

CAYMAN ISLANDS



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THE NATIONAL DRUG COUNCIL LAW, 1997

(Law 17 of 1997)

CAYMAN ISLANDS

THE NATIONAL DRUG COUNCIL LAW, 1997

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CAYMAN ISLANDS

Law 17 of 1997.

I Assent

JOHN OWEN

Governor.

23 October, 1997

**A LAW TO ESTABLISH A NATIONAL DRUG COUNCIL; TO PROVIDE
FOR THE TRANSFER TO THE COUNCIL OF CERTAIN FUNCTIONS
AND ASSETS OF THE GOVERNMENT; AND FOR INCIDENTAL AND
CONNECTED PURPOSES**

ENACTED by the Legislature of the Cayman Islands.

Part I - Preliminary

1. This Law may be cited as the National Drug Council Law, 1997.

Short title

2. In this Law, unless the context otherwise requires-

Interpretation

“Chairman” means the chairman of the Council appointed under section 7;

“Council” means the National Drug Council established by section 3;

“Council member” means a member of the Council and includes the Chairman and the Vice-chairman;

“financial statements” means the balance sheet, income statement, cash flow statement and explanatory notes, together with such further accounts or documents that the International Accounting Standards Committee, or such other body as may be set up in its place, may from time to time stipulate as being required to summarise the financial affairs of an organisation;

“Minister” means the minister for the time being responsible for health;

“National Drugs Co-ordinator” means the National Drugs Co-ordinator appointed under section 8; and

“Vice-chairman” means the vice-chairman of the Council appointed under section 7.

Part II - Establishment and Administration of Council

Establishment of Council

3. (1) There is established a body to be called the National Drug Council which shall be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in its corporate name.

(2) For the purpose of carrying out its functions under this Law, the Council may buy, sell, let, hold, deal and otherwise acquire and dispose of land and other property of whatsoever nature, and may enter into contracts, whether of agency or otherwise.

(3) All deeds, documents and other instruments requiring the seal of the Council shall be sealed with the common seal of the Council in the presence of the chairman or the vice-chairman and the National Drugs Co-ordinator.

(4) The Council may by resolution appoint an officer of the Council or any other agent either generally or in a particular case to execute or sign on behalf of the Council any agreement or instrument not under seal in relation to any matter coming within the powers of the Council.

(5) The Council shall establish and maintain its head office and principal place of business within the Islands, and service of all documents on the Council shall be deemed to be effected if delivered at the head office.

Functions of the Council

4. The functions of the Council are-

- (a) in consultation with such persons or organisations, or both, as it considers appropriate-
 - (i) to formulate policies and develop programmes intended to prevent or reduce drug abuse and to promote and encourage the implementation of such policies and programmes;
 - (ii) to promote and encourage the establishment of a system to co-ordinate the treatment and rehabilitation of drug abusers and the care of persons associated with drug abusers; and

- (iii) to give advice on the licensing and operation of premises used in connection with the treatment and rehabilitation of drug users;
- (b) to advise the Minister and such persons, groups, organisations or bodies as request it to do so, on policies and programmes related to the prevention of drug abuse, the treatment and rehabilitation of drug abusers and the care of connected persons;
- (c) to educate the public, and in particular the young, on the dangers of drug abuse, and to publicise those dangers;
- (d) to promote and encourage the award of scholarships, and to award scholarships or other financial assistance, to persons wishing to pursue courses in basic or advanced training in matters relating to drug abuse;
- (e) to initiate, sponsor and support conferences, seminars and meetings related to drug abuse;
- (f) to initiate, support and publish studies, reports and other documentation on drug abuse;
- (g) to establish, maintain and operate information systems and facilities, and to encourage and support the exchange of information of all kinds in respect of policies, programmes and research, related to drug abuse;
- (h) to establish and operate treatment centres;
- (i) to keep under review the situation in the Islands with respect to drugs which are being, or appear to the Council likely to be, abused and of which the abuse is having, or appears to the Council to be capable of having, harmful effects, and to give to the Minister, where either the Minister so requests or the Council considers it expedient to do so, advice on measures which in the opinion of the Council ought to be taken for restricting the availability of such drugs or supervising the arrangements for their supply;
- (j) to conduct research into, and develop and maintain a database of information on, drug abuse in the Islands; and
- (k) to advise the Minister on matters of law reform relating to the misuse of drugs.

5. The Governor in Council may, after consultation with the Council, give such general directions as to the policy to be followed by the Council in the performance of its functions as appear to him to be necessary in the public interest, and the Council shall give effect to any such directions.

Relations with
Government

6. (1) The Council shall consist of-

Constitution of the
Council

- (a) a chairman, a vice-chairman, and 6 members, all of whom shall be appointed in accordance with section 7(1) and (2);
- (b) not more than 6 members, all of whom shall be appointed in accordance with section 7(3);
- (c) the permanent secretaries of the ministries for the time being responsible for health, education and community development, or their respective representatives;
- (d) the Financial Secretary or his representative;
- (e) the Commissioner of Police or his representative; and
- (f) the National Drugs Co-ordinator.

(2) The numbers of members of the Council, and of the various classes listed in subsection (1), may be varied by Order of the Governor in Council.

Appointment of Council
members

7. (1) The chairman, vice-chairman and members referred to in section 6(1)(a) shall be appointed by the Governor in Council after consultation with such persons as he considers appropriate, and shall hold office for a period of 3 years, and shall be eligible for re-appointment.

(2) The persons appointed by the Governor in Council shall include-

- (a) at least 2 persons appearing to him to have wide and recent experience in the respective health professions of medicine and pharmacy, within the meaning of the Health Practitioners Law (1995 Revision);
- (b) at least 2 persons appearing to him to have wide and recent experience of social problems connected with the misuse of drugs and similar substances; and
- (c) an attorney-at-law in practice in the Islands, or a member of the judiciary of the Islands;

1995 Revision

(3) The members referred to in section 6(1)(b) shall be appointed by the Chairman, shall include the co-ordinators of any committees of the Council, and shall hold office for a period of 1 year, and shall be eligible for re-appointment.

(4) The Council members-

- (a) shall not act as delegates on the Council from any professional, commercial, industrial, religious or other interests with which they may be connected; and
- (b) may be paid by the Council out of the funds of the Council such expenses (which they shall have incurred) as may be determined by the Council.

Appointment of National
Drugs Co-ordinator

8. (1) There shall be a National Drugs Co-ordinator who shall act as the executive director of the Council and who shall be appointed by the Council.

(2) The National Drugs Co-ordinator shall be an employee of the Council on such terms and conditions of service as the Council may decide.

(3) The National Drugs Co-ordinator shall be responsible for the day to day administration of the Council and, to the extent of the authority delegated to him by the Council, shall be responsible for carrying out the functions of the Council.

(4) The National Drugs Co-ordinator shall render his services exclusively to the Council and shall be answerable to the Council for his acts and decisions.

(5) In the event of the absence or inability to act of the National Drugs Co-ordinator, the Minister may appoint another person, who may or may not be a Council member, to discharge the duties of the National Drugs Co-ordinator during the period of his absence or inability.

9. (1) The Governor in Council shall terminate the appointment of any Council member who-

Disqualification of
Council members

- (a) resigns from the office from which his membership of the Council arises;
- (b) becomes of unsound mind or incapable of carrying out his duties;
- (c) becomes bankrupt or suspends payment to or compounds with his creditors;
- (d) is convicted in the Islands or in any other jurisdiction of an offence involving dishonesty or fraud or of any indictable offence;
- (e) is guilty of serious misconduct in relation to his duties; or
- (f) is absent, without leave of the Chairman of the Council, from three consecutive meetings of the Council.

(2) The Governor, at his discretion, may terminate the appointment of any Council member.

10. (1) The Council may, subject to the provisions of this Law, make such rules as it thinks fit to regulate its own internal management and at its first meeting shall approve and adopt standing orders that will govern procedure in connection with and at its meetings.

Regulation of council
business

(2) The validity of any act or proceeding of the Council shall not be affected by any vacancy among its members, or by any defect in the appointment of a member.

Members interests

11. (1) If a Council member has any pecuniary interest, direct or indirect, in any contract, proposed contract or other matter and is present at a meeting of the Council at which the contract, proposed contract or other matter is the subject of consideration, he shall at the meeting and as soon as practicable after its commencement disclose the fact and shall not take part in the consideration or discussion of the contract, proposed contract or other matter or vote on any question with respect to it and shall be excluded from the meeting for the duration of the consideration, discussion and voting procedure.

(2) If any person fails to comply with the provisions of subsection (1) he shall be guilty of an offence and liable -

- (a) on summary conviction, to a fine not exceeding \$15,000 or imprisonment for a term not exceeding 2 years, or both; or
- (b) on conviction on indictment, to a fine not exceeding \$30,000 or imprisonment for a term not exceeding 5 years, or both,

unless he proves that he did not know that the contract, proposed contract or other matter in which he had a pecuniary interest was the subject of consideration at that meeting.

(3) If any person is convicted of an offence under subsection (2) his appointment to the Council shall automatically be revoked and he shall not be eligible for re-appointment at any time in the future.

(4) A disclosure under subsection (1) shall be recorded in the minutes of the Council.

(5) No act or proceeding of the Council shall be questioned on the ground that a Council member has contravened this section.

Pecuniary interests for
the purposes of section
11

12. (1) For the purposes of section 11, a person shall be treated, subject to the following provisions of this section and to section 13, as having indirectly a pecuniary interest in a contract, proposed contract or other matter if-

- (a) he or any nominee of his is a member of a company or other body with which the contract was made or is proposed to be made or which has a direct pecuniary interest in the other matter under consideration;

- (b) he is a partner, or is in the employment of a person with whom the contract was made or is proposed to be made, or who has a direct pecuniary interest in the other matter under consideration; or
- (c) he, or any partner of his is a professional adviser to a person who has a direct or indirect pecuniary interest in a contract, proposed contract or other matter.

(2) Subsection (1) does not apply to membership of or employment under any public body, and a member of a company or other body shall not by reason only of his membership be treated as having an interest in a contract, proposed contract or other matter if he has no beneficial interest in any securities of that company or other body.

(3) In the case of married persons the interest of one spouse shall be deemed for the purpose of section 11 to be also the interest of the other.

13. (1) Section 11 does not apply to an interest in a contract, proposed contract or other matter which a Council member has as a member of the public.

Exemption from disability

(2) Where a Council member has an indirect pecuniary interest in a contract, proposed contract or other matter by reason only of a beneficial interest in securities of a company or other body, and the nominal value of those securities does not exceed \$1,000 or one-thousandth of the total nominal value of the issued share capital of the company or other body, whichever is the less, and if the share capital is of more than one class, the total nominal value of shares of any one class in which he has a beneficial interest does not exceed one-thousandth of the total issued share capital of that class, section 11 shall not prohibit him from taking part in the consideration or discussion of the contract, proposed contract or other matter or from voting on any question with respect to it, without prejudice, however, to his duty to disclose his interest.

14. (1) The Council may employ at such remuneration and on such terms and conditions as may be approved from time to time by the Council such persons as the Council considers necessary for the performance of the functions of the Council.

Power to employ staff

(2) The Governor in Council may, subject to such conditions as he may impose, approve of the appointment of any public officer in the service of Government by way of secondment to any office with the Council, and any public officer so appointed shall, in relation to pension, gratuity or other allowance and to other rights and obligations as a public officer, be treated as continuing in the service of Government.

Part III - Finance

- Financial year 15. The financial year of the Council shall end on the 30 June.
- Funds of the Council 16. The funds of the Council shall consist of-
- (a) grants from the Government out of moneys appropriated by the Legislative Assembly for the purposes of the Council;
 - (b) any money accruing to the Council in the course of the Council's discharge of its functions;
 - (c) any money lawfully borrowed by the Council; and
 - (d) any endowment, contribution or other sum given or paid to, or otherwise vested in, the Council lawfully.
- Gifts and bequests to Council 17. (1) Subject to subsection (2), the Council shall have power to receive all grants, technical assistance, funds or gifts in kind made, given or bequeathed to the Council, or to the Government, for the purposes of the Council, or given or bequeathed by words showing an intention that the funds or gifts should enure to or for the benefit of the Council, and, subject to the provisions of this Law, the Council shall apply all such funds or gifts or, if such funds are invested, the income derived therefrom, to furthering the purposes of the Council in such manner as the Council thinks fit.
- (2) The powers conferred by subsection (1) shall not be exercised in any manner inconsistent with any condition imposed or any direction given by the donor or testator with respect to any such fund or gift.
- (3) Notwithstanding anything contained in any other Law, with respect to funds received by the Council by way of gift or bequest for the purposes of the Council-
- (a) the Council may invest liquid funds in such securities as the Council may determine, and shall so invest any such funds that are given or bequeathed for the endowment of the Council;
 - (b) subject to subsection (4), the Council may realise any funds that are in a state of investment; and
 - (c) funds which, when received by the Council, are in any investment may be retained by the Council in that investment.
- (4) Funds given or bequeathed for the endowment of the Council which, pursuant to subsection (3)(b), are realised shall, as soon as may be practicable or expedient, be reinvested by the Council.
- Council to meet expenses out of revenue 18. The Council shall so manage its affairs as to be able to meet its financial obligations out of the funds available to the Council.

19. The Council shall not borrow money without the prior written consent of the Governor in Council. Borrowing powers
20. (1) Subject to sections 17 and 18 and subsection (2) of this section and without prejudice to section 21, any income derived from rents, fees or other charges and any other income of the Council shall be held and applied to furthering the purposes of the Council in such manner as the Council may think fit. Application of funds
- (2) Any funds appropriated by the Legislature for the purposes of the Council shall, subject to the terms of the appropriation, be applied by the Council as the Minister may direct.
21. The financial statements of the Council shall be prepared and maintained in accordance with the standards recommended for the time being by the International Accounting Standards Committee or by such other body as may be set up in its place. Financial statements of the Council
22. (1) The accounts of all transactions of the Council shall be audited annually by the Auditor-General of the Islands who shall have such powers in relation to the Council, its officers and employees, the Council members, and the property, securities and financial statements of the Council as he has in relation to other public money and public officers by virtue of the Public Finance and Audit Law (1997 Revision). Audit

1997 Revision
- (2) The Council shall prepare its financial statements within 3 months of the close of the financial year to which they relate and on completion of the audit of the Council's financial statements under subsection (1) the Auditor-General shall prepare a report thereon within 6 months of the close of the financial year to which the audited financial statements relate.
- (3) In addition to the audit carried out for the purposes of subsection (1), the Minister may at any time request the Auditor-General to examine and report upon the financial statements of the Council or any part of those financial statements and the Council shall provide the facilities necessary for such examination.
23. (1) The Council shall submit to the Minister for his approval- Budget
- (a) not later than 5 months prior to the commencement of each financial year, income and expenditure estimates, in such detail as the Minister may require, relating to the programmes planned for that financial year; and

- (b) as soon as may be, any subsequent proposal to amend such estimates,

and the estimates, together with any amendments, upon being approved by the Minister, shall be the Council's budget for the financial year to which it relates.

(2) The Minister may in any case, on the application of the Council, increase or decrease the period of 5 months specified in subsection (1)(a).

Reports of the Council

24. (1) The Council shall, within 6 months after the end of each financial year, forward to the Minister-

- (a) a report on the operations of the Council during that financial year and on the Council's policy and programme for future years; and
- (b) a copy of the audited financial statements as at the close of the previous financial year.

(2) The report referred to in subsection (1)(a) shall specify-

- (a) any directions given by the Minister to the Council during that year; and
- (b) the scales of salaries and wages paid to officers and servants of the Council.

(3) The Minister shall cause copies of the report referred to in subsection (1)(a), the financial statements referred to in subsection (1)(b) and the report of the Auditor-General under section 22(2) to be laid on the Table of the Legislative Assembly not later than 30 June following the end of the financial year to which they relate, and to be gazetted.

Minister may require returns

25. Without prejudice to the generality of section 24, the Council shall forward to the Minister such returns, statistics or other information as the Minister may, by notice in writing, require.

Part IV - Premises

Vesting of premises

26. There is vested in the Council without further assurance or transfer and notwithstanding any prohibition of alienation contained in any document under which the property is held-

- (a) the leasehold premises described in the Schedule;
- (b) the plant, equipment, tools, movable property and other goods the property of the Government or the Advisory Council on the Misuse of Drugs used in connection with the maintenance, ownership and management of the premises described in the

- Schedule, which shall be recorded in an inventory prepared at the direction of the Financial Secretary and approved by the Council and entered as assets in the accounts of the Council; and
- (c) all rights, interests, privileges, debts, liabilities, and obligations as were before the coming into force of this Law vested in Government, or to which Government were liable or subject, in relation to the ownership or management of the premises.

27. Where, pursuant to section 4(h), the Council operates a treatment centre at the request of the Minister, the permanent secretary of the ministry for the time being responsible for public works, or any officer of that ministry authorised by him in that behalf, may, at all reasonable times and upon reasonable notice being given to the Council, enter into and inspect all premises within the control and management of the Council and so operated, and the permanent secretary of the ministry for the time being responsible for public works shall report to the Minister upon the state of such premises and the Minister shall forward a copy of each such report to the Council.

Inspection of treatment centres

28. (1) The Council shall from time to time review its requirements for premises and any premises in the possession of the Council which are no longer required for the purposes of the Council shall be disposed of in accordance with this section.

Disposals of surplus premises

(2) Premises which were transferred to the Council by the Government for no consideration or for a nominal consideration shall be transferred by the Council to the Government for no consideration or for the same nominal consideration.

(3) Premises other than those to which subsection (2) applies shall be offered to the Government for purchase by agreement.

(4) If notice is given in writing on behalf of the Government that it does not wish to purchase the premises offered to it pursuant to subsection (3) the Council may dispose of the premises on the open market to the Council's best advantage.

Part V - Supplementary

29. (1) No member of the Council shall be liable in damages for anything done or omitted in the discharge or purported discharge of their respective functions under this Law unless it is shown that the act or omission was in bad faith.

Immunity

(2) Where a member of the Council is exempt from liability for an act or omission by reason only of subsection (1), the Council shall be liable for the act or omission to the extent that it would be if the member were the Council's servant or agent.

Power to make regulations

30. The Governor in Council may make such regulations as are required for the effective implementation of the provisions of this Law.

Rules

31. The Council may, subject to the provisions of this Law, make such rules as it thinks fit to regulate its own internal management.

Additional powers

32. The Governor in Council may, by regulation subject to affirmative resolution, provide for the administration of any statutory function of government by the Council.

Amendment and repeals

33. The Misuse of Drugs Law (1995 Revision) is amended-

- (a) in section 2(1) by the repeal of the definition "Advisory Council"; and
- (b) by the repeal of section 3 (Advisory Council).

Section 26

SCHEDULE

Premises transferred to the Council

The premises, comprising 2000 square feet, known as Units 312 and 313, Three Paddington Place, on land in George Town Central Registration Section, Block 14C, Parcel 289, as are comprised in a Lease dated the 19th January, 1996, and made between Three Paddington Place Ltd., and the Governor of the Cayman Islands for a term of 2 years from the 19th January, 1996, with an option for renewal of the term at the expiry thereof for a further period of one year.

Passed by the Legislative Assembly the 28th day of August, 1997.

MABRY S. KIRKCONNELL

Speaker.

GEORGETTE MYRIE

Clerk of the Legislative Assembly.