kap. 464.

(2) Tabib konsulent speċjalizzat debitament registrat taħt l-Att dwar il-Professjonijiet tas-Saħħa jkun intitolat jippreskrivi l-użu tal-pjanta tal-kannabis fi kwantitajiet żgħar għal raġunijiet mediċi bl-approvazzjoni bil-miktub tas-Suprintendent tas-Saħħa Pubblika. Fl-ghoti ta' tali approvazzjoni s-Suprintendent tas-Saħħa Pubblika jista' jimponi dawk il-kundizzjonijiet, modalitajiet u limitazzjonijiet fir-rigward tal-akkwist, l-użu u t-tul tal-użu tal-imsemmija droga għal finijiet mediċi kif iquis xieraq.

(3) Is-Suprintendent tas-Saħħa Pubblika għandu jzomm Reġistru ta' kull approvazzjoni jew każda ta' applikazzjonijiet magħmula taħt dan l-artikolu.

(4) Persuna li tbiegħ, tipprokura, takkwista jew tuża l-pjanta tal-kannabis jew il-preparazzjonijiet mediċinali tagħha skont il-proċeduri u l-approvazzjonijiet previsti f'dan l-artikolu m'għandhiex tinstab haġi ta' reat kontra dan l-Att jew kontra l-ligijiet dwar id-droga.

Persuni li jipprovdu assistenza għall-persuni li jsufri minn doża eċċessiva tad-droga.

11. (1) Kull persuna li tipprovdi assistenza lil persuna oħra li tkun qed issofri minn doża eċċessiva tad-droga billi tiegħu tali persuna l-isptar jew f'post fejn din il-persuna oħra tista' tirċievi kura medika xierqa jew li tfittex l-assistenza tal-awtoritajiet kompetenti għal dan il-ghan ma għandhiex, mingħajr preġudizzju għar-responsabbiltà tagħha għal xi reat ieħor, titqiegħed taħt prosekuzzjoni għall-fatt li tkun qasmet u kkonstatat droga projbita fi kwantità għall-użu personali mal-persuna li tkun qed issofri bhala riżultat tal-imsemmija doża eċċessiva.

(2) Fejn il-persuna li tkun qed tipprovdi l-assistenza skont is-subartikolu (1) għandha titqiegħed taħt prosekuzzjoni għal xi reat ieħor direttament konness mad-doża eċċessiva tal-persuna assistita il-piena li tali persuna tehel medta tinsab haġa għandha titnaqqas bi grad.

Setgħa li jsiru regolamenti.

12. Il-Ministru jista' jagħmel regolamenti għall-implimentazzjoni aħjar ta' kull dispożizzjoni ta' dan l-Att u, mingħajr preġudizzju għall-ġeneralità ta' dak hawn qabel imsemmi dawn ir-regolamenti jistgħu jagħmlu dispożizzjonijiet:

(a) għat-twaqqif ta' proċeduri li għandhom jiġu segwiti mill-Kummissarji għall-Ġustizzja li jisimghu kazijiet taħt dan l-Att u fir-rigward tal-proċedura li għandha tiġi segwita mill-Bord ta' Rijabilitazzjoni ta' Persuni li Nqabdu bid-Droga;

(b) għall-organizzazzjoni ta' skemi ta' servizz għall-komunità u biex jipprovdu li dawn l-iskemi jistgħu, bl-awtorizzazzjoni ta' Qorti jew tal-Kummissarju għall-Ġustizzja skont il-kaz, jintużaw bħala alternattiva għal penali pekunjarja li tista' tiġi imposta minn Qorti jew mill-Kummissarju għall-Ġustizzja taħt dan l-Att;

(c) għall-varjazzjoni tal-ammont tal-penali li tista' tiġi imposta mill-Kummissarji għall-Ġustizzja taħt dan l-Att iżda hekk li l-penali massima hekk stabbilita ma tistax taqbeż il-ħames mitt euro (€500);

(d) għat-twaqqif ta' proċeduri li għandhom jiġu segwiti għall-ħlas immedjat tal-penali mingħajr proċeduri fir-rigward ta' penali li persuna tista' tehel taħt dan l-Att;

(e) biex jipprovdu, b'mod proporzjonat, għan-nuqqas ta' tiġdid tal-liċenzi jew awtorizzazzjonijiet oħra ta' kull tip lil persuna misjuba hatja ta' xi reat li jikkonsisti fil-pussess sempliċi ta' droga għall-użu personali sa meta tithallas il-penali dovuta.

13. Dan l-Att m'għandhux japplika:

(a) fir-rigward ta' kull reat kontra l-liġijiet dwar id-droga, ħlief reat li jikkonsisti fil-pussess sempliċi għall-użu personali ta' droga projbita, mwettaq fi, jew fil-perimetru ta', skola, *club* jew ċentru taż-żgħażaġh, jew xi post ieħor simili fejn normalment jiltaqgħu iż-żgħażaġh; jew

(b) fejn ir-reat ikun jikkonsisti fil-bejgħ, fil-provvista, fis-somministrazzjoni jew fl-offerta ta' droga projbita lil minorenni, lil mara tqila jew lil persuna li tkun qed issegwi programm ta' kura u ta' rijabilitazzjoni mid-dipendenza fuq id-droga u li għal dak ir-reat japplikaw it-tieni proviso tas-subartikolu (2) tal-artikolu 120A tal-Ordinanza dwar il-Professjoni Medika u l-Professjonijiet li għandhom x'jaqsmu magħha jew it-tieni proviso tas-subartikolu (2) tal-artikolu 22 tal-Ordinanza dwar il-Mediċini Perikolużi; jew

(c) fejn ir-reat kontra l-liġijiet dwar id-droga huwa wiehed imwettaq fi jew fir-rigward ta' faċilità korrettiva.

Eskluzjonijiet
mill-
applikabbiltà ta'
dan l-Att.

Kap. 31.

Kap. 101.

14. L-artikolu 3 tal-Att dwar il-Kummissarji għall-Gustizzja għandu jiġi emendat kif ġej:

(a) fil-proviso għas-subartikolu (3) tiegħu minflok il-kliem "Izda l-Qorti tal-Maġistrati jkollha ġurisdizzjoni" għandhom jidhru l-kliem "Izda l-Qorti tal-Maġistrati jew kull qorti oħra ta' ġurisdizzjoni kriminali għandu jkollha ġurisdizzjoni"; u

(b) minnufih wara s-subartikolu (3) għandhom jidiedu s-subartikoli ġodda li ġejjin:

Kap. 101.

Kap. 31.

"(4) Minkejja d-disposizzjonijiet ta' dan l-Att, reat kontra l-Ordinanza dwar il-Mediċini Perikolużi jew l-Ordinanza dwar il-Professjoni Medika u l-Professjonijiet li għandhom x'jaqsmu magħha li tista' ssir prosekuzzjoni dwaru taht dan l-Att m'għandux jieqaf milli jkun reat kriminali u l-qrati ta' ġurisdizzjoni kriminali għandu jkollhom ġurisdizzjoni konkorrenti sabiex jagħtu deċiżjoni dwar dak ir-reat hekk iżda li l-piena applikabbli wara dhul fis-seħh ta' dan l-Att m'għandhiex tkun oghla mill-pieni li kienu jkunu applikabbli li kieku r-reat tressaq quddiem Kummissarju għall-Gustizzja taht dan l-Att:

Izda l-Qrati ta' ġurisdizzjoni kriminali għandu jkollhom, bis-saħħa ta' dan l-Att, is-setgħa li japplikaw kull piena li tista' tiġi applikata minn Kummissarju għall-Gustizzja taht dan l-Att fir-rigward ta' reat li skont dan l-Att għandu jitressaq quddiem Kummissarju għall-Gustizzja.

(5) Reat imsemmi fis-subartikolu (4) għandu jibqa' soġġett għas-setgħat kollha tal-Pulizija Eżekuttiva fir-rigward tiegħu daqs li kieku r-reat ma tressaqx quddiem Kummissarju għall-Gustizzja taht dan l-Att għall-finijiet tal-investigazzjoni tal-imsemmi reat jew ta' kull reat ieħor.

Minkejja d-dispożizzjonijiet tas-subartikoli (4) u (5) jew ta' xi liġi oħra, reat imsemmi fis-subartikolu (4) m'għandhux jittiehed f'konsiderazzjoni għall-finijiet tal-ħruġ ta' ċertifikati tal-kondotta skont l-Ordinanza dwar iċ-Ċertifikati tal-Kondotta iżda r-Registratur tat-Tribunal jew kull persuna oħra kif jista' tiġi nominata permezz ta' regolamenti magħmula mill-Ministru għandhom jzommu regjistru tal-kundanni kollha jew hlasijiet volontarji ta' penali fir-rigward ta' reati msemmija fis-subartikolu (4) u dan ir-regjistru għandu jkun aċċessibbli għall-Pulizija Eżekuttiva, għar-Registratur tal-Qrati Kriminali u Tribunali Kriminali għal kull awtorità pubblika oħra kif il-Ministru jista' permezz tar-regolamenti jinnomina.

(7) Il-prosekuzzjoni quddiem il-Kummissarji għall-Ġustizzja għal reati kontra l-Ordinanza dwar il-Professjoni Medika u l-Professjonijiet li għandhom x'jaqsmu magħha u l-Ordinanza dwar il-Mediċini Perikolużi għall-pussess ta' droga projbita għall-użu personali għandha titwettaq mill-Pulizija Eżekuttiva li, madanakollu, għandha tidher quddiem il-Kummissarju b'ilibies pajzana."

15. Fil-paragrafu (b) tal-artikolu 13 tal-Att dwar il-Kummissarji għall-Ġustizzja minflok il-kliem "stabbiliti għall-kontravvenzjonijiet;" għandhom jidhlu l-kliem "stabbiliti għall-kontravvenzjonijiet" u minnufih wara għandu jizdied il-proviso li ġej:

Emenda tal-artikolu 13 tal-Att dwar il-Kummissarji għall-Ġustizzja. Kap. 291.

"Izda wkoll xejn f'dan il-paragrafu m'għandu jiġi mfisser bhala li jwaqqaf il-Parlament milli jemenda l-Iskeda bis-saħħa ta' Att tal-Parlament sabiex jinkludi fiha reati li jgħorru pieni li huma oġġa mill-pieni stabbiliti għal kontravvenzjonijiet".

16. L-Iskeda li tinstab mal-Att dwar il-Kummissarji għall-Ġustizzja għandha tiġi emendat kif ġej:

Emenda tal-Iskeda li tinstab mal-Att dwar il-Kummissarji għall-Ġustizzja. Kap. 291.

(a) l-intestatura tat-tielet kolonna kull fejn tinsab għandha tiġi sostitwita bil-kliem "Dispożizzjonijiet partikolari, jekk ikun hemm, jew Deskrizzjoni tar-reat"; u

(b) minnufih wara l-partita "Regolamenti dwar il-Maniġġar tal-Kwalità tal-Ilma Tajjeb għall-Għawn" għandhom

jizdiedu l-partiti godda fil-kolonna kif indikati hawn taht:

Legislazzjoni	Numru tal-Kap. jew L.S	Dispożizzjonijiet partikolari, jekk ikun hemm, jew Deskrizzjoni tar-reat
"Ordinanza dwar il-Mediċini Perikolużi	Kap. 101.	Pussess sempliċi għall-użu personali ta' droga projbita f'ammont li ma jaqbiżx iż-żewġ grammi irrispettivament mill-purità
Ordinanza dwar il-Professjoni Medika u l-Professjonijiet li għandhom x'jaqsmu magħha	Kap. 31.	Pussess sempliċi ta' droga projbita għall-użu personali f'ammont li ma jaqbiżx iż-żewġ grammi irrispettivament mill-purità jew mhux aktar minn żewġ pilloli "ecstasy" jew pilloli oħra tal-istess natura jew il-pussess sempliċi għall-użu personali tal-pjanta "khat".

Għanijiet u Raġunijiet

L-għanijiet u r-raġunijiet ta' dan l-Abbozz ta' Liġi huma l-introduzzjoni ta' numru ta' miżuri li jiffaċilitaw u jhaffu l-proċeduri fir-rigward tal-pussess ta' kwantitajiet żgħar ta' droga projbita għall-użu personali, għat-tehid ta' miżuri għar-rijabilitazzjoni ta' persuni, akkużati bit-tweqqieg ta' ċerti reati kriminali, li jsofru minn dipendenza fuq id-droga, għat-titjib tal-amministrazzjoni tar-riżorsi fil-Qrati tal-Ġustizzja u fil-għlied kontra l-kummerċ tas-sustanzi narkotiċi illegali.

**A Bill
entitled**

AN 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.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same as follows:-

1. (1) The short title of this Act is the Drug Dependence (Treatment not Imprisonment) Act, 2014. Short title and commencement.

(2) This Act shall come into force on such date as the Minister may by Order in the Gazette establish and different dates may be established in respect of different provisions or purposes of this Act

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;

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

"Minister" means the Minister responsible for Justice;

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

Application of
this Act.

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.

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

Possession for
personal use of
prohibited drug.

4. (1) Where a charge for breach of the drug laws consists of a charge of possession of a prohibited drug in a quantity of less than two grams or two 'ecstasy' or similar 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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(2) Notwithstanding the provisions of sub-article (1), where the prohibited drug in respect of which a person is charged according to sub-article (1) consists of the drug cannabis or of cannabis resin, the penalty applicable shall be of between fifty euro (€50) and one hundred euro (€100).

(3) Where, in proceedings commenced before the Commissioner in terms of sub-articles (1) or (2) 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.

(4) Any prohibited drugs confiscated or exhibited in the course of proceedings before the Commissioner in terms of sub-articles (1) or (2) 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.

(5) Where a person charged with an offence as provided for in sub-articles (1) or (2) 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.

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:

Second offence with a period of two years.

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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.

Cap. 291.

(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-article (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.

(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.

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.

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

(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 it;

(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.

(3) 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.

Cultivation of
the plant
cannabis.

7. A person found guilty of cultivating the plant cannabis in a small quantity not exceeding one plant, in circumstances where the Court is satisfied that such cultivation was for personal use, shall not be liable to a mandatory term of imprisonment or to the exclusion of the application of a probation order or of the suspension of a term of imprisonment provided for in the drug laws.

Drugs Court.

Cap. 101.

Cap. 31.

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, does not exceed the quantity of the drugs listed in the Guidelines found in the Fourth Schedule to the Dangerous Drugs Ordinance or in the Fourth Schedule to the Medical and Kindred Professions Ordinance as a quantity of drugs indicative that the accused should not be referred for trial before the Criminal Court, 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 and after consulting the Drug Offenders Rehabilitation Board, 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 the drug laws or against any other law with which the accused is charged is substantially attributable to the grave and medically proved drug dependence of the accused; and

(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; and

(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.

(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), 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 has managed to substantially free himself of drug dependence, the Board shall report that fact to the Court and it shall refer the accused back to the Court.

(6) After it receives the report referred to in sub-article (5), the Court shall order the Registrar of Criminal Courts and Criminal Tribunals to furnish it with a list of all pending criminal cases against the accused, other than cases over which a Court of Magistrates does not have and cannot be granted competence and offences involving charges as referred to in sub-article (2)(b), and it shall, insofar as it considers such a measure to be in the best interests of the rehabilitation of the accused after also taking due account of the interests of the proper administration of justice and of victims, recall all such cases as may fall within the competence of the Court of Magistrates or to which the competence of the Court of Magistrates may be extended so that they will be heard and decided before it if the Court is the Court of Magistrates and if the Court is the Criminal Court they shall be decided before it consisting only of the Judge:

Provided that in cases to which this sub-article applies, where an offence referred to in this sub-article exceeds the competence of the Court but consists of an offence to which the said competence may be extended, the Court's competence shall be

deemed to have been extended by operation of law by virtue of the decree recalling such cases to be heard and determined before it with no further consent or formality being required.

(7) In cases where a recall of other cases is made in terms of sub-article (6) 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.

Cap. 9.

Cap. 77.

(8) In giving judgment 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.

(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.

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.

Sentencing
Policy Advisory
Board.

(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.

(4) 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.

10. (1) A specialist consultant physician appropriately registered under the Health Care Professions Act shall be entitled to prescribe medicinal preparations containing extracts of the plant cannabis if he considers that there is no viable alternative to such prescription due account being taken of the interests of the patient and of the costs.

Use of cannabis
for medical
purposes.
Cap. 464.

(2) A specialist consultant physician appropriately registered under the Health Care Professions Act shall be entitled to prescribe

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the use of the plant cannabis in small quantities for medical purposes with the approval in writing of the Superintendent of Public Health. In granting such approval the Superintendent of Public Health may impose such conditions, modalities and limitations with regard to the acquisition, use and length of use of the said drug for medical purposes as he may deem fit.

(3) The Superintendent of Public Health shall keep a Register of any approvals or rejections of applications made under this article.

(4) A person who sells, procures, acquires or uses the plant cannabis or medicinal preparations thereof in accordance with the procedures and approvals provided for in this article shall not be guilty of an offence against this Act or against the drug laws.

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.

12. 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.

13. This Act shall not apply:

Exclusions from applicability of this Act.

(a) in respect of any offence against the drugs laws, other than an offence consisting of the simple possession for personal use of a prohibited drug, committed within, or within one hundred metres from, the perimeter of a school, youth club or centre or such other place where young people habitually meet; or

(b) 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

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Cap. 101.

(c) where the offence against the drug laws is one committed in or in relation to a correctional facility.

14. Article 3 of The Commissioners for Justice Act shall be amended as follows:

Amendment of article 3 of the Commissioners for Justice Act. Cap. 291.

(a) in the proviso to sub-article (3) thereof, for the words "Provided that the Court of Magistrates shall have jurisdiction" there shall be substituted the words "Provided that the Court of Magistrates or any other court of criminal jurisdiction shall have jurisdiction"; and

(b) immediately after sub-article (3) thereof, there shall be added the following new sub-articles:

Cap. 101.
Cap. 31.

"(4) Notwithstanding the other provisions of this Act, an offence against the Dangerous Drugs Ordinance or against the Medical and Kindred Professions Ordinance which is triable under this Act shall not cease to be a criminal offence and the courts of criminal jurisdiction shall retain a concurrent jurisdiction to try that offence so however that the punishments applicable after the coming into force of this Act shall not exceed the punishments which would be applied had the offence been tried before a Commissioner for Justice under this Act:

Provided that the Courts of criminal jurisdiction shall, by virtue of this Act, be entitled to apply any penalty which may be applied by a Commissioner for Justice under this Act in respect of an offence which according to this Act is to be tried before a Commissioner for Justice.

(5) An offence referred to in sub-article (4) shall remain subject to all the powers of the Executive Police in respect thereof as if it had not been an offence triable by a Commissioner for Justice under this Act for the purposes of the investigation of the said offence or of any other offence.

Cap. 77.

(6) Notwithstanding the provisions of sub-articles (4) and (5) or of any other law, an offence referred to in sub-article (4) shall not be taken into account for the purposes of the issue of conduct certificates under the Conduct Certificates Ordinance but the Registrar of the Tribunal or any other person as may be designated by regulations made by the Minister shall keep a register of all convictions or voluntary payments of penalties in respect of offences referred to in sub-article (4) and such register shall be accessible to the Executive Police, to the Registrar of Criminal Courts and Criminal Tribunals and to any other public authority as the Minister may by regulations designate.

Cap. 31.
 Cap. 101.
 (7) Prosecution before the Commissioners for Justice for offences against the Medical and Kindred Professions Ordinance or against the Dangerous Drugs Ordinance for possession for personal use of a prohibited drug shall be carried out by the Executive Police who shall however appear before the Commissioner in plain clothes."

15. In paragraph (b) of article 13 of the Commissioners for Justice Act, for the words "established for contraventions;" there shall be substituted the words "established for contraventions:" and immediately thereafter there shall be added the following proviso: Amendment of article 13 of the Commissioners for Justice Act. Cap. 291.

"Provided further that nothing in this paragraph shall be interpreted as preventing Parliament from amending the Schedule by means of an Act of Parliament to include therein offences which are liable to punishments which are higher than the punishments established for contraventions."

16. The schedule to the Commissioners for Justice Act shall be amended as follows: Amendment of the Schedule to the Commissioners for Justice Act. Cap. 291.

(a) for the words "Particular Provisions if any" in the heading of the third column thereof, there shall be substituted the words "Particular Provisions, if any, or Description of Offence"; and

(b) immediately after the item "Management of Bathing Water Quality Regulations" there shall be added the following new items under the columns indicated below:

Legislation	Cap. or S.L. number	Particular provisions, if any or description of offence
"Dangerous Drugs Ordinance	Cap. 101.	Simple possession for personal use of a prohibited drug in an amount not exceeding two grams irrespective of the purity

Medical and Kindred
Professions Ordinance

Cap. 31. Simple possession of a prohibited drug for personal use in an amount not exceeding two grams irrespective of purity or of not more than two "ecstasy" pills or other pills of the same nature and simple possession for personal use of the plant "khat".

Objects and Reasons

The objects and reasons of this Bill are the introduction of a number of measures to facilitate and expedite proceedings concerning the possession of small quantities of prohibited drugs for personal use, for taking measures for the rehabilitation of persons accused with the commission of certain criminal offences who suffer from drug dependency, for the better administration of resources in the Law Courts and in the fight against trade in illegal narcotic substances.