



LAWS AND REGULATIONS

PROMULGATED TO GIVE EFFECT TO THE PROVISIONS OF THE INTERNATIONAL TREATIES ON NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

*In accordance with the relevant articles of the international treaties on narcotic drugs and psychotropic substances,
the Secretary-General has the honour to communicate the following legislative texts.*

TRINIDAD AND TOBAGO

Communicated by the Government of Trinidad and Tobago

NOTE BY THE SECRETARIAT

- (a) Some editing of texts may be done by the Secretariat in the interest of clarity. In this connection, words in square brackets [] have been added or changed by the Secretariat.
- (b) Only passages directly relevant to the control of narcotic drugs or psychotropic substances have been reproduced in this document. Non-relevant parts of laws and regulations have been deleted by the Secretariat; such deletions are indicated by [...].

DANGEROUS DRUGS ACT, 1991 (NO. 38 OF 1991)

***Note by the Secretariat:** This document is a direct reproduction of the text communicated to the Secretariat.

REPUBLIC OF TRINIDAD AND TOBAGO
Act No. 38 of 1991

[L.S.]

AN ACT to provide for the control of narcotic drugs and psychotropic substances and to make provision for the confiscation of the proceeds of drug trafficking and other provisions in connection with drug trafficking and matters connected therewith.

[Assented to 7th November, 1991]

WHEREAS it is enacted by section 13(1) of the Constitution ~~Preamble~~ that an Act of Parliament to which that section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 of the Constitution, and if any Act does so declare it shall have effect accordingly:

And whereas it is provided in subsection (2) of the said section 13, that an Act of Parliament to which that section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of that House:

And whereas it is necessary and expedient that this Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution:

Enactment ENACTED by the Parliament of Trinidad and Tobago as follows:—

PART I

PRELIMINARY

Short title 1. This Act may be cited as the Dangerous Drugs Act, 1991.

Act Inconsistent with Constitution 2. This Act has effect even though inconsistent with sections 4 and 5 of the Constitution.

Interpretation 3. (1) In this Act—

“analyst” means a person designated as an analyst under section 22(2);

“bank” means a bank licensed under the Banking Act, or an institution carrying on the business of banking under a written law;

Chap. 79:01

“business” means an activity carried on for the purpose of gain or profit and includes all property derived from or used in or for the purpose of carrying on such activity, and all rights and liabilities arising from such activity;

“coca plant” means a plant of the genus *Erythroxylon* from which cocaine can be extracted;

First Schedule

“dangerous drugs” means a narcotic drug listed in the First Schedule or a thing that contains such a drug or a psychotropic substance listed in the Second Schedule or a thing that contains such a substance;

Second Schedule

“dentist” means a person registered as such under the Dental Profession Act;

Chap. 29:54

“document” includes—

- (a) a letter, figure, mark, inscription, writing, sign, caricature, picture, drawing or representation in any form; and
- (b) a visual recording, whether of still or moving images, or sound recording, on any substance, material, thing or article;

“drug traffic”, “drug trafficking” or “trafficking” means the importation, exportation, manufacture, sale, giving, administering, transportation, delivery or distribution by any person of a dangerous drug or any substance represented or held out by such person to be a dangerous drug or the making of any offer in respect thereof, whether in the Territory or elsewhere, and includes an arrangement whereby—

- (a) the retention or control by or on behalf of another person of the other person’s proceeds of drug trafficking is facilitated, or
- (b) the proceeds of drug trafficking by another person are used to ensure that funds are placed at the other person’s disposal or are used for the other person’s benefit to acquire property;

but does not include—

- (c) the importation or exportation of a dangerous drug by or on behalf of any person who has a licence therefore under section 4, or
- (d) the manufacture, processing, packaging, sale, giving, administering, transportation, delivery or distribution of a dangerous drug or the making of any offer in respect thereof by or on behalf of a person who has a licence therefore under section 5 or by or on behalf of a medical practitioner, dentist, veterinary surgeon or pharmacist for a medicinal purpose;

“drug trafficking offence” means any of the following—

- (a) an offence under section 5(4) and (7) and section 47;
- (b) an offence of conspiracy to commit any of the offences referred to in paragraph (a);
- (c) an offence of attempting, inciting, aiding, abetting, counselling or procuring the commission of any of the offences referred to in paragraph (a) or (b);

“export” means the taking or conveying, or causing to be taken or conveyed, out of the Territory;

“holder” in relation to any property, includes, a person who—

- (a) is the owner of,
- (b) is in possession of,
- (c) is in occupation of,
- (d) has custody or control of; and
- (e) has any other right, interest, title, claim, power, duty or obligation,

in relation to that property;

“import” means the bringing or conveying, or causing to be brought or conveyed, into the Territory;

“medical practitioner” means a person registered under the Medical Board Act;

“Minister” means the Minister to whom responsibility for the administration of health is assigned;

“opium” includes raw opium, powdered opium and opium wholly or partially prepared for any use or purpose whatever its content of morphine may be;

“pharmacist” means a person registered as such under the Pharmacy Board Act;

“plant” includes a living plant or any part thereof and any organ, tissue, cell or portion of the genetic material thereof;

“prepared opium” or “smoking opium” means the product of raw opium obtained by a series of special operations, especially by dissolving, boiling, roasting and fermentation, designed to transform it into an extract suitable for consumption; and “prepared opium” includes dross and all other residues remaining when opium has been smoked;

“property” means real or personal property, whether within or outside the Territory and includes—

- (a) a right, interest, title, claim, chose in action, power, privilege, whether present or future and whether vested or contingent, in relation to property, or which is otherwise of value;
- (b) a conveyance executed for conveying, assigning, appointing, surrendering, or otherwise transferring or disposing of immovable property whereof the person executing the conveyance is proprietor or possessed or wherein he is entitled to a contingent right, either for his whole interest or for a lesser interest;
- (c) a monetary instrument;
- (d) any other instrument or securities;
- (e) any business;
- (f) a vehicle, boat, aircraft or other means of conveyance of any description; and
- (g) any other tangible or intangible property;

“securities” includes stocks, bonds, shares, debentures; funds and certificates of deposit;

“Territory” means the territory of Trinidad and Tobago;

“trust” includes a legal obligation in favour of a beneficiary subject to which any person holds property;

“veterinary surgeon” means a person registered under the Veterinary Surgeons (Registration) Act.

(2) Reference in this Act to offences include a reference to offences committed before the commencement of this Act, but nothing in Part V, Part VI and Part VII imposes any duty or confers any power on any court in or in connection with proceedings against a person for a drug trafficking offence instituted before the commencement of this Act.

(3) References in this Act to anything received in connection with drug trafficking include a reference to anything received both in that connection and in a related connection.

(4) References to property held by a person include a reference to property vested in his trustee in bankruptcy or liquidator.

(5) Proceedings for an offence are instituted—

- (a) when a Magistrate or Justice issues a summons or warrant under section 38 or 41 of the Summary Courts Act in respect of the offence;
- (b) when a person is charged with the offence after being taken into custody without a warrant;
- (c) when an indictment is preferred against an accused person,

and where the application of this subsection would result in there being more than one time for the institution of proceedings, they shall be taken to have been instituted at the earliest of those times.

(6) Proceedings for an offence are concluded on the occurrence of one of the following events:

- (a) the discontinuance of the proceedings;
- (b) the acquittal of the defendant;
- (c) the quashing of his conviction for the offence;
- (d) the grant of the President's pardon in respect of his conviction for the offence;
- (e) the court sentencing or otherwise dealing with him in respect of his conviction for the offence without having made a confiscation order; and
- (f) the satisfaction of a confiscation order made in the proceedings whether by payment of the amount due under the order or by the defendant serving imprisonment in default.

(7) A confiscation order is subject to appeal so long as an appeal or further appeal is pending against the order or, if it was made on a conviction, against the conviction; and for this purpose an appeal or further appeal shall be treated as pending, where one is competent but has not been brought, until the expiration of the time for bringing that appeal.

PART II

POSSESSION OF AND TRAFFICKING IN DANGEROUS DRUGS

4. The Minister may, subject to regulations made under Minister may issue licences section 57—

- (a) issue licences for the import, export, diversion, sale, manufacture, production or distribution, at a stated place, of any dangerous drug;
- (b) issue licences for the cultivation, gathering or production, at a stated place, of opium poppy, marijuana, or coca plant;
- (c) name the ports or places in the Territory where any dangerous drug may be exported or imported;
- (d) prescribe the manner in which any dangerous drug is to be packed and marked for export;
- (e) authorize the furnishing of dangerous drugs to the master of a ship for the medicinal needs of the crew thereof;
- (f) prescribe the records that are to be kept by any person in connection with the export, import, manufacture, receipt, sale, disposal and distribution of a dangerous drug.

5. (1) Subject to subsection (2), a person who has in his Possession of and trafficking in dangerous drugs possession any dangerous drug is guilty of an offence and is liable—

- (a) upon summary conviction to a fine of twenty-five thousand dollars and to imprisonment for five years;
- (b) upon conviction on indictment to a fine of fifty thousand dollars and to imprisonment for a term which shall not exceed ten years but which shall not be less than five years.

(2) Subsection (1) does not apply to—

- (a) a person who has the possession of a dangerous drug under a licence issued pursuant to section 4 permitting him to have possession of that dangerous drug;
- (b) a medical practitioner, dentist, veterinary surgeon or pharmacist who is in possession of a dangerous drug for any medicinal purpose;
- (c) a person who obtains a dangerous drug for medicinal purposes from or pursuant to a prescription of a medical practitioner, dentist or veterinary surgeon;
- (d) a person authorised under the regulations to be in possession of a dangerous drug;
- (e) a person who is acting for and under the supervision of a person mentioned in paragraph (a), (b), (c) or (d).

(3) Every person who cultivates, gathers or produces any opium poppy, marijuana or coca plant, except where he does so under a licence granted under section 4 or where he is acting under the supervision of a person having such a licence, is guilty of an offence and is liable—

- (a) upon summary conviction to a fine of twenty-five thousand dollars and to imprisonment for five years; or
- (b) upon conviction on indictment to a fine of fifty thousand dollars and to imprisonment for a term which shall not exceed ten years but which shall not be less than five years.

(4) A person who trafficks in any dangerous drug or in any substance represented or held out by him to be a dangerous drug or who has in his possession any dangerous drug for the purpose of trafficking is guilty of an offence.

(5) Subject to subsection (7) a person who commits the offence of trafficking in a dangerous drug or of being in possession of a dangerous drug for the purpose of trafficking is liable—

- (a) upon summary conviction—
 - (i) to a fine of fifty thousand dollars or, where there is evidence of the street value of the dangerous drug, three times the street value of the dangerous drug, whichever is greater; and

- (ii) to imprisonment for a term which shall not exceed ten years but which shall not be less than five years; or

- (b) upon conviction on indictment to imprisonment for life.

(6) A person who commits the offence of trafficking in a substance other than a dangerous drug, which he represents or holds out to be a dangerous drug is liable—

- (a) upon summary conviction to a fine of twenty-five thousand dollars and to imprisonment for five years; or

- (b) upon conviction on indictment to a fine of twenty-five thousand dollars and to imprisonment for ten years.

(7) A person other than a person referred to in subsection (2) found in possession of a dangerous drug or a substance other than a dangerous drug which he represents or holds out to be a dangerous drug on any school premises or within one hundred metres thereof is deemed to have the dangerous drug or substance for the purpose of trafficking, unless the contrary is proved, the burden of proof being on the accused, and such person is guilty of an offence and is liable—

- (a) upon summary conviction to a fine of sixty thousand dollars, or where there is evidence of the street value of the dangerous drug, three times the street value of the dangerous drug, whichever is greater, and to imprisonment for a term which shall not exceed twelve years but which shall not be less than six years; or

- (b) upon conviction on indictment to imprisonment for life.

(8) In subsection (7) “school premises” means the premises of a school, college, university or other educational institution and includes buildings, playing fields or other premises established, maintained or used by such institutions for the benefit of its students whether or not such buildings, playing fields or other premises are within the curtilage of the institution.

(9) A person, other than a person referred to in subsection (2), found in possession of more than—

- (a) two grammes of *diacetylmorphine* (heroin);

- (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 dangerous drug for the purpose of trafficking, unless the contrary is proved, the burden of proof being on the accused.

Court may order
admission to
psychiatric
hospital

6. (1) The Court before which a person is convicted under section 5, may, before imposing a sentence, order the Psychiatric Hospital Director to admit the person convicted to the psychiatric hospital named in the Order.

(2) Subject to subsection (4)(b) a person who has been admitted under subsection (1) shall not be kept in a hospital for more than fourteen days.

(3) The Psychiatric Hospital Director shall, as soon as practicable after admitting a person under subsection (1), make or cause to be made such psychiatric examination as he considers necessary for determining whether or not the person is in need of psychiatric care and treatment, and shall, within fourteen days of the date of admission submit a report in writing to the Court relative to the condition of the person.

(4) On receipt of the report, the Court shall forthwith—

- (a) rescind the Order made under subsection (1), if the Psychiatric Hospital Director is satisfied that the person named in the Order is not in need of care and treatment; or
- (b) make another Order authorising the Psychiatric Hospital Director to admit the person named therein to a hospital for such further care and treatment as the Psychiatric Hospital Director may consider necessary.

(5) Where an Order is made under subsection (4)(b), the Psychiatric Hospital Director shall, when he is satisfied that the patient is no longer in need of care and treatment report this fact to the Court which shall forthwith rescind the Order.

(6) The Court shall, where it rescinds an Order under subsection (4)(a) or subsection (5), deal with the person in such manner as it deems necessary.

(7) In this section "Psychiatric Hospital Director", "psychiatric hospital" and "hospital" have the same meaning as in the Mental Health Act.

Chap. 28:02

PART III

SUPPLY OF DANGEROUS DRUGS BY PHARMACISTS UNDER LICENCE AND APPOINTMENT OF INSPECTORS AND ANALYSTS

7. (1) A person who has a licence under section 4 to deal in any dangerous drug shall not supply it to any person except as specifically provided in this Act. Licensed person not to supply dangerous drugs

(2) A person who has a licence under section 4 to deal in any dangerous drug may, upon receiving a written order therefor dated and signed by a person who has a licence under section 4 to deal in a dangerous drug, or by a pharmacist, medical practitioner, dentist or veterinary surgeon, whose signature is known to the person receiving the order, or if unknown, then verified before the order is filled, supply a dangerous drug to such person, or to a person authorized under the regulations to purchase or be in possession of a dangerous drug.

8. (1) Subject to the regulations, no pharmacist shall supply a dangerous drug to any person except upon receiving a written order or prescription therefor dated and signed by a medical practitioner, dentist or veterinary surgeon whose signature is known to the pharmacist or, if unknown, then verified before the prescription is filled. Pharmacist not to supply dangerous drugs

(2) No pharmacist shall use an order or prescription to supply a dangerous drug on more than one occasion unless the prescription or order so directs and states the number of times it may be refilled.

9. (1) Where the legal authority under which a person is in possession of a dangerous drug under this Act is terminated or revoked or where a person who is legally in possession of a dangerous drug under this Act in connection with his business, trade or calling ceases to engage in the business, trade or calling, or dies— Delivery of dangerous drugs to Minister

(a) that person or any person acting for him or on his behalf shall not give, sell, furnish,

distribute or otherwise deal in any such dangerous drug, but the same shall forthwith be delivered by the person in possession or in charge thereof to the Minister; and

- (b) any constable or other person authorized in that behalf in writing by the Commissioner of Police or by the Director of Medical Services may enter the premises in which any such dangerous drug is contained and seize and carry away the same for delivery to the Minister.

(2) Where any dangerous drug is delivered to the Minister pursuant to subsection (1), the Minister may authorize the payment of compensation therefor in such amounts and on such terms as he considers fit.

Offence and
penalty

10. A person who contravenes section 7, 8 or 9 is guilty of an offence and is liable—

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

Unlawful for
physician to
prescribe, give or
sell drug except
for medicinal
purposes

11. (1) A medical practitioner who—

- (a) prescribes, administers, gives, sells or furnishes a dangerous drug to any person; or
- (b) signs any prescription or order for a dangerous drug,

is guilty of an offence unless the dangerous drug is required for medicinal purposes or is prescribed for the medical treatment of a person who is under professional treatment by a medical practitioner.

(2) A dentist or veterinary surgeon who—

- (a) prescribes, administers, gives, sells or furnishes any dangerous drug; or
- (b) signs any prescription or order for a dangerous drug,

otherwise than in accordance with the regulations, is guilty of an offence.

(3) A person who commits an offence under this section is liable—

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

12. (1) The Minister may, by Order, appoint any person ~~inspectors~~ to be an inspector for the purposes of this Act.

(2) An inspector, accompanied by a police officer, may at any reasonable time—

- (a) enter any place where, on reasonable grounds, he believes that any dangerous drug is manufactured, prepared, packaged, or stored, and examine any substance which he believes to be a dangerous drug and take samples thereof;
- (b) open and examine any receptacle or package that, on reasonable grounds, he believes contains any dangerous drug;
- (c) examine any books, documents or other records found in any place mentioned in subparagraph (a) that, on reasonable grounds, he believes contain or are likely to contain any information with respect to a dangerous drug and make copies thereof or take extracts therefrom;
- (d) seize and detain for such time as may be necessary any dangerous drug by means of or in relation to which he reasonably believes any provision of this Act or the regulations has been violated.

(3) The person in charge of a place entered by an inspector and a police officer pursuant to subsection (2), and any person found therein, shall give all reasonable assistance within his power to the inspector and furnish the inspector with such information as he may reasonably require.

(4) Any person who—

- (a) fails to comply with any provision of subsection (3);
- (b) obstructs an inspector in the carrying out of his duties under this Act; or

- (c) knowingly makes a false or misleading statement either orally or in writing to any inspector engaged in carrying out his duties under this Act,

is guilty of an offence and is liable upon summary conviction to a fine of twenty-five thousand dollars and to imprisonment for five years.

(5) In this section "person in charge of a place" includes the owner, occupier, person in possession of such place or agent of such person.

Neglect or
refusal to
keep records

13. Any person who—

- (a) neglects or refuses to keep any record required by the regulations and manufactures, imports or exports a dangerous drug, or prescribes, furnishes, sells or distributes a dangerous drug; or
- (b) neglects or refuses to produce for inspection the said record to the inspector or refuses to give any information required by the inspector,

is guilty of an offence, and is liable, upon summary conviction, to a fine of twenty-five thousand dollars and to imprisonment for five years.

Supply of
dangerous drugs
by two or
more medical
practitioners

14. Where a person, during the course of his treatment, is supplied by a medical practitioner with dangerous drugs or a prescription therefor and is aware of that fact and fails to disclose that he had already obtained from another medical practitioner such dangerous drug or prescription, he is guilty of an offence and is liable upon summary conviction to a fine of ten thousand dollars and to imprisonment for six months.

Possession of
certain devices
and apparatus

15. (1) No person shall, without lawful authority or without the written permission of the Minister or some person authorised by the Minister in that behalf, import or, without lawful or reasonable excuse, have in his possession any device, article or apparatus designed, generally used or specifically altered for the purpose of the illegal use of dangerous drugs.

(2) A person who contravenes subsection (1) is liable upon summary conviction to a fine of ten thousand dollars and to imprisonment for six months.

16. A person who, without lawful or reasonable excuse, ^{Unlawful use of premises} is found in any house, room or place where any dangerous drug is being illegally used is guilty of an offence and is liable upon summary conviction to a fine of ten thousand dollars and to imprisonment for six months.

17. (1) Except as otherwise specifically provided a person ^{Enclosing drugs in a letter, etc.} who encloses in or with any letter, packet or other matter sent by post, or posts, a dangerous drug, is guilty of an offence and is liable—

- (a) upon summary conviction to a fine of twenty-five thousand dollars and to imprisonment for five years; or
- (b) upon conviction on indictment to a fine of fifty thousand dollars and to imprisonment for a term which shall not exceed ten years but shall not be less than five years.

(2) In any prosecution under this section an affidavit of the postmaster or assistant postmaster in charge of any post office at which any dangerous drug was mailed, or to or through which it was sent by mail, is sufficient proof of the fact that such dangerous drug was enclosed in or with any letter, packet, or other mailable matter sent by post, or was put into, transmitted through or received at such post office.

(3) Notwithstanding subsection (1), any wholesale pharmacist may forward by ordinary post any preparation or remedy that the regulations permit to be sold without a prescription by a pharmacist, and may forward by registered post any dangerous drug.

18. Where a person is convicted under this Act, other than ^{Liability to imprisonment for non-payment of fine} for an offence under section 14, and the conviction adjudges imprisonment and the payment of a fine, the sentence shall direct that in default of payment of the fine, the person so convicted shall notwithstanding any other law be imprisoned—

- (a) for a period of nine months where the fine does not exceed five thousand dollars;
- (b) for a period of three years, where the fine exceeds five thousand dollars but does not exceed twenty-five thousand dollars; or

- (c) for a period of five years where the fine exceeds twenty-five thousand dollars, which period shall commence at the end of the term of imprisonment imposed by the Court.

Onus of proof
on charge of
offence under
section 5

19. In any prosecution for an offence under section 5, it is not necessary for the prosecution to establish that the accused did not have a licence under section 4 or was not otherwise authorised to do the act complained of; and if the accused pleads or alleges that he had such licence or other authority, the proof thereof lies upon him.

Burden of proof
on pleas of
medicinal
purposes
or medical
treatment

20. Where any person charged with an offence under section 11 pleads or alleges that the dangerous drug in question was required for medicinal purposes or was prescribed for the medical treatment of a person under professional treatment by the accused, or was required for medicinal purposes in connection with his practice as a dentist or veterinary surgeon, as the case may be, the burden of proof thereof lies upon the person so charged.

Occupier etc.
deemed to be
in possession
when dangerous
drugs found
on premises

21. (1) Without limiting the generality of section 5(1) or (4) any person who occupies, controls, or is in possession of any building, room, vessel, vehicle, aircraft, enclosure or place in or upon which a dangerous drug is found shall be deemed to be in possession thereof unless he proves that the dangerous drug was there without his knowledge and consent.

(2) Any person who occupies, controls, or is in possession of any building, room, vessel, vehicle, aircraft, enclosure or place in or upon which any device, apparatus or article mentioned in section 15 is found shall be deemed to have been in possession of such device, apparatus or article, unless he proves that the device, apparatus or article was there without his knowledge and consent or that he was lawfully entitled to the possession thereof.

Certificate of
analyst and
evidence of
facts stated
in certificate

22. (1) Notwithstanding any other law, in any prosecution or proceedings under or pursuant to this Act, a certificate as to the analysis of a dangerous drug signed or purporting to be signed by an analyst shall be received in evidence as *prima facie* proof of the facts stated in the certificate and of the authority of the person giving or making the same, without any proof of appointment or signature.

(2) The Minister may designate duly qualified analysts for the purposes of this Act.

23. (1) A police officer who has reasonable cause to suspect that any dangerous drug is kept or concealed for any purpose contrary to this Act in any store, shop, warehouse, outhouse, garden, yard, vessel, aircraft, vehicle or other place, may, by day or night, search any such place for the dangerous drug, and if necessary, by force, bring it before a magistrate; and if any device or apparatus, designed or generally used or specifically altered for the purpose of the illegal use of dangerous drugs, is there and then found, it shall also be brought before the magistrate. ^{Search and seizure}

(2) Where it is proved upon oath before any magistrate or justice that there is reasonable cause to suspect that any dangerous drug is kept or concealed in a dwelling house for any purpose contrary to this Act, the magistrate or justice may grant a warrant to search by day or night any such place for the dangerous drug, and if the dangerous drug is found there, to bring it before a magistrate; and if any device, apparatus or other article referred to in subsection (1) is there and then found, it shall also be brought before the magistrate.

24. Notwithstanding any other written law, unless the Court otherwise directs, any device, apparatus or article referred to in section 23 and any dangerous drug seized under the provisions of this Act or found shall, at the expiration of six months from such seizure or finding be forfeited to the State and delivered to the Minister to be disposed of as he may direct. ^{Forfeiture of seized items}

PART IV

SUMMARY CONVICTIONS

25. Any person who is summarily convicted of an indictable offence committed under this Act is, notwithstanding section 100(5) of the Summary Courts Act, liable to the penalty provided for the summary conviction of the offence under this Act. ^{Punishment of person summarily convicted of indictable offence.}

Penalty for
conspiracy

26. Any person who is convicted of conspiracy to commit an offence under this Act is liable, notwithstanding anything contained in any other written law, to the same penalty provided for that offence under this Act.

Accessories etc.
liable to same
penalty as
principal
offender.
Chap. 10:62
Chap. 3:01

27. Without prejudice to the provisions contained in the Accessories and Abettors Act or sections 65 and 66 of the Interpretation Act, any person who attempts, aids, abets, counsels or procures the commission of an offence under this Act is guilty of an offence under this Act and is liable on conviction to the same penalty under this Act as the principal offender.

Committal to the
High Court for
sentence

28. (1) The Magistrate shall bring to the notice of the accused the provision of subsection (2) before the accused elects for a summary trial under this Act.

(2) 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 character and antecedents are such that in the opinion of the magistrate greater punishment should be inflicted for the offence than 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.

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

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

Offence by
body corporate

29. Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of or to be attributable to any wilful 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 as well as the body corporate is guilty of that offence and is liable to be proceeded against accordingly.

PART V

CONFISCATION OF PROCEEDS OF DRUG TRAFFICKING

30. (1) Where a person is convicted of a drug trafficking offence by a magistrate and where— Confiscation
orders

- (a) it appears to the magistrate that the person convicted may have benefited from drug trafficking and has or may have realisable property; or
- (b) it appears to the Director of Public Prosecutions that the person convicted may have benefited from drug trafficking and has or may have realisable property, on application by the Director of Public Prosecutions,

the magistrate shall at the time of conviction commit such person for sentence by a judge of the High Court and shall remit to the judge his recommendations as to such sentence and the reasons therefor.

(2) Where a person appears before the High Court (hereinafter referred to as "the Court") to be sentenced in respect of a drug trafficking offence or where a person, after having been committed to the Court for trial, is convicted of a drug trafficking offence, the Court shall act as follows—

- (a) the Court shall first determine whether he has benefited from drug trafficking;
- (b) if the Court determines that he has so benefited, the Court shall, before sentencing or otherwise dealing with him in respect of the offence, determine in accordance with section 33 the amount to be recovered by virtue of this section;
- (c) the Court shall then in respect of the offence concerned—
 - (i) order him to pay that amount;
 - (ii) take account of the order before—
 - A. imposing any fine on him;
 - B. making any order involving any payment by him; or
 - C. making any order under section 53; and

(iii) subject to subparagraph (ii), leave the order out of account in determining the appropriate sentence or other manner of dealing with the defendant.

(3) For the purposes of this Act, a person who has, at any time, whether before or after the commencement of this Act, received any payment or other reward in connection with drug trafficking carried on by him or another has benefited from drug trafficking.

(4) Notwithstanding any written law to the contrary where an order is made against an offender under this section, the Court may, in addition to the making of that order, deal with the offender in any way it considers appropriate in respect of the drug trafficking offence for which the order was made.

(5) In this Part and in Part VI and Part VII—

- (a) “confiscation order” means an order made under subsection (2);
- (b) “defendant” means a person against whom proceedings have been instituted for a drug trafficking offence whether or not he has been convicted.

Assessing the
proceeds of
drug trafficking

31. (1) For the purposes of this Act—

- (a) any payments or other rewards received by a person at any time whether before or after the commencement of this Act, in connection with drug trafficking carried on by him or another are his proceeds of drug trafficking; and
- (b) the value of his proceeds of drug trafficking is the aggregate of the values of the payments or other rewards.

(2) The court may, for the purposes of determining whether the defendant has benefited from drug trafficking and, if he has so benefited, of assessing the value of his proceeds of drug trafficking, make the assumptions referred to in subsection (3) except to the extent that any of the assumptions are shown to be incorrect in the defendant's case.

(3) The assumptions referred to in subsection (2)—

(a) that any property appearing to the court—

(i) to have been held by him at any time since his conviction; or

(ii) to have been transferred to him at any time since the beginning of the period of six years ending when the proceedings were instituted against him,

was received by him, at the earliest time at which he appears to the court to have held it, as a payment or reward in connection with drug trafficking carried on by him;

(b) that any expenditure of his since the beginning of that period of six years was met out of payments received by him in connection with drug trafficking carried on by him; and

(c) that, for the purpose of valuing any property received or assumed to have been received by him at any time as such a reward, he received the property free of any other interests in it.

(4) For the purposes of assessing the value of the defendant's proceeds of drug trafficking in a case where a confiscation order has previously been made against him, the court shall leave out of account any of his proceeds of drug trafficking that are shown to the court to have been taken into account in determining the amount to be recovered under that order.

32. (1) Where—

(a) there is tendered to the court by the Director of Public Prosecutions a statement as to any matters relevant to the determination whether the defendant has benefited from drug trafficking or to the assessment of the value of his proceeds of drug trafficking; and

(b) the defendant accepts to any extent any allegation in the statement,

Statements
relating to
drug trafficking

the court may, for the purposes of that determination and assessment, treat his acceptance as conclusive of the matters to which it relates.

(2) Where—

(a) a statement is tendered under subsection (1)(a);
and

(b) the court is satisfied that a copy of that
statement has been served on the defendant,

the court may require the defendant to indicate to what
extent he accepts each allegation in the statement and, so
far as he does not accept any such allegation, to indicate
any matters he proposes to rely on.

(3) If the defendant fails in any respect to comply
with a requirement under subsection (2) he may be treated
for the purposes of this section as accepting every allegation
in the statement apart from—

(a) any allegation in respect of which he has com-
plied with the requirement; and

(b) any allegation that he has benefited from drug
trafficking or that any payment or other
reward was received by him in connection
with drug trafficking carried on by him or
another.

(4) Where—

(a) there is tendered to the court by the defendant
a statement as to any matters relevant to
determining the amount that might be realised
at the time the confiscation order is made; and

(b) the Director of Public Prosecutions accepts to
any extent any allegation in the statement,

the court may, for the purposes of that determination,
treat the acceptance by the prosecutor as conclusive of the
matters to which it relates.

(5) An allegation may be accepted or a matter
indicated for the purposes of this section either—

(a) orally before the court; or

(b) in writing to the court.

(6) No acceptance by the defendant under this
section that any payment or other reward was received by
him in connection with drug trafficking carried on by him
or another shall be admissible in evidence in any proceedings
for an offence.

33. (1) Subject to subsection (3), the amount to be recovered in the defendant's case under the confiscation order shall be the amount the court assesses to be the value of the defendant's proceeds of drug trafficking. Amount to be recovered under confiscation order

(2) If the court is satisfied as to any matter relevant for determining the amount that might be realised at the time the confiscation order is made, whether by an acceptance under section 32 or otherwise, the court may issue a certificate giving the court's opinion as to the matters concerned and shall do so where subsection (3) applies.

(3) If the court is satisfied that the amount that might be realised at the time the confiscation order is made is less than the amount the court assesses to be the value of his proceeds of drug trafficking, the amount to be recovered in the defendant's case under the confiscation order shall be the amount appearing to the court to be the amount that might be so realised.

34. (1) In this Act "realisable property" means—

- (a) any property held by the defendant; and
- (b) any property held by a person to whom the defendant has directly or indirectly made a gift caught by this Act.

Definition of principal terms used

(2) Property is not realisable property if any forfeiture order is in force in respect of the property under any written law.

(3) For the purposes of sections 32 and 34 the amount that might be realised at the time a confiscation order is made against the defendant is—

- (a) the total of the values at that time of all the realisable property held by the defendant, less
- (b) where there are obligations having priority at that time, the total amounts payable in pursuance of such obligations,

together with the total of the values at that time of all gifts caught by this Act.

(4) Subject to this section, for the purposes of this Act the value of property, other than cash, in relation to any person holding the property—

- (a) where any other person holds an interest in the property, is the market value of the first mentioned person's beneficial interest in the

property, less the amount required to discharge any encumbrance, other than a charging order, on that interest; and

(b) in any other case, is its market value.

(5) Subject to subsection (9), references in this Act to the value at any time, referred to in subsection (6) as "the material time", of a gift caught by this Act or of any payment or reward are references to—

(a) the value of the gift, payment or reward to the recipient when he received it adjusted to take account of subsequent changes in the value of money; or

(b) where subsection (6) applies, the value there mentioned, whichever is the greater.

(6) Subject to subsection (9), if at the material time the recipient holds—

(a) the property not being cash, which he received; or

(b) property which, in whole or in part, directly or indirectly, represents in his hands the property which he received,

the value referred to in subsection (5)(b) is the value to him at the material time of the property referred to in paragraph (a) or, as the case may be, of the property referred to in paragraph (b) so far as it represents the property which he received, but disregarding in either case any charging order.

(7) For the purposes of subsection (3), an obligation has priority at any time if it is an obligation of the defendant to—

(a) pay an amount due in respect of a fine or other order of a court, imposed or made on conviction of an offence, where the fine was imposed or order made before the confiscation order; or

(b) pay any sum which would be included among the priority debts in the defendant's bankruptcy commencing on the date of the confiscation order or winding up under an order of the court made on that date.

(8) A gift, including a gift made before the commencement of this Act, is caught by this Act if—

- (a) it was made by the defendant at any time since the beginning of the period of six years ending when the proceedings were instituted against him; or
- (b) it was made by the defendant at any time and was a gift of property—
 - (i) received by the defendant in connection with drug trafficking carried on by him or another; or
 - (ii) which in whole or in part directly or indirectly represented in the defendant's hands property received by him in that connection.

(9) For the purposes of this Act—

- (a) the circumstances in which the defendant is to be treated as making a gift include those where he transfers property to another person directly or indirectly for a consideration the value of which is significantly less than the value of the consideration provided by the defendant; and
- (b) in circumstances referred to in paragraph (a), the preceding provisions of this section shall apply as if the defendant had made a gift of such share in the property as bears to the whole property the same proportion as the difference between the values referred to in paragraph (a) bears to the value of the consideration provided by the defendant.

35. Where the defendant fails to pay the amount to be recovered under a confiscation order within a period of three months from the date of the confiscation order or such other period as specified by the Court the defendant shall be liable to imprisonment which term shall run consecutively to any other term imposed by the Court and which shall not exceed the maximum fixed in the following scale—

An amount not exceeding \$10,000 ...	2 years
An amount exceeding \$10,000 but	
not exceeding \$20,000 3 years

Application of
procedure for
enforcing orders

An amount exceeding \$20,000 but not exceeding \$50,000 4 years
An amount exceeding \$50,000 but not exceeding \$100,000 5 years
An amount exceeding \$100,000 but not exceeding \$250,000 7 years
An amount exceeding \$250,000 but not exceeding \$1 million10 years
An amount exceeding \$1 million but not exceeding \$2 million12 years
An amount exceeding \$2 million	...15 years

PART VI

RESTRAINT ORDERS

Cases in which
restraint orders
and charging
orders may
be made

36. (1) The powers conferred on the court by sections 37(1) and 41(1) are exercisable where—

- (a) proceedings have been instituted against the defendant for a drug trafficking offence;
- (b) the proceedings have not been concluded; and
- (c) the court is satisfied that there is reasonable cause to believe that the defendant has benefited from drug trafficking.

(2) Those powers are also exercisable where the court is satisfied—

- (a) that an information is to be laid that a person has committed, or is suspected of having committed, a drug trafficking offence; and
- (b) that there is reasonable cause to believe that he has benefited from drug trafficking.

(3) For the purposes of sections 37 and 38, at any time when those powers are exercisable before proceedings have been instituted—

- (a) references in this Act to the defendant shall be construed as references to the person referred to in subsection (2)(a);
- (b) references in this Act to the prosecutor shall be construed as references to the person who the court is satisfied is to have the conduct of the proposed proceedings; and

- (c) references in this Act to realisable property shall be construed as if, immediately before that time, proceedings had been instituted against the person referred to in subsection (2)(a) for a drug trafficking offence.

(4) Where the court has made an order under section 37(1) or 38(1) by virtue of subsection (2), the court shall discharge the order if the proposed proceedings are not instituted within such time as the court considers reasonable.

37. (1) The court may by order, in this Act referred to as **Restraint orders** a "restraint order", prohibit any person from dealing with any realisable property, subject to such conditions and exceptions as may be specified in the order.

(2) A restraint order may apply—

- (a) to all realisable property held by a specified person, whether the property is described in the order or not; and
- (b) to realisable property held by a specified person, being property transferred to him after making of the order.

(3) This section shall not have effect in relation to any property for the time being subject to a charge under section 38.

(4) A restraint order—

- (a) may be made only on an application by the Director of Public Prosecutions;
- (b) may be made on an *ex parte* application to a judge in chambers; and
- (c) shall provide for the notice to be given to persons affected by the order.

(5) A restraint order—

- (a) may be discharged or varied in relation to any property; and
- (b) shall be discharged when proceedings for the offences are concluded.

(6) An application for the discharge or variation of a restraint order may be made by any person affected by it.

(7) Where the court has made a restraint order, the court may, at any time, appoint a receiver—

- (a) to take possession of any realisable property; and
- (b) in accordance with the court's directions, to manage or otherwise deal with any property in respect of which he is appointed,

subject to such exceptions and conditions as may be specified by the court, and may require any person having possession of property in respect of which a receiver is appointed under this section to give possession of it to the receiver.

(8) For the purposes of this section, dealing with property held by any person includes, without prejudice to the generality of the expression—

- (a) where a debt is owed to that person, making a payment to any person in reduction of the amount of the debt; and
- (b) removing the property from the Territory.

(9) Where the court has made a restraint order, a police officer may, for the purpose of preventing any realisable property being removed from the Territory, seize the property.

(10) Property seized under subsection (9) shall be dealt with in accordance with the court's directions.

Charging orders
in respect of
realisable
property and
securities, etc.

38. (1) The court may make a charging order on realisable property for securing the payment to the State—

- (a) where a confiscation order has not been made, of an amount equal to the value from time to time of the property charged; and
- (b) where a confiscation order has been made of an amount not exceeding the amount payable under the confiscation order.

(2) For the purposes of this Act, a charging order is an order made under this section imposing on any realisable property as may be specified in the order a charge for securing the payment of money to the State.

(3) A charging order—

- (a) may be made only on an application by the Director of Public Prosecutions;

- (b) may be made on an *ex parte* application to a judge in chambers;
 - (c) shall provide for notice to be given to persons affected by the order; and
 - (d) may be subject to such conditions as the Court thinks fit and, without prejudice to the generality of this paragraph, such conditions as it thinks fit at the time when the charge is to become effective.
- (4) Subject to subsection (6), a charge may be imposed by a charging order only on—
- (a) any interest in realisable property, being an interest held beneficially by the defendant or by a person to whom the defendant has directly or indirectly made a gift caught by this Act—
 - (i) in any asset of a kind mentioned in subsection (5); or
 - (ii) under any trust; or
 - (b) any interest in realisable property held by a person as trustee of a trust if the interest is in such an asset or is an interest under another trust and a charge may by virtue of paragraph (a) be imposed by a charging order on the whole beneficial interest under the first-mentioned trust.
- (5) The assets referred to in subsection (4) are—
- (a) land in the Territory; or
 - (b) securities of any of the following kinds—
 - (i) government stock;
 - (ii) securities of any body incorporated within the Territory;
 - (iii) securities of any body incorporated outside the Territory or of any country or territory outside the Territory being stock registered in a register kept at any place within the Territory;
 - (iv) units of any unit trust in respect of which a register of the unit holders is kept at any place within the Territory;

- (v) foreign securities transferable by delivery which are in the Territory.

(6) In any case where a charge is imposed by a charging order on any interest in an asset of a kind mentioned in subsection (5)(b), the court may provide for the charge to extend to any interest or dividend payable in respect of the asset.

(7) The court may make an order discharging or varying the charging order and shall make an order discharging the charging order if the proceedings for the offence are concluded or the amount, payment of which is secured by the charge is paid into court.

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(8) The Remedies of Creditors Act shall apply in relation to charging orders as they apply in relation to orders issued or made for the purpose of enforcing judgement and *lis pendens*.

Realisation
of property

39. (1) Where in proceedings instituted for a drug trafficking offence a confiscation order that is not subject to appeal is made, and the proceedings have not been concluded, on an application by the Director of Public Prosecutions, the court may—

- (a) appoint a receiver in respect of realisable property;
- (b) empower a receiver appointed under subparagraph (a), section 37 or in pursuance of a charging order—
 - (i) to enforce any charge imposed under section 38 on realisable property or on interest or dividends payable in respect of such property;
 - (ii) in relation to any realisable property other than property for the time being subject to a charge under section 38, to take possession of the property subject to such conditions or exceptions as may be specified by the court;
- (c) order any person having possession of realisable property to give possession of it to any such receiver;

- (d) empower any such receiver to realise any realisable property in such manner as the court may direct;
- (e) order any person holding an interest in realisable property to make such payment to the receiver in respect of any beneficial interest held by the defendant or, as the case may be, the recipient of a gift caught by this Act as the court may direct and, on the payment being made, by order, transfer, grant or extinguish any interest in the property.

(2) Subsections (1)(c) to (e) do not apply to property for the time being subject to a charge under section 38.

(3) The court shall not in respect of any property exercise the powers conferred by paragraph (b)(i), (d) or (e) of subsection (1) unless a reasonable opportunity has been given for persons holding any interest in the property to make representations to the court.

40. (1) Subject to subsection (2), the following sums in the hands of a receiver appointed under section 37 or 39 or in pursuance of a charging order, that is—

Application of
proceeds of
realisation and
other sums

- (a) the proceeds of the enforcement of any charge imposed under section 38;
- (b) the proceeds of the realisation, other than by the enforcement of such a charge, of any property under section 37 or 38; and
- (c) any other sums, being property held by the defendant,

shall, after such payments, if any, as the court may direct, have been made out of those sums, be applied on the defendant's behalf towards the satisfaction of the confiscation order.

(2) If, after the amount payable under the confiscation order has been fully paid, any sums remain in the hands of the receiver, the receiver shall distribute those sums among such of those who held property which has been realised under this Act, and in such proportions as the court may direct after giving reasonable opportunity for such persons to make representations to the court.

(3) The receipt of any sum by the court on account of an amount payable under a confiscation order shall reduce the amount so payable, but the sum shall be applied as follows:

- (a) if paid by a receiver under subsection (1), it shall first be applied in payment of his remuneration and expenses;
- (b) subject to paragraph (a), it shall be applied in reimbursement of any sums paid by the State under section 45(2),

and the balance shall be treated as if it were a fine imposed by the Court.

Exercise of powers
by court or
receiver

41. (1) This section applies to the powers conferred on the court by sections 37 to 40, or on a receiver appointed under section 37 or 39 or in pursuance of a charging order.

(2) Subject to this section, the powers referred to in subsection (1) shall be exercised with a view to making available for satisfying the confiscation order or, as the case may be, any confiscation order that may be made in the defendant's case the value for the time being of realisable property held by any person by the realisation of such property.

(3) In the case of realisable property held by a person to whom the defendant has directly or indirectly made a gift caught by this Act, the powers shall be exercised with a view to realising no more than the value for the time being of the gift together with all costs incurred in such realisation.

(4) An order may be made or other action taken in respect of a debt owed by the State.

(5) In exercising those powers, no account shall be taken of any obligations of the defendant or of the recipient of any such gift which conflict with the obligation to satisfy the confiscation order.

Variation of
confiscation
orders

42. (1) If, on an application by the defendant in respect of a confiscation order, the court is satisfied that the realisable property is inadequate for the payment of any amount remaining to be recovered under the order the court shall issue a certificate to that effect, giving the court's reasons.

(2) For the purposes of subsection (1)—

- (a) in the case of realisable property held by a person who has been adjudged bankrupt the court shall take into account the extent to which any property held by him may be distributed among creditors; and
- (b) the court may disregard any inadequacy in the realisable property which appears to the court to be attributable wholly or partly to anything done by the defendant for the purpose of preserving any property held by a person to whom the defendant had directly or indirectly made a gift caught by this Act from any risk of realisation under this Act.

(3) Where a certificate has been issued under subsection (1), the defendant may apply to the court for the amount to be recovered under the order to be reduced.

(4) The court shall, on an application under subsection (3)—

- (a) substitute for the amount to be recovered under the order such lesser amount as the court thinks just in all the circumstances of the case; and
- (b) substitute for the term of imprisonment or of detention in respect of the amount to be recovered under the order such shorter term in respect of the lesser amount as the court thinks just in all the circumstances of the case.

43. (1) Where a person who holds realisable property is ^{Bankruptcy of defendant} adjudged bankrupt—

- (a) property for the time being subject to a restraint order made before the order adjudging him bankrupt; and
- (b) any proceeds of property realised by virtue of section 37(7) or 39(1)(f) or (g) for the time being in the hands of a receiver appointed under section 37 or 39,

are excluded from the bankrupt's estate for the purpose of the Bankruptcy Act.

(2) Where a person has been adjudged bankrupt, the powers conferred on the court by sections 37 to 40 shall not be exercised in relation to property for the time being comprised in the bankrupt's estate for the purpose of sections 37 to 40.

Winding up of
company holding
realisable property

44. (1) Where realisable property is held by a company and an order for the winding up of the company has been made or a resolution has been passed by the company for the voluntary winding up, the functions of the liquidator shall not be exercisable in relation to—

- (a) property for the time being subject to a restraint order made before the relevant time; and
- (b) any proceeds of property realised by virtue of section 37(7) or 39(1)(f) or (g) for the time being in the hands of a receiver appointed under section 37 or 38,

but there shall be payable out of such property any expenses, including the remuneration of the liquidator, properly incurred in the winding up in respect of the property.

(2) Where, in the case of a company, such an order has been made or such a resolution has been passed, the powers conferred on the court by sections 37 to 40 or on a receiver so appointed shall not be exercised in relation to which the functions of the liquidator are exercisable—

- (a) so as to inhibit him from exercising those functions for the purpose of distributing any property held by the company to the company's creditors; or
- (b) so as to prevent the payment out of any property of expenses, including the remuneration of the liquidator, properly incurred in the winding up in respect of the property.

(3) Subsection (2) does not affect the enforcement of a charging order made before the relevant time or on property which was subject to a restraint order at the relevant time.

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(4) Nothing in the Companies Ordinance shall be taken as restricting or enabling the restriction of the exercise of powers under this section.

(5) In this section—

“company” means any company which may be wound up under the Companies Ordinance; and

“the relevant time” means—

- (a) where no order for the winding up of the company has been made, the time of the passing of the resolution for voluntary winding up;
- (b) where such an order has been made and, before the presentation of the petition for the winding up of the company by the court, such a resolution had been passed by the company, the time of the passing of the resolution; and
- (c) in any other case where such an order has been made, the time of the making of the order.

45. (1) Where a receiver appointed under section 37 or 39 or in pursuance of a charging order takes any action— Receivers supplementary provisions

- (a) in relation to property which is not realisable property, being action which he would be entitled to take if it were such property;
- (b) believing, and having reasonable grounds for believing, that he is entitled to take that action in relation to that property,

he shall not be liable to any person in respect of any loss or damage resulting from his action except in so far as the loss or damage is caused by his negligence.

(2) Any amount due in respect of the remuneration and expenses of a receiver shall be paid by the State—

- (a) where a receiver is appointed under section 37 or 39 or in pursuance of a charging order and no sum is available to be applied in payment of it under section 40(3)(a); or
- (b) where proceedings for a drug trafficking offence are not instituted.

46. (1) If proceedings are instituted against a person for Compensation a drug trafficking offence and either—

- (a) the proceedings do not result in his conviction or convictions for any drug trafficking offence,
- or

- (b) where he is convicted of one or more drug trafficking offences the convictions concerned are quashed, and no conviction for any drug trafficking offence is substituted,

the court may, on an application by a person who held property which was realisable property, order compensation to be paid to the applicant.

(2) The court shall not order compensation to be paid in any case unless the court is satisfied—

- (a) that there has been some serious default on the part of a person concerned in the investigation or prosecution of the offence or offences concerned, and that, but for the default, the proceedings would not have been instituted or continued, and
- (b) that the applicant has suffered substantial loss in consequence of anything done in relation to the property by or in pursuance of an order of the court under sections 37 to 39.

(3) The amount of compensation to be paid under this section shall be such as the court thinks just in all the circumstances of the case.

Assisting another
to retain the
benefit of
drug trafficking

47. (1) Subject to subsection (3), if a person enters into or is otherwise concerned in an arrangement whereby—

- (a) the retention or control by or on behalf of another (hereinafter called "A") of A's proceeds of drug trafficking is facilitated, whether by concealment, removal from the jurisdiction, transfer to nominees or otherwise, or

(b) A's proceeds of drug trafficking—

- (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 that A is a person who carries on or has carried on drug trafficking or has benefited from drug trafficking, he is guilty of an offence.

(2) In this section, references to any person's proceeds of drug trafficking include a reference to any property which in whole or in part directly or indirectly represents in his hands his proceeds of drug trafficking.

(3) Where a person discloses to a police officer a suspicion or belief that any funds or investments are derived from or used in connection with drug trafficking or any matter on which such a suspicion or belief is based—

- (a) the disclosure shall not be treated as a breach of any restriction upon the disclosure of information imposed by contract or professional duty; and
- (b) if he does any act in contravention of subsection (1) and the disclosure relates to the arrangement concerned, he does not commit an offence under this section if the disclosure is made in accordance with this paragraph, that is—
 - (i) it is made in a reasonable time and in all circumstances before he does the act concerned, being an act done with the knowledge of, and not contrary to the reasonable directions of the police officer; or
 - (ii) it is made after he does the act, but is made on his initiative and as soon as it is reasonable for him to make it.

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

- (a) that he did not know or suspect that the arrangement related to any person's proceeds of drug trafficking; or
- (b) that he did not know or suspect that by the arrangement the retention or control by or on behalf of A of any property was facilitated or, as the case may be, that by the arrangement any property was used as mentioned in subsection (1); or
- (c) that,—
 - (i) he intended to disclose to a police officer such a suspicion, belief or matter as is mentioned in subsection (3) in relation to the arrangement; but
 - (ii) there is reasonable excuse for his failure to make disclosure in accordance with subsection (3)(b).

(5) A person guilty of an offence under this section shall be liable—

- (a) on summary conviction, to a fine of five thousand dollars and to imprisonment for five years; and
- (b) on conviction on indictment to a fine of twenty-five thousand dollars or one half of the value of A's proceeds of drug trafficking whichever is greater and to imprisonment for ten years.

PART VII

INVESTIGATIONS INTO DRUG TRAFFICKING

Order to make
material available

48. (1) A police officer may, for the purpose of an investigation into drug trafficking, apply to a judge in chambers for an order under subsection (2).

(2) If on such application the judge is satisfied that the conditions in subsection (4) are fulfilled he may make an order—

- (a) that the person who appears to him to be in possession of particular material or material of a particular description to which the application relates shall—
 - (i) produce it to a police officer for him to take away;
 - (ii) give a police officer access to it; or
- (b) that the person being a relative or associate of such person shall within such period as the order may specify make a statutory declaration—
 - (i) identifying each item of property, whether within or outside the Territory, belonging to or possessed by such person;
 - (ii) identifying each property sent out of the Territory by such persons during such period as may be specified in the notice;
 - (iii) setting out the estimated value and location of each of the properties identified under subparagraphs (i) and (ii);

(iv) stating in respect of each of the properties identified under subparagraphs (i) and (ii) whether the property is held by such person or by any other person on his behalf, whether it has been transferred, sold to, or kept with any other person.

(3) The period to be specified in an order under subsection (2) shall be seven days unless it appears to the judge that a longer or shorter period would be appropriate in the particular circumstances of the application.

(4) The conditions referred to in subsection (2) are—

- (a) that there are reasonable grounds for suspecting that a specified person has carried on or has benefited from drug trafficking;
- (b) that there are reasonable grounds for suspecting that the material or the declaration to which the application relates—
 - (i) is likely to be of substantial value, whether by itself or together with other material, to the investigation for the purpose of which the application is made; and
 - (ii) the material does not consist of or include items subject to legal privilege or excluded material; and
- (c) that there are reasonable grounds for believing that it is in the public interest, having regard—
 - (i) to the benefit likely to accrue to the investigation if the material is obtained or the declaration made; and
 - (ii) to the circumstances under which the person in possession of the material holds it, or the relationship or dealings of the person required to make the declaration with the specified person referred to in subparagraph (a),

that the material should be produced or that access to it should be given or that the declarations be made.

(5) Where the judge makes an order under subsection (2)(b) in relation to material on any premises, he may, on the application of a police officer, order any person who appears to him to be entitled to grant entry to the premises, to allow a police officer to enter the premises to obtain access to the material.

(6) Provision may be made by rules of court as to—

- (a) the discharge and variation of orders under this section; and
- (b) proceedings relating to such orders.

(7) Where the material to which an application under this section relates consists of information contained in a computer—

- (a) an order under subsection (2)(a)(i) shall have effect as an order to produce the material in a form in which it can be taken away and in which it is visible and legible; and
- (b) an order under subsection (2)(a)(ii) shall have effect as an order to give access to the material in a form in which it is visible and legible.

(8) An order under subsection (2)—

- (a) shall not confer any right to production of, or access to or disclosure of, items subject to legal privilege or excluded material;
- (b) shall have effect notwithstanding any obligation as to secrecy or other restriction upon the disclosure of information imposed by statute or otherwise; and
- (c) may be made in relation to material in the possession of a government department.

(9) In this section—

“associate” in relation to a person includes—

- (a) any person who was or is residing in the residential premises (including appurtenances) of such person;
- (b) any person who was or is an agent or nominee of such person;
- (c) any person who was or is managing the affairs of keeping the accounts of such person;

- (d) any partnership firm of which such person, or agent or nominee of his, is or was a partner or a person in charge or control of its business or affairs;
- (e) any company within the meaning of the Companies Ordinance, of which such person, or any agent or nominee of his, was or is a director or had been or is in charge of or control of its business or affairs, or in which such person, together with any agent or nominee of his, has or had held shares to the total value of not less than ten per centum of the total issued capital of the company;
- (f) any person who was or is keeping the accounts of any partnership firm or corporation referred to in paragraph (d) or (e);
- (g) the trustee of any trust, where—
 - (i) the trust was created by such person; or
 - (ii) the total value of the assets contributed by such person to the trust at any time, whether before or after the creation of the trust, amounts, or had amounted, at any time, to not less than twenty per centum of the total value of the assets of the trust;
- (h) any person who has in his possession any property belonging to such person; and
- (i) any person who is indebted to such person;

“relative”, in relation to a person, means—

- (a) spouse of the person;
- (b) brother or sister of the person;
- (c) brother or sister of the spouse of the person;

- (d) any lineal ascendant or descendant of the person;
- (e) any lineal ascendant or descendant of the spouse of the person;
- (f) spouse of a person referred to in paragraph (b), (c), (d) or (e);
- (g) any lineal descendant of a person referred to in paragraph (b) or (c).

Authority for
search

49. (1) A police officer may, for the purpose of an investigation into drug trafficking, apply to a judge for a warrant under this section in relation to specified premises.

(2) On such application the judge may issue a warrant authorising a police officer to enter and search the premises if he is satisfied—

- (a) that an order made under section 48 in relation to material on the premises has not been complied with;
- (b) that the conditions in subsection (3) are fulfilled; or
- (c) that the conditions in subsection (4) are fulfilled.

(3) The conditions referred to in subsection (2)(b) are—

- (a) that there are reasonable grounds for suspecting that a specified person has carried on or has benefited from drug trafficking;
- (b) that the conditions in section 48(4)(b) and (c) are fulfilled in relation to any material on the premises; and
- (c) that it would not be appropriate to make an order under that section in relation to the material because—
 - (i) it is not practicable to communicate with any person entitled to produce the material;
 - (ii) it is not practicable to communicate with any person entitled to grant access to the material or entitled to grant entry to the premises on which the material is situated; or

- (iii) the investigation for the purposes of which the application is made might be seriously prejudiced unless a police officer could secure immediate access to the material.

(4) The conditions referred to in subsection (2)(c) are—

- (a) that there are reasonable grounds for suspecting that a specified person has carried on or has benefited from drug trafficking; and
- (b) that there are reasonable grounds for suspecting that there is on the premises material relating to the specified person or to drug trafficking which is likely to be of substantial value, whether by itself or together with other material, to the investigation for the purpose of which the application is made, but that the material cannot at the time of the application be particularised; and
- (c) that—
 - (i) it is not practicable to communicate with any person entitled to grant entry to the premises;
 - (ii) entry to the premises will not be granted unless a warrant is produced; or
 - (iii) the investigations for the purpose of which the application is made might be seriously prejudiced unless a police officer arriving at the premises could secure immediate entry to them.

(5) Where a police officer has entered premises in the execution of a warrant issued under this section, he may seize and retain any material, other than items subject to legal privilege and excluded material, which is likely to be of substantial value, whether by itself or together with other material, to the investigation for the purpose of which the warrant was issued.

(6) The person to whom a search warrant is issued shall furnish a report in writing to the judge who issued the warrant—

- (a) stating whether or not the warrant was executed;

- (b) if the warrant was executed, setting out briefly the result of the execution of the warrant including a brief description of anything seized;
- (c) if the warrant was not executed, setting out briefly the reasons why the warrant was not executed.

(7) A report with respect to a search warrant shall be made within ten days after the execution of the warrant or the expiry of the warrant whichever first occurs and if the judge who issued the search warrant died, has ceased to be a judge or is absent, the report shall be furnished to the Chief Justice.

Supplementary
provisions to
sections 48 and 49

50. (1) Subject to subsection (2), in sections 48 and 49 "items subject to legal privilege" means—

- (a) communications between a professional legal adviser and his client made in connection with the giving of legal advice to the client;
- (b) communications between a professional legal adviser and his client or between such an adviser or his client made in connection with or in contemplation of legal proceedings and for the purposes of such proceedings; and
- (c) items enclosed with or referred to in such communications and made—
 - (i) in connection with the giving of legal advice; or
 - (ii) in connection with or in contemplation of legal proceedings and for the purposes of such proceedings,

when they are in the possession of a person who is entitled to possession of them.

(2) Items held with the intention of furthering a criminal purpose are not items subject to legal privilege.

(3) Subject to subsections (4) and (5), in sections 48 and 49 "excluded material" means—

- (a) personal records which a person has acquired or created in the course of any trade, business, profession or other occupation or for the purposes of any paid or unpaid office and which he holds in confidence;

- (b) human tissue or tissue fluid which has been taken for the purpose of diagnosis or medical treatment and which a person holds in confidence;
- (c) journalistic material which a person holds in confidence and which consists—
 - (i) of documents; or
 - (ii) of records other than documents.

(4) A person holds material other than journalistic material in confidence for the purposes of this section if he holds it subject—

- (a) to an express or implied undertaking to hold it in confidence; or
- (b) to a restriction on disclosure or an obligation of secrecy contained in any enactment, including an enactment contained in an Act of Parliament passed after this Act.

(5) A person holds journalistic material in confidence for the purpose of this section if—

- (a) he holds it subject to such an undertaking, restriction or obligation; and
- (b) it has been continuously held, by one or more persons, subject to such an undertaking, restriction or obligation since it was first acquired or created for the purposes of journalism.

(6) Subject to subsection (7), in this Act “journalistic material” means material acquired or created for the purposes of journalism.

(7) Material is only journalistic material for the purposes of this Act if it is in the possession of a person who acquired or created it for the purposes of journalism.

(8) A person who receives material from someone who intends that the recipient shall use it for the purpose of journalism is to be taken to have acquired it for those purposes.

(9) In sections 48 and 49 “premises” includes any place and, in particular, includes—

- (a) any vehicle, vessel, aircraft;
- (b) any offshore installation; and
- (c) any tent or movable structure.

Disclosure of
information held
by government
departments

51. (1) Subject to subsection (4), the court may on an application by the Director of Public Prosecutions order any material mentioned in subsection (3) which is in the possession of a government department to be produced to the court within such period as the court may specify.

(2) The power to make an order under subsection (1) is exercisable if—

(a) the powers conferred on the court by sections 37(1) and 41(1) are exercisable by virtue of section 36(1); or

(b) those powers are exercisable by virtue of section 36(2) and the court has made a restraint or charging order which has not been discharged,

but where the power to make an order under subsection (1) is exercisable by virtue only of paragraph (b), section 36(3) shall apply for the purposes of this section as it applies for the purposes of sections 37 and 38.

(3) The material referred to in subsection (1) is any material which—

(a) has been submitted to an officer of a government department by the defendant or by a person who has at any time held property which was realisable property;

(b) has been made by an officer of a government department in relation to the defendant or a person, referred to in paragraph (a); or

(c) is correspondence which passed between an officer of a government department and the defendant or a person, referred to in paragraph (a),

and an order under that subsection may require the production of all such material or of a particular description of such material, being material in the possession of the department concerned.

(4) An order under subsection (1) shall not require the production of any material unless it appears to the court that the material is likely to contain information that would facilitate the exercise of the powers conferred on the court by sections 37 and 39 or on a receiver appointed under section 37 or 39 or in pursuance of a charging order.

(5) The court may by order authorise the disclosure to such a receiver of any material produced under subsection (1) or any part of such material but the court shall not make an order under this subsection unless a reasonable opportunity has been given for an officer of the department to make representations to the court.

(6) Material disclosed in pursuance of an order under subsection (5) may, subject to any conditions contained in the order, be further disclosed for the purposes of the functions under this Act of the receiver or the court.

(7) The court may, by order, authorise the disclosure to a person mentioned in subsection (8) of any material produced under subsection (1) or any part of such material but the court shall not make an order under this subsection unless—

(a) a reasonable opportunity has been given for an officer of the department to make representations to the court; and

(b) it appears to the court that the material is likely to be of substantial value in exercising functions relating to drug trafficking.

(8) The persons referred to in subsection (7) are—

(a) a police officer; and

(b) the Director of Public Prosecutions or his nominee.

(9) Material disclosed in pursuance of an order under subsection (7) may, subject to any conditions contained in the order, be further disclosed for the purpose of functions relating to drug trafficking.

(10) Material may be produced or disclosed in pursuance of this section notwithstanding any obligation as to secrecy or other restriction upon the disclosure of information imposed by statute or otherwise.

(11) An order under subsection (1) and, in the case of material in the possession of a government department, an order under section 48(2) may require any officer of the department, whether named in the order or not, who may for the time being be in possession of the material concerned to comply with it, and such an order shall be served as if the proceedings were civil proceedings against the department.

(12) The person on whom such an order is served—

- (a) shall take all reasonable steps to bring it to the attention of the officer concerned; and
- (b) if the order is not brought to that officer's attention within the period referred to in subsection (1), shall report the reasons for the failure to the court,

and it shall also be the duty of any other officer of the department in receipt of the order to take such steps as are mentioned in paragraph (a).

Offence of
prejudicing
investigation

52. (1) Where, in relation to an investigation into drug trafficking, an order under section 48 has been made or has been applied for and has not been refused or a warrant under section 49 has been issued, a person who, knowing or suspecting that the investigation is taking place, makes any disclosure which is likely to prejudice the investigation is guilty of an offence.

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

- (a) that he did not know or suspect that the disclosure was likely to prejudice the investigation; or
- (b) that he had lawful authority or reasonable excuse for making the disclosure.

(3) A person who is guilty of an offence under this section shall be liable—

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

PART VIII

FORFEITURE ORDERS

Forfeiture
orders

53. (1) Where a person is convicted of a drug trafficking offence and the court by or before which he is convicted is satisfied that any property which was in his possession or under his control at the time of his apprehension—

- (a) has been used for the purpose of committing a drug trafficking offence;

- (b) has been used for the purpose of facilitating the commission of a drug trafficking offence; or
- (c) was intended by him to be used for the purpose of committing a drug trafficking offence,

the court may make an order for forfeiture of that property under this section.

(2) Facilitating the commission of an offence shall be taken for the purpose of this section to include the taking of any steps after it has been committed for the purpose of disposing of any property to which it relates or of avoiding apprehension or detection.

PART IX

MISCELLANEOUS

54. (1) No witness in any proceedings under this Act shall be obliged—

Protection of
Informants

- (a) to disclose the name and address of any informer who has given information with respect to an offence under this Act, or with respect to any matter relating to or leading to any proceedings under the Act; or
- (b) to answer any question if the answer thereto would lead, or would tend to lead, to the discovery of the name or address of such informer.

(2) Where any book, document or paper which is in evidence or liable to inspection in any proceedings under this Act contains an entry in which any informer is named or described or which might lead to his discovery, the court shall cause all such entries to be concealed from view or to be obliterated so far as may be necessary to protect the informer from discovery.

55. (1) No notice, notification or other process, issued, served or published, and no order, decision or judgment made, given, issued, served or published, under this Act shall be deemed to be invalid by reason of any error or

Notice or order
not to be
invalid for error
in description

omission in the description of the property or person mentioned therein if such property or person is identifiable from the description so mentioned.

(2) Without prejudice to subsection (1), where any order has been made, or a decision or judgment given, by any court in any proceedings under this Act, any error or omission in the order, decision or judgment relating to the description of any property or person may at any time be rectified by the court on its own motion or on the application of any party or any person affected by the order, decision or judgment.

**Power of
police officer
under other
written laws**

56. The provisions of this Act in so far as they relate to powers shall be in addition to the powers of a police officer under any other written law relating to criminal procedure and not in derogation thereof, but in the event of inconsistency or conflict between the provisions of this Act and those of such other written law, the provisions of this Act shall prevail.

Regulations

57. (1) The Minister may make regulations for carrying out the purposes and provisions of this Act and, without limiting the generality of the foregoing, may make regulations—

- (a) with respect to the issue and duration and the terms and forms of the several licences that may be issued under section 4 and to the payment of fees for them;
- (b) for the use, purchase, sale or possession of any dangerous drugs for medicinal or scientific purposes;
- (c) for the revocation of licences;
- (d) prescribing the form of prescription and specifying the dangerous drugs that may be sold by a pharmacist on the oral prescription of a medical practitioner, dentist or veterinary surgeon;
- (e) for the prescription, ordering, administration, sale, or furnishing of a dangerous drug by a dentist or a veterinary surgeon;

- (f) for the exemption from any of the provisions of this Act of preparations containing dangerous drugs when suitably medicated with drugs other than dangerous drugs and the conditions under which such exempted preparations may be sold;
- (g) requiring medical practitioners, dentists, veterinary surgeons, pharmacists and other persons who deal in dangerous drugs as authorized by this Act to keep records and make returns;
- (h) prescribing that any contravention of specified regulations shall constitute an offence; and
- (i) prescribing anything required to be prescribed under this Act.

(2) The Minister to whom responsibility for the administration of Finance is assigned may make regulations for the seizure of any article or thing which is liable to forfeiture under this Act.

58. A person who fails to carry out or observe the provisions of any regulation the contravention of which is stated in the regulations to constitute an offence is liable on summary conviction to a fine of two thousand dollars and to imprisonment for six months. Penalties under regulations

59. The Minister may by order add substances to the First and Second Schedules and may from time to time delete therefrom any dangerous drug, the inclusion or exclusion of which is by him deemed necessary in the public interest. Additions to Schedule

60. (1) The following written laws are repealed:
- (a) the Narcotic Control Ordinance; and
 - (b) the Narcotic Drugs and Psychotropic Substances Control Act, 1985.
- Repeal and savings Ordinance No. 27 of 1981, Act No. 37 of 1985

(2) Notwithstanding the repeal of the Ordinance and the Act referred to in subsection (1) anything done or any action taken under the Ordinance or the Act, shall be deemed to have been done or taken under the corresponding provisions of this Act.

(3) The enactments listed in the First Column of the Third Schedule are amended to the extent set out in the Second Column of that Schedule. Third Schedule

FIRST SCHEDULE

(Section 3)

List of Narcotic Drugs

1. Opium Poppy (*Papaver somniferum*) its preparations, derivatives, alkaloids and salts, as for example:

- (1) Opium
- (2) Codeine (3-methylmorphine)
- (3) Morphine
- (4) Narcotine
- (5) Papaverine
- (6) Thebaine, and their preparations, derivatives and salts, as for example
- (7) Actorphine (3-O-acetyl-7-(1-hydroxy-1-methylbutyl)-6,14-endoetheno-orphavine]
- (8) Acetyldihydrocodeine
- (9) Benzylmorphine (3-benzylmorphine)
- (10) Codoxime (dihydro codeinone-6-carboxymethyloxime)
- (11) Desomorphine (dihydrocodeine)
- (12) Dihydrocodeine
- (13) Dihydromorphine
- (14) Ethylmorphine (3-ethylmorphine)
- (15) Etorphine [tetrahydro-7-(1-hydroxy-1-methylbutyl)-6,14-endoetheno-orphavine]
- (16) Heroin
- (17) Hydrocodone (dihydrocodeinone)
- (18) Hydromorphone (dihydromorphinone)
- (19) Hydromorphenol (14-hydroxydihydromorphine)
- (20) Methyldesorphine (6-methyl-delta-6-deoxymorphine)
- (21) Methyldihydromorphine (6-methyldihydromorphine)
- (22) Metopon (5-methyldihydromorphinone)
- (23) Morphine Methobromide and other pentavalent nitrogen morphine derivatives, including in particular the morphine-N-oxide derivatives, one of which is Codeine-N-Oxide
- (24) Morphine-N-Oxide
- (25) Myrophine (myristylbenzylmorphine)
- (26) Nalorphine (N-allylnormorphine)
- (27) Nicocodine (6-nicotinylcodeine)
- (28) Nicodicodine (6-nicotinyldihydrocodeine)
- (29) Nicomorphine (3,6-dinicotinylmorphine)
- (30) Norcodeine (N-demethylcodeine)
- (31) Norinorphine (demethylmorphine) or (N-demethylated morphine)
- (32) Oxycodone (14-hydroxydihydrocodeinone)
- (33) Oxymorphone (14-hydroxydihydromorphinone)
- (34) Pholcodine (morpholinylethylmorphine)
- (35) Thebacon (acetyldihydrocodeinone) but not including
- (36) Apomorphine, and
- (37) Poppy seed.

FIRST SCHEDULE—Continued

2. A. Coca (Erythroxylon), its preparations, derivatives alkaloids and salts, as for example:
 - (1) Coca leaf
 - (2) Cocaine (methyl ester of benzoylecgonine)
 - (3) Ecgonine, its esters and derivatives which are convertible to ecgonine and cocaine.
- B. Synthetic cocaine.
3. Cannabis, Cannabis sativa, Cannabis sativa L, their preparations, derivatives and similar synthetic preparations, as for example:
 - (1) Cannabis resin
 - (2) Cannabis (marihuana)
 - (3) Cannabinol (3-n-amy-6, 6, 9-trimethyl-6-dibenzopyran-1-ol).
4. Phenylpiperidines, their preparations, derivatives and salts, as for example:
 - (1) Alfentanil (N-(1-(2-(4-ethyl-4,5-dihydro-5-oxo-1H-tetrazol-1-ylethyl)-4-(methoxymethyl)-4-piperidinyl)-N-phenylpropanamide monohydrochloride
 - (2) Allylprodine (3-allyl-1-methyl-4-phenyl-4-propionoxypiperidine)
 - (3) Alphameprodine (alpha-3 ethyl-1-methyl-4-phenyl-4-propionoxypiperidine)
 - (4) Alphaprodine (alpha-1,3-dimethyl-4-phenyl-4-propionoxypiperidine)
 - (5) Anileridine (1-para-aminophenethyl-4-phenylpiperidine-4-carboxylic acid ethyl ester)
 - (6) Anopridine (ethyl-(3-(phenylamino propyl)-4-phenylpiperidine-4-carboxylate)
 - (7) Benzethidine (1-(2-benzyloxyethyl)-4-phenylpiperidine-4-carboxylic acid ethyl ester)
 - (8) Betameprodine (beta-3-ethyl-1-Methyl-4-phenyl-4-propionoxypiperidine,
 - (9) Betaprodine (beta-1,3-dimethyl-4-phenyl-4-propionoxypiperidine)
 - (10) Bezitramido (1-(3-cyano-3,3-diphenylpropyl)-4-(2-oxo-3-propionyl-1-benzimidazoliny)-piperidine)
 - (11) Diphenoxylate (1-(3-cyano-3,3-diphenylpropyl)-4-phenylpiperidine-4-carboxylic acid ethyl ester)
 - (12) Etixeridine (1-(2-(2-hydroxyethoxy)-ethyl)-4-phenylpiperidine-4-carboxylic acid ethyl ester)
 - (13) Fentanyl (1-phenethyl-4-N-propionylanilinopiperidine)
 - (14) Furethidine (1-(2-tetrahydrofurfuryloxyethyl)-4-phenylpiperidine-4-carboxylic acid ethyl ester)
 - (15) Hydroxypethidine (4-meta-hydroxyphenyl-1-methylpiperidine-4-carboxylic acid ethyl ester)
 - (16) Ketobemidone (4-meta-hydroxyphenyl-1-methyl-4-propionylpiperidine)
 - (17) Morpheridine (1-(2-morpholinoethyl)-4-phenylpiperidine-4-carboxylic acid ethyl ester)

FIRST SCHEDULE—Continued

- (18) Pethidine (1-methyl-4-phenylpiperidine-4-carboxylic acid ethyl ester)
- (19) Pethidine-Intermediate-A (4-cyano-1-methyl-4-phenylpiperidine)
- (20) Pethidine-Intermediate-B (4-phenylpiperidine-4-carboxylic acid ethyl ester)
- (21) Pethidine-Intermediate-C (1-methyl-4-phenylpiperidine-4-carboxylic acid)
- (22) Phenampromide (N-(1-methyl-2-piperidinoethyl)-propionanilide)
- (23) Phonoperidine (1-(3-hydroxy-3-phenylpropyl)-4-phenylpiperidine-4-carboxylic acid ethyl ester)
- (24) Piminodine (4-phenyl-1-(3-phenylaminopropyl)-piperidine-4-carboxylic acid ethyl ester)
- (25) Pirtramide (1-(3-cyano-3,3-diphenylpropyl)-4-(1-piperidine)-piperidine-4-carboxylic acid amide)
- (26) Properidine (1-methyl-4-phenylpiperidine-4-carboxylic acid isopropyl ester)
- (27) Propiram (N-(1-methyl-2-piperidinoethyl)-N-2-pyridylpropionamide)
- (28) Sufentanil (N-(4-(methoxymethyl)-1-(2-thienyl)-4-piperidyl)-propionanilide)
- (29) Trimeperidine (1,2,5-trimethyl-4-phenyl-4-propionoxypiperidine)

5. Phenazepines, their preparations, derivatives and salts, as for example:

- (1) Proheptazine (hexahydro-1,3-dimethyl-4-phenyl-4-azepinyl propionate), but not including:
- (2) Ethoheptazine (ethyl hexahydro-1-methyl-4-phenyl-4-azepinecarboxylate)

6. Amidones, their preparations, derivatives and salts, as for example:

- (1) Dipipanone (4,4-diphenyl-6-piperidine-3-heptanone)
- (2) Isomethadone (6-dimethylamino-5-methyl-4-diphenyl-3-hexanone)
- (3) Methadone (6-dimethylamino-4,4-diphenyl-3-heptanone)
- (4) Methadone-Intermediate (4-cyano-2-dimethylamino-4,4-diphenylbutane)
- (5) Normethadone (6-dimethylamino-4,4-diphenyl-3-hexanone)
- (6) Phenadoxone (6-morpholino-4,4-diphenyl-3-heptanone)

7. Methadols, their preparations, derivatives and salts, as for example:

- (1) Acetylmethadol (3-acetoxy-6-dimethylamino-4,4-dephenylheptane)
- (2) Alphacetylmethadol (alpha-3-acetoxy-6-dimethylamino-4,4-diphenylheptane)
- (3) Alphamethadol (alpha-6-dimethylamino-4,4-diphenyl-3-heptanol)
- (4) Betaacetylmethadol (beta-3-acetoxy-6-dimethylamino-4,4-diphenylheptane)

FIRST SCHEDULE—*Continued*

- (5) Betamethadol (beta-6-dimethylamino-4, 4-diphenyl-3-heptanol)
- (6) Dimepheptanol (6-dimethylamino-4, 4-diphenyl-3-heptanol)
- (7) Noracymethadol ((±)-alpha-3-acetoxy-6-methylamino-4, 4-diphenylheptane)

8. Phenalkoxams, their preparations, derivatives and salts, as for example:

- (1) Dextropropoxyphene (x-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-butanol propionate)
- (2) Dimenoxadol (2-dimethylaminoethyl-1-ethoxy-1, 1-diphenylacetate)
- (3) Dioxaphetyl butyrate (ethyl-4-morpholino-2, 2-diphenylbutyrate)

9. Thiambutenes, their preparations, derivatives and salts, as for example:

- (1) Diethylthiambutene (3-diethylamino-1, 1-di-(2'-thienyl)-1-butene)
- (2) Dimethylthiambutene (3-dimethylamino-1, 1-di (2'-thienyl)-1-butene)
- (3) Ethylmethylthiambutene (3-ethylmethylamino-1, 1-di-(2'-thienyl)-1-butene)

10. Moramides, their preparations, derivatives and salts, as for example:

- (1) Dextromoramide ((+)-4-[2-methyl-4-oxo-3, 3-diphenyl-4-(1-pyrrolidinyl)-butyl]-morpholine)
- (2) Levomoramide ((-)-4-[2-methyl-4-oxo-3, 3-diphenyl-4-(1-pyrrolidinyl)-butyl]-morpholine)
- (3) Racemoramide ((±)-4-[2-methyl-4-oxo-3, 3-diphenyl-4-(1-pyrrolidinyl)-butyl]-morpholine)

11. Morphinans, their preparations, derivatives and salts, as for example:

- (1) Drotebanol (3, 4-dimethoxy-17-methylmorphinan-6B, 14-diol)
- (2) Levomethorphan ((-)-3-methoxy-N-methylmorphinan)
- (3) Levorphanol ((-)-3-hydroxy-N-methylmorphinan)
- (4) Norlevorphanol ((-)-3-hydroxymorphinan)
- (5) Phenomorphan (3-hydroxy-N-phenethylmorphinan)
- (6) Racemethorphan ((±)-3-methoxy-N-methylmorphinan)
- (7) Racemorphan ((±)-3-hydroxy-N-methylmorphinan), but not including:
- (8) Dextromethorphan (d-1, 2, 3, 9, 10, 10a-hexahydro-6-methoxy-11-methyl-4h-10, 4a-iminoethanophenanthrene)
- (9) Dextrorphan (D-1, 2, 3, 9, 10, 10a-hexahydro-11-methyl-4h-10, 4a-iminoethanophenanthren-6-ol), and
- (10) Levallorphan (1-11-allyl-1, 2, 3, 9, 10, 10a-hexahydro-4h-10, 4a-iminoethanophenanthren-6-ol)

FIRST SCHEDULE—Continued

12. Benzazocines, their preparations, derivatives and salts as for example:

- (1) Phenazocine (2'-hydroxy-5, 9-dimethyl-2-phenethyl-6, 7-benzomorphan)
- (2) Metazocine (2'-hydroxy-2, 5, 9-trimethyl-6, 7-benzomorphan)

13. Other chemical compounds:

- (1) Clonitazene (2-para-chlorbenzyl-1-diethylaminoethyl-5-nitrobenzimidazole)
- (2) Diampromide (N-[2-methylphenethylamino]-propyl]-propionanilide)
- (3) Difenoxin (1-(3-cyano-3, 3-diphenylpropyl)-4-phenylisonipecotic acid)
- (4) Etonitazene (1-diethylaminoethyl-2-para-ethoxybenzyl-5-nitrobenzimidazole)
- (5) Tilidine ((±)-ethyl-trans-2-(dimethylamino)-1-phenyl-3-cyclohexene-1-carboxylate)

The isomers unless specifically excepted, of the drugs in this Schedule whenever the existence of such isomers is possible within the specific chemical designation.

The esters and ethers, unless appearing in another Schedule, of the drugs in this Schedule whenever the existence of such esters or ethers is possible.

The salts of the drugs listed in this Schedule, including the salts of esters, ethers and isomers as provided above whenever the existence of such salts is possible.

SECOND SCHEDULE

(Section 3)

Psychotropic Substances Listed in Schedule I of the Convention on Psychotropic Substances, 1971, viz:

The names printed in capitals in the left-hand column are the International Non-proprietary Names (INN)

<i>International non-proprietary name INN*</i>	<i>Other non-proprietary or trivial names</i>	<i>Chemical name</i>
	DET	N,N-Diethyltryptamine
	DMHP	3-(1, 2-Dimethylheptyl)-1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo (b, d) pyran
	DMT	N,N-Dimethyltryptamine

SECOND SCHEDULE—Continued

<i>International non-proprietary name INN*</i>	<i>Other non-proprietary or trivial names</i>	<i>Chemical name</i>
(+)-LYSERGIDE	LSD, LSD-25	(+)-N,N-Diethyllysergamide (d-lysergic acid diethyl- lamide)
	mescaline	3, 4, 5-Trimethoxyphene- thylamine
	paranexyl	3-Hexyl-1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9- trimethyl-6H-dibenzo (b, d) pyran
ETICYCLIDINE	PCE	N-Ethyl-1-phenylcyclo- hexylamine
ROLICYCLIDINE	PHP, PCPY	1-(1-Phenylcyclohexyl) pyrrolidine
	psilocine, psilotsin	3-(2-Dimethylaminoethyl)- 4-hydroxyindole
PSILOCYBINE		3-(2-Dimethylaminoethyl)- indol-4-yl dihydrogen phosphate
	STP, DOM	2-Amino-1-(2, 5-dimethoxy- 4-methyl) phenylpropane
TENOCYCLIDINE	TCP	1-(1-(2-Thienyl) cyclohexyl) piperidine
	THC	Tetrahydrocannabinols, the following isomers: $\Delta^6\Delta(10a)$, $\Delta^6\Delta(7)$, Δ^7 , Δ^8 , Δ^9 , Δ^{10} , $\Delta^9(11)$ and their stereochemical variants.

THIRD SCHEDULE

(Section 60)

<i>First Column</i>	<i>Second Column</i>
Interpretation Act, Chap. 3:01	<p>The Interpretation Act is amended by inserting immediately after section 69, the following new section—</p> <p>“Court to declare terms of life imprisonment 69A. Where punishment of imprisonment for life is provided for a criminal offence by any written law, the Court on sentencing any person convicted of that criminal offence to imprisonment for life may, notwithstanding anything contained in any other law, declare at the same time a period before the expiration of which in its view that person shall not be released.”.</p>

THIRD SCHEDULE—*Continued*

(Section 60)

<i>First Column</i>	<i>Second Column</i>
Summary Courts Act, Chap. 4:20	The Summary Courts Act is amended in section 68(2) by substituting for the scale set out therein the following:

<i>First Column</i>	<i>Second Column</i>
	Where the sum of money adjudged to be paid by an Order
	The period shall not exceed
	does not exceed \$40 14 days
	exceeds \$40 but does not exceed \$200 30 days
	exceeds \$200 but does not exceed \$1,000 3 months
	exceeds \$1,000 but does not exceed \$2,000 4 months
	exceeds \$2,000 but does not exceed \$5,000 9 months
	exceeds \$5,000 but does not exceed \$25,000 3 years
	exceeds \$25,000 5 years.”.

Passed in the Senate this 3rd day of September, 1991.

R. CUMBERBATCH
Acting Clerk of the Senate

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the Senate and at the final vote thereon in the Senate has been supported by the votes of not less than three-fifths of all the members of the Senate that is to say by the votes of twenty-seven Senators.

R. CUMBERBATCH
Acting Clerk of the Senate

Passed in the House of Representatives this 28th day of October, 1991.

N. COX
Acting Clerk of the House

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the House of Representatives and at the final vote thereon in the House has been supported by the votes of not less than three-fifths of all the members of the House that is to say by the votes of twenty-five members of the House.

N. COX
Acting Clerk of the House