



# ST CHRISTOPHER AND NEVIS

## CHAPTER 9.08

# DRUGS (PREVENTION AND ABATEMENT OF THE MISUSE AND ABUSE OF DRUGS) ACT

and Subsidiary Legislation

**Revised Edition**

showing the law as at 31 December 2002

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Law Revision Act No. 9 of 1986.

This edition contains a consolidation of the following laws:

**Drugs (Prevention of Misuse) Act**

**Act 11 of 1986 in force 6<sup>th</sup> November, 1986**

**Amended by Act 6 of 1993**

**Act 4 of 1996**

**Act 10 of 1997**

**National Council on Drug Abuse Prevention Act**

**Act 24 of 2000 in force 8<sup>th</sup> December, 2000**

**Dangerous Drugs (Application) Order – SRO 54 of 1954**

[Preserved by s. 36 of Act 11/1986]

**Dangerous Drugs (Relaxation) Order – SRO 15 of 1953 – Amended by SRO 55 of 1954**

[Preserved by s.36 of Act 11/1986]

**Dangerous Drugs Rules – SRO 4 of 1942**

[Preserved by s. 36 of Act 11/1986]

## CHAPTER 9.08

### DRUGS (PREVENTION AND ABATEMENT OF THE MISUSE AND ABUSE OF DRUGS) ACT

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## CHAPTER 9.08

### DRUGS (PREVENTION AND ABATEMENT OF THE MISUSE AND ABUSE OF DRUGS) ACT

**AN ACT to provide for the prevention and abatement of the misuse and abuse of drugs; to provide for the rehabilitation of victims of misuse and abuse of drugs; and to provide for a centralised co-ordination of anti-drug activities in Saint Christopher and Nevis, and in that connection to establish a National Council on Drug Abuse Prevention; and to provide for related or incidental matters.**

#### PART I – PRELIMINARY

1. **Short title.**

This Act may be cited as the Drugs (Prevention and Abatement of the Misuse and Abuse of Drugs) Act.

2. **Interpretation.**

(1) In this Act, unless the context otherwise requires,

“analyst” means any person appointed as such for purposes of this Act by the Minister by notice published in the *Gazette*;

“cannabis” (except in the expression “cannabis resin”) means any plant of the genus *Cannabis* or any part of such plant (by whatever name designated) except that it does not include cannabis resin or any of the following products after separation from the rest of the plant, namely,

- (a) the mature stalk of any such plant,
- (b) the fibre produced from mature stalk of any such plant,
- (c) the seed of any such plant;

“chairperson” means the Chairperson of the Council;

*[Transferred from Act 24/2000]*

“chemical precursors” means chemical substances used in the illicit production, manufacturing, preparation or extraction of narcotic drugs, psychotropic substances or other substances having similar effects and shall be identified by the names and corresponding numeric codes listed in the Appendix to the Saint Christopher and Nevis National Anti-Drug Masterplan adopted by the Government on the 30<sup>th</sup> day of October, 2000;

*[Transferred from Act 24/2000]*

“Conventions” mean international treaties and laws that govern international agreements on drugs;

*[Transferred from Act 24/2000]*

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“Council” means the Council established under section 31 of this Act;

*[Transferred from Act 24/2000]*

“dentist” means a person registered as a dentist under the Medical Act, Cap. 9.15 or any other enactment governing registration;

“doctor” means a person registered as a medical practitioner under the Medical Act, Cap. 9.15 or any other enactment governing registration;

“drug” means any psychotropic substance;

*[Transferred from Act 24/2000]*

“druggist” means a person registered as a druggist under the Medical Act, or any other enactment governing registration;

“drug trafficking” means doing or being concerned in any of the following, whether in Saint Christopher and Nevis or elsewhere,

- (a) producing or supplying any controlled drug where the production or supply contravenes section 5(1) or a corresponding law,
- (b) transporting or storing any controlled drug where possessing of the drug contravenes section 6(1) or a corresponding law,
- (c) importing or exporting any controlled drug where the importation or exportation is prohibited by section 4(1) or a corresponding law,
- (d) entering into or being otherwise concerned in an arrangement whereby
  - (i) the retention or control by or on behalf of another the proceeds of drug trafficking by him or her is facilitated, or
  - (ii) the proceeds of drug trafficking by another are used to secure that funds are placed at his or her disposal or are used for his or her benefit to acquire property by way of investment;

“drug trafficking offence” means

- (a) an offence under section 4, 5(2) or 5(3) or 6(3);  
*[Amended by Act 4/1996]*
- (b) any contravention under section 9 of the Customs Tariff Act, in connection with a prohibition or restriction on importation;
- (c) an offence under section 16;
- (d) an offence under section 20;
- (e) conspiracy to commit any of the offences in paragraphs (a) to (d) above;
- (f) an offence of attempting to commit any of the offences in paragraphs (a) to (d);

- (g) an offence of inciting another to commit any of those offences; and
- (h) aiding, abetting, counselling or procuring the commission of the offences in paragraphs (a) to (d);  
*[Definition substituted by Act 6/1993]*

“Executive Secretary” means the Chief Executive Officer of the Council appointed under section 42 of this Act;

*[Transferred from Act 24/2000]*

“functions” include duties and powers;

*[Transferred from Act 24/2000]*

“Minister” means the Minister to whom the responsibility for this Act is assigned;

*[Transferred from Act 24/2000]*

“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;

“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;

“psychotropic substance” means any chemical agent affecting the mental processes, any substance, natural or synthetic, or any natural material specified in Schedules I, II, III, and IV of the Convention on Psychotropic Substances, 1971;

*[Transferred from Act 24/2000]*

“supplying” includes distributing;

“veterinary practitioner” means any person in Saint Christopher and Nevis holding a qualification entitling him or her to practice as a veterinary surgeon in any part of the Commonwealth or any person who, within Saint Christopher and Nevis, is engaged in the practice and profession of veterinary surgery.

“vice-chairperson” means the Vice-Chairperson of the Council.

*[Transferred from Act 24/2000]*

(2) References in this Act to misusing a drug are references to misusing it by taking it; and the reference in the foregoing provision 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 or not involving assistance by another.

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



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(4) 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 Saint Christopher and Nevis to be

- (a) 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
- (b) 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 Saint Christopher and Nevis are for the time being parties; and

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

*[Originally section 35 of Act 11/1986]*

### **3. Controlled drugs and their classifications.**

- (1) In this Act,
  - (a) the expression “controlled drugs” means any substance or product for the time being specified in Part I, II, or III of the Second 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 Part I, Part II and Part III of that Schedule;

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

(2) The Minister may, after consultation with or on the recommendation of the Council, by Order published in the *Gazette*, make such amendments to the Second Schedule as may be requisite for the purpose of adding any substance or product, to, or removing any substance or product from, any of Parts I to III of that Schedule.

(3) An Order made under this section may amend Part IV of the Third Schedule, and may do so whether or not it amends any other Part of that Schedule.

*[Originally section 4 of Act 11/1986]*

## **PART II – RESTRICTION OF IMPORTATION, EXPORTATION AND PRODUCTION AND SUPPLY OF CONTROLLED DRUGS**

### **4. Restriction of importation and exportation of controlled drugs.**

- (1) Subject to subsection (2),
  - (a) the importation of a controlled drug; and

- (b) the exportation of a controlled drug;

are hereby prohibited.

- (2) Subsection (1) does not apply

- (a) to the importation or exportation of a controlled drug which is for the time being excepted from paragraph (a) or, as the case may be, paragraph (b) of subsection (1) by regulations under section 8; 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.

(3) Any person who imports or exports controlled drugs contrary to subsection (1), commits an offence and shall be liable, on conviction, to the penalties laid down in section 15.

**5. Restriction of production and supply of controlled drugs.**

(1) Subject to any regulations under section 8 for the time being in force, 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 29, it is an offence for a person

- (a) to produce a controlled drug in contravention of subsection (1); or
- (b) to be concerned in the production of such a drug in contravention of that subsection by another.

- (3) Subject to section 29, it is an offence for a person

- (a) to supply or offer to supply a controlled drug to another in contravention of subsection (1);
- (b) to be concerned in the supply 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 drug.**

(1) Subject to any regulations made under section 8 for the time being in force, it shall not be lawful for a person to have a controlled drug in his or her possession.

(2) Subject to subsection (5) and to section 29, it is an offence for a person to have a controlled drug in his or her possession in contravention of subsection (1).

(3) Subject to section 29, it is an offence for a person to have a controlled drug in his or her possession, whether lawfully or not, with intent to supply it to another in contravention of section 5(1).

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(4) Subject to subsection (1), a person found in possession of the following controlled drugs in quantities of more than

- (a) two grammes of diacetylmorphine (hexion);
- (b) one gramme of cocaine;
- (c) fifty-five grammes of opium;
- (d) three grammes of morphine; or
- (e) fifteen grammes of cannabis or cannabis resin;

is deemed to have the controlled drug for the purpose of trafficking unless the contrary is proved, the burden of proof being on the accused.

*[Substituted by Act 6/1993]*

(5) In any proceedings for an offence under subsection (2) in which it is proved that the accused had a controlled drug in his or her possession, it shall be a defence for him or her to prove

- (a) that, knowing or suspecting it to be a controlled drug, he or she took possession of it for the purpose of preventing another from committing or continuing to commit an offence in connection with that drug and that as soon as possible after taking possession of it he or she took all such steps as were reasonably open to him or her to destroy the drug or to deliver it into the custody of a person lawfully entitled to take custody of it; or
- (b) that, knowing or suspecting it to be a controlled drug, he or she took possession of it for the purpose of delivering it into the custody of a person lawfully entitled to take custody of it and that as soon as possible after taking possession of it he or she took all such steps as were reasonably open to him or her to deliver it into the custody of such a person.

(6) Subsection (5) shall apply in the case of proceedings for an offence under section 19 consisting of an attempt to commit an offence under subsection (2) 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 accused having in his or her possession, and to his or her taking possession of, a controlled drug, there shall be substituted, respectively, references to his or her attempting to get, and to his or her 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.

(7) Nothing in subsection (5) or (6) shall prejudice any defence which is open to a person charged with an offence under this section to raise apart from those subsections.

## **7. Restriction of cultivation of cannabis plant.**

(1) Subject to any regulations under section 8 for the time being in force, it shall not be lawful for a person to cultivate any plant of the genus *Cannabis*.

(2) Subject to section 29, it is an offence to cultivate any such plant in contravention of subsection (1).

**8. Authorisation of activities otherwise unlawful under foregoing provisions.**

(1) The Minister may, by regulations,

- (a) exclude or except from section 4(1) (a) or (b), 5(1) (a) or (b) or 6(1) such controlled drugs as may be specified in the regulations; and
- (b) make such other provision as he or she thinks fit for the purpose of making it lawful for persons to do things which under the following provisions of this Act, that is to say sections 5(1), 6(1) and 7(1), it would otherwise be unlawful for them to do.

(2) Without prejudice to the generality of paragraph (b) of subsection (1), regulations made under that subsection authorising the doing of any such thing as is mentioned in that paragraph may, in particular, provide for the doing of that thing to be lawful

- (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 so exercise his or her powers to make regulations under subsection (1) as to secure

- (a) that it is not unlawful under section 5(1) for a doctor, dentist or veterinary practitioner acting in his or her capacity as such, to prescribe, administer, manufacture, compound or supply a controlled drug, or for a druggist or a person lawfully conducting a retail pharmacy business, acting in either case in his or her capacity as such, to manufacture, compound or supply a controlled drug; and
- (b) that it is not unlawful under section 6(1) for a doctor, dentist, veterinary practitioner, druggist or person lawfully conducting a retail pharmacy business to have a controlled drug in his or her possession for the purpose of acting in his or her capacity as such.

(4) If in the case of a 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, druggists and persons lawfully conducting retail pharmacy businesses to do so in relation to that drug and of the things mentioned in subsection (3) except under a licence or other authority issued by the Minister;

he or she may, by Order, designate that drug as a drug to which this subsection applies, and while there is in force an Order under this subsection designating a controlled drug as one to which this subsection applies, subsection (3) shall not apply as regards that drug.

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(5) An Order made under subsection (4) shall be laid before the National Assembly.

(6) The Minister shall not make any Order under subsection (4) except after consultation with or on the recommendation of the Council.

(7) References in this section to persons “doing” things include references to his or her having things in his or her possession.

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

A person commits an offence if, being the occupier or concerned in the management of any premises, he or she 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 cannabis, cannabis resin or opium for smoking;
- (d) smoking cannabis, cannabis resin or prepared opium.

**10. Prohibition of certain activities, etc., relating to opium.**

Subject to section 29, it is an offence for a 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 or her possession
  - (i) any pipes or other utensils made or adapted for use in connection with the smoking of opium, being pipes or utensils which have been used by him or her or with his or her knowledge and permission in that connection or which he or she intends to use or permit others to use in that connection, or
  - (ii) any utensils which have been used by him or her or with his or her knowledge and permission in connection with the preparation of opium for smoking.

**11. Power to make regulations for preventing misuse of controlled drugs.**

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

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

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

- (b) for imposing requirements as to the documentation of transactions involving controlled drugs, and for requiring copies of documents relating to such transactions to be furnished to the prescribed authority;
- (c) for 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 under this section;
- (e) as to the packaging and labelling of controlled drugs;
- (f) for regulating the transportation of controlled drugs and the methods used for destroying or otherwise disposing of such drugs when no longer required;
- (g) for regulating the issue of prescriptions containing controlled drugs and the supply of controlled drugs on prescriptions, and for requiring persons issuing or dispensing prescriptions containing such drugs to furnish to the prescribed authority such information relating to those prescriptions as may be prescribed;
- (h) for requiring any doctor who attends to any person whom he or she considers, or has reasonable grounds to suspect, is addicted (within the meaning of the regulations) to controlled drugs of any description to furnish to the prescribed authority such particulars with respect to such person as may be prescribed;
- (i) for prohibiting any doctor from administering, supplying and authorising the administration and supply to persons so addicted, and from 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.

**12. 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 11(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 any controlled drugs of a description specified in the notice which are or are proposed to be kept on those premises.

*[Amended by Act 6/1993]*

- (2) It is an offence to contravene any directions given under subsection (1).

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**13. Directions prohibiting prescribing, supplying, etc., of controlled drugs by practitioners, etc., convicted of certain offences.**

(1) Where a person who is a practitioner or 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 this subsection in respect of a person shall,

- (a) if that person is a practitioner, be a direction prohibiting him or her from having in his or her 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;
- (b) if that person is a druggist, be a direction prohibiting him or her from having in his or her 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 may, at any time, give a direction cancelling or suspending any direction given by him or her under subsection (2), or cancelling any direction of his or her under this subsection by which a direction so given is suspended.

(4) The Minister shall cause a copy of any direction given by him or her under this section to be served on the person to whom it applies, and shall cause notice of any such direction to be published in the *Gazette*.

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

(6) It is an offence to contravene a direction given under subsection (2).

**14. 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 paragraph (h) or (i) of section 11(2) or of the terms of a licence issued under regulations made in pursuance of paragraph (i) of section 11(2), the Minister may give a direction in respect of the doctor concerned prohibiting him or her 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 or supplying or authorising the administration or supply of any controlled drugs in an irresponsible manner, the Minister may, with the approval of the Council, give a direction in respect of the practitioner concerned prohibiting him or her from prescribing, administering and supplying and from authorising the administration and supply of such controlled drugs as may be specified in the same direction.

(3) A contravention such as is mentioned in subsection (1) does not as such constitute an offence, but it is an offence to contravene a direction given under subsection (1) or (2).

*[Note: Sections 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14 of this Act were originally sections 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 of Act 11/1986]*

### **PART III – DRUG TRAFFICKING OFFENCES, ETC.**

#### **15. Drug trafficking.**

(1) A person who commits a drug trafficking offence or of being in possession of a controlled drug for the purpose of drug trafficking is liable,

- (a) on summary conviction,
  - (i) to a fine of four hundred thousand dollars or where there is evidence of the street value of the controlled drug, of three times the street value of the controlled drug whichever is the greater, and
  - (ii) to imprisonment for a term which may extend to ten years but which shall not be less than five years; or
- (b) upon conviction on indictment, to imprisonment for life but which shall not be less than fifteen years.

*[Amended by Acts 3/1993 and 4/1996]*

(2) A person who commits a drug trafficking offence in a substance other than a controlled drug, which he or she represents or holds out to be a controlled drug is liable,

- (a) upon summary conviction, to a fine of five thousand dollars and to imprisonment for two years; or
- (b) upon conviction on indictment, to a fine of twenty-five thousand dollars and to imprisonment for five years.

*[Amended by Act 6/1993]*

(3) Subject to any regulations made under section 8 for the time being in force, a person found in possession of a controlled drug in any school premises is deemed to have the controlled drug for the purpose of drug trafficking, unless the contrary is proved, the burden of proof being on the accused.

(4) In subsection (3), “school premises” includes buildings, playing fields or other premises established or maintained by a school for the benefit of its pupils whether or not such buildings, playing fields or other premises are within the curtilage of the school.

#### **16. Assisting another to retain the benefit of drug trafficking.**

- (1) If a person enters into or is otherwise concerned in an arrangement whereby
  - (a) the retention or control by or on behalf of another (call him or her “A”) of the proceeds of drug trafficking by A is facilitated (whether by concealment, removal from the jurisdiction, transfer to nominees or otherwise); or



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- (b) the proceeds of drug trafficking by A
  - (i) are used to secure that funds are placed at A's disposal, or
  - (ii) are used for A's benefit to acquire property by way of investment;

knowing or suspecting or having reasonable grounds to suspect that A is a person who carries on or has carried on drug trafficking, he or she commits an offence.

(2) In this section, references to the proceeds of drug trafficking by any person include a reference to any property which directly represented in his or her hands the proceeds of drug trafficking by him or her.

(3) In proceedings against a person for an offence under this section, it is a defence to prove

- (a) that he or she did not know or suspect that the arrangement related to the proceeds of drug trafficking by A; or
- (b) that he or she did not know or suspect that by the arrangement the retention or control by or on behalf of A of those proceeds was facilitated or, as the case may be, that by the arrangement those proceeds were used as mentioned in subsection (1).

(4) A person found guilty of an offence under this section shall be liable, on conviction, to the penalties, laid down in section 15.

*[Amended by Act 4/1996]*

#### **17. Power to obtain information from doctors, etc., in certain circumstances.**

(1) If it appears to the Minister that there exists in any area in Saint Christopher and Nevis a social problem caused by the extensive misuse of dangerous or otherwise harmful drugs in that area, he or she may, by notice in writing served on any doctor or druggist practising in or in the vicinity of that area, or on any person lawfully conducting a retail pharmacy business at any premises situated in or in the vicinity of that area, require him or her 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 or her;
- (b) in the case of a druggist, were supplied by him or her; or
- (c) in the case of a person conducting a retail pharmacy 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 druggist or person conducting a retail pharmacy business, may require him or her 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 commits an offence if, without reasonable excuse, (proof of which shall lie on him or her) he or she fails to comply with any requirements to which he or she is subject to by virtue of subsection (1).

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

**18. Miscellaneous offences.**

(1) It is an offence for a person to contravene any regulation made under this Act other than regulations made in pursuance of section 11(2)(h) or (i).

(2) It is an offence for a 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 under this Act, not being a licence issued under regulations made in pursuance of section 11(2)(i).

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

(4) A person commits an offence if, for the purpose of obtaining, whether for himself or herself or another, the issue or renewal of a licence or other authority under this Act or under any regulations made under this Act, he or she

- (a) makes any statement or gives any information which he or she 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 or her knowledge contains any statement or information which he or she knows to be false in a material particular.

**19. Attempts, etc., to commit offences.**

It is an offence for a person to attempt to commit an offence under any other provision of this Act or to incite or attempt to incite another to commit such an offence.

**20. Assisting in or inducing commission outside Saint Christopher and Nevis of offence punishable under a corresponding law.**

A person commits an offence if in Saint Christopher and Nevis he or she assists in or induces the commission in any place outside Saint Christopher and Nevis of an offence punishable under the provisions of a corresponding law in force in that place.

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**21. 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 be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he or she as well as the body corporate commits that offence and shall be liable and be proceeded against accordingly.

*[Note: Sections 15, 16, 17, 18, 19, 20 and 21 were originally sections 16, 17, 18, 19, 20, 21 and 22 of Act 11/1986]*

**PART IV – SEARCHES, INSTITUTION OF LEGAL PROCEEDINGS, AND  
ADMISSIBILITY OF CERTAIN EVIDENCE, ETC.**

**22. Powers to search and obtain evidence.**

(1) A member of the Police Force or other person authorised in that behalf by a general or special order of the Minister shall, for the purposes of the execution of this Act, have power to enter the premises of a person carrying on business as a producer or supplier of any controlled drug 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 member of the Police Force has reasonable grounds to suspect that any person is in possession of a controlled drug in contravention of this Act or of any regulations made thereunder the member of the Police Force may, subject to subsections (3) and (6),

- (a) search that person, and detain him or her for the purpose of searching him or her;
- (b) search any ship, vessel, boat, aircraft, vehicle or other means of conveyance of any description in which the member of the Police Force 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 of any description to stop it;
- (c) seize and detain for the purpose of proceedings under this Act, anything found in the course of the search which appears to the member of the Police Force to be evidence of an offence under this Act.

(3) Nothing in subsection (2) shall derogate from any power of search or any power to seize or detain property which is otherwise exercisable by a member of the Police Force.

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

- (a) that any controlled drug is, in contravention of this Act or of any regulations made thereunder, in the possession of a person on any premises or in any place; 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 Saint Christopher and Nevis an offence against the provisions of a corresponding law in force in that place;

is in the possession of a person or in any premises or in any place, he or she may issue a warrant authorising any member of the Police Force 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 or place named in the warrant, and to search such premises or place 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 those premises or place or in the possession of any such person 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.

- (5) A person commits an offence if he or she
- (a) intentionally obstructs a person in the exercise of his or her powers under this section;
  - (b) being the person in control of the ship, vessel, boat, aircraft, vehicle or other means of conveyance of any description fails to stop it when required to do so by a member of the Police Force under subsection (2)(b);
  - (c) being a person being conveyed in a ship, vessel, boat, aircraft, vehicle or other means of conveyance of any description prevents or intimidates the person operating the ship, vessel, aircraft, vehicle or other means of conveyance of any description from stopping when required to do so by a member of the Police Force under subsection (2)(b);
  - (d) without the permission of the member of the Police Force concerned, leaves a ship, vessel, boat, aircraft, vehicle or other means of conveyance of any description which has been stopped by a member of the Police Force under subsection (2)(b);
  - (e) conceals from a person acting in the exercise of his or her powers under subsection (1) any such books, documents, stocks or drugs as are mentioned in that subsection; or
  - (f) without reasonable excuse (proof of which shall lie on him or her) fails to produce any such books or documents as are so mentioned where their production is demanded by a person in the exercise of his or her powers under that subsection.

(6) 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 member of the Police Force, of the same sex.

*[Originally section 24 of Act 11/1986]*

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**23. Retention and disposal of seized controlled drug.**

Where any controlled drug seized under the provisions of this Act, exceeds a weight of five kilograms, the Magistrate may order that such portion, as may be specified by him or her, of the seized controlled drug be retained

- (a) for use as evidence at a trial for an offence;
- (b) for forensic examination or for other investigation in connection with an offence and that the remaining portion be destroyed in such manner as he or she may direct.

*[Originally section 24A of Act 11/1986. Inserted by Act 6/1993]*

**24. Power to arrest.**

(1) A member of the Police Force may arrest without warrant a person who has committed, or whom the member of the Police Force, with reasonable cause, suspects to have committed an offence under this Act.

(2) Where any controlled drug is found on any premises searched under section 22(1), or in any ship, vessel, boat, aircraft, vehicle or other means of conveyance of any description stopped under section 22(2), the member of the Police Force who has made the search or stopped the ship, vessel, boat, aircraft, vehicle or other means of conveyance of any description, as the case may be, may arrest without warrant any person in such premises or in such ship, vessel, boat, aircraft, vehicle or other means of conveyance of any description whom he or she has reason to believe to have committed an offence under this Act.

(3) This section shall not prejudice any power of arrest conferred by law apart from this section.

*[Originally section 25 of Act 11/1986]*

**25. Committal to the High Court for sentence.**

(1) Where, on the summary trial of an offence committed under this Act and triable either summarily or on indictment, a person who is not less than eighteen years of age is convicted of the offence, then, if on obtaining information that his or her character and antecedents are such that in the opinion of the Magistrate greater punishment should be inflicted for the offence that the Magistrate has power to inflict, the Magistrate may commit that person in custody to the High Court for sentence and shall, as soon as practicable, transmit to the Registrar of the High Court the record of the proceedings.

(2) On receipt of the record, the Registrar of the High Court shall issue an order to the gaoler to bring the convicted person before a Judge of the High Court at a time to be fixed by the Judge of the High Court.

(3) The Judge of the High Court shall inquire into the circumstances of the case and shall have power to deal with the convicted person as if he or she had just been convicted of the offence on indictment before the High Court.

*[Originally section 26 of Act 11/1986]*

**26. Prosecution and punishment of offences.**

(1) Except where expressly otherwise provided, the Third Schedule shall have effect, in accordance with subsection (2), with respect to the way in which offences under this Act are punishable on conviction.

*[Amended by Act 4/1996]*

(2) In relation to an offence under a provision of this Act specified in the first column of the Third 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 or 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 drug in relation to which the offence was committed was a Class C 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 any sections herein and 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 19 shall be punished on summary conviction, on indictment or in either way according to whether, under the Fourth 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 that section 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” means the offence under this Act to which the attempt or, as the case may be, the incitement or attempted incitement mentioned in section 19 was directed.

(5) Notwithstanding the provisions of the Magistrate’s Code of Procedure Act, Cap. 3.17, a Magistrate may try on information or by complaint an offence under this Act if the information or complaint was laid, or, as the case may be, made at any time within twelve months from the commission of the offence, triable by way of summary procedure under this Act.

(6) Notwithstanding the provisions of any other law, where any person is charged with an offence under this Act such offence shall be tried summarily or on indictment, at the election of the prosecution.

*[Subsection (6) inserted by Act 6/1993. Originally section 27 of Act 11/1986]*

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**27. Forfeiture.**

(1) Where a person is convicted of an offence under this Act, other than a drug trafficking offence, the court may order forfeiture to the Government of Saint Christopher and Nevis of any opium pipe or other article or the controlled drug in respect of which the offence was committed and all receptacles of any kind found containing the controlled drug and any ship, vessel, boat, aircraft, vehicle or other means of conveyance of any description, proved to have contained the opium pipe or other article or controlled drug or anything shown to the satisfaction of the court to relate to the offence.

(2) Without prejudice to subsection (1), where a person is convicted of a drug trafficking offence the court shall, in passing sentence, order forfeiture to the Government of Saint Christopher and Nevis of

- (a) any article;
- (b) any money; or
- (c) any valuable consideration, relating to the offence.

(3) Forfeiture shall extend

- (a) to any property which there is reason to believe has been obtained from the proceeds of anything relating to the offence for which a person is convicted under this Act or to a conspiracy to commit any such offence; or
- (b) to anything into which any such property has been converted.

(4) Subject to subsection (5), forfeitures under this section may be applied to the treatment and rehabilitation of persons addicted (within the meaning of the regulations) to controlled drugs of any description.

(5) Controlled drugs forfeited under this section shall be disposed of in accordance with the directions of the Court.

(6) Treatment and rehabilitation referred to under subsection (4) may be undertaken by governmental, community or religious agencies or any other agency or organisation designated by the Minister.

*[Inserted by Act 6/1993]*

(7) Notwithstanding the provisions of subsections (1), (2) and (3), a court before which a person is convicted for an offence under this Act, shall not order anything to be forfeited where a person claiming to be the owner or otherwise interested in it applies to be heard by the Court, unless an opportunity has been given to him or her to show cause why the order should not be made.

*[Inserted by Act 6/1993]*

(8) A forfeiture order made under this section by any court, on an appeal from a subordinate court, by the Court of Appeal, shall not take effect until the expiration of the ordinary time within which an appeal in the matter of the proceedings in which the order was made may be lodged (whether by giving notice of appeal or by applying for a case to be stated for the opinion of the Court) or, where such an appeal is duly lodged, until the appeal is finally decided or abandoned.

*[Inserted by Act 6/1993]*

(9) If, upon the application of a person prejudiced by a forfeiture order made by the Court under this Act, the Court is satisfied that it is just to revoke such order, the Court may, upon such terms and conditions, (if any) as it deems fit, revoke the order.

*[Inserted by Act 6/1993]*

(10) Any application to the Court under subsection (9) for the revocation of an order shall be made within six weeks of the date of the order, however, where the applicant satisfies the Court that, in the special circumstances of the case it was not reasonably practicable for him or her to make such application within the period of six weeks aforesaid, the time (whether expired or not) for making the application may be extended by the Court as it thinks just.

*[Inserted by Act 6/1993; amended by Act 4/1996]*

*[Originally section 28 of Act 11/1986]*

**28. Certificate of analyst, etc., admissible in evidence.**

(1) Subject to subsection (3), notwithstanding the provisions of any other law, a certificate of an analyst purporting to be signed by him or her stating that he or she 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 of the matters stated therein if it is proved by other evidence that the seals or other fastenings of the container of the substance or thing analysed and in respect of which the certificate was given were intact at the time the container was delivered to him or her.

*[Amended by Act 4/1996]*

(2) No evidence shall be required by the court as to the signature or qualifications of the person purporting to have signed the certificate.

(3) In any prosecution under this Act either of the parties may require the attendance of an analyst to give evidence and in such case the costs of his or her attendance shall, unless the Judge or Magistrate orders otherwise, be payable by the party so requiring.

*[Originally section 29 of Act 11/1986]*

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

(1) This section applies to offences under any of the following provisions of this Act, that is to say, section 5(2) and (3), section 6(2) and (3), section 7(2) and section 10.

(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 or she neither knew of 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 or she 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 accused 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 accused



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- (a) shall not be acquitted of the offence charged by reason only of proving that he or she 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 or she proves that he or she neither believed nor suspected nor had reason to suspect that the substance or product in question was a controlled drug; or
  - (ii) if he or she proves that he or she believed the substance or product in question to be 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 or she would not at the material time have been committing any offence to which this section applies.

(4) Nothing in this section shall prejudice any defence which is open to a person charged with an offence to which this section applies to raise apart from this section.

*[Originally section 30 of Act 11/1986]*

### **30. Service of documents.**

(1) Any notice or other document required or authorised by any provision of this Act to be served on any person may be served on him or her either by delivering it to him or her or by leaving it at his or her proper address or by sending it by post.

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

(3) For the purposes of this section the proper address of any person shall, in the case of the secretary or clerk of a body corporate, be that of the registered or principal office of that body, and in any other case shall be the last address of the person to be served which is known to the Minister.

*[Originally section 31 of Act 11/1986]*

## **PART V – ESTABLISHMENT AND FUNCTIONS OF THE NATIONAL COUNCIL ON DRUG MISUSE AND ABUSE PREVENTION**

### **31. Establishment and constitution of Council.**

(1) There is established a Council to be known as the National Council on Drug Abuse Prevention, which Council shall be a body corporate with perpetual succession and a common seal, and may sue and be sued in its corporate name, and may acquire, hold and dispose of any property.

- (2) The Council shall consist of the following persons, that is to say,
  - (a) a Chairperson;
  - (b) a Vice-Chairperson;
  - (c) a representative of the Attorney General's Chambers;

- (d) Permanent Secretaries or their representatives in the Office of the Prime Minister and the Premier's Office respectively;
- (e) the Permanent Secretary or his or her representative, Ministry responsible for National Security;
- (f) Permanent Secretaries or their representatives in the Ministries responsible for Social Development, Community and Gender Affairs in the Federal Administration and the Nevis Island Administration, respectively;
- (g) the Permanent Secretary or his or her representative, Ministry responsible for Education;
- (h) the Financial Secretary or his or her representative, Ministry responsible for Finance and Planning;
- (i) the Permanent Secretary or his or her representative, Ministry responsible for Health;
- (j) Permanent Secretaries or their representatives in the Ministries responsible for Youth, Sports and Culture in the Federal Administration and the Nevis Island Administration, respectively;
- (k) the Comptroller of Customs or his or her representative;
- (l) the Commander of the Coast Guard or his or her representative;
- (m) the Commissioner of Police or his or her representative;
- (n) a representative of the Saint Christopher and Nevis Medical Association;
- (o) a representative of the Saint Christopher and Nevis Bar Association;
- (p) two representatives of the Saint Christopher and Nevis religious organisations, one from each island; and
- (q) three persons appointed by the Minister.

(3) The persons referred to in paragraph (q) of subsection (2) of this section shall be appointed by the Minister from organisations in Saint Christopher and Nevis that carry on activities related to anti-drug activities or have an interest in such activities.

(4) The members referred to in paragraphs (a), (b), (n), (o), (p), and (q) shall be appointed by the Minister, by instrument in writing, on such terms and conditions as the Minister may specify in their instruments of appointment.

(5) A member of the Council referred to in subsection (4) of this section may be re-appointed.

(6) The names of all members of the Council as first constituted and every change in the membership of the Council shall be published in the *Official Gazette*.

*[Originally section 3 of Act 24/2000]*

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**32. Functions of the Council.**

- (1) The Council shall perform the following functions, that is to say,
  - (a) formulate policies and develop programmes intended to prevent or reduce drug abuse and to promote and encourage the implementation of those policies and programmes;
  - (b) promote and encourage the establishment of a system to coordinate the treatment and rehabilitation of drug abusers and the care of persons associated with drug abusers;
  - (c) give advice on the licensing and operation of premises used in connection with treatment and rehabilitation of drug abusers;
  - (d) advise the Minister and such persons, groups, organisations or bodies, on policies and programmes relating to the prevention of drug abuse, the treatment and rehabilitation of drug abusers and the care of connected persons;
  - (e) educate the public, particularly the youth, on the dangers of drug misuse and abuse, including but not limited to misuse and abuse of narcotics, alcohol, tobacco products, cannabis, and tranquillisers and other mind-altering substances, and to publicise those dangers;
  - (f) initiate, sponsor and support conferences, seminars and meetings related to drug abuse;
  - (g) promote and encourage the award of scholarships, and to award scholarships or other financial assistance to any person who wishes to pursue any basic or advanced course that is related to drug abuse;
  - (h) initiate, support and publish studies, reports and other documentation on drug abuse;
  - (i) establish, maintain and operate information systems and facilities, and encourage and support the exchange of information of all kinds in respect of policies, programmes and research, related to drug abuse;
  - (j) promote and conduct research on drug abuse in Saint Christopher and Nevis, and develop and maintain a database of information on drug abuse;
  - (k) advise the Minister on the desirability and ethicality of all drug-related research or drug-related information gathering exercises involving the citizenry of Saint Christopher and Nevis, which may be undertaken by governmental or non-governmental groups or individuals, and on behalf of the Minister to endorse or reject any such initiatives;
  - (l) monitor and keep under review the situation in Saint Christopher and Nevis with respect to drugs which, in the opinion of the Council, are being or appear to be abused, which abuse is having or appears to be capable of having harmful effects;

- (m) give to the Minister, where either the Minister so requests or the Council considers it expedient to do so, advice on measures which, in the opinion of the Council, ought to be taken in order to
  - (i) restrict the availability of drugs that are being abused,
  - (ii) supervise the arrangements and monitor the mechanisms relating to the supply of such drugs, and
  - (iii) alleviate the conditions which lead to the demand for such drugs;
- (n) undertake, subject to the approval of the Minister, measures which, in the opinion of the Council, ought to be taken to prevent the diversion or misuse of precursor chemicals for the manufacture of illicit drugs;
- (o) undertake, subject to the approval of the Minister, measures which, in the opinion of the Council, ought to be taken to prevent the abuse of drugs or to deal with any social problems connected with the misuse of drugs;
- (p) advise the Minister on matters of law reform relating to drug abuse;
- (q) ensure, in collaboration with the Customs, the Coast Guard, Police, and like Government agencies, that the provisions of Conventions ratified and acceded to by the Government are complied with;
- (r) promote co-operation between professional and community services which, in the opinion of the Council, may assist in dealing with social problems connected with the abuse of drugs;
- (s) perform or carry out such acts as, in the opinion of the Council, are incidental to the proper control of the supply of and the demand for drugs;
- (t) co-ordinate all government-funded or controlled substance abuse initiatives.

*[Originally section 4 of Act 24/2000]*

### 33. Powers of the Council, etc.

(1) The Council shall, in the discharge of its functions, have power to do all such acts and things and to enter into any transactions as, in the opinion of the Council, are necessary or incidental to the proper performance of its functions under this Act or any other enactment.

(2) The Council may appoint from among its members such committees as it deems fit to advise the Council on the performance of any of its functions, and to carry out on behalf of the Council such duties as the Council may assign to the committees.

(3) A committee established pursuant to the provisions of subsection (2) of this section may, with the approval of the Chairperson, co-opt any person as it deems fit.

*[Originally section 5 of Act 24/2000]*

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**34. Meetings, etc., of the Council.**

(1) The provisions of the First Schedule to this Act shall have effect to meetings of the Council and other matters as are specified in that Schedule.

(2) The Minister may, by Order, amend the First Schedule to this Act.

*[Originally section 6 of Act 24/2000]*

**35. Tenure of office of members.**

(1) Subject to subsection (2) of this section, a member of the Council, other than the members referred to in paragraphs (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), and (m) of subsection (2) of section 31 of this Act, shall hold office for a period of three years, and shall be eligible for re-appointment.

(2) The Chairperson and Vice-Chairperson shall hold office for such period as the Minister may determine and specify in their instruments of appointment.

*[Originally section 7 of Act 24/2000]*

**36. Resignation of members of council.**

(1) A member of the Council, other than the chairperson and the members referred to in paragraphs (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), and (m) of subsection (2) of section 31 of this Act, may at any time resign his or her office by instrument addressed to the Minister through the chairperson, and the member shall cease to be a member of the Council from the date of the receipt by the Minister of the instrument of resignation.

(2) The chairperson may, at any time, resign his or her office by instrument addressed to the Minister, and his or her resignation shall take effect from the date of the receipt of the instrument of resignation by the Minister.

*[Originally section 8 of Act 24/2000]*

**37. Termination of membership.**

(1) The office of a member of the Council shall, subject to the provisions of subsection (2) of this section, become vacant on the occurrence of any of the following, that is to say, if the member

- (a) resigns from the office from which his or her membership of the Council arises;
- (b) becomes of unsound mind or incapable of carrying out his or her duties;
- (c) becomes bankrupt or suspends payment to or compounds with his or her creditors;
- (d) is convicted in Saint Christopher and Nevis or in any other jurisdiction of a drug offence or an offence involving dishonesty or fraud, or of any other indictable offence;
- (e) is found guilty of serious misconduct in relation to his or her duties;  
or
- (f) is absent, without leave of the Chairperson of the Council, from three consecutive meetings of the Council.

(2) The provisions of subsection (1) of this section shall not apply to a member of the Council referred to in paragraphs (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), and (m) of subsection (2) of section 31 of this Act.

(3) A member referred to in paragraphs (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), and (m) of subsection (2) of section 31 of this Act shall cease to be a member of the Council where

- (a) he or she is transferred to another ministry in a different capacity or in a ministry which is not represented on the Council;
- (b) he or she resigns or retires from the public service; or
- (c) he or she ceases for any other reason to hold office that entitles him or her to be a member of the Council.

*[Originally section 9 of Act 24/2000]*

**38. Remuneration of members.**

A member of the Council, other than the members referred to in paragraphs (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), and (m) of subsection (2) of section 31 of this Act, shall be paid such remuneration and allowances as the Minister may determine.

*[Originally section 10 of Act 24/2000]*

**39. Seal of the Council.**

(1) The seal of the Council shall be authenticated by the signatures of the Chairperson and the Executive Secretary of the Council, and the seal shall be officially and judicially noticed.

(2) All documents, other than those required by law to be under seal, made by, and all decisions of, the Council may be signified under the hands of the Chairperson and the Executive Secretary of the Council.

*[Originally section 11 of Act 24/2000]*

**40. Directions to the Council.**

The Minister may give directions of a policy nature to the Council to guide the Council in the exercise and performance of the Council's functions, and the Council shall comply with such directions.

*[Originally section 12 of Act 24/2000]*

**PART VI – SECRETARIAT OF THE COUNCIL**

**41. Secretariat of the Council.**

(1) The Council shall have a Secretariat which shall be responsible for the day to day management of the affairs of the Council and for the implementation of the policies and decisions of the Council, and carrying out, on behalf of the Council, such duties as the Council may assign to it.

(2) The Secretariat shall, for the purposes of carrying out its functions under this Act, consist of such staff as specified in this Part.

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(3) The Secretariat shall exercise such of the powers of the Council as the Council may delegate to it for the purpose of enabling the Secretariat to carry out its functions under this Act.

**42. Executive Secretary.**

(1) The Council shall have an Executive Secretary appointed by the Minister, after consultation with the Council, on such terms and conditions as may be determined by the Minister.

(2) The Executive Secretary shall be the head of the Secretariat and shall be responsible to the Council

- (a) for the day to day administration of the business of the Council;
- (b) in respect of the supervision of the staff of the Council.

(3) The Executive Secretary shall be the Secretary to the Council.

**43. Other staff.**

(1) The Council may appoint and employ such persons as are necessary for the performance of the functions of the Council.

(2) The persons referred to in subsection (1) of this section shall be employed on such terms and conditions as the Council may determine, except that no salary shall be assigned to any post without the prior approval of the Minister.

**44. Engagement of specialists, etc.**

(1) The Chairperson may, after consultation with the Council and with the approval of the Minister, engage or contract the services of such specialist persons as may be necessary for the performance of the functions of the Council.

(2) The Chairperson may, after consultation with the Council and with the approval of the Minister, solicit for technical assistance in form of expatriates and other related assistance from regional and international bodies for the purpose of enabling the Council to carry out its functions under this Act.

**45. Secondment of public officers.**

The Governor-General may, subject to such conditions as he or she may impose, approve the appointment of any officer in the service of the Government, by way of secondment, to any office of the Council.

**46. Pensions, etc., to officers of the Council.**

(1) The Governor-General may, on the recommendation of the council and with the approval of Cabinet, by notice published in the Gazette, declare any office of the Council to be a pensionable office under the Pensions Act.

(2) Any other employee of the Council may, upon retirement, be granted such gratuity calculated in accordance with the principles used for calculating gratuities for non-pensionable employees in the public service of the Federation.

(3) Subject to the provisions of subsection (4) of this section, an Officer appointed under section 45 of this Act shall, while so employed, in relation to any pension, gratuity or terminal benefits, be treated as continuing in the service of the Government.

(4) For the purposes of subsection (3) of this section, any pension, gratuity or terminal benefits payable to an officer referred to in that subsection shall be computed on the basis of the salary scale of the officer immediately prior to his or her retirement or termination of services, except that the Government shall only pay what the officer would have been entitled to if he or she had continued in Government Service and the balance shall be payable by the Council from the funds of the Council.

(5) Any pension, gratuity or other allowance payable to any officer or employee of the Council in respect of his or her service with the Council shall be a charge against the funds of the Council.

*[Note: Sections 41, 42, 43, 44, 45 and 46 were originally sections 13, 14, 15, 16, 17 and 18 of Act 24/2000, respectively]*

## **PART VII – FINANCIAL PROVISIONS**

### **47. Funds of the Council.**

The funds of the Council shall consist of

- (a) grants from the Government out of moneys appropriated by the National Assembly for the purposes of the Council;
- (b) any moneys accruing to the Council in the course of the Council's discharge of its functions;
- (c) any moneys lawfully borrowed by the Council; and
- (d) any endowment, contribution, donations and grants from the international community or other sum given or paid to, or otherwise vested in, the Council lawfully.

### **48. Gifts, etc., to the Council.**

(1) The Council may, subject to subsection (2) of this section, receive any grant, technical assistance, funds or gifts in kind made, given or bequeathed to the Council, for the purposes of the Council and, subject to the provisions of this Act, the Council shall apply the grant, technical assistance, funds or gifts to the furthering of the purposes of the Council in such manner as the Council may determine.

(2) The power conferred on the Council by subsection (1) of this section shall not be exercised in any manner inconsistent with any condition imposed on, or any direction given in respect to, the grant, technical assistance, funds or gift.

(3) The Council may, notwithstanding anything contained in any other enactment, with respect to funds received by the Council by way of gift or bequest for the purposes of the Council,

- (a) invest the funds in such securities as the Council may determine, and shall so invest any funds that are given or bequeathed for the endowment of the Council;



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(b) subject to subsection (4) of this section, realise any fund that are in a state of investment;

(c) and such funds are any investment, retain the funds in that form.

(4) Funds that are given or bequeathed for the endowment of the Council which, pursuant to paragraph (b) of subsection (3) of this section, are realised shall, as soon as may be practicable or expedient, be reinvested by the Council.

**49. Council to operate on sound principles.**

The Council shall manage its affairs in such a manner as to meet its financial obligations out of the funds available to the Council.

**50. Borrowing powers.**

(1) Subject to the provisions of subsection (2), the Council may borrow such sums of money as may be required by it for discharging any of its functions.

(2) The borrowing power of the Council shall, as to amount, as to the source of borrowing, and as to the terms on which the borrowing may be effected, be exercisable only with the approval of the Minister responsible for finance, and the approval may be either general or limited to a particular borrowing or otherwise, and may be either unconditional or subject to conditions.

**51. Application of funds.**

(1) Subject to sections 47 and 48 of this Act and subsection (2) of this section, any income derived from any income of the Council shall be held and applied to furthering the purposes of the Council in such manner as the Council may think fit.

(2) Any funds appropriated by the National Assembly for the purposes of the Council shall, subject to the terms of the appropriation, be applied by the Council as the Minister may direct.

**52. Accounts of the Council.**

(1) The accounts of the Council shall be prepared and maintained in accordance with the standards recommended for the time being by the Director of Audit.

(2) The Council shall keep proper accounts and other records in relation to the Council's business and shall annually prepare a statement of accounts in a form that is in compliance with the provisions of subsection (1) of this section.

**53. Audit.**

(1) The accounts of all transactions of the Council shall be audited annually by the Director of Audit who shall have such powers in relation to the Council, its officers and employees, the members of the Council, property, securities and books and records of accounts of the Council as he or she has in relation to other public money and public officers by virtue of the provisions of the Finance Administration Act, Cap. 20.13.

(2) The Council shall prepare its accounts within a period of three months of the close of the financial year to which they relate and submit the accounts to the Director of Audit.

(3) The Director of Audit shall, after auditing the accounts of the Council as required by subsection (1) of this section, prepare a report on the accounts within a period of three months of the close of the financial year to which the audited accounts relate.

(4) The Minister may, in addition to the audit carried out pursuant to the provisions of subsection (1) of this section, request the Director of Audit to examine and report upon the accounts or any part of the accounts of the Council, and the Council shall provide the facilities necessary for such an examination.

#### 54. **Budget of the Council.**

(1) The Council shall submit to the Minister for his or her approval,

(a) not later than five months prior to the commencement of each financial year, income and expenditure estimates, in such detail as the Minister may require; and

(b) as soon as may be, any subsequent proposal to amend the estimates;

and the estimates, together with any amendments, upon being approved by the Minister, shall be the Council's budget for the financial year to which they relate.

(2) The Minister may, in any case and upon the application of the Council, increase or reduce the period of five months specified in paragraph (a) of subsection (1) of this section.

#### 55. **Reports of the Council.**

(1) The Council shall, within six months after the end of each financial year, forward to the Minister

(a) a report on the operations of the Council during that financial year and on the Council's policy and programme for future years; and

(b) a copy of the audited accounts as at the close of the previous financial year.

(2) The report referred to in paragraph (a) of subsection (1) of this section shall specify

(a) any directions given by the Minister to the Council during that year; and

(b) the scales of salaries and wages paid to officers, employees and servants of the Council.

(3) The Minister shall cause copies of the report referred to in paragraph (a) of subsection (1) of this section, the audited accounts referred to in paragraph (b) of subsection (1) of this section, and the report of the Accountant General to be laid before the National Assembly not later than the 14<sup>th</sup> day of December following the end of the financial year to which they relate.

*[Note: Sections 47, 48, 49, 50, 51, 52, 53, 54 and 55 were originally sections 19, 20, 21, 22, 23, 24, 25, 26 and 28 of Act 24/2000, respectively]*

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## PART VIII – MISCELLANEOUS PROVISIONS

### 56. **Research, etc.**

(1) The Minister may conduct or assist in conducting research into any matter relating to the misuse of danger or otherwise harmful drugs.

*[Originally section 34 of Act 11/1986]*

(2) The Council may, with the approval of the Minister, give such financial or other assistance as it thinks fit, to persons undertaking, on behalf of the Council, such research or other activities as are necessary or advantageous in connection with the carrying out of the functions of the Council under this Act.

*[Originally section 28 of Act 24/2000]*

### 57. **Immunity.**

(1) No action, suit or other proceedings shall be brought or instituted against any member of the Council personally in respect of any act done *bona fide* in pursuance or execution or intended execution of this Act.

(2) Where any member of the Council is exempt from liability by reason only of the provisions of this section the Council shall be liable to the extent that it would be if the said member were an employee, a servant or agent of the Council.

*[Originally section 29 of Act 24/2000]*

### 58. **Disclosure of interest.**

(1) Where a member of the Council has any interest, direct or indirect, in any matter in which his or her private capacity conflicts with his or her duties as a member of the Council and which matter is the subject of consideration by the Council, the member shall, as soon as practicable after becoming aware of the interest in the matter, disclose his or her interest to the Council.

(2) A member referred to in subsection (1) of this section shall not, unless the Council otherwise directs, take part in the consideration or discussion of the matter or if allowed to take part in the consideration of the matter he or she shall not vote on any question with respect to the matter.

(3) A disclosure made pursuant to the provisions of subsection (1) of this section shall be recorded in the minutes of the Council.

*[Originally section 30 of Act 24/2000]*

### 59. **Unlawful disclosure of information, etc.**

No person shall, without the permission of the Council or the Minister, disclose to the public or publish any information of the Council which is, by regulations made by the Minister, prohibited from being disclosed or published.

*[Originally section 31 of Act 24/2000]*

**60. Offences.**

(1) Any person who

- (a) discloses or publishes information contrary to the provisions of section 59 of this Act; or
- (b) being in possession of any information which he or she knows has been disclosed in contravention of this Act, publishes or communicates such information to any person;

commits an offence and is liable, on summary conviction, to a fine not exceeding ten thousand dollars or in default of payment of the fine, to imprisonment for a term not exceeding twelve months or both.

(2) A person who fails to comply with any provision of section 58 of this Act commits an offence and is liable,

- (a) on summary conviction, to a fine not exceeding fifteen thousand dollars or imprisonment for a term not exceeding two years or both; or
- (b) on conviction on indictment, to a fine not exceeding thirty thousand dollars or imprisonment for a term not exceeding five years or both.

(3) A person who is accused of an offence under subsection (2) shall not be convicted of the offence if he or she proves that he or she did not know that the matter in which he or she had an interest was the subject of consideration at that meeting.

(4) A member of the Council who is convicted of an offence under subsection (2) shall cease to be a member of the Council and he or she shall not thereafter be eligible for re-appointment.

*[Originally section 32 of Act 24/2000]*

**61. Licences and authorities.**

A licence or other authority issued by the Minister for the purposes of this Act or of regulations made under this Act 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 or her at any time.

*[Originally section 32 of Act 11/1986]*

**62. Regulations.**

(1) The Minister may make regulations generally for the better carrying into effect the provisions of this Act, and without prejudice to the generality of the foregoing the Minister may, in particular, make regulations providing for

- (a) the conditions of service of officers and employees of the Council;
- (b) the grant of pensions, gratuities and other benefits to such officers, and employees;
- (c) the grant of gratuities and other benefits to the dependants or estates of deceased officers, and employees of the Council.

*[Subsection (1) is the original section 33 of Act 24/2000]*

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- (2) The Minister may, by regulations, make provision for excluding in such cases as may be prescribed
- (a) the application of any provision of this Act which creates an offence; or
- (i) the application of section 9 of the Customs Tariff Act, Cap. 20.06, in so far as they apply in relation to a prohibition or restriction on importation or exportation having effect by virtue of section 5;
- (ii) for the application of any provisions of this Act or any 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.

*[Subsection (2) is the original section 23 of Act 11/1986]*

- (3) Regulations made by the Minister under any provision of this Act
- (a) may take 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) may make the opinion, consent or approval of a prescribed authority or of any person authorised in a prescribed manner material for purposes of any provision of the regulations; and
- (c) may contain such supplementary, incidental and transitional provisions as appear expedient to the Minister.

(4) The Minister shall not make any regulations under this Act except after consultation with the Council.

(5) Any regulations made under this Act by the Minister shall be laid before the National Assembly.

*[Subsections (3), (4) and (5) are the original section 33 of Act 11/1986]*

## FIRST SCHEDULE

(Section 34)

### *Meetings of the Council, etc.*

1. **Meetings.**

(1) The Council shall meet as often as may be necessary or expedient for the transaction of business, but shall meet at least once in every three months.

(2) All meetings of the Council shall be held at such place and time and on such days as the Chairperson may determine.

(3) The Chairperson may at any time call a special meeting of the Council, and shall call a special meeting of the Council within fourteen days of a written request for that purpose addressed to him or her by 40% of its members.

(4) The Chairperson shall preside at meetings of the Council, and in his or her absence the Vice-Chairperson shall preside, and in case of the absence of both the Chairperson and the Vice-Chairperson from any meeting the members present and constituting a quorum shall elect one of their number to preside at that meeting.

2. **Quorum.**

The quorum of the Council shall be two-thirds of its members.

3. **Minutes.**

Minutes of each meeting of the Council shall be kept in a proper form.

4. **Validity of proceedings.**

The validity of any act or proceedings of the Council shall not be affected by any vacancy among its members, or by any defect in the appointment of a member

5. **Regulation of procedure.**

Subject to the provisions of this Schedule, the Council may regulate its proceedings.

*[Note: Originally the schedule to Act 24/2000]*

## SECOND SCHEDULE

(Section 3)

*[Note: Originally Second Schedule to Act 11/1986]*

### CONTROLLED DRUGS

#### PART I – CLASS A DRUGS

1. The following substances and products, namely,

Acetorphine

Allylprodine

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Alphacetylmethadol  
Alphameprodine  
Alphamethadol  
Alphaprodine  
Anileridine  
Benzethidine  
Benzylmorphine (3-benzyl-morphine)  
Betacetylmethadol  
Betameprodine  
Betamethadol  
Buffogenine  
Cannabinol, except where contained in cannabis or cannabis resin  
Cannabinol derivatives  
Clonitazene  
Coca leaf  
Cocaine  
Desomorphine  
Dextromoramide  
Diamorphine  
Diampromide  
Diethylthiambutene  
Diethylthiambutene  
D-carboxymethyloxime  
Dihydromorphine  
Dimenoxadol  
Dimepheptanol  
Dimethylthiambutene  
Dioxaphetyl butyrate  
Diphenoxylate  
Dipipanone  
Ecgonine, and any derivative of ecgonine which is convertible to ecgonine or to cocaine

Ethylmethylthiambutene

Etonitazene

Etorphine

Etoxadine

Fentanyl

Furethidine

Hydrocodone

Hydromorphanol

Hydromorphone

Hydroxypethidine

Isomethadone

Ketobemidone

Levomethorphan

Levophenacymorphan

Levorphanol

Lysergamide

Lysergide and other N-alkyl derivatives of lysergamide

Mescaline

Metazocine

Methadone

Methadyl acetate

Methyldesorphine

Methyldihydromorphone (6-methyldihydromorphone)

Metopon

Morpheridine

Morphine

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

Myrophine

Nicodicodine (6-nicotinyldi-hydrocodeine)

Nicomorphine (3,6-dinicotinylmorphine)

Noracymethadol



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Normethadone  
Normorphine  
Norpipanone  
Opium, whether raw, prepared or medicinal  
Oxycodone  
Oxymorphone  
Pethidine  
Phenadoxone  
Phenampramide  
Phenazocine  
Phenomorphane  
Phenoperidine  
Piminodine  
Piritramide  
Poppy-straw and concentrate of poppy-straw  
Proheptazine  
Propoperidine (1-methyl-4-phenyl-piperidine 4-carboxylic acid isopropyl ester)  
Pislocin  
Racemethorphan  
Racemoramide  
Racemorphan  
Thebacon  
Thebaine  
Trimeperidine  
4-Cyano-2-dimethylamino-4, 4-diphenylbutane  
4-Cyano-1-methyl-4-phenylpiperidine  
N,N-Diethyltryptamine  
N,N-Dimethyltryptamine  
2,5-Dimethoxy-4-dimethylphenethylamine  
1-Methyl-4-phenylpiperidine-4-carboxylic acid  
2-Methyl-3-morpholino-1, 1-diphenylpropanecarboxylic acid  
4-Phenylpiperidine-4-carboxylic acid ethyl ester

2. Any stereoisomeric form of a substance for the time being specified in paragraph 1 above not being dextromethorphan or dextrophan.
3. Any ester or other of a substance for the time being specified in paragraph 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**

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 paragraph 1 or 3 of this Part of this Schedule, not being a preparation falling within paragraph 6 of Part 1 of this Schedule.

### **PART III – CLASS C DRUGS**

1. The following substances, namely,

Benzphetamine	Pemoline
Chlorphentermine	Phendimetrazine
Fencamfamin	Phentermine
Mephentermine	Pipradrol
Methaqualone	Prolintane

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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 for the time being specified in any of paragraphs 1 to 3 of this Part of this Schedule.

#### **PART IV – MEANING OF CERTAIN EXPRESSIONS USED IN THIS SCHEDULE**

For the purposes of this Schedule, the following expressions (which are not among those defined in section 2 of this Act) have the meanings hereby assigned to them respectively, that is to say,

“cannabinol derivatives” means the following substances, except where contained in cannabis or cannabis resin, namely, tetrahydro derivatives or cannabinol and 3-alkyl homologues of cannabinol or of its tetrahydro derivatives;

“coca leaf” means the leaf of any plant of the genus *Erythroxylon* from whose leaves cocaine can be extracted either directly or by chemical transformation;

“concentrate of poppy-straw” means the material produced when poppy-straw has entered into a process for the concentration of its alkaloids;

“medical opium” means raw opium which has undergone the process necessary to adapt it for medicinal use in accordance with the requirements of the British Pharmacopoeia, whether it is in the form of powder or is granulated or is in any other form, and whether it is or is not mixed with neutral substances;

“opium poppy” means the plant of the species *Papaver somniferum* L;

“poppy straw” means all parts, except the seeds, of the opium poppy after mowing;

“raw opium” includes powdered or granulated opium, but does not include medicinal opium.







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## FOURTH SCHEDULE

*[Saved by section 36 of Act 11/1986]*

### DANGEROUS DRUGS RULES

1. **Short title.**

These Rules may be cited as the Dangerous Drugs Rules.

2. **Manufacture.**

No person shall manufacture or carry on any process in the manufacture of any of the drugs to which the Act applies

- (a) unless he or she is licensed by the Minister or is authorised by these rules or by any authority granted by the Minister to do so;
- (b) otherwise than in accordance with the terms and conditions of such licence or authority.

3. **Sale and Distribution.**

(1) No person shall supply or procure or offer to supply or procure any of the drugs to the Act applies, to or for any person whether in the State or elsewhere or shall advertise any of the drugs for sale:

- (a) unless he or she is licensed by the Minister or is authorised by these rules or by any authority granted by the Minister to supply the drug or unless he or she is licensed by the Minister to import or export the drug or unless he or she is licensed or otherwise authorised to manufacture the drug or (but so far only as regards procuring the drugs) unless he or she is licensed to procure the drug, or
- (b) otherwise than in accordance with the terms and conditions of any licence or authority granted under these rules.

(2) Except when the drugs are lawfully dispensed in pursuance of a prescription given by a medical practitioner, dentist or veterinary surgeon, or are supplied by a medical practitioner or veterinary surgeon who dispenses his or her own medicines, in accordance with the conditions hereinafter specified, no person shall supply or procure or offer to supply or procure any of the drugs to which the Act applies, to or for any person in the State who is not licensed or otherwise authorised to be in possession of the drug, nor to any person so licensed or authorised except in accordance with the terms and conditions of such licence or authority:

Provided that administration of the drugs by or under the direct personal supervision and in the presence of a medical practitioner, or by or under the direct personal supervision and in the presence of a dentist in dental treatment, or by or under the direct personal supervision and in the presence of a veterinary surgeon in the treatment of any animal, shall not be deemed to be supplying the drug within the meaning of this and the following rules.

**4. Conditions as to the Giving and Dispensing of Prescriptions.**

(1) A prescription for the supply of the drugs to which the Act applies must comply with the following conditions:

- (a) the prescription must be in writing, must be dated and signed by the medical practitioner, dentist or veterinary surgeon as the case may be, with his or her usual signature and address, and must specify the name and address of the person for whose use the prescription is given, and the total amount of the morphine, cocaine, ecgonine, or diamorphine (heroin) or salt thereof, to be supplied on the prescription, except that in the case of a preparation which is contained in the British Pharmacopœia and which is not combined with any other preparation or any of the drugs not so contained, it shall be sufficient to state the total amount of the preparation to be supplied. The prescription shall not be given for the use of the prescriber himself or herself;
- (b) a prescription shall only be given by a medical practitioner when required for purposes of medical treatment;
- (c) a prescription shall only be given by a dentist for the purposes of dental treatment and shall be marked "For local dental treatment only";
- (d) a prescription shall only be given by a veterinary surgeon for the purposes of treatment of animals and shall be marked "For animal treatment only."

(2) The Minister may prescribe and issue a form hereinafter referred to as the "Official Form" for use in giving prescription for the drugs, and in that case a prescription for any of the drugs shall only be given on an official form: Provided that in a case of emergency when the person giving the prescription has not the official form available, the prescription may be given without using the official form, but in that case, shall be marked with the words "Official form not available" or similar words.

(3) A medical practitioner, dentist or veterinary surgeon shall not give any prescription for the supply of any of the drugs otherwise than in accordance with the foregoing conditions.

(4) A medical practitioner who dispenses any medicines to which the Act applies, shall enter particulars thereof in his or her day book or in the register hereinafter specified.

(5) The following conditions shall be observed by persons dispensing prescriptions for the drugs to which the Act applies:

- (a) if an official form is prescribed and issued by the Minister in pursuance of the foregoing rule, a prescription for any of the drugs shall only be dispensed if the prescription is on one of those forms, or in the case of an emergency prescription is given under the conditions specified in the foregoing rule, if the person dispensing the prescription is acquainted with the signature of the medical practitioner, dentist or veterinary surgeon by whom the prescription



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purports to be given, or is acquainted with the person for whose use the prescription is given and has no reason to suppose that the prescription is not genuine; if an official form is not prescribed, a prescription for any of the drugs shall only be dispensed if either (i) the person dispensing the prescription is acquainted with the signature of the medical practitioner, dentist or veterinary surgeon by whom the prescription purports to be given and has no reason to suppose the prescription is not genuine, or (ii) the person dispensing the prescription has taken reasonably sufficient steps to satisfy himself or herself that the prescription is genuine;

- (b) the drugs shall not be supplied more than once on the same prescription: Provided that, if the prescription so directs, the drugs may be supplied on more than one but not exceeding three occasions as directed in the prescription, at intervals to be specified in the prescription;
- (c) the prescription shall be marked with the date on which it is dispensed, and shall be retained by the person, firm or body corporate by whom the prescription is dispensed, and shall be kept on the premises where it is dispensed and shall be available for inspection.

#### **5. Possession.**

No person shall be in possession of or attempt to obtain possession of any of the drugs to which the Act applies unless

- (a) he or she is licensed to import or export the drug, or
- (b) he or she is licensed or otherwise authorised to manufacture or supply the drug, or
- (c) he or she is otherwise licensed by the Minister or authorised by these rules or by any authority granted by the Minister to be in possession of the drug, or
- (d) he or she proves that the drug was supplied for his use by a medical practitioner or veterinary surgeon, or on and in accordance with such a prescription as aforesaid:

Provided that this provision shall not apply to any drug supplied to a person for his use by a medical practitioner or in accordance with a prescription, if that person was at the time of the supply in course of receiving treatment from another medical practitioner in respect of addiction to any of the drugs or otherwise, and of being supplied with any of the drugs by or on a prescription given by that last-mentioned practitioner, and did not disclose the fact to the first mentioned practitioner before the drug was supplied to him or her.

#### **6. Marking of Packages or Bottles.**

(1) No person shall supply any morphine, cocaine, ecgonine, diacetylmorphine (heroin) or their respective salts or any medicinal opium or any extract or tincture of Indian hemp unless the package or bottle containing it is plainly marked with the amount of the drug in the package or bottle.

(2) No person shall supply any preparation, admixture, extract, or other substance containing any of the last-mentioned drugs and coming within these rules unless the package or bottle is plainly marked,

- (a) in the case of a powder, solution or ointment, with the total amount thereof in the package or bottle and the percentage of the drug in the powder, solution, or ointment;
- (b) in the case of tablets or other articles, with the amount of the drug in each article and the number of articles in the package or bottle.

(3) This rule shall not apply to any preparation dispensed by a medical practitioner or on the prescription of a medical practitioner.

## 7. **Records.**

(1) Every person who supplies any of the drugs to which the Act applies shall comply with the following provisions:

- (a) he or she shall enter or cause to be entered in a register kept for the sole purpose all supplies of the drug purchased or otherwise obtained by him or her and all dealings in the drug effected by him or her (including sales or supplies to persons outside the Colony) in the form and containing the particulars shown in Schedule 1 to these Rules;
- (b) separate registers or separate parts of the register shall be used for (i) cocaine and ecgonine and substances containing them (ii) morphine and substances containing it, (iii) diacetylmorphine (heroin) and substances containing it, (iv) medicinal opium, (v) extract or tincture of Indian hemp, (vi) dihydrohydroxycodone (commonly known as eucodal) and preparations containing dihydrohydroxycodone, (vii) dihydrocodeinone (commonly known as dicodide) and preparations containing dihydrocodeinone, (viii) dihydromorphine (commonly known as dilaudide), and preparations containing dihydromorphinone: Provided that with the approval of the Minister separate registers may be kept for separate departments of a business;
- (c) he or she shall make the entry with respect to any of the drugs purchased or otherwise obtained by him or her on the day on which the drug is received, and with respect to any sale or supply by him or her of the drug on the day on which the transaction is effected; or where that is not reasonably convenient on the day following the day on which the drug is received, or the transaction is effected;
- (d) where he or she carries on business at more than one set of premises he or she shall keep a separate register or registers in respect of each set of premises;
- (e) he or she shall keep the register or registers in some part of the premises to which it relates so that it shall at all times be available for inspection in accordance with the provisions of the Act;

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- (f) he or she shall not cancel, obliterate, or alter any entry in the register or make therein any entry which is untrue in any particular. Any mistake in an entry may be corrected by a marginal note or footnote giving the correct particulars and dated;
- (g) he or she shall furnish to the Minister or to any person authorised by any order of the Minister for the purpose all information in regard to any purchases by him or her of the drugs, and all transactions effected by him in the drugs as may be required by the Minister for the purpose of seeing that the provisions of the Minister Act are observed.

(2) A medical practitioner who records in a day book particulars of any of the drugs supplied by him or her to any patient, together with the name and address of the patient and date of the supply, may, in lieu of keeping the register required by this rule of drugs sold or supplied by him or her, enter separately for each of the drugs in a book to be kept for the purpose references under the appropriate dates to the records in the day book of any supply of the drug.

(3) Every medical practitioner, dentist and veterinary surgeon shall enter or cause to be entered in a register kept for the sole purpose in respect of each such supply of each of the drugs purchased or otherwise obtained by him or her the particulars shown in paragraph (a) of Schedule 1 to these Rules.

#### **8. Annual Returns.**

Every person authorised to be in possession of any drug to which Act applies, shall render to the Senior Medical Officer an annual return within one month after the end of each year showing the quantity of such dangerous drug in his or her possession during the previous year, and the return shall be made in the form set out in Schedule 2 to these Rules.

#### **9. Annual Estimate.**

Any person who may require a supply of any such dangerous drugs during the course of any year, shall forward to the Senior Medical Officer not later than the thirtieth day of June in the preceding year, an estimate of the amount of each drug which he or she is likely to require during the following year, and the estimate shall be given in the form set out in Schedule 3 to these Rules.

#### **10. General Authorisations.**

(1) Any person lawfully keeping open shop for the retailing of poisons in accordance with the provisions of the Medical Act, Cap. 9.15 is hereby authorised

- (a) to manufacture at the shop in the ordinary course of his or her retail business any preparation, admixture or extract of any of the drugs to which Act applies;
- (b) to carry on at the shop the business of retailing, dispensing or compounding the drugs, but subject always to the provisions of these rules.

(2) In the event of any such person being convicted of an offence against Act the Minister may, by notice in the *Gazette*, withdraw the authorisation aforesaid, if, in the opinion of the Minister, such person cannot properly be allowed to carry on the business of manufacturing or selling or distributing as the case may be, any such drug:

Provided that the Minister shall, before withdrawing the authorisation in the case of any such person, consult the Medical Board of the medical registration district in which such person carries on business.

(3) Any medical practitioner, or any dentist, or any veterinary surgeon or any person employed or engaged in dispensing medicines at any public hospital or other public institution, being a person duly registered under the Medical Act, or any person in charge of a laboratory for the purposes of research or instruction attached to any College, public hospital or other institution approved by the Minister for the purpose, is hereby authorised so far as is necessary for the practice of his profession or employment in such capacity to be in possession of and supply the drugs to which Act applies.

(4) In the event of any person authorised by these rules or by any authority granted by the Minister to manufacture supply or be in possession of such drugs, or any of them, being convicted of any offence against the said Act, the Minister may by notice in the *Gazette* withdraw the authorisation in respect of such person, if, in the opinion of the Minister, such person cannot properly be allowed to manufacture, supply or be in possession of any such drug.

#### 11. **Delivery to Messengers.**

No person shall deliver any of the drugs to which the Act applies, to any person not licensed or otherwise authorised to be in possession of the drugs who purports to be sent by or on behalf of a person so licensed or authorised unless such person produces an authority in writing, signed by the person so licensed or authorised, to receive the drug on his or her behalf and unless the person supplying the drug is satisfied that the authority is genuine, and this rule shall not be deemed to apply to medicines dispensed in pursuance of the foregoing rules.

#### 12. **Meaning of “Possession”.**

(1) Any of the drugs in the order or disposition of any person shall be deemed to be in his or her possession.

(2) In the case of a ship not carrying as part of her complement a duly qualified medical practitioner, the master of the ship shall be deemed to be a person authorised to be in possession of the drugs to which the Act applies so far as is necessary to comply with the requirements of the Imperial Merchant Shipping Acts, and it shall also be lawful for him or her, subject to any conditions prescribed by the Minister, to administer and supply the drugs to any member of the crew in accordance with instructions prepared or sanctioned by the Board of Trade.

(3) The keeping of a record of the use of the drugs in the official log in accordance with the provisions of the said Merchant Shipping Acts, shall be deemed to be in compliance with the requirements of these rules as to the keeping of records.

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**13. Hospitals.**

The Administrator may exempt from the operation of these rules any hospital or other public institution subject to the observance of such conditions as he or she may by order prescribe.

**14. Preparations Exempted from the Rules.**

These rules shall not apply in respect of the preparations named in Schedule 4 to these Rules nor to any of the drugs to the Act ordinarily applies when denatured in a manner approved by the Minister, and the Minister may from time to time by order published in the *Gazette* add any other preparation to this Schedule or remove any preparation from the said Schedule.

**15. Diversion of Drugs in Transit.**

If any consignment of the drugs to which the Act applies consigned to some destination outside the State is brought into any port of the State, no person shall, without the licence of the Minister, divert or cause or procure to be diverted, such consignment to any destination other than the destination to which it was originally consigned, and the destination to which the consignment was ordinarily consigned shall be deemed to be the destination stated in the licence, permit or other authority for the export of the consignment granted by the Government of the country of export.

**16. Preservation of Prescriptions.**

Prescriptions, records, registers, or other documents required to be retained or kept in pursuance of these rules or of any order made under these rules shall be preserved for not less than two years from the date of the prescription or document or the last entry in the record or register, as the case may be.

**SCHEDULE 1 TO THE RULES**

(Regulation 7)

- (a) Record of
- |                                |               |   |                                  |
|--------------------------------|---------------|---|----------------------------------|
| {                              | Morphine, &c. | } | Purchased or otherwise obtained. |
| Diacetylmorphine (heroin), &c. |               |   |                                  |
| Cocaine, &c.                   |               |   |                                  |
| Medicinal Opium.               |               |   |                                  |

Date on which supply received	Name of person, body or firm from whom obtained	Address of person, body or firm from whom obtained	Amount obtained	Form in which obtained

- (b) Record of
- |                                |               |   |                   |
|--------------------------------|---------------|---|-------------------|
| {                              | Morphine, &c. | } | Sold or supplied. |
| Diacetylmorphine (heroin), &c. |               |   |                   |
| Cocaine, &c.                   |               |   |                   |
| Medicinal Opium.               |               |   |                   |

Date on which the transaction was effected	Name of person, body or firm to whom sold or supplied	Address of person, body or firm to whom sold or supplied	Authority of person, body or firm to be in possession of the drug	Amount sold or supplied	Form in which sold or supplied	When sale is on a prescription specify the ingredients of the prescription

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**SCHEDULE 2 TO THE RULES**

(Regulation 8)

ANNUAL RETURN OF DANGEROUS DRUGS FOR THE YEAR 20 .

- (1) Name of person making this return By (1)  
 (2) Druggist or otherwise (2)  
 (3) Address (3)

Drug	Quantities		
	Imported during period 1st January to 31st December, 20	Consumed during period 1st January to 31st December, 20	In stock on 31st December, 20

**SCHEDULE 3 TO THE RULES**

(Regulation 9)

ANNUAL ESTIMATE FOR THE YEAR 20

- (1) Name of person making this return By (1)  
 (2) Druggist or otherwise (2)  
 (3) Address (3)

Drug	Quantities	
	Required during period 1st January to 31st December, 20	In stock on 31st May, 20

**SCHEDULE 4 TO THE RULES**

(Regulation 14)

Cereoli Iodoformi et Morphinæ, B.P.C.

Emp. Opii, B.P. 1898.

Lin. Opii, B.P.

Lin. Opii Ammon, B.P.C.

Pasta Arsenicalis, B.P.C.

Pil. Hydrarg. c. Opio, B.P.C.

Pil. Ipecac. c. Scilla, B.P.

Pil. Plumbi c. Opio, B.P.

Pil. Digitalis et Opii Co. B.P.C.

Pulv. Cretæ Aromat, c. Opio, B.P.

Pulv. Ipecac. Co., B.P. (Dover's Powder).

Pulv. Kino Co., B.P.

Suppos. Plumbi c. Opio, B.P.C.

Tablettæ Plumbi c. Opio, B.P.C.

Ung. Gallæ c. Opio B.P. (Gall and Opium Ointment).

Ung. Gallæ Co., B.P.C.

Tinct. Camph. Comp. B.P.