

CAYMAN ISLANDS



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**THE MISUSE OF DRUGS
(DRUG TRAFFICKING OFFENCES)
(DESIGNATED COUNTRIES) ORDER, 1991**

THE MISUSE OF DRUGS LAW (SECOND REVISION)

THE MISUSE OF DRUGS (DRUG TRAFFICKING OFFENCES) (DESIGNATED COUNTRIES) ORDER, 1991

In exercise of the powers conferred upon the Governor by section 16P(1) of the Misuse of Drugs Law (Second Revision) the following order is made –

Citation and commencement.

1. This order may be cited as the Misuse of Drugs (Drug Trafficking Offences) (Designated Countries) Order, 1991, and shall come into force on the 1st day of September, 1991.

Interpretation.

2. In this order –

"appropriate authority of a designated country" means an authority specified in the second column opposite the name of that country in the First Schedule to this order;

"court of a designated country" includes a court of any state or territory of a designated country;

"designated country" means a country designated under article 3(1) of this order;

"the Islands" means the Cayman Islands;

"the Law" means the Misuse of Drugs Law (Second Revision).

Designation of and application of the Law to countries.
First Schedule.

3. (1) Each of the countries specified in the First Schedule to this order is hereby designated for the purposes of sections 16P and 16Q of the Law.

Second Schedule.

(2) In relation to a designated country, the Law shall apply, subject to the modifications specified in the Second Schedule to this order, to external confiscation orders and to proceedings which have been or are about to be instituted in the designated country and may result in an

Third Schedule

Proof of orders and judgment of court in a designated country.

external confiscation order being made there, and, accordingly, in relation to such orders and such proceedings, the Law shall have effect as set out in the Third Schedule to this order.

4. (1) For the purposes of sections 16P and 16Q of the Law and of the other provisions of the Law as applied under article 3(2) of this order –

- (a) any order made or judgment given by a court in a designated country purporting to bear the seal of that court or to be signed by any person in his capacity as a judge, magistrate or officer of that court, shall be deemed without further proof to have been duly sealed or, as the case may be, to have been signed by that person; and
- (b) a document, duly authenticated, which purports to be a copy of any order made or judgment given by a court in a designated country shall be deemed without further proof to be a true copy.

(2) A document purporting to be a copy of any order made or judgment given by a court in a designated country is duly authenticated for the purpose of paragraph (1)(b) of this article if it purports to be certified by any person in his capacity as a judge, magistrate or officer of the court in question or by or on behalf of the appropriate authority of the designated country.

Evidence in relation to proceedings and orders in a designated country.

5. (1) For the purposes of sections 16P and 16Q of the Law, and of the other provisions of the Law as applied under article 3(2) of this order, a certificate purporting to be issued by or on behalf of the appropriate authority of a designated country stating –

- (a) that proceedings have been instituted and have not been concluded, or that proceedings are to be instituted, there;
- (b) that an external confiscation order is in force and is not subject to appeal;
- (c) that all or a certain amount of the sum payable under an external confiscation order remains unpaid in the designated country, or that other property recoverable under an external confiscation order remains unrecovered there;
- (d) that any person has been notified of any proceedings in accordance with the law of the designated country; or
- (e) that an order (however described) made by a court of the designated country has the purpose of recovering payments or other rewards received in connection with drug trafficking or their value;

shall, in any proceedings in the Grand Court, be admissible as evidence of the facts so stated.

(2) In any such proceedings a statement contained in a document, duly authenticated, which purports to have been received in evidence or to be a copy of a document so received, or to set out or summarise evidence given in proceedings in a court in a designated country, shall be admissible as evidence of any fact stated therein.

(3) A document is duly authenticated for the purposes of paragraph (2) of this article if it purports to be certified by any person in his capacity as a judge, magistrate or officer of the court in the designated country, or by or on behalf of the appropriate authority of the designated country, to have been received in evidence or to be a copy of a document so received, or, as the case may be, to be the original document containing or summarising the evidence or a true copy of that document.

(4) Nothing in this article shall prejudice the admission of any evidence, whether contained in any document or otherwise, which is admissible apart from this article.

6. A request for assistance sent to the Governor by the appropriate authority of a designated country shall, unless the contrary is shown, be deemed to constitute the authority of the government of that country for the Attorney General or a person authorised by him in that behalf, to act on its behalf in any proceedings in the Grand Court under section 16Q of the Law or any other provision of the Law as applied by article 3(2) of this order.

7. (1) Where –

- (a) a confiscation order has been made under section 16A of the Law; and
- (b) a request has been sent by the Governor to the appropriate authority of a designated country for assistance in enforcing that order; and
- (c) in execution of that request property is recovered in that country,

the amount payable under the confiscation order shall be treated as reduced by the value of the property so recovered.

(2) For the purposes of this article, and without prejudice to the admissibility of any evidence which may be admissible apart from this paragraph, a certificate purporting to be issued by or on behalf of the appropriate authority of a designated country stating that property has been recovered there in execution of a request by the Governor, stating the value of the property so recovered and the date on which it was recovered shall, in any proceedings in a court in the Islands, be admissible as evidence of the facts so stated.

8. (1) Where the value of property recovered as described in article 7(1) of this order is expressed in a currency other than that of the

Representation of
government of a
designated country.

Satisfaction of
confiscation order in a
designated country.

Currency conversion.

Islands the extent to which the amount payable under the confiscation order is to be reduced under that paragraph shall be calculated on the basis of the exchange rate prevailing on the date on which the property was recovered in the designated country concerned.

(2) where an amount of money payable or remaining to be paid under an external confiscation order registered in the Grand Court under section 16Q of the Law is expressed in a currency other than that of the Islands, for the purpose of any action taken in relation to that order under the Law as applied under article 3(2) of this order the amount shall be converted into the currency of the Islands on the basis of the exchange rate prevailing on the date of registration of the order.

(3) For the purposes of this article a written certificate purporting to be signed by any person acting in his capacity as an officer of any bank in the Islands and stating the exchange rate prevailing on a specified date shall be admissible as evidence of the facts so stated.

FIRST SCHEDULE(Article 3(1))

Designated country

Appropriate authority

The United Kingdom

The Secretary of State for the Home Department.

SECOND SCHEDULE (Article 3(2))

Modifications of the Misuse of Drugs Law (Second Revision)

1. For section 2 there shall be substituted the following –

"2. In this Law, unless the context otherwise requires –

"controlled drug" means a drug listed in the Schedule to the Law;

"drug trafficking" means doing or being concerned in any of the following, whether in the Islands or elsewhere –

- (a) producing or supplying a controlled drug where the production or supply contravenes paragraph (c) or (f) of subsection (1) of section 3;
- (b) storing a controlled drug where possession of the drug contravenes paragraph (d) of subsection (1) of section 3;
- (c) importing or exporting a controlled drug where the importation or exportation is prohibited by paragraph (a) or (b) of subsection (1) of section 3;

"realisable property" means –

- (a) in relation to an external confiscation order made in respect of specified property, the property which is specified in the order; and
- (b) in any other case –
 - (i) any property held by the defendant; and
 - (ii) any property held by a person to whom the defendant has directly or indirectly made a gift caught by this Law."

2 The following sections shall be omitted –

2A, 3(2) to (6), 4 to 6A, 7 to 13A, 14, 15 and 16.

3. For section 16A there shall be substituted the following –

"External confiscation orders. 16A (1) An order made by a court in a designated country for the purpose of recovering payments or other rewards received in connection with drug trafficking or their value is referred to in this Law as an "external confiscation order".

(2) In subsection (1) the reference to an order includes any order, decree, direction or judgment, or any part thereof, however described.

(3) A person against whom an external confiscation order has been made, or a person against whom proceedings which may result in an external confiscation order being made have been, or are about to be, instituted in a court in a designated country, is referred to in this Law as "the defendant".

4. Sections 16B, 16C, 16D, and 16E shall be omitted.

5. In section 16F –

(a) for subsection (1)(a) there shall be substituted –

"(a) proceedings have been instituted against the defendant in a designated country;"

(b) for subsection (1)(c) there shall be substituted the following –

"(c) either an external confiscation order has been made in the proceedings or it appears to the Grand Court that there are reasonable grounds for thinking that such an order may be made in them."

(c) for subsection (2) there shall be substituted the following –

"(2) Those powers are also exercisable where it appears to the Grand Court that proceedings are to be instituted against a defendant in a designated country and that there are reasonable grounds for believing that an external confiscation order may be made in them."

(d) for subsection (3) there shall be substituted the following –

"(3) Where the court has made an order under section 16G(1) by virtue of subsection (2) of this section, it shall discharge the order if the proposed proceedings are not instituted within such time as the court considers reasonable."

(e) for subsection (4) there shall be substituted the following –

"(4) Proceedings for an offence are instituted in a designated country when –

- (a) under the law of the designated country concerned a charge has been signed in respect of alleged drug trafficking by the defendant; or
- (b) an application has been made to a court in the designated country for an external confiscation order;

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

(f) in subsection 5 –

- (i) delete the words "in the Islands" appearing in the second line;
- (ii) substitute "a" for "Her Majesty's" in paragraph (d);
- (iii) for the letter "a" appearing in the penultimate line of paragraph (e), substitute "an external";
- (iv) for the letter "a" appearing in the first line of paragraph (f) substitute "an external".

6. In section 16G –

(A) for subsection (2)(a) and (b) there shall be substituted the following –

"(a) where an application under subsection (3) relates to an external confiscation order made in respect of specified property, to property which is specified in that order; and

(b) in any other case –

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

(B) in subsection (3) –

- (a) in paragraph (a) for the words "Attorney General" there shall be substituted the words "government of a designated country or, in a case where an external confiscation order has been registered under section 16Q of this

Law, by a receiver appointed under section 16H of this Law, the Attorney General or a person authorised in that behalf by the Attorney General"; and

(b) for paragraph (c) there shall be substituted the following –

"(c) may, notwithstanding anything in the Grand Court Rules made under section 21 of the Grand Court Law, provide for service on, or provision of notice to, persons affected by the order in such manner as the Grand Court may direct."

(C) in subsection (4) for paragraph (b) there shall be substituted –

"(b) shall be discharged when the proceedings in relation to which the order was made are concluded."

(D) add the following as subsection (11) –

"(11) Notwithstanding anything in the Grand Court Rules made under section 21 of the Grand Court Law, an application under subsection (3)(a) shall be supported by an affidavit which shall –

- (a) state, where applicable, the grounds for believing that an external confiscation order may be made in the proceedings instituted or to be instituted in the designated country concerned;
- (b) to the best of the deponent's ability, give particulars of the realisable property in respect of which the order is sought and specify the person or persons holding such property;
- (c) in a case to which section 16F(2) of this Law applies, indicate when it is intended that proceedings should be instituted in the designated country concerned;

and the affidavit may, unless the court otherwise directs, contain statements of information or belief with the sources and grounds thereof."

7. (1) In section 16H, for subsection (1) there shall be substituted the following two subsections –

"(1) Where an external confiscation order has been registered in the Grand Court under section 16Q of this Law, the Grand Court may, on the application of the Attorney General or a person authorised in that behalf by the Attorney General, exercise the powers conferred by subsections (1A) to (6).

(1A) In respect of any sum of money payable under the external confiscation order the Court may make a garnishee order as if the sum were due to the Crown in pursuance of a judgment or order of the Grand Court, but any such order may direct that the sum payable be paid to the Grand Court."

8. In section 16I –

(a) in subsection (1) for the words "be applied on that person's behalf towards the satisfaction of the confiscation order" where they occur at the end of the subsection, substitute the words "be paid to the Grand Court and applied for the purposes specified

in subsection (3) and in the order so specified.";

(b) in subsection (2) for the words "If, after the amount payable under the confiscation order" substitute the words "Where a fixed amount is payable under the confiscation order and, after that amount";

(c) in subsection (3), delete all the words from "The receipt" down to and including the words "but the sum" and substitute the words "Any sum received by the Clerk of the Court on account of an amount payable under a confiscation order".

9. In section 16J –

(a) substitute the following for subsection (2) –

"(2) Subject to the following provisions of this section, the powers shall be exercised with a view to recovering property which is liable to be recovered under an external confiscation order registered in the Grand Court under section 16Q of this Law or, as the case may be, with a view to making available for recovery, property which may become liable to be recovered under any external confiscation order which may be made in the defendant's case.";

(b) in subsection (6) insert the word "external" immediately before the word "confiscation";

(c) in subsection (8) delete the words "by the prosecution or, in a case where proceedings for a drug trafficking offence are not instituted,".

10. Sections 16K, 16L, 16M, 16O, and 16P shall be omitted.

11. In section 16N –

(a) in subsection (1) for the words "Misuse of Drugs (Amendment) Law, 1988," substitute the words "Misuse of Drugs (Drug Trafficking Offences) Order 1991;"

(b) in subsection (2)(b) and (3), delete the words "subsection (5) of section 16E and ";

(c) delete subsection (6).

12. Sections 17 to 27 shall be omitted.

13. The Second Schedule to the Law shall be omitted.

THIRD SCHEDULE (Article 3(2))

The Misuse of Drugs Law (Second Revision) as Modified

Interpretation.

2. In this Law unless the context otherwise requires –

"controlled drug" means a drug listed in the Schedule;

"drug trafficking" means doing or being concerned in any of the

following, whether in the Islands or elsewhere --

- (a) producing or supplying a controlled drug where the production or supply contravenes paragraphs (c) or (f) of subsection (1) of section 3;
- (b) storing a controlled drug where possession of the drug contravenes paragraph (d) of subsection (1) of section 3;
- (c) importing or exporting a controlled drug where the importation or exportation is prohibited by paragraph (a) or (b) of subsection (1) of section 3;

"realisable property" means --

- (a) in relation to an external confiscation order made in respect of specified property, the property which is specified in the order; and
- (b) in any other case --
 - (i) any property held by the defendant; and
 - (ii) any property held by a person to whom the defendant has directly or indirectly made a gift caught by this Law.

Unauthorised dealings in controlled drugs.

3. (1) Whoever, without lawful excuse or without being authorised in that behalf --

- (a) imports,
- (b) exports,
- (c) produces,
- (d) stores,
- (e) sells, buys or otherwise deals in,
- (f) supplies,
- (g) distributes,
- (h) dispenses,
- (i) issues a prescription for,
- (j) administers,
- (k) possesses, constructively or otherwise, or
- (l) consumes,
- (m) has in his possession, whether lawfully or not, with intent

that it be supplied, whether by himself or some other person and whether in the Islands or elsewhere, to another person in contravention of this subsection,

any controlled drug, pipe, utensil or thing used in the preparation or consumption of any controlled drug, or who attempts, assists or is concerned in any of such matters is guilty of an offence.

External confiscation orders.

16A. (1) An order made by a court in a designated country for the purpose of recovering payments or other rewards received in connection with drug trafficking or their value is referred to in this Law as an "external confiscation order".

(2) In subsection (1) the reference to an order includes any order, decree, direction or judgment, or any part thereof, however described.

(3) A person against whom an external confiscation order has been made, or a person against whom proceedings which may result in an external confiscation order being made have been, or are about to be, instituted in a court in a designated country, is referred to in this Law as "the defendant".

Cases in which restraint orders may be made.

16F. (1) The powers conferred on the Grand Court by subsection (1) of section 16G are exercisable where –

- (a) proceedings have been instituted against the defendant in a designated country;
- (b) the proceedings have not been concluded; and
- (c) either an external confiscation order has been made in the proceedings or it appears to the Grand Court that there are reasonable grounds for thinking that such an order may be made in them.

(2) Those powers are also exercisable where it appears to the Grand Court that proceedings are to be instituted against a defendant in a designated country and that there are reasonable grounds for believing that an external confiscation order may be made in them.

(3) Where the court has made an order under section 16G (1) by virtue of subsection (2) of this section, the court shall discharge the order if the proposed proceedings are not instituted within such time as it considers reasonable.

(4) Proceedings for an offence are instituted in a designated country when –

- (a) under the law of the designated country concerned a charge has been signed in respect of alleged drug trafficking by the defendant; or
- (b) an application has been made to a court in the designated country for an external confiscation order;

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

(5) For the purposes of paragraph (b) of subsection (1), 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 person against whom the proceedings were instituted;
- (c) the quashing of his conviction for the offence;
- (d) the grant of a 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 an external confiscation order;
- (f) the satisfaction of an external confiscation order made in the proceedings, whether by payment of the amount due under the order or by the person serving imprisonment in default.

Restraint orders.

16G.(1) The Grand Court may by 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) where an application under subsection (3) relates to an external confiscation order made in respect of specified property, to property which is specified in that order; and
- (b) in any other case –
 - (i) to all realisable property held by a specified person, whether the property is described in the restraint order or not; and
 - (ii) to realisable property held by a specified person, being property transferred to him after the making of the restraint order.

(3) A restraint order –

- (a) may be made only on an application by or on behalf of the government of a designated country or, in a case where an external confiscation order has been registered under section 16Q of this Law, by a receiver appointed under section 16H of this Law, the Attorney General or a

person authorised in that behalf by the Attorney General;
and

- (b) may be made on an *ex parte* application in chambers; and
 - (c) may, notwithstanding anything in the Grand Court Rules made under section 21 of the Grand Court Law, provide for service on, or provision of notice to, persons affected by the order in such manner as the Grand Court may direct.
- (4) A restraint order –
- (a) may be discharged or varied in relation to any property; and
 - (b) shall be discharged when the proceedings in relation to which the order was made are concluded.
- (5) Where the Grand Court has made a restraint order, it may at any time appoint a receiver –
- (a) to take possession of any realisable property; and
 - (b) in accordance with its 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.

(6) 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 Islands.

(7) Where the Grand Court has made a restraint order, a constable may seize any realisable property for the purpose of preventing it being removed from the Islands.

(8) Property seized under subsection (7) shall be dealt with in accordance with the court's directions.

(9) For the purposes of this section, at any time when the powers conferred on the Grand Court by section 16F are exercisable before proceedings have been instituted, a reference to realisable property shall be construed as if, immediately before that time, proceedings had been instituted against the person referred to in paragraph (a) of

subsection (2) of section 16F for a drug trafficking offence.

(10) In this section "restraint order" means an order made under subsection (1).

(11) Notwithstanding anything in the Grand Court Rules made under section 21 of the Grand Court Law, an application under subsection (3)(a) shall be supported by an affidavit which shall –

- (a) state, where applicable, the grounds for believing that an external confiscation order may be made in the proceedings instituted or to be instituted in the designated country concerned;
- (b) to the best of the deponent's ability, give particulars of the realisable property in respect of which the order is sought and specify the person or persons holding such property;
- (c) in a case to which section 16F(2) of this Law applies, indicate when it is intended that proceedings should be instituted in the designated country concerned;

and the affidavit may, unless the court otherwise directs, contain statements of information or belief with the sources and grounds thereof.

Realisation of property.

16H. (1) Where an external confiscation order has been registered in the Grand Court under section 16Q of this Law, the Grand Court may, on the application of the Attorney General or a person authorised in that behalf by the Attorney General, exercise the powers conferred by subsections (1A) to (6).

(1A) In respect of any sum of money payable under the external confiscation order the court may make a garnishee order as if the sum were due to the Crown in pursuance of a judgment or order of the Grand Court, but any such order may direct that the sum payable be paid to the Grand Court.

(2) The court may appoint a receiver in respect of realisable property.

(3) The court may empower a receiver appointed under subsection (2) of this section or under subsection (5) of section 16G, in relation to any realisable property, to take possession of that property subject to such conditions or exceptions as may be specified by the court.

(4) The court may order any person having possession of realisable property to give possession of it to any such receiver.

(5) The court may empower any such receiver to realise any realisable property in such manner as the court may direct.

(6) The court may 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 Law, as defined in subsection (1) of section 16N, as it may direct and, on the payment being made, it may, by order, transfer, grant or extinguish any interest in the property.

(7) The court shall not in respect of any property exercise the powers conferred by subsection (5) or (6) unless a reasonable opportunity has been given for persons holding any interest in the property to make representations to it.

(8) For the purposes of paragraph (b) of subsection (1), an order is subject to appeal so long as an appeal or further appeal is pending against it or, if it was made on a conviction, against that 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.

Application of proceeds of realisation and other sums.

16I. (1) Subject to subsection (2), the following sums in the hands of a receiver appointed under subsection (5) of section 16G or under subsection (2) of section 16H, that is –

- (a) the proceeds of the realisation of any property under paragraph (b) of subsection (5) of section 16G or under subsection (5) or (6) of section 16H; and
- (b) any other sums, being property held by a person against whom proceedings have been instituted for a drug trafficking offence,

shall, after such payments (if any) as the Grand Court may direct have been made out of those sums, be paid to the Grand Court and applied for the purposes specified in subsection (3) and in the order so specified.

(2) Where a fixed amount is payable under the confiscation order and, after that amount has been fully paid, any such sums remain in the hands of such a receiver, the receiver shall distribute those sums –

- (a) among such of those who held property which has been realised; and
- (b) in such proportions,

as the Grand Court may direct after giving a reasonable opportunity for such person to make representations to the court.

(3) Any sum received by the Clerk of the Court on account of an amount payable under a confiscation order 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 prosecution under subsection (8) of section 16J, and the balance shall be treated as if it were a fine imposed by the court.

Exercise of powers by
Grand Court or receiver.

16J. (1) Subsections (1) to (6) inclusive apply to the powers conferred on the Grand Court by sections 16G, 16H and 16I or on a receiver appointed under subsection (5) of section 16G or under subsection (2) of section 16H.

(2) Subject to the following provisions of this section, the powers shall be exercised with a view to recovering property which is liable to be recovered under an external confiscation order registered in the Grand Court under section 16Q of this Law or, as the case may be, with a view to making available for recovery, property which may become liable to be recovered under any external confiscation order which may be made in the defendant's case.

(3) In the case of realisable property held by a person to whom the person against whom the proceedings have been instituted has directly or indirectly made a gift caught by this Law, as defined in subsection (1) of section 16N, the powers shall be exercised with a view to realising no more than the value for the time being of that gift.

(4) The powers shall be exercised with a view to allowing any person other than the person against whom the proceedings have been instituted or the recipient of any such gift, to retain or recover the value of any property held by him.

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

(6) In exercising those powers, no account shall be taken of any obligations of the person against whom the proceedings have been instituted or of the recipient of any such gift which conflict with the obligation to satisfy the external confiscation order.

(7) Where a receiver appointed under subsection (5) of section 16G or under subsection (2) of section 16H takes any action –

- (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.

(8) Any amount due in respect of the remuneration and expenses of a receiver appointed under subsection (5) of section 16G or under

subsection (2) of section 16H shall, if no sum is available to be applied in payment of it under paragraph (a) of subsection (3) of section 16I, be paid by the person on whose application the receiver was appointed.

Other provisions re offences, gifts, property, etc.

16N. (1) A gift, including a gift made before the commencement of the Misuse of Drugs (Drug Trafficking Offences)(Designated Countries) Order 1991 is caught by this Law if –

- (a) it was made by a person against proceedings have been instituted for a drug trafficking offence at any time since the beginning of the period of six years ending when the proceedings were instituted; or
 - (b) it was made by him at any time and was a gift of property
 - (i) received by him in connection with drug trafficking carried on by him or another; or
 - (ii) which in whole or in part directly or indirectly represented in his hands property received by him in that connection.
- (2) For the purpose of subsection (1) –

- (a) the circumstances in which a person against whom proceedings have been instituted for a drug trafficking offence 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 him; and
- (b) in those circumstances, subsections (1), (2), (4) and (5) of this section shall apply as if he had made a gift of such share in 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 him.

(3) Subject to subsections (1), (2), (4) and (5) of this section, for the purposes of this Law the value of property (other than cash) in relation to any person holding the property is –

- (a) where any other person holds an interest in the property, the market value of the first mentioned person's beneficial interest in the property, less the amount required to discharge any incumbrance on that interest;
- (b) in any other case, its market value.

(4) Subject to subsection (2), a reference in this Law to the value at any time (referred to in subsection (5) as "the material time") of a gift caught by this Law, as defined in subsection (1), or of any payment or reward is a reference 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 (5) applies, the value there mentioned,

whichever is the greater.

(5) Subject to subsection (2), if at the material time the recipient holds –

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

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

Registration of external
confiscation order.

16Q. (1) On an application made by or on behalf of the Government of a designated country, the Grand Court may register an external confiscation order made there if it is –

(a) satisfied that at the time of registration the order is in force and not subject to appeal (which expression includes both any proceedings by way of discharging or setting aside a judgment or an application for a new trial or for a stay of execution);

(b) satisfied, where the person against whom the order is made did not appear in the proceedings, that he received notice of the proceedings in sufficient time to enable him to defend them; and

(c) of the opinion that enforcing the order in the Islands would not be contrary to the interests of justice.

(2) The Grand Court shall cancel the registration of an external confiscation order if it appears to it that the order has been satisfied by payment of the amount due under it, by the person against whom it was made serving imprisonment in default of payment, or by any other means.

The Schedule (Sec. 2)

Controlled Drugs

1. The following substances and products by whatever name known, namely –

Acetorphine

Acetyldihydrocodeine

Allylprodine

Alphacetylmethadol

Diampromide

Diethylthiambutene

Dihydrocode O-carboxymethyloxime

Alphameprodine
Alphamethadol
Alphaprodine
Anileridine
Benzethidine
Benzylmorphine (3-benzylmorphine)
Betacetylmethadol
Betameprodine
Betamethadol
Betaprodine
Beziramide
Bufotenine
Cannabinol
Cannabinol derivatives
Clonitazene
Coca leaf
Cocaine
Codeine
Desomorphine
Dextromoramide
Diamorphine
Hydromorfinol
Hydromorphone
Hydroxypethidine
Isomethadone
Ketobemidone
Levomethorphan
Levomoramide
Levophenacymorphan
Levorphanol
Lysergamide
Lysergide and other N-alkyl derivatives of
lysergamide
Mescaline
Metazocine
Methadone
Methadyl acetate
Methyldesorphine
Methyldihydromorphine
(6-methyldihydromorphine)
Metopon
Morpheridine
Morphine
Morphine methobromide,
morphine-N-oxide and other
pentavalent nitrogen morphine
derivatives
Myrophine
Nicocodine
Nicomorphine (3, 6 dinicotinylmorphine)
Noracymethadol
Norcodeine
Norlevorphanol
Normethadone

Dihydromorphine
Dimenoxadol
Dimepheptanol
Dimethylthiambutene
Dioxaphetyl butyrate
Diphenoxylate
Dipipanone
Ecgonine, and any derivative of ecgonine
which is convertible to ecgonine or to
cocaine
Ethylmethylthiambutene
Ethylmorphine (3-ethylmorphine)
Etonitazene
Etorphine
Etoxidine
Fentanyl
Furethidine
Heroin
Hydrocodone
(dihydrocodeinone)
Opium, whether raw, prepared or medical
Oxycodone
Oxymorphone
Pethidine
Phenadoxone
Phenampromide
Phenazocine
Phenomorphin
Phenoperidine
Pholcodine
Piminodine
Piritramide
Poppy-straw and concentrate of
poppy-straw
Prohetazine
Propertidine (1-methyl-4-
phenylpiperidine-4-carboxylic acid
isopropyl ester)
Psilocine
Racemethorphan
Racemoramide
Racemorphan
Thebacon
Thebaine
Trimeperidine
4-Cyano-2 Dimethylamino-4,
4-diphenylbutane
4-Cyano-1 methyl-4-phenyl-4-piperidine
1-Methyl-4 phenylpiperidine -4-carboxylic
acid
2-Methyl-3-morpholino-1,
1-diphenylpropane carboxylic acid
4-Phenylpiperidine-4-carboxylic acid ethyl
ester.

Normorphine
Norpipanone

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 paragraphs 1 to 4 above
6. Any preparation intended for administration by injection which includes a substance or product for the time being specified in any of paragraphs 1 to 3 above.

7.

Amphetamine
Aponeuron (2-a
Methylphenethylamino-2-phenylace
tonitrile N-b-)
Benzphetamine
Camphamedrine
(N-b-Hydroxy-a-methylphenethyl
N-methyl-camphor-10-sulphonamid
e)
Chlorphentermine
Doxapram
Fenethylamine
Ganja

Merphentermine
Methylamphetamine
Methylphenidate
Pemaline
Phenatone (N-a Methylphenethyl
nicotinamide)
Phendimetrazine
Phenmetrazine
Phentermine
Plenylpropylm ethylamine
Pipradrol
Prolintane
Tranylcypramine.

8. Any stereoisomeric form of a substance for the time being specified in paragraph 7 above.
9. Any salt of a substance for the time being specified in paragraph 7 or 8 above.
10. Any preparation or other product containing a substance or product for the time being specified in any of paragraphs 7 to 9 of this Schedule not being a preparation falling within paragraph 6 above.

11.

Amfechloral
Amfepramone
Cypenamine
Diphenethoxidine
Ethylamphetamine
Fenmetramide
Furfurylmethyl-amphetamine
Lerophacetoperane

Mefenorex
Metamfepramone
Methaqualone
Prazitone
Pheniprazine
Phenpentermine
Phenbutrazate
Rolicyprine.

12. Any stereoisomeric form of a substance for the time being specified in paragraph 11 of this Schedule.

13. Any salt of a substance for the time being specified in paragraph 11 or 12 above.
14. Any preparation or other product containing a substance for the time being specified in any of paragraphs 11 to 13 above.
15. Mecloqualone and Phencyclidine.
16. Derivatives of Barbituric Acid.

Meaning of certain expressions used in this Schedule

For the purposes of this Schedule the following expressions have the meanings hereby assigned to them respectively, that is to say –

"cannabinol derivatives" means the following substances, namely, tetrahydro derivatives of cannabinol and 3-alkylhomologues of cannabinol or of its tetrahydro derivatives;

"coca leaf" means the leaf of any plant of the genus of the erythroxyllum from which 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;

"ganja" includes all parts of any plant of the genus Cannabis and any resin obtained from that plant, but does not include medicinal preparations made from that plant in accordance with a licence granted under this or any other Law;

"medicinal opium" means raw opium which has undergone the process necessary to adopt 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 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;

"phencyclidine" includes any salt, immediate precursor, homolog, analog or derivative (or salt thereof) and also the chemical "Piperidine" used in the manufacture of phencyclidine.

Made in Council the 23rd day of July, 1991.

MONA N. BANKS-JACKSON
Clerk of the Executive Council.

(Price \$ 4.80)