



UNITED NATIONS

E/NL.1997/56
28 October 1997

ENGLISH ONLY*

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 text.*

ST. HELENA

Communicated by the Government of the United Kingdom

NOTE BY THE SECRETARIAT

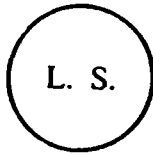
- (a) Some editing of texts may be done by the Secretariat in the interest of clarity. In this connection, words in square brackets [] have been added or changed by the Secretariat.
- (b) Only passages directly relevant to the control of narcotic drugs or psychotropic substances have been reproduced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

THE MISUSE OF DRUGS ORDINANCE, 1987

***Note by the Secretariat:** This document is a direct reproduction of the text communicated to the Secretariat by the Government of the United Kingdom, Great Britain and Northern Ireland.

Assented to in Her Majesty's name and on Her Majesty's behalf
this 15th day of April, 1987.

F. E. BAKER.
Governor.



St. Helena

No. 20 of 1987

Date of Commencement As provided in section 1.

Published in the Gazette 15th April, 1987.

AN ORDINANCE

to amend the law relating to the control of dangerous drugs

Enacted by the Governor of St. Helena and its
Dependencies with the advice and consent of the
Legislative Council of St. Helena.

PART I

PRELIMINARY

1. This Ordinance may be cited as the Misuse of
Drugs Ordinance, 1987, and shall come into force on
the day appointed by the Governor by notice in the
Gazette. Citation and
commencement.

2. (1) In this Ordinance, unless the context otherwise
requires:— Controlled Drugs.

- (a) "controlled drug" means any substance or product for the time being specified in any of parts A, B and C of Schedule I to this Ordinance (and Part D of that Schedule shall have effect for the purpose of explaining the meanings of expressions used in the other parts thereof).
- (b) the expressions "Class A drug", "Class B drug", and "Class C drug" mean any of the substances or products for the time being specified respectively in Part A, Part B, or Part C of the said Schedule.

(2) The Governor-in-Council may from time to time make Regulations amending the provisions of Schedule I to this Ordinance and, without prejudice to the generality of the foregoing, such Regulations may in particular provide:—

- (a) for the addition of any substance or product to any part of the said Schedule;
- (b) for the removal of any substance or product from any part of the said Schedule;
- (c) that any substance or product appearing in any part of the said Schedule shall appear, instead, in some other part of the said Schedule; or
- (d) for the further amendment of any part of the said Schedule which has been previously amended by earlier Regulations made under this Section.

PART II

CONTROL OF DANGEROUS DRUGS

Prohibition on
Import, Export,
Production, Supply
and possession of
Controlled Drugs.

3. (1) Subject to the provisions of this Ordinance and of any Regulations made under Section 5 of this Ordinance, no person shall knowingly:

- (a) Import any controlled drug into St. Helena;
- (b) Export any controlled drug from St. Helena;
- (c) Manufacture or produce any controlled drug;

- (d) Supply or offer to supply any controlled drug to any other person;
- (e) Be concerned in or assist with any such import, export, manufacture, production, or supply of any controlled drug;
- (f) have any controlled drug in his possession;
- (g) have any controlled drug in his possession with intent to do anything in contravention of the foregoing provisions of this sub-section; or
- (h) cultivate any plant of the genus Cannabis, or the genus Erythroxyton.

(2) Every person who contravenes any of the prohibitions contained in the last foregoing sub-section, shall be guilty of an offence.

(3) It is an offence for any person to attempt to commit any offence under the foregoing provisions of this section, or to incite or attempt to incite another person to commit such an offence.

4. In any proceedings for an offence under Section 3(1)(f) above, in which it is proved that the accused had a controlled drug in his possession, it shall be a defence for him to prove that, knowing or suspecting it to be a controlled drug, he took possession of it for the purpose of either:—

Defence in certain cases.

- (a) preventing the commission or continued commission by some other person of any offence under this Ordinance,

or

- (b) delivering it into the custody of some person lawfully entitled to take custody of it;

and, in either case, that as soon as possible after taking possession of it he took all steps reasonably open to him to deliver it into the custody of some person lawfully entitled to take custody of it.

5. The Governor-in-Council may make Regulations providing for exceptions from the prohibitions set out in

Authorisation of activities otherwise unlawful under Section 3.

Section 3, or any of them and such Regulations may, without prejudice to the generality of the foregoing:—

- (a) prescribe that any activity prohibited by Section 3 shall be lawful when performed by specified persons or classes of persons, in prescribed places or classes of places, or otherwise subject to such conditions as may be prescribed in the Regulations.
- (b) provide for the issue, by such person or persons as may be prescribed in the Regulations of licenses authorising and making lawful (subject to such conditions, if any, as shall be stipulated in the licence) activities which would otherwise be un-lawful under Section 3.
- (c) prescribe a fee or fees to be paid upon the issue of any such licence.

Occupiers of premises punishable for certain activities taking place thereon.

6. A person commits an offence if, being the occupier or concerned in the management of any premises, he knowingly permits or suffers any of the following activities to take place on those premises, that is to say:—

- (a) producing or attempting to produce a controlled drug in contravention of section 3(1)(c) of this Act;
- (b) supplying or attempting or offering to supply a controlled drug to another in contravention of section 3(1)(d) of this Act;
- (c) preparing opium for smoking;
- (d) smoking cannabis, cannabis resin or prepared opium.

Prohibition of certain activities etc. relating to opium.

7. It is an offence for a person:—

- (a) to smoke or otherwise use prepared opium; or
- (b) to frequent a place used for the purpose of opium smoking; or
- (c) to have in his possession:—

- (i) any pipes or other utensils made or adapted for use in connection with the smoking of opium, being pipes or utensils which have been used by him or with his knowledge and permission in that connection or which he intends to use or permit others to use in that connection; or
- (ii) any utensils which have been used by him or with his knowledge and permission in connection with the preparation of opium for smoking.

8. (1) It is an offence for a person to contravene a condition or other term of any licence or other authority issued under regulations made under this Ordinance.

Miscellaneous
Offences

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

(3) A person commits an offence if, for the purpose of obtaining, whether for himself or another, the issue or renewal of a licence or other authority under this Ordinance or under any regulations made under this Ordinance he:—

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

- (4) (a) A person commits an offence if in St. Helena he assists in or induces the commission in any place outside St. Helena of an offence punishable under the provisions of a corresponding law in force in that place.

Assisting in or
inducing commis-
sion outside
St. Helena of
offence punishable
under a correspond-
ing law.

- (b) In this Ordinance the expression "corresponding law" means a law stated in a certificate purporting to be issued by or on behalf of the government of a country outside St. Helena to be a law providing for the control and regulation in that country of the production, supply, use, export and import of drugs and other substances in accordance with the provisions of the Single Convention on Narcotic Drugs signed at New York on 30th March, 1961 or a law providing for the control and regulation in that country of the production, supply, use, export and import of dangerous or otherwise harmful drugs in pursuance of any treaty, convention or other agreement or arrangement to which the government of that country and Her Majesty's Government in the United Kingdom are for the time being parties.
- (c) A statement in any such certificate as aforesaid to the effect that any facts constitute an offence against the law mentioned in the certificate shall be evidence of the matters stated.

PART III

ENFORCEMENT AND PUNISHMENT OF OFFENCES

- Powers to search and obtain evidence.** 9. (1) If a police officer has reasonable grounds to suspect that any person is in possession of a controlled drug in contravention of this Ordinance or of any regulations made thereunder, the officer may—
- (a) search that person, and detain him for the purpose of searching him;
 - (b) search any vehicle in which the officer suspects that the drug may be found and for that purpose require the person in control of the vehicle to stop the vehicle;
 - (c) seize and detain, for the purposes of proceedings under this Ordinance, anything found in the course of the search which appears to

the officer to be evidence of an offence under this Ordinance, provided that nothing in this sub-section shall prejudice any power exercisable by a police officer apart from this sub-section.

(2) If a justice of the peace is satisfied by information on oath that there is reasonable ground for suspecting—

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

(b) that a document directly or indirectly relating to, or connected with, a transaction or dealing which was, or an intended transaction or dealing which would, if carried out, be an offence under this Ordinance, or in the case of a transaction or dealing carried out or intended to be carried out in a place outside St. Helena, being an offence against the provisions of a corresponding law in force in that place, is in the possession of a person on any premises,

he may grant a warrant authorising any police officer at any time or times within one month from the date of the warrant, to enter, if need be by force, the premises named in the warrant, and to search the premises and any persons found therein and, if there is reasonable ground for suspecting that an offence under this Ordinance, has been committed in relation to any controlled drugs found on the premises or in the possession of any such persons, or that a document so found is such a document as is mentioned in paragraph (b) above, to seize and detain those drugs or that document, as the case may be.

(3) A person commits an offence if he —

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

(b) conceals from a person acting in the exercise of his powers under sub-section (1) above any

such books, documents, stocks or drugs as are mentioned in that sub-section; or

- (c) without reasonable excuse (proof of which shall lie on him) fails to produce any such books or documents as are so mentioned where their production is demanded by a person in the exercise of his powers under that sub-section.

(4) In sub-section (1) of this section, "vehicle" includes every means of transport whatsoever, whether it be designed for travel by land or by sea or by air and whether or not it is propelled by mechanical or electrical power.

Power of
Arrest.

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

- (a) he, with reasonable cause, believes that that person will abscond unless arrested; or
- (b) the name and address of that person are unknown to, and cannot be ascertained by, him; or
- (c) he is not satisfied that a name and address furnished by that person as his name and address are true.

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

Prohibited
Imports and
Exports.

11. (1) Articles prohibited to be imported by virtue of this Ordinance shall be deemed to be prohibited to be imported by regulations made under Section 54(f) of the Customs Ordinance, and the provisions of this Ordinance relating to the prohibition of the export of articles shall have effect as though they were included in that Ordinance, and the provisions of that Ordinance and of any Ordinance amending or extending that Ordinance shall apply accordingly.

(2) If any goods prohibited to be exported by virtue of this Ordinance are exported from the Colony

in contravention thereof, or brought to a quay or other place to be shipped for the purpose of being so exported or of being water-borne to be exported, the exporter or his agents shall be liable to the same penalty as that to which a person is liable under Sections 57 and 60 of the Customs Ordinance for illegally importing prohibited goods.

12. (1) Schedule 2 to this Ordinance shall have effect to prescribe the procedure for prosecution, and the punishment, of offences under this Ordinance.

Prosecution and
Punishment of
offences.

(2) In Schedule 2—

- (a) The first column identifies the section of the Ordinance which creates the offence.
- (b) The second column briefly describes the offence.
- (c) The third column indicates whether the offence may be tried summarily or on indictment or in either manner.
- (d) The fourth, fifth and sixth columns show the maximum sentence which may be imposed for the offence (with separate entries for summary trial and trial on indictment, where both methods appear in the third column,) according to whether the controlled drug in question was of Class A, Class B, or Class C.
- (e) The seventh column shows the maximum penalty for offences where the type of drug does not affect the sentence.
- (f) A reference to a sum of money prescribes a maximum fine, and a reference to a period of time prescribes a maximum term of imprisonment.

(3) If the sentence prescribed shows both a fine and imprisonment, the Court may impose either such fine or such imprisonment or both.

(4) Offences under Section 3(3) are triable and punishable in the same manner as the offence or offences to which the attempt, incitement, or attempted incitement was directed.

Forfeiture.

13. (1) Subject to sub-section (2) below, the court by or before which a person is convicted of an offence under this Ordinance may order anything shown to the satisfaction of the court to relate to the offence, to be forfeited and either destroyed or dealt with in such other manner as the court may order;

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

Lack of Knowledge.

14. (1) This section applies to offences under the following provisions of this Ordinance, namely:—
Sections 3, 6, and 7;

(2) In any proceedings for an offence to which this section applies, it shall be a defence for the accused to prove that he neither knew nor suspected nor had reason to know or suspect that the controlled drug in question was a controlled drug, or (in the case of an offence under section 6) that the premises were being used for the purpose or activity alleged.

Burden of proof.

15. In any proceedings against any person for an offence against this Ordinance, it shall not be necessary to negative by evidence any licence, authority or other matter of exception or defence, and the burden of proving any such matter shall lie on the person seeking to avail himself thereof.

PART IV

REPEALS

Repeal of Cap. 25.

16. The Dangerous Drugs Ordinance (Cap. 25) is hereby repealed.

FIRST SCHEDULE
CONTROLLED DRUGS
PART A
CLASS A DRUGS

1. The following substances and products, namely:—

Acetorphine.	Ecgonine, and any derivative of ecgonine which is convertible to ecgonine or to cocaine.
Allylprodine.	Ethylmethylthiambutene.
Alphacetylmethadol.	Etonitazene.
Alphameprodine.	Etorphine.
Alphamethadol.	Etoxidine.
Alphaprodine.	Fentanyl.
Anileridine.	Furethidine.
Benzethidine.	Hydrocodone.
Benzylmorphine (3-benzylmorphine).	Hydromorphanol.
Betacetylmethadol.	Hydromorphone.
Betameprodine.	Hydroxypethidine.
Betamethadol.	Isomethadone.
Betaprodine.	Ketobemidone.
Bezitramide.	Levomethorphan.
Bufotenine.	Levomoramide.
Cannabinol, except where contained in cannabis or cannabis resin.	Levophenacylmorphan.
Cannabinol derivatives.	Levorphanol.
Clonitazene.	Lysergamide.
Coca leaf.	Lysergide and other N-alkyl derivatives of lysergamide.
Cocaine.	Mescaline.
Desomorphine.	Metazocine.
Dextromoramide.	Methadone.
Diamorphine.	Methadyl acetate.
Diampromide.	Methyldesorphine.
Diethylthiambutene.	Methyldihydromorphanol (6-methyldihydromorphanol).
Dihydrocodeinone	Metopon.
O-carboxymethyloxime.	Morpheridine.
Dihydromorphine.	Morphine.
Dimenoxadole.	Morphine methobromide, morphine N-oxide and other pentavalent nitrogen morphine derivatives.
Dimepheptanol.	Myrophine.
Dimethylthiambutene.	
Dioxaphetyl butyrate.	
Diphenoxylate.	
Dipipanone.	

Nicodicodine (6-nicotinoyldi-hydrocodeine).	Properidine (1-methyl-4-phenyl-piperidine-4-carboxylic acid isopropyl ester).
Nicomorphine (3,6-dinicotinoyl-morphine).	Psilocin.
Noracymethadol.	Racemethorphan.
Norlevorphanol.	Racemoramide.
Normethadone.	Racemorphan.
Normorphine.	Thebacon.
Norpipanone.	Thebaine.
Opium, whether raw, prepared or medicinal.	Trimeperidine.
Oxycodone.	4-Cyano-2-dimethylamino-4,4-diphenylbutane.
Oxymorphone.	4-Cyano-1-methyl-4-phenyl-piperidine.
Pethidine.	N,N-Diethyltryptamine.
Phenadoxone.	N,N-Dimethyltryptamine.
Phenamipromide.	2,5-Dimethoxy- α ,4-dimethyl-phenethylamine.
Phenazocine.	1-Methyl-4-phenylpiperidine-4-carboxylic acid.
Phenomorphin.	2-Methyl-3-morpholino-1,1-diphenylpropanecarboxylic acid.
Phenoperidine.	4-Phenylpiperidine-4-carboxylic acid ethyl ester.
Piminodine.	
Piritramide.	
Poppy-straw and concentrate of poppy-straw.	
Proheptazine.	

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

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

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

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

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

PART B

CLASS B DRUGS

1. The following substances and products, namely:—

Acetyldihydrocodeine.	Methylamphetamine.
Amphetamine.	Methylphenidate.
Cannabis and cannabis resin.	Nicocodine.
Codeine.	Norcodeine.
Dexamphetamine.	Phenmetrazine.
Dihydrocodeine.	Pholcodine.
Ethylmorphine (3-ethylmorphine).	

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

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

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

PART C

CLASS C DRUGS

1. The following substances, namely:—

Benzphetamine.	Pemoline.
Chlorphentermine.	Phendimetrazine.
Fencamfamin.	Phentermine.
Mephentermine.	Pipradrol.
Methaqualone.	Prolintane.

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

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

4. Any preparation or other product containing a substance for the time being specified in any of paragraphs 1 to 3 of this part of this Schedule.

PART D

MEANING OF CERTAIN EXPRESSIONS USED IN THIS SCHEDULE

For the purposes of this Schedule the following expressions (which are not among those defined in section 2(1) of this Ordinance have the meanings hereby assigned to them respectively, that is to say—

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

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

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

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

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

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

"raw opium" includes powdered or granulated opium but does not include medicinal opium.

SECOND SCHEDULE

1 Section Creating Offence	2 General Nature of Offence	3 Mode of Prosecution
3(1)(a)	Importation of Controlled Drugs	(a) Summary (b) Indictment
3(1)(b)	Exportation of Controlled Drug	(a) Summary (b) Indictment
3(1)(c)	Manufacture of Controlled Drug	(a) Summary (b) Indictment
3(1)(d)	Supply of Controlled Drug	(a) Summary (b) Indictment
3(1)(e)	Assisting in Import/Export/Manufacture or Supply of Controlled Drug	(a) Summary (b) Indictment
3(1)(f)	Possessing Controlled Drug	(a) Summary (b) Indictment
3(1)(g)	Possessing Controlled Drug with intent	(a) Summary (b) Indictment
3(1)(h)	Cultivating Cannabis or Erythroxyton	(a) Summary (b) Indictment
6	Premises used for misuse of controlled drugs	(a) Summary (b) Indictment
7	Offences relating to Opium	(a) Summary (b) Indictment
8(1)	Breaching terms of licence	(a) Summary (b) Indictment
8(2) (3)	Giving false information	(a) Summary (b) Indictment
8(4)	Assisting or Inducing offence abroad	(a) Summary (b) Indictment
9(3)	Obstructing enforcement	(a) Summary (b) Indictment

SECOND SCHEDULE

4 Max Penalty CLASS A	5 Max Penalty CLASS B	6 Max Penalty CLASS C	7 Max Penalty General
18 months or £500 or both. 14 years or a fine or both.	18 months or £500 or both. 14 years or a fine or both.	12 months or £300 or both. 5 years or a fine or both.	
12 months or £300 or both. 7 years or a fine or both.	12 months or £300 or both. 7 years or a fine or both.	9 months or £300 or both. 3 years or a fine or both.	
12 months or £400 or both. 14 years or a fine or both.	12 months or £400 or both. 14 years or a fine or both.	6 months or £200 or both. 5 years or a fine or both.	
12 months or £400 or both. 14 years or a fine or both.	12 months or £400 or both. 14 years or a fine or both.	6 months or £200 or both. 5 years or a fine or both.	
			12 months or £400 both. 10 years or a fine or both.
12 months or £400 or both. 7 years or a fine or both.	12 months or £400 or both. 5 years or a fine or both.	6 months or £200 or both. 2 years or a fine or both.	
12 months or £400 or both. 14 years or a fine or both.	12 months or £400 or both. 14 years or a fine or both.	6 months or £200 or both. 2 years or a fine or both.	
			12 months or £200 or both. 10 years or a fine or both.
12 months or £400 or both. 14 years or a fine or both.	12 months or £400 or both. 14 years or a fine or both.	6 months or £200 or both. 5 years or a fine or both.	
			12 months or £400 or both. 14 years or a fine or both.
			6 months or £200 or both. 2 years or a fine or both.
			6 months or £200 or both. 2 years or a fine or both.
			12 months or £400 or both. 14 years or a fine or both.
			6 months or £200 or both. 2 years or a fine or both.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council and has been found by me to be a true and correctly printed copy of the said Bill.

A. A. GREEN,
Clerk of Councils.

EXPLANATORY NOTE
(This note is not part of the Ordinance)

The law controlling dangerous drugs, in the Dangerous Drugs Ordinance, Cap. 25, was first enacted in 1937, and is badly out of date. Concern having been expressed about the danger of a drug abuse problem developing in St Helena, this Ordinance introduces new and more effective controls, based on the United Kingdom's Misuse of Drugs Act, 1971.