

The Misuse of Drugs Law. 1973

(Law 13 of 1973)

CAYMAN ISLANDS

LAW 13 of 1973

I assent

K.R. Crook

Governor

12th December, 1973

MEMORANDUM OF OBJECTS AND REASONS

The Dangerous Drugs Law whilst containing provisions prohibiting the unauthorised importation into the islands of certain drugs to which the Law applies contains no provisions prohibiting the manufacture or dealing in such drugs in the Islands. Furthermore several new classes of narcotic and hallucinatory drugs of which the drug Lysergic Acid Diethylamide, commonly known as L.S.D. is a typical example are not included in the Law. Many of these drugs are simple to produce and, once introduced, their use spreads with great rapidity. Some of the drugs give rise to an addiction which is virtually incurable. It is therefore deemed advisable to repeal the Dangerous Drugs Law and introduce a new Law which will provide more effective control over the importation, manufacture and use of these drugs.

A LAW TO BRING INTO LINE WITH INTERNATIONAL STANDARDS THE GENERAL CONTROL OF NARCOTIC AND OTHER DRUGS THE MISUSE OF WHICH IS A DANGER TO HEALTH AND PERSONALITY, AND TO REPEAL AND REPLACE THE DANGEROUS DRUGS LAW.

ENACTED by the Legislature of the Cayman Islands.

1. This Law may be cited as the Misuse of Drugs Law, 1973 and shall come into operation on a day to be appointed by the Governor by Government Notice published in the Cayman Islands.

Short Title
and com-
mencement.

2. In this law, unless the context otherwise requires -
“authorized” means authorized under this Law;
“authorized possession” with respect of any drug means actual or constructive possession -
(i) by the C.M.O. or any practitioner authorised by the C.M.O. in that behalf;
(ii) by any person for the purpose of lawful administration thereof; or
(iii) possession authorized by any regulation;

Interpreta-
tion.

"C.M.O." means the Chief Medical Officer and any medically qualified person acting under his authority;

"consume" includes eat, drink, smoke, sniff inhale, absorb, suck, chew, inject, use and destroy;

"contravene" and its grammatical derivations includes 'fail to comply';

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

"constructive possession" includes the power to control the storage, use or distribution of any substance;

"Governor" means the Governor in Council;

"lawful administration" with respect to a drug means administration of the same by any person to himself or another in accordance with a prescription issued by a practitioner authorized in that behalf;

"practitioner" means the C.M.O. and any person authorized by him in writing to import, export, produce, store, deal in, supply, distribute, dispense, issue a prescription for or administer controlled drugs for medicinal or research purposes, limited to the extent of such authorization;

"prescription" means a lawful authorization by a practitioner for the administration of any drug; and

"to produce" with reference to any drug includes to prepare, manufacture, refine, process or cultivate such drug or any harmful or potentially harmful ingredient thereof;

"vessel" includes any ship, aircraft, hovercraft, vehicle or thing in which anything may be carried, stored or secreted.

3. (1) Whoever without -

(i) lawful excuse; or

(ii) being authorised in that behalf

(a) imports,

(b) exports,

It is an offence to have dealings in controlled drugs unless authorised.

(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

(1) consumes

any controlled drug, pipe, utensil or thing used in the preparation or consumption of any controlled drug, or who attempts or offers so to do or who causes, procures, solicits, entices, aids, abets, permits or suffers any other person so to do is guilty of an offence.

(2) A person is guilty of an offence if -

(a) being the occupier or concerned in the management of any premises, he permits or suffers any of the following activities to take place on those premises, that is to say, producing, supplying, distributing, dispensing, administering or consuming or attempting to do any of such things in contravention of subsection (1); or

(b) he frequents any place used for the purpose of consuming any controlled drug.

(3) For the purpose of subsection (1) "lawful excuse" means possession by a customs officer, constable or person officially taking part in an investigation or trial of a matter arising out of a contravention or suspected contravention of this Law.

4. (1) A constable or customs officer may arrest without warrant a person who has committed, or whom such constable or customs officer reasonably suspects to have committed an offence under this law.

(2) A person who has been arrested under subsection (1) may, while at a police station, hospital or other

Powers of arrest.

convenient place, be required by a constable to provide a specimen of his urine for a laboratory test and, if such person, without reasonable excuse, fails to provide such a specimen he shall be guilty of an offence.

(3) When requesting any person to provide a specimen for the purpose of subsection (2) the constable shall warn such person of the possible consequences of failure to supply such specimen.

(4) If the person giving a specimen so desires, he shall be given a portion of the specimen for examination by his own medical advisor.

Powers of search.

5. (1) If a constable has reasonable grounds to suspect that any person is in possession of any controlled drug in contravention of this law he may without warrant detain and search such person and whether or not any person is detained or searched may, without warrant, break open and search any premises, vessel or thing whatsoever in which he has reasonable grounds to suspect that any such drug may be concealed.

(2) No person shall in exercise of the powers conferred by subsection (1) conduct a personal search of a person not of the same sex.

(3) A Justice of the Peace may at any time issue a warrant for the search of any premises in furtherance of the enforcement of this Law and such warrant may be executed at any time of the day or night within one month of its issue and, where necessary for entry to such premises, such force may be used as may be requisite thereto.

Evidence.

6. (1) The presence on, in or about any place or premises or the possession by any person of any pipe, syringe, inhaler, still, retort or other device commonly used for the production or consumption of any controlled drug shall be receivable in evidence by any court in order to assist such court to determine whether or not any person has contravened this Law, and the Court may thereafter order the same (if exhibited) to be forfeited.

(2) A certificate under the hand of the C.M.O. or of a qualified chemist or a qualified medical laboratory technician appointed by the Governor in that behalf either specially or generally shall be prima facie evidence of whether or not any given substance, therein identified and referred to, is a controlled drug specified

in such certificate; or whether or not any given specimen of urine indicates that the person giving such specimen has recently consumed any controlled drug.

7. Any controlled drug found in the course of a search conducted under section 5 or otherwise coming into the hand of any constable shall be held in police custody and, unless claimed within 15 days by a person found to be authorized to be in possession of the same, shall be forfeited to the Crown.

Seizure and forfeiture.

8. Where any offence under this Law committed by a body corporate is proved to have been committed, the consent, connivance or negligence of any director or officer howsoever designated or such body corporate may be presumed unless he proves the contrary to the satisfaction of the Court, and such person as well as the body corporate shall be guilty of that offence.

Offences by corporations.

9. The Governor may make regulations -

Regulations.

(a) for the purpose of making alteration to the schedule hereto;

(b) for the control of the import, export, transport and storage of controlled drugs;

(c) prescribing anything required to be prescribed under this Law or any regulation,

and may thereby make provision for penalties consequent upon any contravention thereof and for any contravention of any rules made under section 10, which penalties shall not be limited to the provisions of paragraph (b) of section 27 of the Interpretation Law.

Cap. 70.

10. The C.M.O. may make rules for inspection, keeping of inventories, and general control and distribution of controlled drugs in the hands of persons authorized under this law to be in possession of the same and every such person shall, at the request of the C.M.O. or of any constable, give full information as to the controlled drugs in his possession and the whereabouts of the same and account for the distribution of all such drugs as have passed through his hands.

Rules.

11. Whoever resists any lawful arrest or search or gives to any constable or customs officer or to the C.M.O. any information of a kind required to be given under this

Offences.

Law in the truth of which he does not believe (the onus of proof of his belief being upon him) is guilty of an offence.

Penalties
for offences
under
section 3.

12. (1) Subject to the provisions of subsection (2) whoever is guilty of an offence contrary to subsections (1) or (2) of section 3 is liable on summary conviction before the Magistrate to a fine not exceeding \$3000 or to a term of imprisonment with hard labour not exceeding three years or both, 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.

(2) Notwithstanding the provisions of subsection (1), whoever is guilty of the offence of -

- (a) producing; or
- (b) being in possession or constructive possession of; or
- (c) selling, buying, dealing in, supplying, distributing or dispensing,

any controlled drug, shall on summary conviction before the Magistrate be imprisoned with hard labour for a term not exceeding five years and, in addition to such imprisonment shall further be liable to a fine not exceeding \$5000:

Provided that, in the case of a second or subsequent conviction for any such offence, the offender shall be imprisoned with hard labour for a term not exceeding ten years and in addition to such imprisonment shall further be liable to a fine not exceeding \$10,000.

General
penalty.

13. Whoever contravenes any provision of this Law or any rule or regulation pursuant thereto shall, if no other penalty is specifically provided, be liable on summary conviction to a fine not exceeding \$1000 or to imprisonment for a term not exceeding one year or both.

Seizure and
forfeiture
of vessels.

14. (1) If any constable has reasonable cause to suspect that any vessel is being used or has been used for the commission of any offence against this law, he may without a warrant search and, if such search reveals evidence that the vessel is being used for the commission of any such offence, seize and detain such vessel.

(2) On the conviction of any person for an offence against this Law, the court of conviction -

- (a) may, upon the application of the prosecution, in the case of a first conviction for any such offence; and
- (b) shall in the case of a second or subsequent conviction for any such offence,

order the forfeiture of any vessel used in the commission of the offence and seized pursuant to this section:

Provided that the owner of any vessel so seized may, with the consent of the court of conviction, recover such vessel upon payment into court of a redemption fee of \$6000.

15. Notwithstanding the provisions of any Law prescribing the time within which proceedings for an offence punishable on summary conviction may be commenced, any proceedings for an offence under this Law, may be commenced either within the time so prescribed or within three months from the date on which evidence sufficient in the opinion of the Attorney General to justify a prosecution for the offence comes to his knowledge, whichever time is the longer, and for the purposes of this section a certificate purporting to be signed by the Attorney General as to the date on which such evidence came to his knowledge shall be conclusive evidence thereof.

Time within
which pro-
ceedings may
be brought.

16. Without prejudice to any matter arising thereunder and in course of process, the Dangerous Drugs Law is hereby repealed.

Repeal with
savings.
(Cap. 32).

THE SCHEDULE
(Section 2)

CONTROLLED DRUGS

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

Acetorphine	Dipipanone
Acetyldihydrocodeine	Ecgonine, and any derivative of ecgonine, which is convertible to ecgonine or to cocaine.
Allylprodine	
Alphacetylmethadol	Ethylmethylthiambutene
Alphameprodine	Ethylmorphine (3-ethylmorphine)
Alphamethadol	
Alphaprodine	
Anileridine	Etonitazene
Benzethidine	Etorphine
Benzylmorphine (3-benzylmorphine)	Etoxadine
Betacetylmethadol	Fentanyl
Betameprodine	Furethidine
Betamethadol	Hydrocodone (dihydrocodeinone)
Betaprodine	Hydromorphinol
Bezitramide	Hydromorphone
Bufotenine	Hydroxypethidine
Cannabinol	Isomethadone
Cannabinol derivatives	Ketobemidone
Clonitazene	Levomethorphan
Coca leaf	Levomoramide
Cocaine	Levophenacylmorphin
Codeine	Levorphanol
Desomorphine	Lysergamide
Dextromoramide	Lysergide and other N-alkyl derivatives of lysergamide
Diamorphine	Mescaline
Diampromide	Metazocine
Diethylthiambutene	Methadone
Dihydrocodeinone	Methadyl acetate
Dihydrocodeinone O-carboxymethyloxime	Methyldesorphine
Dihydromorphine	Methyldihydromorphine (6-methyldihydromorphine)
Dimenoxadole	
Dimepheptanol	
Dimethylthiambutene	
Dioxaphetyl butyrate	
Diphenoxylate	Metopon

Morpheridine	Poppy-straw and concentrate of poppy-straw
Morphine	Proheptazine
Morphinemethobromide, morphine - N - oxide and other pentavalent nitrogen morphine derivatives	Properidine (1-methyl-4-phenylpiperidine-4-carboxylic acid isopropyl ester)
Myrophine	Psilocin
Nicocodine	Racemethorphan
Nicomorphine (3, 6 dinicotinoylmorphine)	Racemoramide
Noracymethadol	Racemorphan
Norcodeine	Thebacon
Norlevorphanol	Thebaine
Normethadone	Trimeperidine
Normorphine	4 - Cyano- 2- dimethylamino-4, 4- diphenylbutane
Norpipanone	4-Cyano-1-methyl-4-phenyl-4-piperidine
Opium, whether raw, prepared or medicinal	1 - Methyl-4-phenylpiperidine-4-carboxylic acid
Oxycodone	2-Methyl-3-morpholino-1, 1- diphenylpropanecarboxylic acid
Oxymorphone	
Pethidine	4-Phenylpiperidine-4-carboxylic acid ethyl ester.
Phenadoxone	
Phenampramide	
Phenazocine	
Phenomorphin	
Pheoperidine	
Pholcodine	
Piminodine	
Piritramide	

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.

The Misuse of Drugs Law, 1973

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	Methylamphetamine
Aponeuron (2-a-	Methylphenidate
Methylphenethyl-	Pemoline
lamino-2-	Phenatine (N-a-
phenylacetone) (N-(b-	Methylphenethyl
Benzphetamine	nicotinamide)
Camphamedrine (N(B-	Phendinetrazine
Hydroxy-a-	Phenmetrazine
methylphenethyl)-	
N-methyl-camphor-	Phentermine
10-sulphonamide)	Plenylpropylm
Chlorphentermine	ethylamine
Doxapram	Pipradrol
Fenethylline	Prolintane
Ganja	Tramylcypromine.
Merphentermine	

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 10 of this Schedule, not being a preparation falling within paragraph 6 above.

11.

Amfechloral	Lerophacetoperane
Amfepramone	Menfenorex
Cypenamine	Metamfepramone
Diphemethoxidine	Methaqualone
Ethylamphetamine	Prazitone
Fenmetramide	Pheniprazine
Furfurylmethyl-	Phenpentermine
amphetamine	Phenbutrazate
	Rolicyprine.

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

The Misuse of Drugs Law, 1973

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.

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 erythroxyllaceae 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 the plant known as Cannabis Sativa L. 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 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;

The Misuse of Drugs Law, 1973

“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.

Passed the Legislative Assembly this 25th day of October 1973.

K.R. Crook
President

Sybil McLaughlin.
Clerk of the Legislative Assembly.