

CAYMAN ISLANDS



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LAW SCHOOL

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**THE MISUSE OF DRUGS
(AMENDMENT) LAW, 1985
(LAW 19 OF 1985)**

I Assent

G.P. LLOYD
Governor

27th June, 1985

**A LAW TO AMEND THE MISUSE OF DRUGS
LAW (REVISED)**

ENACTED by the Legislature of the Cayman Islands.

Short title.

1. This Law may be cited as the Misuse of Drugs (Amendment) Law, 1985.

Amendment of s. 2.

2. Section 2 of the Misuse of Drugs Law (Revised), in this Law referred to as the principal Law, is amended-

(a) by substituting the following for the definition of “authorised”-

“authorised” means authorised by this or any other law , and includes a person acting in the course of his lawful duties as a medical practitioner, dentist, veterinary practitioner or pharmacist, any of whom prescribes, administers, manufactures, compounds or supplies a controlled drug; and a person lawfully conducting the business of a retail pharmacy or of an importer, acting in either case in his capacity as such; and a person in possession of a controlled drug under a prescription;”;

(b) by inserting “dipipanone,” immediately after “codeine,” in paragraph (a) of the definition of “hard drug”.

3. Section 3 of the principal Law is amended -

- (a) by substituting the following for the first three lines of subsection (1) -
“3.(1) Whoever, without lawful excuse or without being authorised in that behalf,-”;
- (b) by inserting the following new sub-paragraph immediately after sub-paragraph (1) in the thirteenth line of paragraph (ii) of subsection (1) -
“(m) has in his possession, whether lawfully or not, with intent that it be supplied, whether by himself or some other person, to another person in contravention of this subsection”.
- (c) by substituting “,assists or is concerned in any of such matters” for “or offers so to do or who causes, procures, solicits, entices, aids, abets, permits or suffers any other person so to do” in the penultimate and antepenultimate lines of subsection (1);
- (d) by inserting “ without lawful excuse or without being authorised in that behalf,” immediately after “if” in the first line of subsection (2);
- (e) by inserting “, in relation to possession,” immediately before “means” in the first line of subsection (3);
- (f) by adding the following new subsections -

“(4) Subject to subsection (5), in a prosecution under this section it shall be a defence for an accused person to prove that he neither knew, suspected nor had reason to suspect the existence of some fact alleged by the prosecution which it is necessary for the prosecution to prove if he is to be convicted.

(5) Where in a prosecution under this section it is necessary, if the accused person is to be convicted, for the prosecution to prove that some substance or product involved in the alleged offence was the controlled drug which the prosecution alleges it to have been, and it is proved that such substance or product was that controlled drug, the accused person -

Amendment of First Schedule.

Amendment of Second Schedule.

“No derogation from Law 20 of 1985. 26. For the avoidance of doubt, it is hereby declared that nothing in this Law derogates from the provisions of the Rehabilitation of Offenders Law, 1985.”.

11. The First Schedule to the principal Law is amended by substituting “any plant of the genus Cannabis” for “the plant known as Cannabis Sativa L.” in the first two lines of the definition of “ganja” in the item headed “MEANING OF CERTAIN EXPRESSIONS USED IN THIS SCHEDULE”.

12. Part B. of the Second Schedule to the principal Law is amended -

- (a) by deleting “,etc.” in the four places where it appears immediately after “Attempting” in the column headed “OFFENCE”;
- (b) by deleting in their entirety the first and third sub-columns (both headed “Minimum”) in the column headed “PENALTY”; and
- (c) by the deletion in the fourth sub-column (headed “Maximum”) of the numerals “20” where that figure firstly occurs in respect of the offence of buying, consuming, possessing, attempting, etc., and the substitution thereof of the numerals “15”.

Passed the Legislative Assembly this 29th day of May, 1985.

G.P. LLOYD
President.

E. GAY JACKSON
Clerk of the Legislative Assembly.

	<p>offence, the court shall order that such monies or other thing be forfeited to the Crown or dealt with in such other manner as it may direct.</p> <p>(2) The court shall not order any monies or other thing to be forfeited or dealt with under subsection (1) where a person claiming to be the owner of or otherwise interested therein applies to be heard by the court within fourteen days of the conviction, unless an opportunity has been given to him to show cause why the order should not be made.</p> <p>(3) Part V of the Police Law shall not apply to any monies or other thing which is the subject of an order under subsection (1).”.</p>
Law 5 of 1976	
Amendment of s. 20.	<p>7. Section 20 of the principal Law is amended by substituting “fine or” for “maximum fine or the maximum” in the twelfth line of subsection (3).</p>
Amendment of s. 23.	<p>8. Section 23 of the principal Law is amended by substituting “fine or” for “maximum fine or the maximum” in the eleventh line of subsection (3).</p>
Repeal of s. 25.	<p>9. Section 25 of the principal Law is repealed and replaced by the following new section 25 -</p> <p>“Procedure in respect of certain offences. 25. Notwithstanding the provisions of any other section of this Law, where a person is charged with any offence of selling, dealing in, distributing, supplying, dispensing, storing, issuing a prescription for administering, importing, exporting, producing, attempting, contrary to section 3(1) which relates to a controlled drug that is a hard drug, then such offence shall be deemed, for the purpose of determining the mode of trial, a category B offence in accordance with section 5 of the Criminal Procedure Code.”</p>
Law 13 of 1975	
Insertion of new s. 26.	<p>10. The principal Law is amended by inserting the following new section immediately before the First Schedule -</p>

	<p>(a) shall not be acquitted by reason only of proving that he neither knew, suspected nor had reason to suspect that such substance or product was the particular controlled drug alleged; but</p> <p>(b) shall be acquitted if he proves that he neither believed, suspected nor had reason to suspect that the substance or product was a controlled drug.</p> <p>(6) Nothing in subsections (4) or (5) shall prejudice any defence which it is open to a person charged with an offence under this section to raise apart from those subsections.”.</p>
Insertion of new s. 6A.	<p>4. The principal Law is amended by inserting the following new section immediately after section 6-</p> <p>“Presumptions of possession and knowledge of controlled drug.</p> <p>6A. (1) Without prejudice to any other provision of this Law -</p> <p>(a) where it is proved beyond reasonable doubt that a person imported anything containing a controlled drug it shall be presumed, until the contrary is proved, that such person knew that such drug was contained in such thing;</p> <p>(b) where it is proved beyond reasonable doubt that a person had in his possession or custody or under his control anything containing a controlled drug, it shall be presumed, until the contrary is proved, that such person was in possession of such drug;</p> <p>(c) where it is proved beyond reasonable doubt that a person supplied to any other person anything containing a</p>

controlled drug, it shall be presumed, until the contrary is proved, that such first-mentioned person knew that such drug was contained in such thing;

- (d) where it is proved beyond reasonable doubt that a person is in any way concerned in carrying, removing, harbouring, keeping, concealing, handling or dealing in any manner with anything containing a controlled drug, it shall be presumed, until the contrary is proved, that such person knew that such drug was contained in such thing;
- (e) where it is proved beyond reasonable doubt that a person had in his possession or custody or under his control a dock warrant, warehouse warrant or order, baggage receipt or baggage claim, air way-bill, bill of lading or other similar document relating to anything containing a controlled drug,

it shall be presumed, until the contrary is proved, that such person was in possession of such drug.

(2) The presumptions provided by this section shall not -

- (a) be rebutted by proof that a person never had physical possession of the controlled drug;
- (b) be construed as requiring the prosecution to prove any fact which, by virtue of any other provision of this Law, it does not have to prove.”.

Amendment of s. 12.

5. Section 12 of the principal Law is amended -

- (a) by the deletion, in subsection (2), of the words “shall, on summary conviction, be imprisoned with hard labour for a term not exceeding seven years and in

addition shall further be liable to a fine not exceeding \$20,000 and in the case of a second or subsequent conviction for any such offence shall be imprisoned with hard labour for a term of not less than two years nor more than ten years and in addition shall further be liable to a fine of not less than \$5,000 nor more than \$20,000.”, and the substitution therefor of the words “shall, on summary conviction, be liable to a fine not exceeding twenty thousand dollars or to a term of imprisonment with hard labour not exceeding seven years or to both such fine and imprisonment and, in the case of a second or subsequent conviction for any such offence, be liable to a fine not exceeding twenty thousand dollars or to a term of imprisonment with hard labour not exceeding ten years, or to both such fine and imprisonment.”;

- (b) by the deletion, in subsection (3), of the words “shall, on summary conviction, be imprisoned with hard labour for a term of not less than five months nor more than seven years and in addition shall further be liable to a fine not exceeding \$20,000 and in the case of a second or subsequent conviction for any such offence shall be imprisoned with hard labour for not less than two years nor more than 15 years and in addition shall further be liable to a fine of not less than \$5,000 and without limit as to amount.”, and the substitution therefor of the words “shall, on summary conviction, be liable to a fine not exceeding twenty thousand dollars or to a term of imprisonment with hard labour not exceeding seven years or to both such fine and imprisonment and, in the case of a second or subsequent conviction for any such offence, be liable to a fine without limit as to amount or to a term of imprisonment with hard labour not exceeding fifteen years or to both such fine and imprisonment.”;
- (c) by the deletion of subsection (8).”.

Insertion of new s. 14A.

6. The principal Law is amended by inserting the following new section immediately after section 14 -

“Forfeiture etc., of acquired assets.	14A. (1) Subject to subsection (2), where a person is convicted of an offence against this Law, and the court by or before which he is convicted is satisfied that any monies or any other thing relate to or have been acquired due to or as a result of the
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