

Buying Consuming Possessing Attempting, etc.	2 ounces or more	3 years + \$10,000	15 years + a fine without limit as to amount	5 years + \$50,000	20 years + a fine without limit as to amount
Selling Dealing in Distributing Supplying Dispensing Storing Issue a pres- cription for Administering Importing Exporting Producing Attempting, etc.	less than 2 ounces	3 years + \$10,000	15 years + a fine without limit as to amount	10 years + \$50,000	20 years + a fine without limit as to amount
Selling Dealing in Distributing Supplying Dispensing Storing Issue a pre- scription for Administering Importing Exporting Producing Attempting, etc.	2 ounces or more	5 years + \$20,000	20 years + a fine without limit as to amount	10 years + \$100,000	30 years + a fine without limit as to amount

Passed the Legislative Assembly this 30th day of November, 1982.

PETER LLOYD
President.

SYBIL Mc LAUGHLIN
Clerk of the Legislative Assembly.

CAYMAN ISLANDS



Supplement No. 1 printed with Gazette No. 5 of 1983

**THE MISUSE OF DRUGS (AMENDMENT)
LAW, 1982**

(LAW 10 OF 1982)

CAYMAN ISLANDS
LAW SCHOOL

PETER LLOYD

GOVERNOR

10th. February, 1983

**A LAW TO AMEND
THE MISUSE OF DRUGS LAW
(LAW 13 OF 1973)**

ENACTED by the Legislature of the Cayman Islands.

Short title.

1. This Law may be cited as the Misuse of Drugs (Amendment) Law, 1982.

Amendment of s.6 of
Law 13 of 1973.

2. Section 6 of the Misuse of Drugs Law, 1973 (hereinafter called the principal Law) is amended by the deletion of sub-section (2) and the substitution therefor of the following new subsections —

“(2) Notwithstanding the provision of any other Law, a certificate purporting to be under the hand of the C.M.O., a qualified chemist, a qualified medical laboratory technician or any other person appointed by the Governor in that behalf either specially or generally, stating or certifying that a given substance has been analyzed or examined and stating the result of such analysis or examination, shall be admissible in evidence in any prosecution under this Law and, in the absence of evidence to the contrary, shall be proof of the statements contained therein as to the foregoing matters and any other matter specified therein concerning the substance analyzed or examined or the analyst or examiner thereof, and no evidence shall be required by the court as to the signature or qualifications of the person purporting to have signed the certificate.

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

(4) Where it considers it necessary or advisable the court may require the attendance of the person under whose hand the certificate was issued to give evidence on oath.”.

Amendment of s.12
of the principal Law.

3. Section 12 of the principal Law is amended –

(a) in subsection (1) by the deletion of the words ‘and in the case of a second or subsequent conviction to a fine not exceeding \$5000 or to a term of imprisonment with hard labour not exceeding five years or both’ and the substitution therefor of the words ‘and in the case of a third or subsequent conviction to a fine not exceeding \$10,000 or to a term of imprisonment with hard labour not exceeding ten years or both’;

(b) in subsection (2) –

(i) by the deletion of the figures ‘\$10,000’ and the substitution therefor of the figures ‘\$20,000’;

(ii) by the deletion of the words ‘five months nor more than seven years’ and the substitution therefor of the words ‘two years nor more than ten years’;

(iii) by the deletion of the figures ‘\$15,000’ and the substitution therefor of the figures ‘\$20,000’; and

(iv) by the addition, immediately following the word ‘imprisoned’ wheresoever such word occurs, of the words ‘with hard labour’;

(c) in subsection (3) –

(i) by the deletion of the figures ‘\$10,000’ and the substitution therefor of the figures ‘\$20,000’;

(ii) by the deletion of the figures and word ‘10 years’ and the substitution therefor of the figures and word ‘15 years’;

(iii) by the deletion of the words and figures ‘nor more than \$20,000’ and the substitution therefor of the words ‘and without limit as to amount’; and

(iv) by the addition immediately following the word ‘imprisoned’ wheresoever such word occurs of the words ‘with hard labour’; and

(d) by the addition, immediately following subsection (4) of the following four new subsections –

“(5) Where a person of or over seventeen years of age is convicted of an offence contrary to subsection (1), (2), (3) or (4) and such offence is, in the case of an offence contrary to subsection (1) a first or second offence or in the case of an offence contrary to subsection (2) or (3) a first offence or in the case of an offence contrary to subsection (4) a first offence where

such offence is that of buying, consuming, possessing, attempting, etc., and relates to an amount of less than two ounces the court before whom he is committed may with the consent of the person convicted and subject to the provisions of sections 18 to 21 in addition to or instead of dealing with him in any other way make a community service order.

(6) Where a person is convicted of an offence contrary to subsection (1), (2) or (3) and such offence is, in the case of an offence contrary to subsection (1) a first or second offence or in the case of an offence contrary to subsection (2) or (3) a first offence the court before whom he is committed may in addition to or instead of dealing with him in any other way make an attendance order in accordance with the provisions of sections 22 to 24.

(7) Where a court makes a community service order under subsection (5), it shall in respect of the same offence make an attendance order under subsection (6) and where a court makes an attendance order under subsection (6) it may also in respect of the same offence make a community service order under subsection (5).

(8) Notwithstanding the provisions of subsection (2), (3) or (4), where a person is convicted of an offence contrary to subsection (2) or (3) where that offence is a first offence or of an offence contrary to subsection (4) where such offence is that of buying, consuming, possessing, attempting, etc., and relates to an amount of less than one-half ounce and is a first offence the court may, for special reasons if it so thinks fit, order him to be imprisoned for a shorter period than that specified therein or not to be imprisoned and in any case where it so determines that there are special reasons and exercises its power under this subsection it shall state the reasons for doing so in open court and shall also cause them to be entered in the record of its proceedings.”.

Amendment of s.14
of the principal Law.

4. Section 14 of the principal Law is amended, in subsection (2), by the deletion of the words ‘has been used’ and the substitution therefor of the words ‘has been used in connection with or’.

Amendment of s.14
of the principal Law.

5. Section 14 of the principal Law is amended by the deletion of subsection (6) and the substitution therefor of the following new subsections –

“(6) Where any vessel is ordered to be forfeited under subsection (2) the owner of such vessel may make within fourteen days of such order, and after having given not less than four days notice to the

Attorney General, a claim to the court making such order of forfeiture for the vessel to be restored to him.

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

(8) A court shall not make an order under subsection (7) unless it is satisfied that the owner, charterer, master, pilot, operator or person in control of the vessel –

- (a) (i) did not permit any person convicted of an offence under this Law to use the vessel for the purpose of conveying any controlled drug in respect of which the offence was committed; and
- (ii) had no knowledge that any person convicted of an offence under this Law would use the vessel for the purpose of conveying any controlled drug in respect of which the offence was committed; or
- (b) has paid into court a redemption fee equivalent to five per centum of the value of the vessel:

Provided that no order under this section shall give rise to a claim based on the difference in value at the time of re-vesting from such value at the time of seizure.”.

6. The principal Law is amended by the addition immediately following section 17 of the following eight new sections –

‘Community service orders in respect of convicted persons. 18(1) A community service order made under section 12(5) shall require the person convicted to perform unpaid work in accordance with the subsequent provisions of this Law for such number of hours (being in the aggregate not less than forty nor more than two hundred and forty) as may be specified in the order.

(2) A court shall not make a community service order in respect of any offender unless the offender consents and the court –

- (a) has been notified by the Governor that arrangements exist for persons to perform work under such orders; and
- (b) is satisfied –
 - (i) after considering a report by a probation officer about the offender and his circumstances and, if the court thinks it necessary, hearing a probation officer, that the offender is a suitable

person to perform work under such an order; and

(ii) that provision can be made under the arrangements for him to do so.

(3) Where a court makes community service orders in respect of two or more offences of which the offender has been convicted by or before the court, the court may direct that the hours of work specified in any of those orders shall be concurrent with or additional to those specified in any other of those orders.

(4) A community service order shall specify the area in which the offender resides or will reside; and the functions conferred by the subsequent provisions of this Law on the relevant officer shall be discharged by a probation officer appointed for or assigned to the area.

(5) Before making a community service order the court shall explain to the offender in ordinary language –

(a) the purpose and effect of the order (and in particular the requirements of the order as specified in section 19 of this Law);

(b) the consequences which may follow under section 20 if he fails to comply with any of those requirements; and

(c) that the court has under section 21 the power to review the order on the application either of the offender or of a probation officer.

(6) The court by which a community service order is made shall forthwith give copies of the order to the offender and to the relevant officer.

(7) The Governor may by Notice direct that subsection (1) shall be amended by substituting, for the maximum number of hours specified such number of hours as may be specified in the Notice.

(8) Nothing in subsection (1) shall be construed as preventing a court which makes a community service order in respect of any offence from making an order for costs against, or imposing any disqualification on, the offender.

Obligations of person subject to community service order.

19 (1) An offender in respect of whom a community service order is in force shall –

(a) report to the relevant officer and subsequently from time to time notify him of any change of address; and

(b) perform for the number of hours specified in

the order such work at such times as he may be instructed by the relevant officer.

(2) Subject to section 21(1), the work required to be performed under a community service order shall be performed during the period of twelve months beginning with the date of the order.

(3) The instructions given by the relevant officer under this section shall, so far as practicable, be such as to avoid any conflict with the offender's religious beliefs and any interference with the times, if any, at which he normally works or attends a school or other educational establishment.

Breach of requirements of community service order.

20(1) If at any time while a community service order is in force in respect of an offender it appears on information to a justice of the peace that the offender has failed to comply with any of the requirements of section 19 (including any failure satisfactorily to perform the work which he has been instructed to do), the justice may issue a summons requiring the offender to appear at the place and time specified therein, or may, if the information is in writing and on oath, issue a warrant for his arrest.

(2) Any summons or warrant issued under this section shall direct the offender to appear or be brought before the magistrate's court.

(3) If it is proved to the satisfaction of the magistrate's court before which an offender appears or is brought that he has failed without reasonable excuse to comply with any of the requirements of section 19 the court may, without prejudice to the continuance of the order, impose on him a fine not exceeding one hundred dollars or may revoke the order and impose in substitution therefor, in addition to any other sentence either by way of fine or imprisonment, or both, which may have already been imposed at the time of the original conviction a further fine or a further term of imprisonment, or both, but not so as to cause the further fine when added to the fine originally imposed, if any, or the further term of imprisonment when added to the term of imprisonment originally imposed, if any to exceed the maximum fine or the maximum term of imprisonment laid down in the section of the Law in respect of contravention of which the person convicted was originally sentenced and where no fine or imprisonment has been imposed at the time of the original conviction then the court before whom the

offender is brought under the provisions of this subsection may impose such fine or imprisonment, or both, as could have been imposed by the court by whom the offender was originally convicted, and in all such cases imprisonment shall be imprisonment with hard labour.

Amendment of community service orders.

21. Where a community service order is in force in respect of any offender and, on the application of the offender or the relevant officer, it appears to the court that it would be in the interests of justice to do so having regard to circumstances which have arisen since the order was made, the court may extend, in relation to the order, the period of twelve months specified in section 19(2).

Attendance orders in respect of convicted persons.

22.(1) An attendance order made under section 12(6) shall require the person convicted to attend during such period not exceeding twelve months as may be specified in the order at a training centre or such other place as may be specified in the said order.

(2) A court shall not make an attendance order in respect of any offender unless -

(a) it has been notified by the Governor that a training centre or other suitable place exists in respect of which the order may be made; and

(b) it is satisfied that arrangements can be made for his attendance at such place.

(3) An attendance order made shall require the person in respect of whom it is made -

(a) to attend at the place specified in such order on not more than sixty days in accordance with such instructions as shall be given by the probation officer who has been appointed by the order to be responsible for his supervision; and

(b) shall further require the person in respect of whom the order is made while attending there to comply with such instructions as are given by or under the authority of the person in charge of such place.

(4) For the purposes of this section references to attendance at a training centre shall include references to attendance elsewhere for the purpose of receiving training in accordance with instructions given by or under the authority of the person in charge of the centre.

(5) Where a court makes attendance orders in respect of two or more offences of which the offender has been convicted by or before the court, the court may direct

that the orders shall be concurrent with or additional to those specified in any other of those orders.

(6) The court by which an attendance order is made shall forthwith give copies of the order to the offender and to the relevant officer.

(7) The Governor may by Notice direct that subsections (1) or (3) shall be amended by substituting, for the maximum number of months or days specified such number of months or days as may be specified in the Notice.

(8) Nothing in subsection (1) shall be construed as preventing a court which makes an attendance order in respect of any offence from making an order for costs against, or imposing any disqualification on, the offender.

Breach of requirements of attendance order.

23(1) If at any time while an attendance order is in force in respect of an offender it appears on information to a justice of the peace that the offender has failed to comply with any of the requirements of the attendance order, the justice may issue a summons requiring the offender to appear at the place and time specified therein, or may, if the information is in writing and on oath, issue a warrant for his arrest.

(2) Any summons or warrant issued under this section shall direct the offender to appear or be brought before the magistrate's court.

(3) If it is proved to the satisfaction of the magistrate's court before which an offender appears or is brought that he has failed without reasonable excuse to comply with any of the requirements of the attendance order the court may, without prejudice to the continuance of the order, impose on him a fine not exceeding one hundred dollars or may revoke the order and impose in substitution therefor, in addition to any other sentence either by way of fine or imprisonment, or both, which may have already been imposed at the time of the original conviction a further fine or a further term of imprisonment, or both, but not so as to cause the further fine when added to the fine originally imposed, if any, or the further term of imprisonment when added to the term of imprisonment originally imposed, if any, to exceed the maximum fine or the maximum term of imprisonment laid down in the section of the Law in respect of contravention of which the person convicted was originally sentenced and where no fine or imprisonment has been imposed at the time of the original

conviction then the court before whom the offender is brought under the provisions of this subsection may impose such fine or imprisonment or both as could have been imposed by the court by whom the offender was originally convicted, and in all such cases imprisonment shall be imprisonment with hard labour.

Amendment of attendance order.

24. Where an attendance order is in force in respect of any offender and, on the application of the offender or the relevant officer, it appears to the court that it would be in the interests of justice to do so having regard to the circumstances which have arisen since the order was made, the court may extend, in relation to the order, the period of twelve months specified in section 22(1).

Procedure in respect of certain offences.

25. Notwithstanding the provisions of any other section, where a person is charged with any offence contrary to this Law and such person is liable upon conviction to be sentenced to a term of imprisonment exceeding fifteen years 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'.

Amendment of Second Schedule to the principal Law.

7. The Second Schedule to the principal Law is amended by the deletion of Part B and the substitution therefor of the following new Part B:-

**"PART B
SENTENCES RELATING TO OFFENCES CONTRARY TO SECTION 3(1)
WHICH RELATE TO A CONTROLLED DRUG THAT IS A HARD DRUG.**

OFFENCE	AMOUNT OF HARD DRUG	PENALTY			
		FIRST CONVICTION		SECOND OR SUBSEQUENT CONVICTION	
		Minimum	Maximum	Minimum	Maximum
Buying Consuming Possessing Attempting, etc.	less than 2 ounces	1 year + \$1,000	7 years + \$10,000	2 years + \$4,000	15 years + \$20,000

Buying Consuming Possessing Attempting, etc.	2 ounces or more	3 years + \$10,000	15 years + a fine without limit as to amount	5 years + \$50,000	20 years + a fine without limit as to amount
Selling Dealing in Distributing Supplying Dispensing Storing Issue a pre- scription for Administering Importing Exporting Producing Attempting, etc.	less than 2 ounces	3 years + \$10,000	15 years + a fine without limit as to amount	10 years + \$50,000	20 years + a fine without limit as to amount
Selling Dealing in Distributing Supplying Dispensing Storing Issue a pre- scription for Administering Importing Exporting Producing Attempting, etc.	2 ounces or more	5 years + \$20,000	20 years + a fine without limit as to amount	10 years + \$100,000	30 years + a fine without limit as to amount

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