

THE MISUSE OF DRUGS ACT, 1973

[.]

I Assent,

Wilfrid Jacobs,

Governor.

29th December, 1973.

ANTIGUA

No. 21 of 1973

An Act to make provision with respect to the control of, and prevention of misuse of dangerous or otherwise harmful drugs and related matters, and for purposes connected therewith.

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[Proclamation]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Antigua, and by the authority of the same, as follows:

1. Short title

This Act may be cited as the Misuse of Drugs Act, 1973.

2. Interpretation

(1) In this Act, except where the context otherwise requires:

"analyst"

means any person appointed as such by the Minister under section 30 for the purposes of the Act;

"cannabis"

(except in the expression "cannabis resin") includes any part or portion of the plant known as cannabis sativa, and in whatever form, its preparations, resin, derivatives and similar synthetic preparations;

"cannabis resin"

means the separated resin, whether crude or purified, obtained from any plant of the genus Cannabis;

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"chemist and druggist"

means a person registered as a chemist and druggist under the Medical Act;

"controlled drug"

has the meaning assigned thereto by section 3;

"dentist"

means a person registered as a dentist under the Medical Act;

"doctor"

means a person registered as a medical practitioner under the Medical Act;

"Minister"

means the Minister responsible for Home Affairs;

"non-belonger"

means any person who is not regarded as belonging to Antigua within the meaning of section 16(8) of the Constitution;

"practitioner"

(except in the expression "veterinary practitioner") means a doctor, a dentist or a veterinary practitioner;
"prepared opium"

means opium prepared for smoking and includes dross and any other residues remaining after opium has been smoked;
"prescribed"

means prescribed by regulation;
"produce"

, where the reference is to producing a controlled drug, means producing it by manufacture, cultivation or any other method, and "production" has a corresponding meaning;
"supplying"

includes distributing; and
"veterinary practitioner"

means any person in the State holding a qualification entitling him to practise as a veterinary surgeon in any part of the Commonwealth or the United States of America or any person who within the State is engaged in the practice and profession of veterinary surgery.

(2) References in this Act to misusing a drug are references to misusing it by taking it; and a reference to the taking of a drug is a reference to the taking of it by a human being by way of any form of self-administration, whether involving assistance by another or not.

(3) For the purposes of this Act the things which a person has in his possession shall be taken to include anything subject to his control which is in the custody of another.

(4) Where one of two or more persons, with the knowledge and consent of the other persons, has anything in his custody or possession it shall be deemed to be in the possession of each and all of them.

PART I CONTROLLED DRUGS AND THEIR CLASSIFICATION

3. Controlled drugs and their classification

(1) In this Act:

(a) the expression "controlled drug"

means any substance or product specified in Part I, II or III of the First Schedule;
and

(b) the expressions "Class A drug", "Class B drug" and "Class C drug"

mean any of the substances and products for the time being specified respectively in Parts I, II and III of such Schedule,

and the provisions of Part IV of that Schedule shall have effect with respect to the meanings of expressions used in that Schedule.

(2) The Governor may by Order make such amendments to the First Schedule or any part thereof as may be necessary.

PART II RESTRICTIONS RELATING TO CONTROLLED DRUGS, ETC;

4. Restriction of importation and exportation of controlled drugs.

(1) Subject to subsection (2), the importation and exportation of controlled drugs are hereby prohibited.

(2) Subsection (1) shall not apply:

(a) to the importation or exportation of a controlled drug which is exempted from the provisions of subsection (1) by regulations made under section 9; or

(b) to the importation or exportation of a controlled drug under and in accordance with the terms of a licence issued by the Minister and in compliance with any conditions attached thereto.

5. Restriction of production and supply of controlled drugs.

(1) Subject to any regulations under section 9, it shall not be lawful for a person:

(a) to produce a controlled drug; or

(b) to supply or offer to supply a controlled drug to another.

(2) Subject to section 32, it shall be an offence for any person:

(a) to produce a controlled drug in contravention of subsection (1);

(b) to be concerned in the production of such a drug in contravention of that subsection by another.

(3) Subject to section 32, it shall be an offence for any person:

(a) to supply or offer to supply a controlled drug to another in contravention of subsection (1);

(b) to be concerned in the supplying of such a drug to another in contravention of subsection (1); or

(c) to be concerned in the making to another, in contravention of subsection (1), of an offer to supply such a drug.

6. Restriction of possession of controlled drugs.

(1) Subject to section 9, it shall not be lawful for a person to have a controlled drug in his possession.

(2) Subject to subsection (4) and section 32, it shall be an offence for any person to have a controlled drug in his possession in contravention of subsection (1).

(3) Subject to section 32, it shall be an offence for any person to have a controlled drug in his possession whether lawfully or not, with intent to supply it to another in contravention of section 5(1).

(4) In any proceedings for an offence under subsection (2) in which it is proved that the person charged had a controlled drug in his possession, it shall be a defence for him to prove:

(a) that, knowing or suspecting it to be a controlled drug, he took possession of it for the purpose of preventing another from committing or continuing to commit an offence in connexion with that drug and that, as soon as possible after taking possession of it, he took all such steps as were reasonably open to him to destroy the drug or to deliver it into the custody of a police officer; or

(b) that, knowing or suspecting it to be a controlled drug, he took possession of it for the purpose of delivering it into the custody of a police officer and that, as soon as possible after taking possession of it, he took all such steps as were reasonably open to him to deliver it into the custody of such police officer.

(5) Subsection (4) shall apply in the case of proceedings for an offence under section 20 (1) as it applies in the case of proceedings for an offence under subsection (2), subject to the following modifications, that is to say:

(a) for the references to the person charged having in his possession and to his taking possession of a controlled drug there shall be substituted respectively references to his attempting to get and to his attempting to take possession of such a drug; and

(b) in paragraphs (a) and (b) the words from "and that as soon as possible" onwards shall be omitted.

(6) Nothing in subsection (4) or (5) shall prejudice any other defence which it is open to a person charged under this section to raise.

7. Report of loss or theft of a controlled drug.

(1) Any person who has a controlled drug lawfully in his possession who discovers the loss or theft of such controlled drug shall, as soon as possible, and in any event not later than twenty four hours after such discovery report the loss or theft at the nearest police station.

(2) Any person who fails to comply with subsection (1) shall be guilty of an offence.

8. Restriction of cultivation of plant of the genus cannabis.

(1) Subject to section 9, it shall not be lawful for a person to cultivate any plant of the genus Cannabis.

(2) Subject to section 32, it is an offence to cultivate any such plant in contravention of subsection (1).

(3) Subject to section 9, where any plant of the genus Cannabis is found growing on any property, the owner, lessee, tenant or other person having actual control of the property shall be deemed guilty of an offence unless he proves, the onus of which proof rests on him, that he:

(a) neither

(i) knew or suspected; nor

(ii) had reason to know or suspect that such plant was growing on the property;
and

(b) had taken all reasonable precautions to prevent the cultivation or growth of such plant on the property.

9. Authorization of activities otherwise unlawful under foregoing provisions.

(1) The Minister may by regulation:

(a) exempt from section 4(1), 5(1) or 6(1) such controlled drugs as he may specify;
and

(b) make such other provision as he thinks for the purpose of making it lawful for a person to do anything which would otherwise be unlawful under sections 5(1), 6(1) and 8(1).

(2) Without derogating from the generality of subsection (1) (b), regulations made thereunder may provide for the doing of anything:

(a) if it is done under and in accordance with the terms of a licence or other authority issued by the Minister and in compliance with any conditions attached thereto; or

(b) if it is done in compliance with such conditions as may be prescribed.

(3) Subject to subsection (4), the Minister shall exercise his power to make regulations under subsection (1) so as to secure:

(a) that it is lawful under section 5(1) for a practitioner, acting in his capacity as such, to prescribe, administer, manufacture, compound or supply a controlled drug, or for a chemist and druggist or person lawfully conducting a retail chemist and druggist business, acting in either case in his capacity as such, to manufacture, compound or supply a controlled drug; and

(b) that it is lawful under section 6(1) for a practitioner, chemist and druggist or a person lawfully conducting a retail chemist and druggist business to have a controlled drug in his possession for the purpose of such profession or trade.

(4) If, in the case of any controlled drug, the Minister is of the opinion that it is in the public interest:

(a) for production, supply and possession of that drug to be either wholly unlawful or unlawful except for purposes of research or other special purposes; or

(b) for it to be unlawful for practitioners, chemists and druggists and persons lawfully conducting retail chemist and druggist businesses to do in relation to that drug any of the things mentioned in subsection (3) except under a licence or other authority issued by the Minister,

he may by Order designate that drug as a drug to which this subsection applies; and while there is in force such an Order, subsection (3) shall not apply as regards that drug.

(5) References in this section to a person "doing" things include references to his having things in his possession.

PART III MISCELLANEOUS OFFENCES INVOLVING CONTROLLED DRUGS, ETC.

10. Occupiers, etc. of premises to be punishable for permitting certain activities to take place there.

A person shall be guilty of an offence if, being the owner, occupier or concerned in the management of any premises, he knowingly permits or suffers any of the following activities to take place on those premises, that is to say:

(a) producing or attempting to produce a controlled drug in contravention of section 5(1);

(b) supplying or attempting to supply a controlled drug to another in contravention of section 5(1), or offering to supply a controlled drug to another in contravention of section 5(1);

(c) preparing opium for smoking; or

(d) smoking cannabis, cannabis resin or prepared opium.

11. Prohibition of certain activities by subsection etc. relating to opium

(1) Subject to section 32 and to sections 6(4) and (5) as applied (2) "post", it shall be an offence for any person:

(a) to smoke or otherwise use prepared opium;

(b) to frequent a place used for the purpose of opium smoking; or

(c) to have in his possession any pipes or other utensils for use in connexion with the smoking of opium or any utensils used in connexion with the preparation of opium for smoking.

(2) Sections 6(4) and (5) shall apply in relation to an offence under subsection (1) (c) as they apply in relation to an offence under section 6(2), subject to the modification that for any reference to a controlled drug there is substituted a reference to a pipe or other utensil such as is mentioned in subsection (1)(c).

(3) Nothing in sections 6(4) or (5) as applied by subsection (2) shall prejudice any other defence which it is open to a person charged under this section to raise.

12. Special offence as to possession of controlled drugs in certain circumstances

(1) Without prejudice to any liability for the commission of an offence under this Act or any other law, a person shall be guilty of an offence who has in his possession or under his control any controlled drug with intent to sell or transfer such controlled drug to any other person in contravention of this Act or for the purpose of the commission of any other crime.

(2) For the purposes of subsection (1) where any controlled drug is found in any ship, vessel, aircraft, vehicle or other means of conveyance within the State, or the territorial waters thereof :

(a) [. 181]

the ship, vessel, aircraft, vehicle or other means of conveyance may be seized by an officer of customs, police officer or member of the Defence Force established under the Defence Force Ordinance; and

(b) the master or any person in control of such ship, vessel, aircraft, vehicle or other means of conveyance as the case may be, shall be deemed guilty of an offence under subsection (1) unless he proves that the controlled drug was in the ship, vessel, aircraft, vehicle or other means of conveyance without his consent, knowledge or connivance and that he exercised all due diligence to prevent the commission of the offence.

(3) Nothing in subsection (2) (b) shall apply if the master or other person therein referred to proves to the satisfaction of the court that the controlled drug is cargo properly manifested to consignees in the State or elsewhere, or are bona fide stores of any ship, vessel or aircraft, in the custody of the proper officer authorized for the purpose.

(4) Nothing in subsection (2) shall apply to any ship, vessel or aircraft belonging to the Naval or Air Forces of any other country, if permission has been granted by the competent authority for such ship or vessel to come into the territorial waters of the State or for such aircraft to enter the State.

(5) Where any person is convicted of an offence under this section, the court before which he is convicted shall order that the ship, vessel, aircraft, vehicle or other means of conveyance, if any, used for the purpose of conveying the controlled drug, be forfeited and, upon such order being made, the ship, vessel, aircraft, Vehicle or other means of conveyance, shall, unless an application under subsection (6) is successful, be sold and the proceeds of such sale paid into the Treasury Fund.

(6) Where any ship, vessel, aircraft, vehicle or other means of conveyance is ordered to be forfeited under subsection (5) the owner of such ship, vessel, aircraft, vehicle or other means of conveyance may make within seven days of such order a claim to the court making such order of forfeiture for the ship, vessel, aircraft, vehicle or other means of conveyance to be restored to him.

(7) Where a claim is made to the court under subsection (6) the court may, subject to subsection (8), order that the ship, vessel, aircraft, vehicle or other means of conveyance shall be restored to the owner thereof on payment by him of any expenses incurred for transporting and keeping such ship, vessel, aircraft, vehicle or other means of conveyance for the purposes of this section.

(8) A court shall not make an order under subsection (7) unless it is satisfied that the owner, charterer or master of the ship, vessel, aircraft, vehicle or other means of conveyance, as the case may be:

(a) did not permit any person convicted of an offence under subsection(1) to use the ship, vessel, aircraft, vehicle or other means of conveyance for the purpose of conveying any controlled drug in respect of which the offence was committed; and

(b) had no knowledge that any person convicted of an offence under subsection (1) would use the ship, vessel, aircraft, vehicle or other means of conveyance for the purpose of conveying any controlled drug in respect of which the offence was committed.

13. The Licensing (Intoxicating Liquor) Acts and the Trade Licences Ordinances are amended to the extent respectively set out in the Fourth and Fifth Schedules hereto.

[ndments to other laws.

Cap. 268

29 of 1969

2 of 1973

Cap. 273

8 of 1966

23 of 1968

4 of 196913.]

PART IV POWER TO PREVENT MISUSE OF CONTROLLED DRUGS

14. Power to make regulations for preventing misuse of controlled drugs.

(1) Subject to the other provisions of this Act, the Minister may by regulation make such provisions as appear to him necessary or expedient for preventing the misuse of controlled drugs.

(2) Without prejudice to the generality of subsection (1), regulations under this section may make provision:

(a) requiring precautions to be taken for the safe custody of controlled drugs;

(b) imposing requirements as to the documentation of transactions involving controlled drugs, and requiring copies of documents relating to such transactions to be furnished to the prescribed authority;

(c) requiring the keeping of records and the furnishing of information with respect to controlled drugs in such circumstances and in such manner as may be prescribed;

(d) for the inspection of any precautions taken or records kept in pursuance of regulations made under this section;

(e) as to the packaging and labelling of controlled drugs;

(f) regulating the transport of controlled drugs and the methods used for destroying or otherwise disposing of such drugs when no longer required;

(g) regulating the issue of prescriptions containing controlled drugs and the supply of controlled drugs on prescription, and requiring persons issuing or dispensing prescriptions containing such drugs to furnish such information relating to those prescriptions as may be laid down;

(h) requiring any doctor who attends a person whom he considers, or has reasonable grounds to suspect, is addicted to controlled drugs of any description to furnish to the prescribed authority such particulars with respect to that person as may be specified;

(i) prohibiting any doctor from administering, supplying or authorizing the administration and supply to persons so addicted, or prescribing for such persons, such controlled drugs as may be prescribed, except under and in accordance with the terms of a licence issued by the Minister in pursuance of the regulations; and

(j) prescribing the procedure to be followed in the taking, transmission and analysis of samples of substances suspected to be controlled drugs and providing that an analyst's certificate that the prescribed procedure has been followed shall be accepted as evidence by any court.

15. Power to direct special precautions for safe custody of controlled drugs to be taken at certain premises

(1) Without prejudice to any requirement imposed by regulations made in pursuance of section 14(2) (a), the Minister, may by notice in writing served on the occupier of any premises on which controlled drugs are or are proposed to be kept, give directions as to the taking of precautions or further precautions for the safe custody of such types of controlled drugs, as are specified in the notice, which are kept on those premises.

(2) It shall be an offence to contravene any directions given under subsection (1).

16. Directions prohibiting prescribing supply, etc. of controlled drugs by practitioners, etc. convicted of certain offences.

(1) Where a person who is a practitioner or chemist and druggist has, after the coming into operation of this subsection, been convicted of an offence under this Act, the Minister may give a direction in writing under subsection (2) in respect of that person.

(2) A direction under subsection (1) shall:

(a) if that person is a practitioner, be a direction prohibiting him from having in his possession, prescribing, administering, manufacturing, compounding and supplying and

from authorising the administration and supply of such controlled drugs as may be specified in the direction; or

(b) if that person is a chemist and druggist, be a direction prohibiting him from having in his possession, manufacturing, compounding and supplying and from supervising and controlling the manufacture, compounding and supply of such controlled drugs as may be specified in the direction.

(3) The Minister shall cause a copy of any direction given by him under subsection (2) to be served on the person to whom it applies, and shall cause notice of any such direction to be published in the Gazette.

(4) A direction under this section shall take effect when a copy of it is served on the person to whom it applies.

(5) It shall be an offence to contravene a direction given under subsection (2).

17. Directions prohibiting prescribing supply, etc. of controlled drugs by practitioners in other cases.

(1) In the event of a contravention by a doctor of regulations made in pursuance of section 14(2)(h) or (i) or of the terms of a licence issued under regulations made in pursuance of section 14(2)(i), the Minister may give a direction in writing to the doctor concerned prohibiting him from prescribing, administering and supplying and from authorising the administration and supply of such controlled drugs as may be specified in the direction.

(2) If the Minister is of the opinion that a practitioner is or has after the coming into operation of this subsection been prescribing, administering, supplying or authorising the administration or supply of any controlled drugs in an irresponsible manner, the Minister may give a direction in writing to the practitioner concerned prohibiting him from prescribing, administering and supplying and from authorising the administration and supply of such controlled drugs as may be specified in the direction.

(3) A contravention by a doctor of regulations made in pursuance of sections 14(2)(h) or (i) or of the terms of a licence issued under regulations made in pursuance of section 14(2)(i) shall not as such constitute an offence, but it shall be an offence to contravene a direction given under subsection (1) or (2).

(4) The period of operation of a direction under subsection (2) shall be a period of six weeks beginning with the date on which the direction takes effect and the Minister may from time to time, by notice in writing served on the person to whom the direction applies, extend or further extend the period of operation of the direction for a further twenty-eight days from the time when that period would otherwise expire.

18. Power to obtain information from doctors, chemists and druggists, etc. in certain circumstances. Cap. 231.

(1) If it appears to the Minister that there exists in any area in the State a social problem caused by the extensive misuse of dangerous or otherwise harmful drugs in that area, he may by notice in writing served on any doctor or chemist and druggist practicing in or in the vicinity of that area, or on any person carrying on a retail chemist and druggist's business within the meaning of the Medical Act at any premises situated in or in the vicinity of that area, require him to furnish to the Minister, with respect to any such drugs specified in the notice and as regards any period so specified, such particulars as may be so specified relating to the quantities in which and the number and frequency of the occasions on which those drugs:

(a) in the case of a doctor, were prescribed, administered or supplied by him;

(b) in the case of a chemist and druggist, were supplied by him; or

(c) in the case of a person carrying on a retail chemist and druggist's business, were supplied in the course of that business at any premises so situated which may be specified in the notice.

(2) A notice under subsection (1) may require any such particulars to be furnished in such manner and within such time as may be specified in the notice and, if served on a chemist and druggist or person carrying on a retail chemist and druggist's business, may require him to furnish the names and addresses of doctors on whose prescriptions any dangerous or otherwise harmful drugs to which the notice relates were supplied, but shall not require any person to furnish any particulars relating to the identity of any person for or to whom any such drug has been prescribed, administered or supplied.

(3) A person shall be guilty of an offence if without reasonable excuse (proof of which shall lie on him) he fails to comply with any requirement to which he is subject by virtue of subsection (1).

(4) A person shall be guilty of an offence, if in purported compliance with a requirement imposed under this section, he gives any information which he knows to be false in a material particular or recklessly gives any information which is so false.

PART V MISCELLANEOUS OFFENCES AND POWERS

19. Miscellaneous offences

(1) It shall be an offence for any person to contravene any regulations made under this Act other than regulations made in pursuance of section 14(2)(h) or (i).

(2) It shall be an offence for any person to contravene a condition or other term of a licence issued under section 4 or of a licence or other authority issued under regulations

made hereunder not being a licence issued under regulations made in pursuance of section 14(2)(i).

(3) A person shall be guilty of an offence if, in purported compliance with any obligation to give information to which he is subject under or by virtue of regulations made under this Act, he gives any information which he knows to be false in a material particular or recklessly gives any information which is so false.

(4) A person shall be guilty of an offence if, for the purpose of obtaining, whether for himself or another, the issue or renewal of a licence or other authority under this Act or under any regulation made hereunder, he:

(a) makes any statement or gives any information which he knows to be false in a material particular or recklessly gives any information which is so false; or

(b) produces or otherwise makes use of any book, record or other document which to his knowledge contains any statement or information which he knows to be false in a material particular.

20. Attempts, etc. to commit offences.

(1) It shall be an offence for a person to attempt to commit an offence under any provision of this Act other than this subsection.

(2) It shall be an offence for a person to incite another to commit an offence under any provision of this Act other than this or the foregoing subsection.

21. Offences relating to the doing of things outside the State.

(1) A person shall be guilty of an offence if in the State he does any act preparatory to, or in furtherance of, the commission in any place outside the State of any act which, if committed in the State, would constitute an offence under this Act and for the purposes of this subsection having something in one's possession shall be taken to be an act.

(2) A person shall be guilty of an offence if in the State he assists in or induces the commission in any place outside the State of an offence punishable under the provisions of a corresponding law in force in that place.

22. Offences by corporations.

Where any offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of any director, manager, secretary or other officer of the said body corporate, or any person purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against accordingly.

23. Further powers to make regulations.

The Minister may, by regulation, make provision:

(a) for excluding in such cases as may be prescribed the application of any provision of this Act which creates an offence; and

(b) for the application of any of the provisions of this Act or regulations or orders thereunder to servants or agents of the Crown, subject to such exceptions, adaptations and modifications as may be prescribed.

PART VI LAW ENFORCEMENT AND PUNISHMENT OF OFFENCES

24. Powers to search and obtain evidence.

(1) A police officer or other person duly authorised in that behalf by the Minister shall, for the purposes of the execution of this Act, have power to enter the premises of any person carrying on business as a producer or supplier of any controlled drugs and to demand the production of, and to inspect, any books or documents relating to dealings in any such drugs and to inspect any stocks of any such drugs.

(2) If a police officer has reasonable grounds to suspect that any person is in possession of a controlled drug in contravention of this Act, the police officer may, subject to subsections (5) and (6):

(a) search that person, and detain him for the purpose of searching him;

(b) search any ship, vessel, aircraft, vehicle or other means of conveyance in which the police officer suspects that the drug may be found, and for that purpose require the person in control of the ship, vessel, aircraft, vehicle or other means of conveyance to stop it; and

(c) seize and detain, for the purposes of proceedings under this Act, anything found in the course of the search which appears to the police officer to be evidence of an offence under this Act:

Provided that nothing in this subsection shall derogate from any power of search or any power to seize or detain property which is otherwise exercisable by a police officer.

(3) If a magistrate is satisfied by information on oath that there is reasonable ground for suspecting:

(a) that any controlled drugs are, in contravention of this Act or of any regulations made thereunder, in the possession of a person on any premises; or

(b) that a document directly or indirectly relating to, or connected with, a transaction or dealing which was, or an intended transaction or dealing which would if carried out be, an offence under this Act, or in the case of a transaction or dealing carried out or intended

to be carried out in a place outside the State, an offence against the provisions of a corresponding law in force in that place, is in the possession of a person on any premises, he may issue a warrant authorizing any police officer at any time or times within one month from the date of issue of the warrant, to enter, if need be by force, the premises named therein, and to search the premises and any persons found therein and, if there is reasonable ground for suspecting that an offence under this Act has been committed in relation to any controlled drugs found on the premises or in the possession of any such persons, or that a document so found is such a document as is mentioned in paragraph (b), to seize and detain those drugs or that document, as the case may be.

(4) A person shall be guilty of an offence if he:

(a) intentionally obstructs a person in the exercise of his powers under this section;

(b) being the person in control of the ship, vessel, aircraft, vehicle or other means of conveyance fails to stop it when required to do so by a police officer under subsection (2) (b);

(c) being a person being conveyed in a ship, vessel, aircraft, vehicle or other means of conveyance prevents or intimidates the person in control of or any person operating the ship, vessel, aircraft, vehicle or other means of conveyance from stopping when required to do so by a police officer under subsection (2) (b);

(d) without the permission of the police officer concerned, leaves a ship, vessel, aircraft, vehicle or other means of conveyance which has been stopped by a police officer under subsection (2) (b); or

(e) conceals or without reasonable excuse (proof of which shall lie on him) fails to produce any such books, documents, stocks or drugs as aforesaid.

(5) No person may be searched by any person of the opposite sex unless the consent of the person to be searched has first been obtained or unless such search is made in the presence of some other person, not being a police officer, of the same sex.

(6) No article of a person's clothing may be removed from his person during a search at any place other than within a Police station.

25. Power of arrest.

(1) A police officer may arrest without warrant a person who has committed, or whom the police officer, with reasonable cause, suspects to have committed, an offence under this Act, if:

(a) he believes that that person will abscond unless arrested;

(b) the name and address of that person are not known to, and cannot be ascertained by him; or

(c) he is not satisfied that a name and address furnished by that person as his name and address are true.

(2) Where any controlled drug is found on any premises searched under section 24 (1) or in any ship, vessel, aircraft, vehicle or other means of conveyance stopped under section 24 (2), the police officer who has made the search or stopped the ship, vessel, aircraft, vehicle or other means of conveyance as the case may be, may arrest any person in such premises or in such ship, vessel, aircraft, vehicle or other means of conveyance whom he has reason to believe to be guilty of an offence under this Act other than an offence under section 7 (2).

(3) This section shall not derogate from any other power of arrest conferred by any other law.

26. Prosecution and punishment of offences.

(1) The Second Schedule shall have effect, in accordance with subsection (2) regarding the way in which offences under this Act are punishable on conviction.

(2) In relation to an offence under a provision of this Act specified in the first column of the Second Schedule (the general nature of the offence being described in the second column):

(a) the third column shows whether the offence is punishable on summary conviction, on indictment, or in either way;

(b) the fourth, fifth and sixth columns show respectively the punishments which may be imposed on a person convicted of the offence in the way specified in relation thereto in the third column (that is to say, summarily or on indictment) according to whether the controlled drugs in relation to which the offence was committed was a Class A drug, a Class B drug or a Class C drug; and

(c) the seventh column shows the punishments which may be imposed on a person convicted of the offence in the way specified in relation thereto in the third column (that is to say, summarily or on indictment), whether or not the offence was committed in relation to a controlled drug and, if it was so committed, irrespective of whether the drug was a Class A drug, a Class B drug or a Class C drug,

and in the fourth, fifth, sixth and seventh columns a reference to a period gives the maximum term of imprisonment and a reference to a sum of money the maximum fine.

(3) An offence under section 20 (1), 20 (2) or 21 (1) shall be punishable on summary conviction, on indictment or in either way according to whether, under the Second Schedule, the substantive offence is punishable on summary conviction, on indictment or in either way; and the punishments which may be imposed on a person convicted of an offence under section 20 (1), 20 (2), or 21 (1) are the same as those which, under that Schedule, may be imposed on a person convicted of the substantive offence.

(4) In subsection (3) "the substantive offence":

(a) in relation to an offence under section 20 (1) or (2) means the offence under this Act to which the attempt or, as the case may be, the indictment is directed:

(b) in relation to an offence under section 21 (1) consisting of the doing of an act preparatory to, or in the furtherance of, the commission in a place outside the State of an act ("the overseas act"), which, if committed in the State, would constitute an offence under this Act, means the offence under this Act which the overseas act would constitute if committed in the State.

(5) A magistrate's court may try a charge for an offence under this Act if the charge was made at any time within twelve months from the commission of the offence.

27. Penalties for offences under section 4.

In relation to an offence in connexion with a prohibition or restriction on importation or exportation having effect by virtue of section 4, the following provisions shall have effect:

(a) where the controlled drug constituting the goods in respect of which the offence was committed was a Class A drug or a Class B drug, any person guilty of that offence shall be liable:

(i) on summary conviction, to a penalty of six times the value of the goods or \$4,000.00 whichever is the greater, and to imprisonment for twelve months;

(ii) on conviction on indictment, to a pecuniary penalty of such amount as the court may determine, and to imprisonment for 10 years;

(b) where the controlled drug constituting the goods in respect of which the offence was committed was a Class C drug, subparagraphs (a) (i) and (a) (ii) shall respectively have effect as if for "\$4,000.00" and "10 years" occurring therein there were substituted "\$2,000.00 and "5 years" respectively.

28. Forfeiture.

(1) Subject to subsection (2), the court by or before which a person is convicted of an offence under this Act may order anything shown to the satisfaction of the court to relate

to the offence, to be forfeited and either destroyed or dealt with in such other manner as the court may order.

(2) Removal orders.

The court shall not order anything to be forfeited under this section, where a person claiming to be the owner of or otherwise interested in it has applied, before the making of the order, to be heard by the court, unless an opportunity has been given to him to show cause why the order should not be made.

29.

(1) Where a non-belonger is convicted of any offence under this Act, the Minister may, within six months after the date of such conviction, by Order under his hand, order the non-belonger to be removed from the State.

(2) Any non-belonger so ordered to be removed shall be placed on board a suitable aircraft or vessel by any police or immigration officer and may be lawfully detained in custody on board so long as the aircraft is within the State or the vessel is within the territorial waters of the State, and if any person so removed enters or attempts to re-enter the State while a removal order is still in force against him, he may be dealt with in like manner.

(3) Where a non-belonger who is ordered to be removed from the State under and by virtue of this section is serving a sentence of imprisonment, the Governor, acting in accordance with the advice of the Minister, may give directions as to whether the whole or what part of the sentence is to be served before removal. In default of such directions, the non-belonger shall be removed after completion of the sentence and any removal order made shall be of full force and effect notwithstanding that more than six months has elapsed since conviction.

(4) Where any person has been removed from the State under the provisions of this section it shall be an offence for such person to enter or attempt to enter the State without the written permission of the Minister.

PART VII MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

30. Appointment of analysts.

The Minister may, by Notice published in the Gazette, appoint such persons as he thinks fit to be analysts for the purposes of the Act.

31. Certificate of analyst admissible in evidence.

(1) Subject to subsections (2) and (3), notwithstanding the provisions of any other law, a certificate of an analyst stating that he has analysed or examined a substance and stating the result of such analysis or examination is admissible in evidence in any prosecution under this Act and in the absence of evidence to the contrary is proof of the statements

contained therein and no evidence shall be required by the court as to the signature or qualifications of the person purporting to have signed the certificate.

(2) No certificate shall be received in evidence unless the party intending to produce it has given to the other parties seven days notice of such intention and has furnished with such notice a copy of the certificate.

(3) Where it considers it necessary or advisable the court may require the attendance of such analyst to give evidence on oath.

32. Proof of lack of knowledge, etc. to be a defence in proceedings for certain offences.

(1) This section shall apply only to offences under sections 5 (2), 5 (3), 6 (2), 6 (3), 8 (2) and 11 (1).

(2) Subject to subsection (3), in any proceedings for an offence to which this section applies it shall be a defence for the person charged to prove that he neither knew or nor suspected nor had reason to suspect the existence of some fact alleged by the prosecution which it is necessary for the prosecution to prove if he is to be convicted of the offence charged.

(3) Where, in any proceedings for an offence to which this section applies, it is necessary, if the person charged is to be convicted of the offence charged, for the prosecution to prove that some substance or product involved in the alleged offence was the controlled drug which the prosecution alleges it to have been, and it is proved that the substance or product in question was that controlled drug, the person charged:

(a) shall not be acquitted of the offence charged by reason only of proving that he neither knew, nor suspected, nor had reason to suspect that the substance or product in question was the particular controlled drug alleged; but

(b) shall be acquitted thereof:

(i) if he proves that he neither believed, nor suspected, nor had reason to suspect that the substance or product in question was a controlled drug; or

(ii) if he proves that he believed the substance or product in question to be a controlled drug, or a controlled drug of a description, such that, if it had in fact been that controlled drug or a controlled drug of that description, he would not at the material time have been committing any offence to which this section applies.

(4) Service of documents.

Nothing in this section shall derogate from any other defence which it is open to a person charged with an offence to raise.

33.

(1) Any notice or other document required or authorized by this Act to be served on any person may be served on him either by delivering it to him or by leaving it at his last known business or private address or by sending it by registered post.

(2) Any notice or other document required or authorized to be served on a body corporate shall be duly served if it is served on the secretary or any director of that body.

(3) Where any of the following documents, that is to say:

(a) a notice under section 15 (1); or

(b) a copy of a direction given under section 16 (2), 17 (1) or 17 (2),

is served by sending it by registered post, service thereof shall be deemed to have been effected at the time when the letter containing it would be delivered in the ordinary course of registered post.

34. Licences and authorities.

A licence or other authority issued by the Minister for the purposes of this Act or of regulations made hereunder may be, to any degree, general or specific, issued on such terms and subject to such conditions (including, in the case of a licence, the payment of a prescribed fee) as the Minister thinks proper, and may be modified or revoked by him at any time.

35. General provisions as to regulations.

Without derogating from the generality of the powers conferred upon him, regulations made by the Minister may:

(a) make different provisions in relation to different controlled drugs, different classes of persons, different provisions of this Act or other different cases or circumstances; and

(b) make the opinion, consent or approval of a prescribed authority or of any person authorized in a prescribed manner material for purpose of the regulations; and

(c) contain such supplementary, incidental and transitional provisions as appear expedient to the Minister.

36. Research.

The Minister may conduct or authorize or assist in conducting or authorizing research into any matter relating to the misuse of dangerous or otherwise harmful drugs.

37. Financial provisions.

There shall be defrayed out of moneys provided by Parliament any expenses incurred by the Minister under this Act.

38. Meaning of "corresponding law".

(1) In this Act the expression "corresponding law" means a law stated in a certificate purporting to be issued by or on behalf of the government of a country outside the State to be a law providing for the control and regulation in that country of the production, supply, use, export and import of drugs and other substances in accordance with the provisions of the Single Convention on Narcotic Drugs signed at New York on 30th March 1961 or a law providing for the control and regulation in that country of the production, supply, use, export and import of dangerous or otherwise harmful drugs in pursuance of any treaty, convention or other agreement or arrangement to which the government of that country and the Government of the State are for the time being parties or to which the Government of the United Kingdom has acceded to on behalf of the State.

(2) A statement in any such certificate as aforesaid as to the effect of the law mentioned in the certificate or a statement in any such certificate that any facts constitute an offence against that law shall be conclusive evidence of the matters stated.

39. Savings, transitional provisions and repeal.

(1) The savings and transitional provisions contained in the Third Schedule shall have effect on the coming into operation of the Act.

(2) [.225 3 of 1971.]

The Dangerous Drugs Acts are repealed.

40. Commencement.

This Act shall come into operation on such day as the Governor may, by Proclamation published in the Gazette, appoint.

Passed the Senate this 20th day of December, 1973.

C. Addison Harney, President.

Lounel Stevens, Clerk of the Senate.

Passed the House of Representatives this 19th day of November, 1973.

Cecil E. Hewlett, Speaker.

Lounel Stevens, Clerk of the House of Representatives.

CONTROLLED DRUGS PART I

CLASS A DRUGS

1. The following substances and products, namely:

Acetorphine. [href= "#n20">2/]

Allylprodine.

Alphacetylmethadol.

Alphameprodine.

Alphamethadol.

Alphaprodine.

Anileridine.

Benzethidine.

Benzylmorphine (3-benzylmorphine).

Betacetylmethadol.

Betameprodine.

Betamethadol.

Betaprodine.

Bezitramide.

Bufotenine.

Cannabinol, except where contained in cannabis or cannabis resin.

Cannabinol derivatives.

Clonitazene.

Coca leaf.

Cocaine.

Desomorphine.

Dextromoramide.

Diamorphine [oin]. [href="#n10">1/]

Diampromide.

Diethylthiambutene.

Methadone.

Methadyl acetate [>Acetylmethadol].

Methyldesorphine.

Methyldihydromorphine (6-methyldihydromorphine).

Metopon.

Morpheridine.

Morphine.

Morphine methobromide, morphine N-oxide and other pentavalent nitrogen morphine derivatives.

Myrophine.

Nicodicodine (6-nicotinoyldihydrocodeine).

Nicomorphine (3, 6-dinicotinoylmorphine).

Noracymethadol.

Norlevorphanol.

Normethadone.

Normorphine.

Norpipanone.

Opium, whether raw, prepared or medicinal.

Oxycodone.

Oxymorphone.

Pethidine.

Phenadoxone.

Phenampromide.

Phenazocine

1/ Note by the Secretariat: The words in square brackets have been inserted by the Secretariat.

2/ Note by the Secretariat: International non-proprietary names of drugs are underlined.

Dihydrocodeinone O-carboxymethyl-oxime [>Codoxime]

Dihydromorphone.

Dimenoxadol.

Dimepheptanol.

Dimethylthiambutene.

Dioxaphetyl butyrate.

Diphenoxylate.

Dipipanone.

Ecgonine, and any derivative of ecgonine which is convertible to ecgonine or to cocaine.

Ethylmethylthiambutene.

Etonitazene.

Etorphine.

Etoxeridine.

Fentanyl.

Furethidine.

Hydrocodone.

Hydromorphenol.

Hydromorphone.

Hydroxypethidine.

Isomethadone.

Ketobemidone.

Levomethorphan.

Levomoramide.

Levophenacymorphan.

Levorphanol.

Lysergamide.

Lysergide and other N-alkyl derivatives of lysergamide.

Mescaline.

Metazocine.

Phenomorphan.

Phenoperidine.

Piminodine.

Piritramide.

Poppy-straw and concentrate of poppy-straw.

Proheptazine.

Properidine (1-methyl-4-phenylpiperidine-4-carboxylic acid isopropyl ester).

Psilocin.

Racemethorphan.

Racemoramide.

Racemorphan.

Thebacon.

Thebaine.

Trimeperidine.

4-Cyano-2-dimethylamino-4, 4-diphenylbutane [hadone-intermediate].

4-Cyano-1-methyl-4-phenyl-piperidine [hidine-intermediate A].

N, N-Diethyltryptamine [].

N, N-Dimethyltryptamine [].

2, 5-Dimethoxy-a, 4-dimethyl-phenethylamine [].

1-Methyl-4-phenylpiperidine-4-carboxylic acid [hidine-intermediate C].

2-Methyl-3-morpholino-1, 1-diphenylpropanecarboxylic acid [amide intermediate]

4-Phenylpiperidine-4-carboxylic acid ethyl ester [hidine intermediate B].

2. Any stereoisomeric form of a substance for the time being specified in paragraph 1 above not being dextromethorphan or dextrorphan.

3. Any ester or ether of a substance for the time being specified in paragraphs 1 or 2 above.

4. Any salt of a substance for the time being specified in any of paragraphs 1 to 3 above.

5. Any preparation or other product containing a substance or product for the time being specified in any of paragraphs 1 to 4 above.

6. Any preparation designed for administration by injection which includes a substance or product for the time being specified in any of paragraphs 1 to 3 of Part II of this Schedule.

PART II

CLASS B DRUGS

1. The following substances and products, namely:
Acetyldihydrocodeine.

Methylamphetamine.
Amphetamine.

Methylphenidate.
Cannabis and cannabis resin.

Nicocodine.
Codeine.

Norcodeine.
Dexamphetamine.

Phenmetrazine.
Dihydrocodeine.

Pholcodine.
Ethylmorphine (3-ethylmorphine).

2. Any stereoisomeric form of a substance for the time being specified in paragraph 1 of this Part of this Schedule.

3. Any salt of a substance for the time being specified in paragraph 1 or 2 of this Part of this Schedule.

4. Any preparation or other product containing a substance or product for the time being specified in any of paragraphs 1 to 3 of this Part of this Schedule, not being a preparation falling within paragraph 6 of Part I of this Schedule.

PART III

CLASS C DRUGS

1. The following substances, namely:
Benzphetamine .

Pemoline.
Chlorphentermine.

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