

CRIMINAL JUSTICE AND COURTS ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Criminal Justice

Prisons

Section 16: Drugs for which prisoners etc may be tested

200. *Section 16* amends the provisions in the Prison Act 1952 (“the 1952 Act”) which deal with testing prisoners for drugs. It expands the definition of drugs that a prisoner can be tested for to include a drug that is not controlled under the Misuse of Drugs Act 1971 (“the 1971 Act”) and which is specified by the Secretary of State in prison rules. Currently, under section 16A of the 1952 Act, if an authorisation is in force in a prison, a prison officer may, in accordance with prison rules require a prisoner to provide a sample of urine for the purpose of ascertaining whether the prisoner has any drug in his body. Section 16A(3) defines “drug” as meaning any controlled drug for the purposes of the 1971 Act. Section 2 of, and Schedule 2 to, the 1971 Act define “controlled drug” as any substance or product specified in Part 1, 2 or 3 of that Schedule or that is subject to temporary control.
201. *Subsection (2)* amends section 16A(3) of the 1952 Act by expanding the definition of drug to include a “specified drug” which is defined as any substance or product specified in prison rules for the purposes of section 16A.
202. *Subsection (3)* inserts a new subsection (3A) into section 47 of the 1952 Act. Section 47 gives the Secretary of State the power to make rules for the regulation and management of prisons and other places of detention. Subsection (3A) provides that rules made under section 47 may specify any substance or product (which is not a controlled drug for the purposes of the 1971 Act) in relation to which a person may be required to give a sample for the purposes of section 16A. The effect of subsection (3A) is that the Secretary of State can specify in prison rules and rules for other places of detention a drug that is not controlled under the 1971 Act and which should be subject to testing under section 16A of the 1952 Act.