DANGEROUS DRUGS ACT

CHAPTER 11:25

Act
38 of 1991
Amended by
27 of 1994
173/1995
44 of 2000
*55 of 2000
11 of 2014
*24 of 2019
343/2019
345/2019
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Note on section 60 of Act

Section 60 of the Act provides as follows:

"**60.** (1) The following written laws are repealed:

(a) the Narcotic Control Ordinance; and

(b) the Narcotic Drugs and Psychotropic Substances Control Act, 1985.

(2) Notwithstanding the repeal of the Ordinance and the Act referred to in subsection (1) anything done or any action taken under the Ordinance or the Act, shall be deemed to have been done or taken under the corresponding provisions of this Act.".

N.B. Subsidiary Legislation saved in respect of the above repealed statutes:

1. Dangerous Drugs Ordinance (Ch. 12. No. 6) (1950 Revised Edition)— ***(Repealed by Ord. No. 27 of 1961)—***
   (a) Raw Opium and Ganja Regulations (1950 Rev. Ed.) Vol. 8 at page 521;
   (b) Dangerous Drugs Regulations (1950 Rev. Ed.) Vol. 8 at page 515;
   (c) Power of Inspection Order 1963 (LN 104/1963).
2. Narcotic Control Ordinance 1961 (Ord. No. 27 of 1961)— ***(Repealed by Act No. 38 of 1991)—***
   (a) Narcotic Control (Distribution and Licensing) Regulations, 1964 (LN 129/1964);
   (b) Narcotic Control (General Provisions) Regulations, 1964 (LN 131/1964).

Note on Act No. 55 of 2000

Section 61 of the Proceeds of Crime Act, 2000 (Act No. 55 of 2000) provides as follows:

"**61.** Sections 30 to 53 of the Dangerous Drugs Act are repealed, save that any proceedings in respect of a drug trafficking offence which had commenced before the proclamation of this Act shall proceed as if sections 30 to 53 of the Dangerous Drugs Act continue to have effect.".

Act No. 55 of 2000 was proclaimed on the 6th November 2000 by LN 269/2000. Accordingly, any proceedings in respect of a drug trafficking offence which had commenced before the 6th November 2000 will continue to have effect as if sections 30 to 53 of the Dangerous Drugs Act were not repealed.

N.B.—*See APPENDIX at the end of this Act for the repealed sections 30 to 53 of the Dangerous Drugs Act.*

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Note on Act No. 24 of 2019

The amendments made to this Act by Act No. 24 of 2019 took effect on the 23rd December 2019 by LN 397/2019.

Note on Act No. 10 of 2020

The amendments made to this Act by Act No. 10 of 2020 took effect on the 11th May 2020 by LN 92/2020.

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DANGEROUS DRUGS ACT

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DANGEROUS DRUGS ACT

38 of 1991.

An Act to provide for the control of narcotic drugs and psychotropic substances and to make provision for the confiscation of the proceeds of drug trafficking and other provisions in connection with drug trafficking and matters connected therewith.

Commencement.

[7TH NOVEMBER 1991]

Preamble.

WHEREAS it is enacted by section 13(1) of the Constitution that an Act of Parliament to which that section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 of the Constitution, and if any Act does so declare it shall have effect accordingly:

And whereas it is provided in subsection (2) of the said section 13, that an Act of Parliament to which that section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of that House:

And whereas it is necessary and expedient that this Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution:

PART I

PRELIMINARY

Short title.

1. This Act may be cited as the Dangerous Drugs Act.

Act inconsistent with Constitution.

2. This Act has effect even though inconsistent with sections 4 and 5 of the Constitution.

Interpretation. [44 of 2000 24 of 2019].

3. (1) In this Act—

"analyst" means a person designated as an analyst under section 22(2);

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*"bank" means a bank licensed under the Banking Act, or an institution carrying on the business of banking under a written law; Ch. 79:01.

"business" means an activity carried on for the purpose of gain or profit and includes all property derived from or used in or for the purpose of carrying on such activity, and all rights and liabilities arising from such activity;

"cannabis" means the plant of the genus Cannabis, whether growing or not, including—

(a) any part of the plant, whether growing or not;

(b) its seeds;

(c) any compound, salt, mixture, extraction, derivative, product, synthetic or other preparation of the plant, any part of the plant, its seeds or cannabis resin,

but does not include—

(d) cannabis resin;

(e) fiber produced from the stalk of the plant;

(f) oil or cake made from the seeds of the plant;

(g) sterilised seeds of the plant which are incapable of germination; or

(h) any other ingredient—

(i) combined with the plant, any part of the plant, its seeds or cannabis resin; or

(ii) used in anything referred to in paragraph *(c)*,

for the purposes of preparing any topical or oral administration, food, drink or other product;

"cannabis resin" means the separate resin, whether crude or purified, obtained from any plant of the genus Cannabis;

"coca plant" means a plant of the genus *Erythroxylon* from which cocaine can be extracted;

"dangerous drugs" means a narcotic drug listed in the First Schedule or a thing that contains such a drug or a psychotropic substance listed in the Second Schedule or a thing that contains such a substance; First Schedule. Second Schedule.

*The Banking Act was repealed by the Financial Institutions Act (Ch. 79:09).

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Ch. 29:54.

"dentist" means a person registered as such under the Dental Profession Act;

"Director of Public Prosecutions" means the Director of Public Prosecutions of Trinidad and Tobago or any person assigned by him for the purpose of this Act;

"document" includes—

(a) a letter, figure, mark, inscription, writing, sign, caricature, picture, drawing or representation in any form; and

(b) a visual recording, whether of still or moving images, or sound recording, on any substance, material, thing or article;

"drug traffic", "drug trafficking" or "trafficking" means the importation, exportation, manufacture, sale, giving, administering, transportation, delivery or distribution by any person of a dangerous drug or any substance represented or held out by such person to be a dangerous drug or the making of any offer in respect thereof, whether in the Territory or elsewhere, and includes an arrangement whereby—

(a) the retention or control by or on behalf of another person of the other person's proceeds of drug trafficking is facilitated; or

(b) the proceeds of drug trafficking by another person are used to ensure that funds are placed at the other person's disposal or are used for the other person's benefit to acquire property,

but does not include—

(c) the importation or exportation of a dangerous drug by or on behalf of any person who has a licence therefore under section 4; or

(d) the manufacture, processing, packaging, sale, giving, administering, transportation, delivery or distribution of a dangerous drug or the making of any offer in respect thereof by or on behalf of a person who has a licence therefore under section 5 or by or on behalf of a medical practitioner, dentist, veterinary surgeon or pharmacist for a medicinal purpose;

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"drug trafficking offence" means any of the following:

(a) an offence under section 5(4) and (7) and *section 47;

(b) an offence of conspiracy to commit any of the offences referred to in paragraph *(a)*;

(c) an offence of attempting, inciting, aiding, abetting, counselling or procuring the commission of any of the offences referred to in paragraph *(a)* or *(b)*;

"export" means the taking or conveying, or causing to be taken or conveyed, out of the Territory;

"holder", in relation to any property, includes, a person who—

(a) is the owner of;

(b) is in possession of;

(c) is in occupation of;

(d) has custody or control of; and

(e) has any other right, interest, title, claim, power, duty or obligation,

in relation to that property;

"import" means the bringing or conveying, or causing to be brought or conveyed, into the Territory;

"life" means the natural life of a person;

"medical practitioner" means a person registered under the Medical Board Act; Ch. 29:50.

"Minister" means the Minister to whom responsibility for the administration of Health is assigned;

"opium" includes raw opium, powdered opium and opium wholly or partially prepared for any use or purpose whatever its content of morphine may be;

"pharmacist" means a person registered as such under the Pharmacy Board Act; Ch. 29:52.

"plant" includes a living plant or any part thereof and any organ, tissue, cell or portion of the genetic material thereof;

"prepared opium" or "smoking opium" means the product of raw opium obtained by a series of special operations, especially

*Section 47 was repealed by Act No. 55 of 2000. (*See* Note on page 2).

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by dissolving, boiling, roasting and fermentation, designed to transform it into an extract suitable for consumption; and "prepared opium" includes dross and all other residues remaining when opium has been smoked;

"property" means real or personal property, whether within or outside the Territory and includes—

(a) a right, interest, title, claim, chose in action, power, privilege, whether present or future and whether vested or contingent, in relation to property, or which is otherwise of value;

(b) a conveyance executed for conveying, assigning, appointing, surrendering, or otherwise transferring or disposing of immovable property whereof the person executing the conveyance is proprietor or possessed or wherein he is entitled to a contingent right, either for his whole interest or for a lesser interest;

(c) a monetary instrument;

(d) any other instrument or securities;

(e) any business;

(f) a vehicle, boat, aircraft or other means of conveyance of any description; and

(g) any other tangible or intangible property;

"public place" means an indoor or outdoor area, whether privately or publicly owned, to which the public has access by right or by invitation, expressed or implied, whether by payment of money or not but does not include any premises in actual use as a dwelling which are not used for commercial purposes;

"securities" includes stocks, bonds, shares, debentures, funds and certificates of deposit;

"smoke", in relation to a substance, means—

(a) to inhale, exhale, burn, combust or vaporise the substance; or

(b) to carry any lighted or heated device, pipe or other product, whether natural or synthetic, for

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the inhalation of the substance in any manner or in any form,

and includes the use of an electronic smoking device that creates an aerosol or vapour, in any manner or in any form, or the use of any orally used device, for the purpose of the inhalation of the substance;

"Territory" means the territory of Trinidad and Tobago;

"trust" includes a legal obligation in favour of a beneficiary subject to which any person holds property;

"veterinary surgeon" means a person registered under the Veterinary Surgeons (Registration) Act. Ch. 67:04.

(2) Reference in this Act to offences include a reference to offences committed before the commencement of this Act, but nothing in Part V, Part VI and Part VII imposes any duty or confers any power on any Court in or in connection with proceedings against a person for a drug trafficking offence instituted before the commencement of this Act.

(2A) For the purposes of this Act possession of a thing shall include control of a thing which is in the custody of another.

(3) References in this Act to anything received in connection with drug trafficking include a reference to anything received both in that connection and in a related connection.

(4) References to property held by a person include a reference to property vested in his trustee in bankruptcy or liquidator.

(5) Proceedings for an offence are instituted—

(a) when a Magistrate or Justice issues a summons or warrant under section 38 or 41 of the Summary Courts Act in respect of the offence; Ch. 4:20.

(b) when a person is charged with the offence after being taken into custody without a warrant;

(c) when an indictment is preferred against an accused person,

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

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(6) 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 defendant;

(c) the quashing of his conviction for the offence;

(d) the grant of the President's 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 a confiscation order; and

(f) the satisfaction of a confiscation order made in the proceedings whether by payment of the amount due under the order or by the defendant serving imprisonment in default.

(7) A confiscation order is subject to appeal so long as an appeal or further appeal is pending against the order or, if it was made on a conviction, against the 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.

PART II

POSSESSION OF AND TRAFFICKING IN DANGEROUS DRUGS

Minister may issue licences. [24 of 2019].

4. The Minister may, subject to Regulations made under section 57—

(a) issue licences for the import, export, diversion, sale, manufacture, production or distribution, at a stated place, of any dangerous drug;

(b) issue licences for the cultivation, gathering or production, at a stated place, of any opium poppy, coca plant or plant of the genus Cannabis;

(c) name the ports or places in the Territory where any dangerous drug may be exported or imported;

(d) prescribe the manner in which any dangerous drug is to be packed and marked for export;

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(e) authorise the furnishing of dangerous drugs to the master of a ship for the medicinal needs of the crew thereof;

(f) prescribe the records that are to be kept by any person in connection with the export, import, manufacture, receipt, sale, disposal and distribution of a dangerous drug.

Possession of and trafficking in dangerous drugs. [27 of 1994 44 of 2000 11 of 2014 24 of 2019].

5. (1) Subject to subsections (2), (2A) and (2B), a person who has in his possession any dangerous drug is guilty of an offence and is liable—

(a) upon summary conviction to a fine of two hundred and fifty thousand dollars and to imprisonment for five years;

(b) upon conviction on indictment to a fine of one million dollars and to imprisonment for fifteen years.

(2) Subsection (1) does not apply to—

(a) a person who has the possession of a dangerous drug under a licence issued pursuant to section 4 permitting him to have possession of that dangerous drug;

(b) a medical practitioner, dentist, veterinary surgeon or pharmacist who is in possession of a dangerous drug for any medicinal purpose;

(c) a person who obtains a dangerous drug for medicinal purposes from or pursuant to a prescription of a medical practitioner, dentist or veterinary surgeon;

(d) a person authorised under the Regulations to be in possession of a dangerous drug;

(e) a person who is acting for and under the supervision of a person mentioned in paragraph *(a)*, *(b)*, *(c)* or *(d)*;

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(f) a person who has in his possession not more than—

(i) thirty grammes of cannabis; or

(ii) five grammes of cannabis resin; and

(g) a person who cultivates or has in his possession not more than four growing plants of the genus Cannabis.

(2A) Subject to section 5B(2), a person who has in his possession—

(a) more than thirty grammes, but not more than sixty grammes of cannabis; or

(b) more than five grammes, but not more than ten grammes of cannabis resin,

commits an offence and is liable on summary conviction to a fine of fifty thousand dollars.

(2B) A person who has in his possession—

(a) more than sixty grammes, but not more than one hundred grammes of cannabis; or

(b) more than ten grammes, but not more than fourteen grammes of cannabis resin,

commits an offence and is liable on summary conviction to a fine of seventy-five thousand dollars.

(2C) Where a person who is convicted of an offence under subsection (2A) fails or is unable to pay any fine imposed on him under that subsection, the Court may make a community service order requiring him to perform thirty hours of community service in accordance with the provisions of the Community Service Orders Act. Ch. 13:06.

(2D) Where a person who is convicted of an offence under subsection (2B) fails or is unable to pay any fine imposed on him under that subsection, the Court may make a community service order requiring him to perform fifty hours of community service in accordance with the provisions of the Community Service Orders Act.

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(3) Subject to subsection (3A), a person who cultivates, gathers or produces any plant of the genus Cannabis, except where he does so under a licence granted under section 4 or any other written law or where he is acting under the supervision of a person having such a licence, commits an offence and is liable—

(a) upon summary conviction to a fine of seven hundred and fifty thousand dollars and to imprisonment for ten years; or

(b) upon conviction on indictment to a fine of two million dollars or where there is evidence of the street value of the plant, ten times the street value of the plant, whichever is greater or to imprisonment for life.

(3A) A person who cultivates, gathers or produces any opium poppy, or coca plant, except where he does so under a licence granted under section 4 or where he is acting under the supervision of a person having such a licence, commits an offence and is liable upon conviction on indictment to a fine of two hundred thousand dollars or, where there is evidence of the street value of the dangerous drug, fifteen times the street value of the dangerous drug, whichever is greater, and to imprisonment for a term of twenty-five years to life.

(3B) Subsection (3) does not apply to a person who cultivates or has in his possession not more than four growing plants of the genus Cannabis.

(4) A person who trafficks in any dangerous drug or in any substance represented or held out by him to be a dangerous drug or who has in his possession any dangerous drug for the purpose of trafficking is guilty of an offence.

(5) Subject to subsection (7), a person who commits the offence of trafficking in a dangerous drug or of being in possession of a dangerous drug for the purpose of trafficking is liable upon conviction on indictment to a fine of three million dollars or, where there is evidence of the street value of the dangerous drug, ten times the street value of the dangerous drug, whichever is greater, and to imprisonment for life.

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(6) A person who commits the offence of trafficking in a substance other than a dangerous drug, which he represents or holds out to be a dangerous drug is liable upon conviction on indictment to a fine of three million dollars or, where there is evidence of the street value of the dangerous drug, ten times the street value of the dangerous drug, whichever is greater, and to imprisonment for life.

(7) A person other than a person referred to in subsection (2) found in possession of a dangerous drug or a substance other than a dangerous drug which he represents or holds out to be a dangerous drug, on any school premises or within five hundred metres thereof is deemed to have the dangerous drug or substance for the purpose of trafficking, unless the contrary is proved, the burden of proof being on the accused, and such person commits an offence and is liable upon conviction on indictment to a fine of three million dollars or, where there is evidence of the street value of the dangerous drug, ten times the street value of the dangerous drug, whichever is greater, and to imprisonment for life.

(7A) Notwithstanding subsections (3A), (5), (6) and (7), where a person is charged for a drug trafficking offence under this Act, the Director of Public Prosecutions may, at the preliminary enquiry, elect to proceed with the matter summarily and if the accused so consents, the Court may adjourn the matter to be dealt with accordingly.

(7B) A person who pleads guilty to, or is found guilty of an offence tried pursuant to subsection (7A) is liable to a fine of seven hundred and fifty thousand dollars or, where there is evidence of the street value of the dangerous drug, three times the street value of the dangerous drug, whichever is greater, and to imprisonment for a term of ten years.

(8) In subsection (7) and section 5C, "school premises" means the premises of a nursery, kindergarten, day care centre, early childhood care and education centre, Children's Home, school, college, university or other educational institution and includes buildings, playing fields or other premises established,

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maintained or used by such institutions for the benefit of its students whether or not such buildings, playing fields or other premises are within the curtilage of the institution.

(9) A person, other than a person referred to in subsection (2), found in possession of more than—

(a) twenty grammes of diacetylmorphine (heroin);

(b) ten grammes of cocaine;

(c) five hundred grammes of opium;

(d) thirty grammes of morphine;

(e) one kilogramme of cannabis or one hundred and sixty-five grammes of cannabis resin;

(f) five grammes or twenty tablets of 3, 4 methylenedioxymethamphetamine (ecstasy) or any drug listed in Schedule I or Schedule II of the Second Schedule of the Act;

(g) ten grammes or one hundred and seventy squares of lysergic acid diethylamide (LSD); or

(h) five grammes of ketamine,

is deemed to have the dangerous drug for the purpose of trafficking unless the contrary is proved, the burden of proof being on the accused.

(10) Upon the trial of a person who is charged with an offence under subsection (4), if the Court is not satisfied that such person is guilty thereof but is satisfied that he is guilty of an offence under subsection (1), the Court may find him guilty of such latter offence.

Smoking in a public place. [24 of 2019].

5A. (1) Subject to section 5B(2), a person who smokes or uses cannabis or cannabis resin in a public place commits an offence and is liable, on summary conviction, to a fine of fifty thousand dollars.

(2) Where a person who is convicted of an offence under subsection (1) fails or is unable to pay any fine imposed on him under that subsection, the Court may make a community service order requiring him to perform thirty hours of community service in accordance with the provisions of the Community Service Orders Act. Ch. 13:06.

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(3) An owner of, or any person who has the sole or shared responsibility for managing, supervising, or regulating the use of, a public place shall ensure that any person who smokes or uses cannabis or cannabis resin in that public place cease and desist from such smoking or use and may remove or evict that person from the public place.

(4) Notwithstanding anything contained in this section, the Minister may, by Order subject to affirmative resolution of Parliament, prescribe a list of approved public places where the smoking of cannabis or cannabis resin may be allowed.

Fixed penalty system. [24 of 2019 10 of 2020]. Ch. 4:20.

5B. (1) In this section—

"Clerk" and "Court" have the meanings respectively assigned to those expressions by section 2 of the Summary Courts Act;

"fixed penalty" means the penalty prescribed under subsection (16);

"fixed penalty notice" means a notice issued under subsection (2) and includes a duplicate of such notice;

"proceedings" means proceedings by complaint before a Magistrate;

"Rules of Court" means rules by the Rules Committee under section 23 of the Summary Courts Act".

(2) Where a police officer has reason to believe that a person is committing or has committed an offence under section 5(2A) or 5A(1), he shall issue to the person a fixed penalty notice charging him with the commission of such offence, and requiring him to pay the fixed penalty within the time specified in the fixed penalty notice.

(3) The police officer shall send to the Clerk, in the district in which the offence is alleged to have been committed, a duplicate of the fixed penalty notice.

(4) The fixed penalty notice issued or sent under this section shall be deemed to be a complaint within the meaning of section 33 of the Summary Courts Act.

(5) Notwithstanding any written law to the contrary, the fixed penalty notice referred to in subsection (4) is, from the

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expiration of the time thereon specified for the payment of the fixed penalty, deemed to be a summons issued in accordance with section 42 and served in accordance with section 43, respectively, of the Summary Courts Act.

(6) Notwithstanding any provisions of this Act or any written law to the contrary, a person who pays a fixed penalty before the expiration of the time specified for the payment thereof may, in the prescribed form, appeal to the Magistrate in the district in which he paid the fixed penalty in respect of the offence for which he was charged.

(7) Where, in an action referred to in subsection (6), the Court decides in favour of the appellant, the amount representing the fixed penalty paid by the appellant shall be refunded to him.

(8) A fixed penalty notice issued under subsection (2) shall bear the signature of the police officer and shall specify—

(a) the date, time and place that the fixed penalty notice was issued;

(b) the section of the written law creating the offence alleged and such particulars of the offence as are required for proceedings under the Summary Courts Act;

(c) the time within which the fixed penalty may be paid in accordance with subsection (2);

(d) the amount of the fixed penalty;

(e) the Clerk to whom, and the address at or to which the fixed penalty may be paid or remitted; and

(f) the address of the Court at which the person is required to appear in the event of his failure to pay the fixed penalty within the specified time, and the date and time of such appearance.

(9) Where a notice has been given under subsection (2), the person to whom the notice applies may, subject to subsection (10), pay the fixed penalty in accordance with the notice.

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(10) Payment of the fixed penalty shall be made—

(a) to the Clerk, having jurisdiction in the district in which the offence is alleged to have been committed; or

(b) in accordance with the Electronic Payments into and out of Court Act, 2018.

14 of 2018.

(11) Where a fixed penalty is paid in accordance with a fixed penalty notice, a person shall not be liable to any sanction for the offence in respect of which the fixed penalty notice was issued.

(12) The time within which the fixed penalty is payable shall be fourteen days, or such other period as may be prescribed by Rules of Court, from the date of the fixed penalty notice, and where payment reaches the Clerk after that time, it shall not be receivable and shall be returned to the payer.

(13) Payment of the fixed penalty shall be accompanied by the fixed penalty notice completed by the person to whom the fixed penalty notice applies, in the manner prescribed.

(14) Where the fixed penalty is duly paid in accordance with the fixed penalty notice, no person shall then be liable to be convicted of the offence in respect of which the fixed penalty notice was given.

(15) A fixed penalty paid under this Act shall be dealt with in the same manner as payment of a fine imposed for an offence under the Summary Courts Act.

(16) The fixed penalty for an offence under section 5(2A) or 5A(1) shall be two thousand dollars or such other amount as the Minister may, by Order subject to negative resolution of Parliament, prescribe.

(17) Proceedings in respect of an offence deemed to be instituted by a fixed penalty notice under this Act shall not be listed for hearing in Court unless—

(a) a period of two months, or such other period as may be prescribed by Rules of Court, has elapsed from the last day on which the penalty is

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payable and the Clerk has no record that the fixed penalty was paid in accordance with subsection (7); and

(b) the Clerk has been furnished by the police officer with such information on the person to whom the fixed penalty notice has been issued under subsection (2).

(18) In any proceedings, a certificate that payment of a fixed penalty was or was not made to the Clerk by a date specified in the certificate shall, if the certificate purports to be signed by the Clerk, be sufficient evidence of the facts stated, unless the contrary is proved.

(19) Where the fixed penalty is not paid within the time specified in the notice, proceedings in respect of the offence specified in the fixed penalty notice shall proceed in the manner prescribed by the Summary Courts Act.

Offences. [24 of 2019].

5C. A person who—

(a) whilst under the influence of cannabis, does anything which constitutes negligence, professional malpractice, or professional misconduct;

(b) has cannabis or cannabis resin in his possession—

(i) on a school bus; or

(ii) in or on any premises where children are present for the purposes of education or attending or participating in any sporting or cultural activity; or

(c) operates, navigates, or is in actual physical control of any motor vehicle, aircraft, or ship whilst under the influence of cannabis,

commits an offence and is liable on summary conviction to a fine of two hundred and fifty thousand dollars and to imprisonment for five years.

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Possession of not more than one hundred grammes of cannabis. [24 of 2019].

5D. (1) A person who was charged for the possession of not more than sixty grammes of cannabis or not more than ten grammes of cannabis resin before the commencement of the Dangerous Drugs (Amendment) Act, 2019, may apply to the Court for a discharge of that offence.

(2) Notwithstanding any other written law, on or after the commencement of the Dangerous Drugs (Amendment) Act, 2019, a person who was charged for the possession of—

(a) more than sixty grammes, but not more than one hundred grammes of cannabis; or

(b) more than ten grammes, but not more than fourteen grammes of cannabis resin,

before the commencement of that Act and is convicted in relation to that charge on or after the commencement of that Act, shall be liable to the fine specified in section 5(2B) and to be dealt with in accordance with section 5(2D).

Ch. 15:01.

(3) Notwithstanding the provisions of section 50K of the Police Service Act, any offence on the criminal record of a person prior to the commencement of the Dangerous Drugs (Amendment) Act, 2019, for the possession of not more than one hundred grammes of cannabis or not more than fourteen grammes of cannabis resin shall be expunged by the Commissioner of Police.

(4) A person who has been convicted for the possession of not more than one hundred grammes of cannabis or not more than fourteen grammes of cannabis resin may apply to the Commissioner of Police to have that offence expunged from his criminal record.

(5) A person who has had an offence expunged from his criminal record under subsection (3) or (4) may, in respect of that offence, apply for a pardon under section 87 of the Constitution.

Power of Court to order counselling, rehabilitative intervention, etc. [24 of 2019].

5E. Notwithstanding any other written law, before discharging, or imposing a sentence on, a person in

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relation to an offence under this Part, the Court may make an order for—

(a) counselling;

(b) rehabilitative intervention or treatment; or

(c) psychological evaluation and resultant assistance.

Court may order admission to psychiatric hospital.

6. (1) The Court before which a person is convicted under section 5, may, before imposing a sentence, order the Psychiatric Hospital Director to admit the person convicted to the psychiatric hospital named in the Order.

(2) Subject to subsection (4)*(b)* a person who has been admitted under subsection (1) shall not be kept in a hospital for more than fourteen days.

(3) The Psychiatric Hospital Director shall, as soon as practicable after admitting a person under subsection (1), make or cause to be made such psychiatric examination as he considers necessary for determining whether or not the person is in need of psychiatric care and treatment, and shall, within fourteen days of the date of admission submit a report in writing to the Court relative to the condition of the person.

(4) On receipt of the report, the Court shall forthwith—

(a) rescind the Order made under subsection (1), if the Psychiatric Hospital Director is satisfied that the person named in the Order is not in need of care and treatment; or

(b) make another Order authorising the Psychiatric Hospital Director to admit the person named therein to a hospital for such further care and treatment as the Psychiatric Hospital Director may consider necessary.

(5) Where an Order is made under subsection (4)*(b)*, the Psychiatric Hospital Director shall, when he is satisfied that the patient is no longer in need of care and treatment, report this fact to the Court which shall forthwith rescind the Order.

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(6) The Court shall, where it rescinds an Order under subsection (4)*(a)* or subsection (5), deal with the person in such manner as it deems necessary.

(7) In this section "Psychiatric Hospital Director", "psychiatric hospital" and "hospital" have the same meaning as in the Mental Health Act.

Ch. 28:02.

PART IIA

OFFENCES RELATING TO PRECURSOR CHEMICALS

Offence. [27 of 1994 44 of 2000].

Fourth Schedule.

6A. A person who—

(a) manufactures or is in possession of a substance referred to in the Fourth Schedule; or

(b) transports such a substance or supplies it to another person,

knowing or having reasonable grounds to suspect that the substance is to be used in or for the unlawful production of a dangerous drug commits an offence and is liable upon conviction on indictment to a fine of one hundred thousand dollars or, where there is evidence of the street value of the dangerous drug, three times the street value of the dangerous drug, whichever is greater, and to imprisonment for a term which shall not be less than twenty-five years.

Order. [27 of 1994]. Fourth Schedule.

6B. The Minister may, by Order, add substances to the Fourth Schedule and may delete therefrom any substance, the inclusion or exclusion of which is by him deemed necessary in the public interest.

Regulations. [27 of 1994].

Fourth Schedule.

6C. (1) The Minister may make Regulations—

(a) for imposing requirements as to the documentation of transactions involving substances referred to in the Fourth Schedule;

(b) requiring the keeping of records and the furnishing of information with respect to such substances;

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(c) for the inspection of records kept pursuant to the Regulations;

(d) for the labelling of consignments of scheduled substances;

(e) for the transportation of such substances.

(2) Regulations made under subsection (1)*(b)* may require—

(a) the notification of the proposed exportation of substances specified in the Fourth Schedule to such countries as may be specified in the Regulations; and Fourth Schedule.

(b) the production, in such circumstances as may be so specified, of evidence that the required notification has been given.

(3) Regulations made under this section may make different provision in relation to the substances specified in the Fourth Schedule and in relation to different cases or circumstances. Fourth Schedule.

(4) Any person who fails to comply with any requirement imposed by the Regulations or, in purported compliance with any such requirement, furnishes information which he knows to be false in a material particular or recklessly furnishes information which is false in a material particular is guilty of an offence and is liable—

(a) on summary conviction to a fine of five thousand dollars and to imprisonment for two years;

(b) on conviction on indictment to a fine of ten thousand dollars and to imprisonment for not less than two years and not more than five years.

(5) No information obtained pursuant to the Regulations shall be disclosed except for the purposes of criminal proceedings or of proceedings under the Dangerous Drugs Act, relating to the confiscation of the proceeds of drug trafficking.

6D. In this Part "Minister" means the Minister to whom responsibility for national security is assigned. Interpretation. [27 of 1994].

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PART III

SUPPLY OF DANGEROUS DRUGS BY PHARMACISTS UNDER LICENCE AND APPOINTMENT OF INSPECTORS AND ANALYSTS

Licensed person not to supply dangerous drugs. [24 of 2019].

7. (1) A person who has a licence under section 4 to deal in any dangerous drug shall not supply it to any person except as specifically provided in this Act.

(2) A person who has a licence under section 4 to deal in any dangerous drug may, upon receiving a written order or prescription therefor dated and signed by a person who has a licence under section 4 to deal in a dangerous drug, or by a pharmacist, medical practitioner, dentist or veterinary surgeon, whose signature is known to the person receiving the order or prescription, or if unknown, then verified before the order or prescription is filled, supply a dangerous drug to such person, or to a person authorised under the Regulations to purchase or be in possession of a dangerous drug.

Pharmacist not to supply dangerous drugs.

8. (1) Subject to the Regulations, no pharmacist shall supply a dangerous drug to any person except upon receiving a written order or prescription therefor dated and signed by a medical practitioner, dentist or veterinary surgeon whose signature is known to the pharmacist or, if unknown, then verified before the order or prescription is filled.

(2) No pharmacist shall use an order or prescription to supply a dangerous drug on more than one occasion unless the prescription or order so directs and states the number of times it may be refilled.

Delivery of dangerous drugs to Minister.

9. (1) Where the legal authority under which a person is in possession of a dangerous drug under this Act is terminated or revoked or where a person who is legally in possession of a dangerous drug under this Act in connection with his business, trade or calling ceases to engage in the business, trade or calling, or dies—

(a) that person or any person acting for him or on his behalf shall not give, sell, furnish, distribute

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or otherwise deal in any such dangerous drug, but the same shall forthwith be delivered by the person in possession or in charge thereof to the Minister; and

(b) any constable or other person authorised in that behalf in writing by the Commissioner of Police or by the Director of Medical Services may enter the premises in which any such dangerous drug is contained and seize and carry away the same for delivery to the Minister.

(2) Where any dangerous drug is delivered to the Minister pursuant to subsection (1), the Minister may authorise the payment of compensation therefor in such amounts and on such terms as he considers fit.

Contravention of section 7, 8 or 9—offence and penalty. [44 of 2000].

10. A person who contravenes section 7, 8 or 9 commits an offence and is liable upon conviction on indictment to a fine of one hundred thousand dollars or, where there is evidence of the street value of the dangerous drug, three times the street value of the dangerous drug, whichever is greater, and to imprisonment for a term which shall not be less than twenty-five years.

Unlawful for physician to prescribe, give or sell drug except for medicinal purposes. [44 of 2000].

11. (1) A medical practitioner who—

(a) prescribes, administers, gives, sells or furnishes a dangerous drug to any person; or

(b) signs any prescription or order for a dangerous drug,

is guilty of an offence unless the dangerous drug is required for medicinal purposes or is prescribed for the medical treatment of a person who is under professional treatment by a medical practitioner.

(2) A dentist or veterinary surgeon who—

(a) prescribes, administers, gives, sells or furnishes any dangerous drug; or

(b) signs any prescription or order for a dangerous drug,

otherwise than in accordance with the Regulations, is guilty of an offence.

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(3) A person who commits an offence under this section is liable upon conviction on indictment to a fine of one hundred thousand dollars or, where there is evidence of the street value of the dangerous drug, three times the street value of the dangerous drug, whichever is greater, and to imprisonment for a term which shall not be less than twenty-five years.

Inspectors.

12. (1) The Minister may, by Order, appoint any person to be an inspector for the purposes of this Act.

(2) An inspector, accompanied by a police officer, may at any reasonable time—

(a) enter any place where, on reasonable grounds, he believes that any dangerous drug is manufactured, prepared, packaged, or stored, and examine any substance which he believes to be a dangerous drug and take samples thereof;

(b) open and examine any receptacle or package that, on reasonable grounds, he believes contains any dangerous drug;

(c) examine any books, documents or other records found in any place mentioned in subparagraph *(a)* that, on reasonable grounds, he believes contain or are likely to contain any information with respect to a dangerous drug and make copies thereof or take extracts therefrom;

(d) seize and detain for such time as may be necessary any dangerous drug by means of or in relation to which he reasonably believes any provision of this Act or the Regulations has been violated.

(3) The person in charge of a place entered by an inspector and a police officer pursuant to subsection (2), and any person found therein, shall give all reasonable assistance within his power to the inspector and furnish the inspector with such information as he may reasonably require.

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(4) Any person who—

(a) fails to comply with any provision of subsection (3);

(b) obstructs an inspector in the carrying out of his duties under this Act; or

(c) knowingly makes a false or misleading statement either orally or in writing to any inspector engaged in carrying out his duties under this Act,

is guilty of an offence and is liable upon summary conviction to a fine of twenty-five thousand dollars and to imprisonment for five years.

(5) In this section "person in charge of a place" includes the owner, occupier, person in possession of such place or agent of such person.

Neglect or refusal to keep records.

13. Any person who—

(a) neglects or refuses to keep any record required by the Regulations and manufactures, imports or exports a dangerous drug, or prescribes, furnishes, sells or distributes a dangerous drug; or

(b) neglects or refuses to produce for inspection the said record to the inspector or refuses to give any information required by the inspector,

is guilty of an offence, and is liable, upon summary conviction, to a fine of twenty-five thousand dollars and to imprisonment for five years.

Supply of dangerous drugs by two or more medical practitioners.

14. Where a person, during the course of his treatment, is supplied by a medical practitioner with dangerous drugs or a prescription therefor and is aware of that fact and fails to disclose that he had already obtained from another medical practitioner such dangerous drug or prescription, he is guilty of an offence and is liable upon summary conviction to a fine of ten thousand dollars and to imprisonment for six months.

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Possession of certain devices and apparatus.

15. (1) No person shall, without lawful authority or without the written permission of the Minister or some person authorised by the Minister in that behalf, import or, without lawful or reasonable excuse, have in his possession any device, article or apparatus designed, generally used or specifically altered for the purpose of the illegal use of dangerous drugs.

(2) A person who contravenes subsection (1) is liable upon summary conviction to a fine of ten thousand dollars and to imprisonment for six months.

Unlawful use of premises.

16. A person who, without lawful or reasonable excuse, is found in any house, room or place where any dangerous drug is being illegally used is guilty of an offence and is liable upon summary conviction to a fine of ten thousand dollars and to imprisonment for six months.

Enclosing drugs in a letter, etc. [44 of 2000].

17. (1) Except as otherwise specifically provided, a person who knowingly encloses a dangerous drug in or with any letter, packet or other matter sent by post or courier, commits an offence and is liable upon conviction on indictment to a fine of one hundred thousand dollars or, where there is evidence of the street value of the dangerous drug, three times the street value of the dangerous drug, whichever is greater, and to imprisonment for a term which shall not be less than twenty-five years.

(2) In any prosecution under this section an affidavit of the postmaster or assistant postmaster in charge of any post office at which any dangerous drug was mailed, or to or through which it was sent by mail, is sufficient proof of the fact that such dangerous drug was enclosed in or with any letter, packet, or other mailable matter sent by post, or was put into, transmitted through or received at such post office.

(3) Notwithstanding subsection (1), any wholesale pharmacist may forward by ordinary post any preparation or remedy that the Regulations permit to be sold without a prescription by a pharmacist, and may forward by registered post any dangerous drug.

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Liability for imprisonment for non-payment of fine. [44 of 2000].

18. Where a person is convicted under this Act, other than for an offence under section 14, and the conviction adjudges imprisonment and the payment of a fine, the sentence shall direct that in default of payment of the fine, the person so convicted shall notwithstanding any other law, be imprisoned—

(a) for a period of nine months where the fine does not exceed five thousand dollars;

(b) for a period of three years, where the fine exceeds five thousand dollars but does not exceed twenty-five thousand dollars; or

(c) for a period of fifteen years where the fine exceeds twenty-five thousand dollars,

which period shall commence at the end of the term of imprisonment imposed by the Court.

Onus of proof on charge of offence under section 5.

19. In any prosecution for an offence under section 5, it is not necessary for the prosecution to establish that the accused did not have a licence under section 4 or was not otherwise authorised to do the act complained of; and if the accused pleads or alleges that he had such licence or other authority, the proof thereof lies upon him.

Burden of proof on pleas of medicinal purposes or medical treatment.

20. Where any person charged with an offence under section 11 pleads or alleges that the dangerous drug in question was required for medicinal purposes or was prescribed for the medical treatment of a person under professional treatment by the accused, or was required for medicinal purposes in connection with his practice as a dentist or veterinary surgeon, as the case may be, the burden of proof thereof lies upon the person so charged.

Occupier, etc., deemed to be in possession when dangerous drugs found on premises.

21. (1) Without limiting the generality of section 5(1) or (4), any person who occupies, controls, or is in possession of any building, room, vessel, vehicle, aircraft, enclosure or place in or upon which a dangerous drug is found shall be deemed to be in possession thereof unless he proves that the dangerous drug was there without his knowledge and consent.

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(2) Any person who occupies, controls, or is in possession of any building, room, vessel, vehicle, aircraft, enclosure or place in or upon which any device, apparatus or article mentioned in section 15 is found shall be deemed to have been in possession of such device, apparatus or article, unless he proves that the device, apparatus or article was there without his knowledge and consent or that he was lawfully entitled to the possession thereof.

Certificate of analyst and evidence of facts stated in certificate.

22. (1) Notwithstanding any other law, in any prosecution or proceedings under or pursuant to this Act, a certificate as to the analysis of a dangerous drug signed or purporting to be signed by an analyst shall be received in evidence as *prima facie* proof of the facts stated in the certificate and of the authority of the person giving or making the same, without any proof of appointment or signature.

(2) The Minister may designate duly qualified analysts for the purposes of this Act.

Search and seizure.

23. (1) A police officer who has reasonable cause to suspect that any dangerous drug is kept or concealed for any purpose contrary to this Act in any store, shop, warehouse, outhouse, garden, yard, vessel, aircraft, vehicle or other place, may, by day or night, search any such place for the dangerous drug, and if necessary, by force, bring it before a Magistrate; and if any device or apparatus, designed or generally used or specifically altered for the purpose of the illegal use of dangerous drugs, is there and then found, it shall also be brought before the Magistrate.

(2) Where it is proved upon oath before any Magistrate or Justice that there is reasonable cause to suspect that any dangerous drug is kept or concealed in a dwelling house for any purpose contrary to this Act, the Magistrate or Justice may grant a warrant to search by day or night any such place for the dangerous drug, and if the dangerous drug is found there, to bring it before a Magistrate; and if any device, apparatus or other article referred to in subsection (1) is there and then found, it shall also be brought before the Magistrate.

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Forfeiture of seized items.

24. Notwithstanding any other written law, unless the Court otherwise directs, any device, apparatus or article referred to in section 23 and any dangerous drug seized under the provisions of this Act or found shall, at the expiration of six months from such seizure or finding be forfeited to the State and delivered to the Minister to be disposed of as he may direct.

PART IV

SUMMARY CONVICTIONS

Punishment of person summarily convicted of indictable offence. Ch. 4:20.

25. Any person who is summarily convicted of an indictable offence committed under this Act is, notwithstanding section 100(5) of the Summary Courts Act, liable to the penalty provided for the summary conviction of the offence under this Act.

Penalty for conspiracy.

26. Any person who is convicted of conspiracy to commit an offence under this Act is liable, notwithstanding anything contained in any other written law, to the same penalty provided for that offence under this Act.

Accessories, etc., liable to same penalty as principal offender. Ch. 10:02. Ch. 3:01.

27. Without prejudice to the provisions contained in the Accessories and Abettors Act or sections 65 and 66 of the Interpretation Act, any person who attempts, aids, abets, counsels or procures the commission of an offence under this Act is guilty of an offence under this Act and is liable on conviction to the same penalty under this Act as the principal offender.

Committal to the High Court for sentence.

28. (1) The Magistrate shall bring to the notice of the accused the provision of subsection (2) before the accused elects for a summary trial under this Act.

(2) Where on the summary trial of an offence committed under this Act and triable either summarily or on indictment a person who is not less than eighteen years of age is convicted of the offence, then, if on obtaining information that his character and antecedents are such that in the opinion of the Magistrate greater punishment should be inflicted for the offence than the Magistrate has power to inflict, the Magistrate may commit that person in custody to the High Court for sentence and shall, as soon as

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practicable, transmit to the Registrar of the High Court the record of the proceedings.

(3) On receipt of the record, the Registrar shall issue an order to the Commissioner of Prisons to bring the convicted person before a Judge of the High Court at a time to be fixed by the Judge.

(4) The Judge shall enquire into the circumstances of the case and shall have power to deal with the convicted person as if he had just been convicted of the offence on indictment before the High Court.

Offence by body corporate.

29. Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of or to be attributable to any wilful neglect on the part of any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he as well as the body corporate is guilty of that offence and is liable to be proceeded against accordingly.

PART IVA

BURDEN OF PROOF AND PRESUMPTIONS

Burden of proof. [44 of 2000].

29A. It shall not be necessary in any proceedings against any person for an offence against this Act to negative by evidence any licence, authorisation, authority, or other matter of exception or defence, and the burden of proving any such matter shall be on the person seeking to avail himself thereof.

Presumptions. [44 of 2000].

29B. In all proceedings under this Act or any Regulations made thereunder—

(a) premises shall be deemed to be used for a purpose even if they are used for that purpose on one occasion only;

(b) a person, until the contrary is proven, shall be deemed to be the occupier of premises, if he has, or appears to have, the care, control or management of such premises;

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(c) if a dangerous drug or device, article or apparatus designed or generally used for the administration or consumption of a dangerous drug, is found in any premises, those premises shall be presumed, until the contrary is proven, to be used for the purpose of the administration of a dangerous drug to, or consumption of a dangerous drug by a person and the occupier shall be presumed to permit such premises to be used for such purpose;

(d) a person who is found to have had in his custody or under his control anything containing a dangerous drug shall, until the contrary is proven, be deemed to have been in possession of such drug and shall, until the contrary is proven, be deemed to have known the nature of such drug;

(e) a person who is found to have had in his possession or under his control or subject to his order, any document of title relating to a dangerous drug shall, until the contrary is proven, be deemed to have known the nature of such drug;

(f) if a dangerous drug is found to be concealed in a ship or aircraft it shall be presumed, until the contrary is proven, that the said drug is so concealed with the knowledge of the master of the ship or aircraft and has been imported or is to be exported in such ship or aircraft;

(g) if a dangerous drug is found to be concealed in any premises, it shall be presumed, until the contrary is proven, that the said drug is so concealed with the knowledge of the occupier of the premises;

(h) if a dangerous drug is found to be concealed in any compartment, in any vehicle, it shall, until the contrary is proven, be deemed to have been so concealed with the knowledge of the owner of the vehicle and of the person in charge of the vehicle at the time the drug is found;

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(i) evidence by a police officer above the rank of Sergeant or by a senior Customs Officer that any device, article or apparatus is for use in the consumption of a dangerous drug, or in the preparation of a dangerous drug for consumption, shall until the contrary is proven, be deemed to be sufficient evidence of that fact, and for the purposes of this paragraph "consumption" means eating, chewing, smoking, swallowing, drinking, inhaling or introducing a dangerous drug into the body in any manner or by any means whatsoever;

(j) when any substance suspected of being a dangerous drug has been seized and such substance is contained in a number of packages, it shall be sufficient to analyse samples of the contents of a number not less than ten per cent of such packages and if such analysis establishes that such samples are all of the same nature and description, it shall be presumed, until the contrary is proved, that the contents of all the packages were of the same nature and description as the samples so analysed and if such analysis establishes that such samples consist of or contain a dangerous drug, it shall be presumed, until the contrary is proved, that the contents of all the packages consist of or contain the same proportion of such drug.

PART V

CONFISCATION OF PROCEEDS OF DRUG TRAFFICKING

Sections 30 to 35D repealed by Act No. 55 of 2000.

See Note on Act No. 55 of 2000 on page 2.

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PART VI

RESTRAINT ORDERS

Sections 36 to 47 repealed by Act No. 55 of 2000.

PART VII

INVESTIGATIONS INTO DRUG TRAFFICKING

Sections 48 to 52 repealed by Act No. 55 of 2000.

PART VIII

FORFEITURE ORDERS

Section 53 repealed by Act No. 55 of 2000.

PART VIIIA

OFFENCES ON THE HIGH SEAS

Offences on Trinidad and Tobago ships. [27 of 1994 44 of 2000].

53A. (1) In this Part—

"archipelagic waters" has the meaning assigned to it in section 1 of the Archipelagic Waters and Exclusive Economic Zone Act; Ch. 51:06.

"ship" includes every description of vessel used in navigation;

"Trinidad and Tobago ship" means a ship registered in Trinidad and Tobago.

(2) Anything which would constitute a drug trafficking offence if done on land in any part of Trinidad and Tobago shall constitute that offence if done on a Trinidad and Tobago ship.

Ships used for illicit trading. [44 of 2000].

53B. (1) This section applies to a Trinidad and Tobago ship, a ship registered in any other State and a ship not registered in any country or territory.

(2) A person commits an offence if on a ship to which this section applies, wherever it may be, he—

(a) has a dangerous drug in his possession; or

*See Note on Act No. 55 of 2000 on page 2.

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(b) is in any way, knowingly concerned in the carrying or concealing of a dangerous drug on the ship,

knowing or having reasonable grounds to suspect that the drug is intended to be imported or has been exported contrary to section 5 of the Act or the law of any State other than Trinidad and Tobago.

(3) A certificate purporting to be issued by or on behalf of the government of any State to the effect that the importation or exportation of a dangerous drug is prohibited by the law of that State shall be evidence of the matters stated.

(4) A person found guilty of an offence under this section is liable upon conviction on indictment to a fine of one hundred thousand dollars or, where there is evidence of the street value of the dangerous drug, three times the street value of the dangerous drugs, whichever is greater and to imprisonment for a term which shall not be less than twenty-five years.

Enforcement powers. [27 of 1994 44 of 2000]. Fifth Schedule.

53C. (1) The powers conferred on an enforcement officer by the Fifth Schedule shall be exercisable in relation to any ship to which section 53A or 53B applies for the purpose of detecting and the taking of appropriate action in respect of the offences mentioned in those sections.

(2) The powers referred to in subsection (1) shall not be exercised outside the landward limits of the archipelagic waters of Trinidad and Tobago in relation to a ship registered in a Convention State except with the authority of the Minister to whom responsibility for Foreign Affairs is assigned (hereinafter in this Part referred to as "the Minister"), and he shall not give his authority unless that State has in relation to that ship—

(a) requested the assistance of Trinidad and Tobago for the purpose mentioned in subsection (1); or

(b) authorised Trinidad and Tobago to act for that purpose.

(3) In giving his authority pursuant to a request or authorisation from a Convention State the Minister shall impose

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such conditions or limitations on the exercise of the powers as may be necessary to give effect to any conditions or limitations imposed by that State.

(4) The Minister may, either of his own motion or in response to a request from a Convention State, authorise a Convention State to exercise, in relation to a Trinidad and Tobago ship, powers corresponding to those conferred on enforcement officers by the Fifth Schedule but subject to such conditions or limitations, if any, as he may impose. Fifth Schedule.

(5) Subsection (4) is without prejudice to any agreement made, or which may be made, on behalf of Trinidad and Tobago whereby Trinidad and Tobago undertakes not to object to the exercise by any other State in relation to a Trinidad and Tobago ship of powers corresponding to those conferred by the Fifth Schedule. Fifth Schedule.

(6) The powers conferred by the Fifth Schedule shall not be exercised in the territorial sea of any State other than Trinidad and Tobago without the authority of the Minister and he shall not give his authority unless that State has consented to the exercise of those powers. Fifth Schedule.

53D. (1) Proceedings under this Part of this Act or the Fifth Schedule in respect of an offence on a ship may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in Trinidad and Tobago. Jurisdiction and prosecution. [27 of 1994].

(2) No such proceedings shall be instituted in Trinidad and Tobago except by or with the consent of the Director of Public Prosecutions.

(3) Without prejudice to subsection (2), no proceedings for an offence under section 53B alleged to have been committed outside the landward limits of the territorial sea of Trinidad and Tobago on a ship registered in a Convention State shall be instituted except in pursuance of the exercise, with the authority of the Minister, of the powers conferred by the Fifth Schedule. Fifth Schedule.

53E. (1) Notwithstanding any sentence of imprisonment prescribed under this Act, the Court may, on the application of Offences and penalties. [44 of 2000].

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the Director of Public Prosecutions, impose a lesser sentence upon a defendant who at any time prior to conviction, co-operates in the investigation or prosecution of a drug trafficking offence.

(2) Where a company commits an offence under this Act, any officer, director or agent of the company who directed, authorised, assented to, acquiesced in or participated in the commission of the offence is a party to, and commits the offence, and is liable on conviction to the punishment provided for the offence, whether or not the company has been prosecuted or convicted.

PART IX

MISCELLANEOUS

Protection of informants.

54. (1) No witness in any proceedings under this Act shall be obliged—

(a) to disclose the name and address of any informer who has given information with respect to an offence under this Act, or with respect to any matter relating to or leading to any proceedings under this Act; or

(b) to answer any question if the answer thereto would lead, or would tend to lead, to the discovery of the name or address of such informer.

(2) Where any book, document or paper which is in evidence or liable to inspection in any proceedings under this Act contains an entry in which any informer is named or described or which might lead to his discovery, the Court shall cause all such entries to be concealed from view or to be obliterated so far as may be necessary to protect the informer from discovery.

Destruction of drug exhibits. [44 of 2000].

54A. (1) Where, under this Act, a person has been charged with an offence and a substance which is believed to be a dangerous drug has been seized as evidence of the offence—

(a) if photographic or video evidence exists which illustrates the nature, quantity, size, packaging and location of the drug; and

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(b) the defendant fails to show reasonable cause why the substance should not be destroyed,

the Court may order the destruction of the substance before the completion of legal proceedings against the defendant.

(2) An application under subsection (1) for the destruction of the substance shall be made by the Director of Public Prosecutions to the Court after—

(a) the scientific analysis of the substance has been completed; and

(b) the defendant has been given seven days notice of the intention to make an application under this section.

Notice or order not to be invalid for error in description.

55. (1) No notice, notification or other process, issued, served or published, and no order, decision or judgment made, given, issued, served or published, under this Act shall be deemed to be invalid by reason of any error or omission in the description of the property or person mentioned therein if such property or person is identifiable from the description so mentioned.

(2) Without prejudice to subsection (1), where any order has been made, or a decision or judgment given, by any Court in any proceedings under this Act, any error or omission in the order, decision or judgment relating to the description of any property or person may at any time be rectified by the Court on its own motion or on the application of any party or any person affected by the order, decision or judgment.

Power of police officer under other written laws.

56. The provisions of this Act in so far as they relate to powers shall be in addition to the powers of a police officer under any other written law relating to criminal procedure and not in derogation thereof, but in the event of inconsistency or conflict between the provisions of this Act and those of such other written law, the provisions of this Act shall prevail.

Lesser penalty for younger offender. [44 of 2000].

56A. Where a person under the age of twenty-one years appears before a Court and is found guilty of an offence under this Act, the

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Judge or Magistrate may impose a lesser penalty on such a person than that specified for the offence in this Act.

Regulations.

57. (1) The Minister may make Regulations for carrying out the purposes and provisions of this Act and, without limiting the generality of the foregoing, may make Regulations—

(a) with respect to the issue and duration and the terms and forms of the several licences that may be issued under section 4 and to the payment of fees for them;

(b) for the use, purchase, sale or possession of any dangerous drugs for medicinal or scientific purposes;

(c) for the revocation of licences;

(d) prescribing the form of prescription and specifying the dangerous drugs that may be sold by a pharmacist on the oral prescription of a medical practitioner, dentist or veterinary surgeon;

(e) for the prescription, ordering, administration, sale, or furnishing of a dangerous drug by a dentist or a veterinary surgeon;

(f) for the exemption from any of the provisions of this Act of preparations containing dangerous drugs when suitably medicated with drugs other than dangerous drugs and the conditions under which such exempted preparations may be sold;

(g) requiring medical practitioners, dentists, veterinary surgeons, pharmacists and other persons who deal in dangerous drugs as authorised by this Act to keep records and make returns;

(h) prescribing that any contravention of specified Regulations shall constitute an offence; and

(i) prescribing anything required to be prescribed under this Act.

(2) The Minister to whom responsibility for the administration of Finance is assigned may make Regulations for the seizure of any article or thing which is liable to forfeiture under this Act.

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Penalties under Regulations.

58. A person who fails to carry out or observe the provisions of any regulation the contravention of which is stated in the Regulations to constitute an offence is liable on summary conviction to a fine of two thousand dollars and to imprisonment for six months.

Additions to First and Second Schedules.

59. The Minister may by Order add substances to the First and Second Schedules and may from time to time delete therefrom any dangerous drug, the inclusion or exclusion of which is by him deemed necessary in the public interest.

Annual report. [27 of 1994].

59A. The Minister shall cause to be laid in both Houses of Parliament, annually, a report on the Administration of this Act.

Joint Parliamentary Committee. [27 of 1994].

59B. (1) There shall be established for purposes of this Act, a Joint Parliamentary Committee of Parliament to be known as "The Joint Parliamentary Committee on Dangerous Drugs".

(2) The Joint Parliamentary Committee on Dangerous Drugs shall be responsible for monitoring the operations of this Act and the review of the report referred to in section 59A.

Repeal and savings Ordinance. [27 of 1961 37 of 1985].

***60.** (1) The following written laws are repealed:

(a) the Narcotic Control Ordinance; and

(b) the Narcotic Drugs and Psychotropic Substances Control Act.

(2) Notwithstanding the repeal of the Ordinance and the Act referred to in subsection (1) anything done or any action taken under the Ordinance or the Act, shall be deemed to have been done or taken under the corresponding provisions of this Act.

Section 68 of the Interpretation Act, Ch. 3:01 not applicable. [44 of 2000].

61. The provisions of section 68(2) and (3) of the Interpretation Act shall apply only to the penalties prescribed for possession of dangerous drugs under this Act.

*See Note on section 60 of the Act on page 2.

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Section 3.
[343/2019].

FIRST SCHEDULE

LIST OF NARCOTIC DRUGS

1. Opium Poppy (Papaver somniferum) its preparations, derivatives, alkaloids and salts, as for example:

(1) Opium
(2) Codeine (3- methylmorphine)
(3) Morphine
(4) Narcotine
(5) Papaverine
(6) Thebaine, and their preparations, derivatives and salts, as for example
(7) Actorphine [3–0–acctyltotrahydro–7–(1–hydroxy–1–methylbutyl)–6, 14–endoetheno-oripavine]
(8) Acetyldihydrocodeine
(9) Benzylmorphine (3–benzylmorphine)
(10) Codoxime (dihydro codcinone–6–carboxymethyloxime)
(11) Desomorphine (dihydrodcoxymorphine)
(12) Dihydrocodeine
(13) Dihydromorphine
(14) Ethylmorphine (3–ethylmorphine)
(15) Etorphine [tetrahydro–7 –(1–hydroxy–1– methylbutyl)–6, 14–endoetheno-oripavine]
(16) Heroin
(17) Hydrocodone (dihydrocodeinone)
(18) Hydromorphone (dihydromorphinone)
(19) Hydromorphinol (14–hydroxydihydromorphine)
(20) Methyldesorphine (6–methyl–delta–6–deoxymorphine)
(21) Methyldihydromorphine (6–methyldihydromorphine)
(22) Metopon (5–methyldihydromorphinone)
(23) Morphine Methobromido and other pentavalent nitrogen morphine derivatives, including in particular the morphine-N-oxide derivatives, one of which is Codeine-N-Oxide
(24) Morphine-N-Oxide
(25) Myrophine (myristylbenzylmorphine)
(26) Nalorphine (N-allylnormorphine)
(27) Nicocodine (6–nicotinylcodeine)
(28) Nicodicodine (6–nicotinyldihydrocodeine)

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(29) Nicomorphine (3, 6–dinicotinylmorphine)
(30) Norcodeine (N-demethylcodeine)
(31) Norinophine (demethylmorphine) or (N-demethylated morphine)
(32) Oxycodone (14–hydroxydihydrocodeinone)
(33) Oxymorophone (14–hydroxydihydromorphinone)
(34) Pholcodine (morpholinylethylmorphine)
(35) Thebacon (acetyldihydrocodeinone) but not including
(36) Apomorphine, and
(37) Poppy seed.

2. A. Coca (Erythroxylon), its preparations, derivatives, alkaloids and salts, as for example:
(1) Coca leaf
(2) Cocaine (methyl ester of benzoyleogonine)
(3) Ecgonine, its esters and derivatives which are convertible to ecgonine and cocaine.

B. Synthetic cocaine.

3. Cannabis, Cannabis sativa, Cannabis sativa L, their preparations, derivatives and similar synthetic preparations, as for example:
(1) Cannabis resin
(2) Cannabis (marihuana)
(3) Cannabinol (3–n-amyl-6, 6, 9-trimethyl–6–dibenzopyran-l-ol).

*4. Phenylpiperidines, their preparations, derivatives, analogues and salts, as for example:
(1) Alfentanil [N- (1–(2–(4-ethyl–4, 5–dihydro–5–oxo–1 H-tetrazol-l-ylethyl)–4–(methoxymethyl)–4–piperidinyl]-N-phenylpropanamide monohydrochloride
(2) Allylprodine (3–allyl-1-methyl–4–phenyl–4–propionoxypiperidine)
(3) Alphameprodine (alpha–3 ethyl-1-methyl–4–phenyl–4–propionoxypiperidine)
(4) Alphaprodine (alpha–l, 3–dimethyl–4–phelyl–4–propionoxypiperidine)
(5) Anileridine (l-para-aminophenethyl–4–phenylpiperidine–4–carboxylic acid ethyl ester)
(6) Anopridine (ethyl 1–(3–(phenylamino propyl)–4–phenylpiperidine–4–carboxylate)

*Amended by LN 343/2019.

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FIRST SCHEDULE—*Continued*

(7) Benzethidine [l–(2–benzyloxyethyl)–4–phenylpiperidine–4– carboxylic acid ethyl ester]
(8) Betameprodine (beta–3–ethyl–1–Methyl–4–phenyl–4–propionoxypiperidine
(9) Betaprodine (beta–l, 3–dimethyl–4–phenyl–4–propionoxypiperidine)
(10) Bezitramido [1–(3–cyano–3, 3–diphenylpropyl)–4–(2–oxo–3–propionyl–1–benzimidazolinyl)-piperidine]
(11) Diphenoxylate [1–(3–cyano–3, 3–diphenylpropyl)–4–phenylpiperidine–4–carboxylic acid ethyl ester]
(12) Etoxeridine [1–(2–(2–hydroxyethoxy)-ethyl)–4–phenylpiperidine–4–carboxylic acid ethyl ester]
(13) Fentanyl (1–phenethyl–4–N–propionylanilinopiperidine)
(14) Furethidine [1–(2–tetrahydrofurfuryloxyethyl)–4–phenylpiperidine–4– carboxylic acid ethyl ester]
(15) Hydroxypethidine [4–meta-hydroxyphenyl–1–methylpiperidine–4–carboxylic acid ethyl ester]
(16) Ketobemidone (4–meta-hydroxyphenyl–l–methyl–4–propionylpiperidine)
(17) Morpheridine [1–(2–morpholinoethyl)–4–phenylpiperidine–4–carboxylic acid ethyl ester]
(18) Pethidine (l–methyl–4–phenylpiperidine–4–carboxylic acid ethyl ester)
(19) Pethidine-Intermediate-A (4–cyano–1–methyl–4–phenylpiperidine)
(20) Pethidine-Intermediate–B [4–phenylpiperidine–4–carboxylic acid ethyl ester[
(21) Pethidine-Intermediate-C- (1–methyl–4–phenylpiperidine–4– carboxylic acid)
(22) Phenampromide [N- (l–methyl–2–piperidinoethyl)-propionanilide]
(23) Phonoperidine [l–(3–hydroxy–3–phenylpropyl)–4–phenylpiperidine–4–carboxylic acid ethyl ester]
(24) Piminodine [4–phenyl–1–(3–phenylaminopropyl)–piperidine–4–carboxylic acid ethyl ester]
(25) Piritramide [1–(3-cyano–3, 3– diphenylpropyl)–4–(l–piperidine)-piperidine–4–carboxylic acid amide]
(26) Properidine (l–methyl–4–phenylpiperidine–4–carboxylic acid isopropyl ester)

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(27) Propiram [N-(l–methyl–2–piperidinoethyl)–N–2–pyridylpropionamide]
(28) Sufentanil [N–(4–(methoxymethyl)–1–(2–thienyl)–4–piperidyl)-propionanilide]
(29) Trimeperidine (1, 2, 5–trimethyl–4–phenyl–4–propionoxypiperidine)
(30) Acetyl–α–methylfentanyl (N–[1–(α-methylphenethyl)–4–piperidyl] acetanilide)
(31) Carfentanil (methyl 4–[(1-oxopropyl) phenylamino]–1–(2–phenethyl)–4–piperidinecarboxylate)
(32) p–Fluorofentanyl (4'fluoro–N–(1–phenethyl–4–piperidyl) propionanilide)
(33) ß–Hydroxyfentanyl (N–[1–(ß–hydroxyphenethyl)–4–piperidyl] propionanilide)
(34) ß–Hydroxy–3–methylfentanyl (N–[1–(ß-hydroxyphenethyl)–3–methyl–4–piperidyl] propionanilide)
(35) α–Methylfentanyl (N–[1–(a–methylphenethyl)–4–piperidyl] propionanilide)
(36) α–Methylthiofentanyl (N–[1–[1–methyl–2–(2–thienyl) ethyl]–4–piperidyl] propionanilide)
(37) 3–Methylfentanyl (N–(3–methyl–1–phenethyl–4–piperidyl) propionanilide)
(38) 3–Methylthiofentanyl (N–[3–methyl–1–[2–(2–thienyl) ethyl]–4–piperidyl] propionanilide)
(39) Remifentanil (1–(2–methoxycarbonyl–ethyl)–4–(phenylpropionylamino)–piperidine–4–carboxylic acid methyl ester)
(40) Thiofentanyl (N–[1–[2–(2–thienyl) ethyl]–4–piperidyl] propionanilide)
(41) Cyclopropylfentanyl
(42) Methoxyacetylfentanyl
(43) Ortho-fluorofentanyl (2–Fluorofentanyl)
(44) Parafluoro butyrfentanyl (4–fluorobutyrfentanyl).

5. Phenazepines, their preparations, derivatives and salts, as for example:
   (1) Proheptazine (hexahydro–l, 3–dimethyl–4–phenyl–4–azepinyl propionate), but not including:
   (2) Ethoheptazine (ethyl hexahydro-l-methyl-4-phenyl-4–azepinecarboxylate).

6. Amidones, their preparations, derivatives and salts, as for example:
   (1) Dipipanone (4–4–diphenyl–6–piperidine–3–heptanone)

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FIRST SCHEDULE—*Continued*

(2) Isomethadone (6–dimethylamino–5–methyl–4–diphenyl–3– hexanone)
(3) Methadone (6–dimethylamino–4, 4–diphenyl–3–heptanone)
(4) Methadone-Intermediate (4–cyano–2–dimethylamino–4, diphenylbutane)
(5) Normethadone (6–dimethylamino–4, 4–diphenyl–3–hexanone)
(6) Phenadoxone (6–morpholino–4, 4–diphenyl–3–heptanone).

7. Methadols, their preparations, derivatives and salts, as for example:
(1) Acetylmethadol (3–acetoxy–6–dimethylamino–4, 4–dephenylheptane)
(2) Alphacetylmethadol (alpha–3 acetoxy–6–dimethylamino–4, 4–diphenylheptane)
(3) Alphamethadol (alpha–6–dimethylamino–4, 4–diphenyl–3–heptanol)
(4) Betacetylmethadol (beta–3–acetoxy–6–dimethylamino–4, 4–diphenylheptane)
(5) Betamethadol (beta–6–dimethylamino–4, 4–diphenyl–3–heptanol)
(6) Dimepheptanol (6–dimethylamino–4, 4–diphenyl–3–heptanol)
(7) Noracymethadol [(±)-alpha–3–acetoxy–6–methylamino–4, 4–diphenylheptane].

8. Phenalkoxams, their preparations, derivatives and salts, as for example:
(1) Dextropropoxyphene [x–(+)–4–dimethylamino–l, 2–diphenyl–3–methyl–2–butanol propionate]
(2) Dimenoxadol (2-dimethylaminoethyl–1–ethoxy–1, l–diphenylacetate)
(3) Dioxaphetyl butyrate (ethyl–4–morpholino–2, 2–diphenylbutyrate).

9. Thiambutenes, their preparations, derivatives and salts, as for example:
(1) Diethylthiambutene [3–diethylamino–1, l–di–(2'–thienyl)–1–butene]
(2) Dimethylthiambutene [3–dimethylamino–1, l–di–(2'–thienyl)-l-butene]
(3) Ethylmethylthiambutene [3–ethylmethylamino–1, l–di–(2'–thienyl)–l–butene].

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10. Moramides, their preparations, derivatives and salts, as for example:
    (1) Dextromoramide ((+)–4–[2-methyl–4–oxo–3, 3–diphenyl–4–(l–pyrrolidinyl)–butyl]–morpholine)
    (2) Levomoramide ((—)–4–[2–methyl–4–oxo–3, 3–diphenyl–4–(l–pyrrolidinyl)–butyl]–morpholine)
    (3) Racemoramide ((±)–4–[2–methyl–4–oxo–3, 3–diphenyl–4–(1–pyrrolidinyl)–butyl]-morpholine).

11. Morphinans, their preparations, derivatives and salts, as for example:
    (1) Drotebanol (3, 4–dimethoxy–17–methylmorphinan–6B, 14–diol)
    (2) Levomethorphan [(—)–3–methoxy-N-methylmorphinan]
    (3) Levorphanol [(—)–3–hydroxy-N-methylmorphinan]
    (4) Norlevorphanol [(—)–3–hydroxymorphinan]
    (5) Phenomorphan (3–hydroxy-N-phenethylmorphinan)
    (6) Racemethorphan [(±)–3–methoxy-N-methylmorphinan]
    (7) Racemorphan [(±)–3–hydroxy-N-methylmorphinan], but not including:
    (8) Dextromethorphan (d–1, 2, 3, 9, 10, l0*a*-hexahydro–6–methoxy–11–methyl–4*h*–10, 4*a*–iminoethanophenanthrene)
    (9) Dextrorphan (D–1, 2, 3, 9, 10, 10A-hexahydro–11–methyl–4H–10, 4A-iminoethanophenanthren–6–ol), and
    (10) Levallorphan (1–11–ally1–1, 2, 3, 9,10,10A–hexahydro-4H–10, 4A–iminoethanophenantren–6–ol).

12. Benzazocines, their preparations, derivatives and salts as for example:
    (1) Phenazocine (2'–hydroxy–5, 9–dimethyl–2–phenethyl–6, 7–benzomorphan)
    (2) Metazocine (2'–hydroxy–2, 5, 9-trimethyl–6, 7–benzomorphan).

13. Other chemical compounds:
    (1) Clonitazene (2–para–chlorbenzyl–1–diethylaminoethyl –5–nitrobenzimidazole)
    (2) Diampromide (N–[2–methylphenethylamino)–propyl]–propionanilide)
    (3) Difenoxin [1–(3–cyano–3, 3–diphenylpropyl)–4–phenylisonipecotic acid]
    (4) Etonitazene (l–diethylaminoethyl–2–para-ethoxybenzyl–5–nitrobenzimidazole)

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FIRST SCHEDULE—*Continued*

(5) Tilidine [(±)–ethyl-trans–2–(dimethylamino)–1–phenyl–3–cyclohexene–1–carboxylate].

The isomers unless specifically excepted, of the drugs in this Schedule whenever the existence of such isomers is possible within the specific chemical designation.

The esters and ethers, unless appearing in another Schedule, of the drugs in this Schedule whenever the existence of such esters or ethers is possible.

The salts of the drugs listed in this Schedule, including the salts of esters, ethers and isomers as provided above whenever the existence of such salts is possible.

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SECOND SCHEDULE

Section 3. [173/1995 *345/2019].

PSYCHOTROPIC SUBSTANCES LISTED IN SCHEDULE I OF THE CONVENTION ON PSYCHOTROPIC SUBSTANCES, 1971, VIZ:

*The names printed in capitals in the left-hand column are the International Non-proprietary Names (INN).

*International non-proprietary name (INN)**	*Other non-proprietary or trival names*	*Chemical name*
	DET	N,N-Diethyltryptamine
	DMHP	3–(1, 2–Dimethyltheptyl)–l–hydroxy–7, 8, 9, 10–tetrahydro–6, 6, 9–trimethyl–6H–dibenzo (b, d) pyran
	DMT	N,N-Dimethyltryptamine
(+)–LYSERGIDE	LSD, LSD–25	(+)–N,N–Diethyllysergamide (d-lysergic acid diethylamide)
	mescaline	3, 4, 5–Trimethoxyphenethylamine
	paranexyl	3–Hexyl–l–hydroxy–7, 8, 9, 10–tetrahydro–6, 6, 9–trimethyl–6H–dibenzo (b, d) pyran
ETICYCLIDINE	PCE	N-Ethyl–l–phenylcyclohexylamine
ETRYPTAMINE		[3–(2–Aminobutyl) indole]
METHCATHINONE		[2–(Methylamino)–1–phenylpropan–1–one]
ROLICYCLIDINE	PHP, PCPY	l–(l–Phenylcyclohexyl) pyrrolidine
	psilocine, psilotsin	3–(2–Dimethylaminoethyl) –4–hydroxyindole
PSILOCYBINE		3–(2–Dimethylaminoethyl)–indol–4–yl dihydrogen phosphate
	STP, DOM	2–Amino–1–(2, 5–dimethoxy–4–methyl) phenylpropane
TENOCYCLIDINE	TCP	1–(1–(2–Thienyl) cyclohoxyl) piperidine
	THC	Tetrahydrocannabinols, the following isomers: Δ6A(10*a*), Δ6A(7), Δ7, Δ8, Δ9, Δ10, Δ9(11) and their stereochemical variants.

The amendments made to this Schedule by LN 345/2019 took effect as follows: Section 3(a)*, (*b*) came into operation on 18th November 2019 and Section 3*(c)* on the 3rd February 2020.

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SECOND SCHEDULE—*Continued*

*International non-proprietary name (INN)**	*Other non-proprietary or trival names*	*Chemical name*
BROLAMFETAMINE	DOB	(±)–4–Bromo–2,5–dimethoxy–α–methylphenethylamine
CATHINONE		(-)–(S)–2–Aminopropiophenone
	DMA	(±)–2,5–Dimethoxy–α–methylphenethylamine
	DOET	(±)–4–Ethyl–2,5–dimethoxy–α–methylphenethylamine
ETHYLONE		1–(2H–1,3–Benzodioxol–5–yl)–2–(ethylamino)propan–1–one
	N–Hydroxy MDA	(±)–*N*–[α-Methyl–3,4–(methylenedioxy)phenethyl] hydroxylamine
	MDE, *N*–Ethyl MDA	(±)–*N*-Ethyl–α–methyl–3,4–(methylenedioxy)phenethylamine
	MDMA	(±)–*N*–α–Dimethyl-3,4–(methylenedioxy)phenethylamine
	4–Methylaminorex	(±)–*cis*–2–Amino–4–methyl–5-phenyl-2-oxazoline
	MMDA	5–Methoxy–α–methyl-3,4–(methylenedioxy)phenylethylamine
	4–MTA	α–Methyl–4–methylthiophenethylamine
25B–NBOMe	2C–B–NBOMe	2–(4–bromo–2,5–dimethoxyphenyl) –N–(2–methoxybenzyl)ethanamine
25C–NBOMe	2C–C–NBOMe	2–(4-chloro–2,5–dimethoxyphenyl) –N–[(2–methoxyphenyl)methyl] ethanamine
251–NBOMe	2C–1–NBOMe	2–(4–iodo–2,5–dimethoxyphenyl)–N–(2–methoxyphenyl)ethanamine
	Parahexyl	3–Hexyl–7,8,9,10–tetrahydro–6,6,9–trimethyl–6*H*–dibenzo[b,*d*]pyran–1–ol
	PMA	*p*–Methoxy–α–methylphenylethylamie

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*International non-proprietary name (INN)**	*Other non-proprietary or trival names*	*Chemical name*
3398–68–3	PMMA	*para*–Methoxymethylamphetamine
TENAMFETAMINE	MDA	α–Methyl–3,4–(methylenedioxy) phenethylamine
	TMA	(±)-3,4,5–Trimethoxy–α–methylphenethylamine

PSYCHOTROPIC SUBSTANCES LISTED IN SCHEDULE II OF THE CONVENTION ON PSYCHOTROPIC SUBSTANCES, 1971, VIZ:

*The names printed in capitals in the left-hand column are the International Non-proprietary Names (INN).

*International non-proprietary name (INN)**	*Other non-proprietary or trival names*	*Chemical name*
AB–CHMINACA		N–[(2S)–1–Amino–3–methyl–1–oxobutan–2–yl]–1–(cyclohexylmethyl) –1H–indazole–3–carboxamide
AB–PINACA		N–[(2S)–1–Amino–3–methyl–1–oxobutan–2–yl]–1–pentyl–1H–indazole –3–carboxamide
AM–2201	JWH–2201	1–(5–Fluoropentyl)–1H-–indol–3–yl]–(naphthalen–1–yl)methanone
AMFETAMINE	Amphetamine	(±)–α–Methylphenethylamine
N–BENZYLPIPERAZINE	Benzylpiperazine, BZP	1–Benzylpiperazine
	2C–B	4–Bromo–2,5–dimethoxyphenethylamine
ETHYLONE		1–(2H–1,3–Benzodioxol–5–yl)–2–(ethylamino)propan–1–one
4–FLUOROAMPHETAMINE	4–FA	1–(4–Fluorophenyl)propan–2–amine
5F–ADB/5F–MDMB–PINACA		Methyl (2S)–2–{[1–(5–fluoropentyl)–1H–indazole–3–carbonyl]amino}–3,3–dimethylbutanoate

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SECOND SCHEDULE—*Continued*

*International non-proprietary name (INN)**	*Other non-proprietary or trival names*	*Chemical name*
FENETYLLINE		7–[2–[(α–Methylphenethyl)amino] ethyl]theophylline
5F–PB–22		Quinolin–8–yl 1–(5–fluoropentyl)–1H–indole–3–carboxylate
JWH–018	AM–678	Naphthalen–1–yl(1–pentyl–1H–indol–3–yl)methanone
MEPHEDRONE	4–methyl-methcathinone	(RS)–2–(Methylamino)–1–(4–methylphenyl)propan–1–one
METAMFETAMINE	Methamphetamine	(+)–(S)–N,α–Dimethylphenethylamine
METAMFETAMINE RACEMATE	Methamphetamine racemate	(±)–N,α–Dimethylphenethylamine
METHIOPROPAMINE	MPA	
METHOXETAMINE	MXE	2–(Ethylamino)-–2–(3–methoxyphenyl)cyclohexanone
MDPV	3,4–Methylenedioxy-pyrovalerone	1–(1,3–Benzodioxol–5–yl)–2–(pyrrolidin–1–yl)pentan–1–one
4–METHYLETHCATHINONE	4-MEC	
METHYLONE	*beta*–keto–MDMA	2–Methylamino–1–(3,4–methylenedioxyphenyl)–propan–1–one
	α–PVP	α–pyrrolidinovalerophenone
	4,4'–DMAR 4,4'Dimethylaminorex	para–methyl–4–methylaminorex
	Pentedrone	2–(Methylamino)–1–phenylpentan–1–one
PHENCYCLIDINE	PCP	1–(1–Phenylcyclohexyl)piperidine
UR–144		1–Pentyl–1H–indol–3–yl)(2,2,3,3–tetramethylcyclopropyl) methanone
XLR–11		

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OTHER PSYCHOTROPIC SUBSTANCES:

*The names printed in capitals in the left-hand column are the International Non-proprietary Names (INN).

*International non-proprietary name (INN)**	*Other non-proprietary or trival names*	*Chemical name*
KETAMINE	KETALAR KETASET KTMIN	2–(2–chlorophenyl)–2–(methylamino)cyclohexan–1–one

The salts of the substances listed in this Schedule whenever the existence of such salts is possible.

The Stereoisomers, unless specifically excepted, of substances in this Schedule, whenever the existence of such stereoisomers is possible within the specific chemical designation.

THIRD SCHEDULE

[*This Schedule, which contained amendments to the Interpretation Act, (Chap. 3:01) and the Summary Courts Act, (Chap. 4:20), has been omitted*].

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Section 6A.
[27 of 1994
346/2019
7 of 2021].

FOURTH SCHEDULE

1. N. Acetylantranilic acid
2. Acetic anhydride
3. Acetone
4. Anthranilic acid
5. Benzone
6. Benzyl chloride
7. Benzyl cyanide
8. 2—Butanone (methyl ethyl ketone)
9. Ephedrine
10. Ergonovine
11. Ergotamine
12. Ethyl ether
13. Hydrochloric acid
14. Methylene chloride
15. 3, 4 Methylenedioxphenyl—2—propanone
16. Norpseudo ephedrine
17. Phenylacetone acid
18. Phenylacetone
19. Piperidine
20. Potassium permanganate
21. Pseudo ephedrine
22. Sulphuric acid
23. Toluene
24. 1—Phenyl—2—propanone
25. Phenylacetic acid and its salts
26. Phenylpropanolamine and its salts
27. Bromobenzyl cyanide
28. Lysergic acid
29. Erogometrine and its salts
30. Sodium sulphate
31. Potassium carbonate
32. Sodium carbonate
33. Isosafrol (cis+trans)
34. Piperonal
35. Safrole
36. Methylethyl ketone (MEK)
37. 4–Anilino–*N*–phenethylpiperidine (ANPP)[2]
38. *N*–Phenethyl–4–piperidone (NPP)[2]
39. α–Phenylacetoacetonitrile (APAAN)
40. 3, 4–MDP–2P–methylglycidate (PMK glycidate)
41. 3, 4–MDP–2P–methylglycidic acid (PMK glycidic acid)
42. α–phenylacetoacetamide (APAA)
43. Pepper Spray

The salts of the substances are listed in this Schedule whenever the existence of such salts is possible.

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FIFTH SCHEDULE

Section 53C.
27 of 1994.
[44 of 2000].

ENFORCEMENT POWERS IN RESPECT OF SHIPS

Definitions.

1. (1) In this Schedule "an enforcement officer" means—

(a) a police officer;

(b) a member of the Coast Guard;

(c) an officer commissioned by the Comptroller of Customs and Excise under the Customs Act; and

Ch. 78:01.

(d) any other person of a description specified in an Order made for the purposes of this Schedule by the Minister to whom responsibility for National Security is assigned.

(2) In this Schedule "the ship" means the ship in relation to which the powers conferred by this Schedule are exercised.

Power to stop, board, divert and detain.

2. (1) An enforcement officer may stop the ship, board it and, if he thinks it necessary for the exercise of his functions, require it to be taken to a port in Trinidad and Tobago and detain it there.

(2) Where an enforcement officer is exercising his powers with the authority of the Minister given under section 53C(2) of this Act the officer may require the ship to be taken to a port in the Convention State in question or, if that State has so requested, in any other country or territory willing to receive it.

(3) For any of the purposes referred to in subclauses (1) and (2), an enforcement officer may require the master or any member of the crew to take such action as may be necessary.

(4) Where an enforcement officer detains a vessel he shall serve on the Master a notice in writing stating that it is to be detained until the notice is withdrawn by the service on him of a further notice in writing signed by an enforcement officer.

Power to search and obtain information.

3. (1) An enforcement officer may search the ship, anyone on it and anything on it, including its cargo.

(2) An enforcement officer may require any person on the ship to give information concerning himself or anything on the ship.

(3) Without prejudice to the generality of the powers referred to in subclauses (1) and (2), an enforcement officer may—

(a) open any containers;

(b) make tests and take samples of anything on the ship;

(c) require the production of documents, books or records relating to the ship or anything on it;

(d) make photographs or copies of anything whose production he has power to require.

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Powers in respect of suspected offence.

4. If an enforcement officer has reasonable grounds to suspect that an offence mentioned in section 53A or 53B of this Act has been committed on a ship to which that section applies he may—

(a) arrest without warrant anyone whom he has reasonable grounds for suspecting to be guilty of the offence; and

(b) seize and detain anything found on the ship which appears to him to be evidence of the offence.

Assistants.

5. (1) An enforcement officer may take with him, to assist him in exercising his powers—

(a) any persons; and

(b) any equipment or materials.

(2) A person whom an enforcement officer takes with him to assist him may perform any of the officer's functions but only under the officer's supervision.

Use of reasonable force.

6. An enforcement officer may use reasonable force, if necessary, in the performance of his functions.

Evidence of authority.

7. An enforcement officer shall, if required, produce evidence of authority.

Protection of officers.

8. An enforcement officer shall not be liable in any civil or criminal proceedings for anything done in the performance of his functions under this Schedule if the Court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

Offences.

9. (1) A person is guilty of an offence if he—

(a) intentionally obstructs an enforcement officer in the performance of any of his functions under this Schedule;

(b) fails without reasonable excuse to comply with a requirement made by an enforcement officer in the performance of those functions; or

(c) in purporting to give information required by an officer for the performance of those functions—

(i) makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular; or

(ii) intentionally fails to disclose any material particular.

(2) A person guilty of an offence under this paragraph is liable on summary conviction to a fine of five thousand dollars and to imprisonment for two years.

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SUBSIDIARY LEGISLATION

DANGEROUS DRUGS (APPOINTMENT OF INSPECTORS) ORDER

made under section 12(1)

143/2001.
[85/2005
144/2007
187/2009
27/2010
359/2012
27/2018
43/2018
21/2019
253/2021].

1. This Order may be cited as the Dangerous Drugs (Appointment of Inspectors) Order. Citation.

2. In this Order "the Act" means the Dangerous Drugs Act. Interpretation.

3. The Minister, acting in accordance with section 12(1) of the Act, appoints the following pharmacists of the Drugs Inspectorate Division, Inspectors for the purposes of the Act: Appointment of Inspectors.

Lynette John
Deana Boland-Callender
Yvette Sylvester
Ramnarace Seenath
Junia Walcott
Elizabeth Maughan
Kenrick Cumberbatch
Joan Charles
Brenda Charles
Andrea Grimes
Mary Churaman-Lewis
Ann Marie Walters
Jennifer Herbert
Ameena Ali
Roxanne Rampersad
Agnes Punch
Gem Antoine
Jennifer Rodriguez-Herbert
Amanda Mohammed
Anesa Doodnath-Siboo
Sherolyn Maharaj
Sharon Jobity

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[Subsidiary]

395/2019.

DANGEROUS DRUGS (FIXED PENALTY NOTICE) REGULATIONS

made under section 57(1)

Citation.

1. These Regulations may be cited as the Dangerous Drugs (Fixed Penalty Notice) Regulations.

Fixed penalty notice.

2. A fixed penalty notice issued under section 5B of the Act shall be in the form set out in the Schedule.

(Regulation 2).

SCHEDULE

Section 5B.

THE DANGEROUS DRUGS ACT, CHAP. 11:25

NOTICE OF OPPORTUNITY TO PAY FIXED PENALTY

PART I

Take notice that I, ...

have reason to believe that on the ..... day of ..... 20..... the offence, particulars of which are given below was being or had been committed.

.....
Number, Rank and Name of Constable

The fixed penalty for the offence is .....

.....
(Penalty in words and figure)

If this amount is paid or remitted to the Magistracy Registrar and Clerk of the

Court at the Magistrate's Court at .....

.....
(Insert address of Magistracy Registrar and Clerk of the Court)

within fourteen (14) days from the date of this notice no proceedings will be taken and liability to conviction of the offence will be discharged.

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If you fail to pay the fixed penalty before the end of fourteen (14) days from the above date, you are hereby required to attend the Magistrate's Court on the ..... day of ..... 20.....

at 9.00 o'clock in the forenoon at the undermentioned address as the defendant in the matter, in respect of which this notice was issued.

.....

(State name and address of Court)

This notice was given at .....

(State location)

.....

on ..... 20 ..... at ..... a.m./p.m.

(State date) *(State time)*

PARTICULARS OF OFFENCE

At ..... a.m./p.m. on the ..... day of..... 20 .....

at .....

..... you .....

.....

.....

.....

contrary to .....

(State provision contravened)

.....

.....

Number, Rank and Name of Constable

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SCHEDULE—*Continued*

PART II

To the Magistracy Registrar and Clerk of the Court

.....
(Insert address)

.....

I enclose the sum of..... as payment of the fixed penalty for the offence mentioned in Part I of this Notice.

Name
.....
(in block capitals)

Address
.....
(in block capitals)

.....
Signature of Person served with Notice

CONDITIONS OF PAYMENT OF FIXED PENALTY

In paying the fixed penalty the following conditions shall be observed:

(1) The fixed penalty shall be accompanied by this notice, and payment must be of the exact amount shown on the notice.

(2) A Magistracy Registrar and Clerk of the Court will not accept a fixed penalty required to be paid to another Magistracy Registrar and Clerk of the Court.

(3) Where payment of the fixed penalty is made otherwise than in conformity with the Dangerous Drugs Act, Chap. 11:25, the Magistracy Registrar and Clerk of the Court shall as soon as practicable after payment return the amount paid to the sender, and proceedings in respect of the alleged offence shall continue.

(4) Payment may be made by cash, certified cheque, banker's draft, money order, or electronically in accordance with the Electronic Payments into and out of Court Act, 2018 (Act. No. 14 of 2018).

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APPENDIX

This Appendix contains sections 30 to 53 of the Act which were repealed by Act No. 55 of 2000; but, notwithstanding the repeal of sections 30 to 53 of the Act these sections will continue to have effect with respect to proceedings brought before the 6th November 2000 for a Drug Trafficking offence.

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PART V

CONFISCATION OF PROCEEDS OF DRUG TRAFFICKING

Confiscation orders.

30. (1) Where a person is convicted of a drug trafficking offence by a Magistrate and where—

(a) it appears to the Magistrate that the person convicted may have benefitted from drug trafficking and has or may have realisable property; or

(b) it appears to the Director of Public Prosecutions that the person convicted may have benefitted from drug trafficking and has or may have realisable property, on application by the Director of Public Prosecutions,

the Magistrate shall at the time of conviction commit such person for sentence by a Judge of the High Court and shall remit to the Judge his recommendations as to such sentence and the reasons therefor.

(2) Where a person appears before the High Court (hereinafter referred to as "the Court") to be sentenced in respect of a drug trafficking offence or where a person, after having been committed to the Court for trial, is convicted of a drug trafficking offence, the Court shall act as follows:

(a) the Court shall first determine whether he has benefitted from drug trafficking;

(b) if the Court determines that he has so benefitted, the Court shall, before sentencing or otherwise dealing with him in respect of the offence, determine in accordance with section 33 the amount to be recovered by virtue of this section;

(c) the Court shall then in respect of the offence concerned—

(i) order him to pay that amount;

(ii) take account of the order before—

(A) imposing any fine on him;

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(B) making any order involving any payment by him; or

(C) making any order under section 53; and

(iii) subject to subparagraph (ii), leave the order out of account in determining the appropriate sentence or other manner of dealing with the defendant.

(3) For the purposes of this Act, a person who has, at any time, whether before or after the commencement of this Act, received any payment or other reward in connection with drug trafficking carried on by him or another has benefitted from drug trafficking.

(4) Notwithstanding any written law to the contrary where an order is made against an offender under this section, the Court may, in addition to the making of that order, deal with the offender in any way it considers appropriate in respect of the drug trafficking offence for which the order was made.

(5) In this Part and in Part VI and Part VII—

(a) "confiscation order" means an order made under subsection (2);

(b) "defendant" means a person against whom proceedings have been instituted for a drug trafficking offence whether or not he has been convicted.

Assessing the proceeds of drug trafficking.

31. (1) For the purposes of this Act—

(a) any payments or other rewards received by a person at any time whether before or after the commencement of this Act, in connection with drug trafficking carried on by him or another are his proceeds of drug trafficking; and

(b) the value of his proceeds of drug trafficking is the aggregate of the values of the payments or other rewards.

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(2) The Court may, for the purposes of determining whether the defendant has benefitted from drug trafficking and, if he has so benefitted, of assessing the value of his proceeds of drug trafficking, make the assumptions referred to in subsection (3) except to the extent that any of the assumptions are shown to be incorrect in the defendant's case.

(3) The assumptions referred to in subsection (2)—

(a) that any property appearing to the Court—

(i) to have been held by him at any time since his conviction; or

(ii) to have been transferred to him at any time since the beginning of the period of six years ending when the proceedings were instituted against him,

was received by him, at the earliest time at which he appears to the Court to have held it, as a payment or reward in connection with drug trafficking carried on by him;

(b) that any expenditure of his since the beginning of that period of six years was met out of payments received by him in connection with drug trafficking carried on by him; and

(c) that, for the purpose of valuing any property received or assumed to have been received by him at any time as such a reward, he received the property free of any other interests in it.

(4) For the purposes of assessing the value of the defendant's proceeds of drug trafficking in a case where a confiscation order has previously been made against him, the Court shall leave out of account any of his proceeds of drug trafficking that are shown to the Court to have been taken into account in determining the amount to be recovered under that order.

Statements relating to drug trafficking.

32. (1) Where—

(a) there is tendered to the Court by the Director of Public Prosecutions a statement as to any matters

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relevant to the determination whether the defendant has benefitted from drug trafficking or to the assessment of the value of his proceeds of drug trafficking; and

(b) the defendant accepts to any extent any allegation in the statement,

the Court may, for the purposes of that determination and assessment, treat his acceptance as conclusive of the matters to which it relates.

(2) Where—

(a) a statement is tendered under subsection (1)*(a)*; and

(b) the Court is satisfied that a copy of that statement has been served on the defendant,

the Court may require the defendant to indicate to what extent he accepts each allegation in the statement and, so far as he does not accept any such allegation, to indicate any matters he proposes to rely on.

(3) If the defendant fails in any respect to comply with a requirement under subsection (2) he may be treated for the purposes of this section as accepting every allegation in the statement apart from—

(a) any allegation in respect of which he has complied with the requirement; and

(b) any allegation that he has benefitted from drug trafficking or that any payment or other reward was received by him in connection with drug trafficking carried on by him or another.

(4) Where—

(a) there is tendered to the Court by the defendant a statement as to any matters relevant to determining the amount that might be realised at the time the confiscation order is made; and

(b) the Director of Public Prosecutions accepts to any extent any allegation in the statement,

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the Court may, for the purposes of that determination, treat the acceptance by the prosecutor as conclusive of the matters to which it relates.

(5) An allegation may be accepted or a matter indicated for the purposes of this section either—

(a) orally before the Court; or

(b) in writing to the Court.

(6) No acceptance by the defendant under this section that any payment or other reward was received by him in connection with drug trafficking carried on by him or another shall be admissible in evidence in any proceedings for an offence.

Amount to be recovered under confiscation order.

33. (1) Subject to subsection (3), the amount to be recovered in the defendant's case under the confiscation order shall be the amount the Court assesses to be the value of the defendant's proceeds of drug trafficking.

(2) If the Court is satisfied as to any matter relevant for determining the amount that might be realised at the time the confiscation order is made, whether by an acceptance under section 32 or otherwise, the Court may issue a certificate giving the Court's opinion as to the matters concerned and shall do so where subsection (3) applies.

(3) If the Court is satisfied that the amount that might be realised at the time the confiscation order is made is less than the amount the Court assesses to be the value of his proceeds of drug trafficking, the amount to be recovered in the defendant's case under the confiscation order shall be the amount appearing to the Court to be the amount that might be so realised.

Definition of principal terms used.

34. (1) In this Act "realisable property" means—

(a) any property held by the defendant; and

(b) any property held by a person to whom the defendant has directly or indirectly made a gift caught by this Act.

(2) Property is not realisable property if any forfeiture order is in force in respect of the property under any written law.

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(3) For the purposes of sections 32 and 34 the amount that might be realised at the time a confiscation order is made against the defendant is—

(a) the total of the values at that time of all the realisable property held by the defendant, less

(b) where there are obligations having priority at that time, the total amounts payable in pursuance of such obligations,

together with the total of the values at that time of all gifts caught by this Act.

(4) Subject to this section, for the purposes of this Act the value of property, other than cash, in relation to any person holding the property—

(a) where any other person holds an interest in the property, is the market value of the first mentioned person's beneficial interest in the property, less the amount required to discharge any encumbrance, other than a charging order, on that interest; and

(b) in any other case, is its market value.

(5) Subject to subsection (9), references in this Act to the value at any time, referred to in subsection (6) as "the material time", of a gift caught by this Act or of any payment or reward are references 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 (6) applies, the value there mentioned, whichever is the greater.

(6) Subject to subsection (9), if at the material time the recipient holds—

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

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

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the value referred to in subsection (5)*(b)* is the value to him at the material time of the property referred to in paragraph *(a)* or, as the case may be, of the property referred to in paragraph *(b)* so far as it represents the property which he received, but disregarding in either case any charging order.

(7) For the purposes of subsection (3), an obligation has priority at any time if it is an obligation of the defendant to—

(a) pay an amount due in respect of a fine or other order of a Court, imposed or made on conviction of an offence, where the fine was imposed or order made before the confiscation order; or

(b) pay any sum which would be included among the priority debts in the defendant's bankruptcy commencing on the date of the confiscation order or winding up under an order of the Court made on that date.

(8) A gift, including a gift made before the commencement of this Act, is caught by this Act if—

(a) it was made by the defendant at any time since the beginning of the period of six years ending when the proceedings were instituted against him; or

(b) it was made by the defendant at any time and was a gift of property—

(i) received by the defendant in connection with drug trafficking carried on by him or another; or

(ii) which in whole or in part directly or indirectly represented in the defendant's hands property received by him in that connection.

(9) For the purposes of this Act—

(a) the circumstances in which the defendant is to be treated as making a gift include those where he transfers property to another person directly or

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indirectly for a consideration the value of which is significantly less than the value of the consideration provided by the defendant; and

(b) in circumstances referred to in paragraph *(a)*, the preceding provisions of this section shall apply as if the defendant had made a gift of such share in the 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 the defendant.

Application of procedure for enforcing orders.

35. Where the defendant fails to pay the amount to be recovered under a confiscation order within a period of three months from the date of the confiscation order or such other period as specified by the Court the defendant shall be liable to imprisonment which term shall run consecutively to any other term imposed by the Court and which shall not exceed the maximum fixed in the following scale:

An amount not exceeding $10,000	…	2 years
An amount exceeding $10,000 but not exceeding $20,000	…	3 years
An amount exceeding $20,000 but not exceeding $50,000	…	4 years
An amount exceeding $50,000 but not exceeding $100,000	…	5 years
An amount exceeding $100,000 but not exceeding $250,000	…	7 years
An amount exceeding $250,000 but not exceeding $1 million	…	10 years
An amount exceeding $1 million but not exceeding $2 million	…	12 years
An amount exceeding $2 million	…	15 years

External confiscation and external forfeiture orders. [27 of 1994].

35A. (1) In this section—

"Court" means the Supreme Court of Judicature of Trinidad and Tobago;

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"designated country" means a country designated by an Order made by the Minister;

"external confiscation order" or "external forfeiture order", as the case may be, means an order for confiscation or an order for forfeiture made by a Court of a designated country;

"Minister" means the Minister to whom responsibility for Legal Affairs is assigned.

(2) The Minister may, by Order, declare a country to be a designated country for the purposes of this Act.

(3) The Minister may by Order apply this section to an external confiscation order or an external forfeiture order made by a Court of a designated country being an order of a description specified in the Order.

(4) Subject to subsection (5), the Court may, on an application by or on behalf of the government of a designated country register an external confiscation order or an external forfeiture order made there.

(5) The Court shall not register an external confiscation order or an external forfeiture order unless—

(a) the Court is satisfied that at the time of registration the order is in force in the designated country and is not subject to appeal in that country;

(b) the Court is 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) the Court is of the opinion that enforcing the order in Trinidad and Tobago would not be contrary to the interests of justice.

(6) In subsection (5), "appeal" includes any proceedings by way of discharging or setting aside a judgment or an application for a new trial or a stay of execution.

(7) The Court shall cancel the registration of an external confiscation order or an external forfeiture order if it appears to

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the Court that the order has been satisfied whether by payment of the amount due under the order, by the person against whom the order is made serving imprisonment in default or otherwise.

(8) In relation to an external confiscation order or external forfeiture order registered under this section, Part VI shall have effect subject to such modifications as may be specified in an Order made by the Minister under this section as it has effect in relation to a confiscation order or a forfeiture order as the case may be.

(9) An Order made by the Minister under this section may include such provision—

(a) as to evidence or proof of any matter for the purpose of this section;

(b) as to the circumstances in which proceedings are to be treated for those purposes as instituted or concluded in a designated country, as the Minister considers expedient.

(10) An Order made by the Minister under this section varying or revoking a previous Order made by the Minister under this section may contain such incidental, consequential and transitional provisions as the Minister considers expedient.

(11) In any case where the Court is satisfied, on an application by or on behalf of the government of a designated country, that proceedings which might result in an external confiscation order or an external forfeiture order being made against a person have been instituted in the designated country and have not been concluded, Part VI shall have effect in relation to those proceedings as they would have effect in relation to proceedings instituted in Trinidad and Tobago against that person for a drug trafficking offence which has not been concluded.

Interest on sums to be paid under confiscation orders. [27 of 1994].

35B. (1) If any sum required to be paid by a person under a confiscation order is not paid when it is required to be paid that person shall be liable to pay interest on that sum for the period for which it remains unpaid and the amount of the interest shall for the purposes of enforcement be treated as part of the amount to be recovered from him under the confiscation order.

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(2) Where a person fails to pay interest owing under subsection (1) the High Court may, on the application of the Director of Public Prosecutions, and in accordance with section 35, increase the term of imprisonment fixed in respect of the default in payment of the amount to be recovered under a confiscation order.

Increase in realisable property. [27 of 1994].

35C. (1) Where, under section 33(3) the amount which a person is ordered to pay by a confiscation order is the amount assessed to be the value of his proceeds of drug trafficking the Director of Public Prosecutions or a receiver appointed under this Act may make an application for a certificate under subsection (2).

(2) Where, on an application made in accordance with subsection (1), the High Court is satisfied that the amount that might be realised in the case of a person referred to in subsection (1) is greater than the amount taken into account in making the confiscation order, whether it was greater than was thought when the order was made or has subsequently increased, the Court shall issue a certificate to that effect giving the Court's reasons.

(3) Where a certificate has been issued under subsection (2) the Director of Public Prosecutions may apply to the Court for an increase in the amount to be recovered under the confiscation order and on that application the Court may—

(a) substitute for that amount such amount, not exceeding the amount assessed as the value referred to in subsection (1), as appears to the Court to be appropriate having regard to the amount now shown to be realisable; and

(b) increase the term of imprisonment or detention fixed in respect of the confiscation order.

Seizure and detention. [27 of 1994].

35D. (1) The senior Customs Officer on duty at the port, at the time or a police officer of the rank of sergeant or higher may seize and, in accordance with this section, detain any cash which is being imported into or exported from Trinidad and Tobago if its amount

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is not less than the prescribed sum if he has reasonable grounds for suspecting that it directly or indirectly represents any person's proceeds of, or is intended by any person for use in, drug trafficking.

(2) Cash seized by virtue of this section shall not be detained for more than ninety-six hours unless its continued detention is authorised detention authorised by an order made by a Magistrate and no such order shall be made unless the Magistrate is satisfied—

(a) that there are reasonable grounds for the suspicion mentioned in subsection (1); and

(b) that continued detention of the cash is justified while its origin or derivation is further investigated or consideration is given to the institution, whether in Trinidad and Tobago or elsewhere, of criminal proceedings against any person for an offence with which the cash is connected.

(3) Any order under subsection (2) shall authorise the continued detention of the cash to which it relates for such period, not exceeding three months beginning with the date of the order, as may be specified in the order and a Magistrate, if satisfied as to the matters mentioned in that subsection, may thereafter from time to time by order authorise the further detention of the cash but so that—

(a) no period of detention specified in such an order shall exceed three months beginning with the date of the order; and

(b) the total period of detention shall not exceed two years from the date of the order under subsection (2).

(4) Any application for an order under subsection (2) or (3) shall be made by the Comptroller of Customs and Excise or a police officer or a Magistrate.

(5) Any cash subject to continued detention under subsection (3) shall, immediately upon an order for such detention

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being made, be delivered into the care of the Comptroller of Accounts who shall forthwith deposit it into an interest bearing account.

(6) At any time while cash is detained under this section—

(a) a Magistrate may direct its release if satisfied—

(i) on application made by the person from whom it was seized or a person by or on whose behalf it was being imported or exported, that there are no, or are no longer, any such grounds for its detention as are mentioned in subsection (2); or

(ii) on an application made by any other person, that detention of the cash is not for that or any other reason justified; and

(b) the Comptroller of Accounts, may release the cash together with any interest that may have accrued, if satisfied that its detention is no longer justified but shall first notify the Justice of the Peace or Magistrate under whose order it is being detained.

(7) If at a time when any cash is being detained under this section—

(a) an application for its forfeiture is made under this Act; or

(b) proceedings are instituted, whether in Trinidad and Tobago or elsewhere, against any person for an offence with which the cash is connected,

the cash shall not be released until any proceedings pursuant to the application or, as the case may be, the proceedings for that offence have been concluded.

(8) In this section "the prescribed sum" means such sum in Trinidad and Tobago currency as may be prescribed for the purposes of this section by an Order made by the Minister to whom responsibility for National Security is assigned and in determining under this section whether an amount of currency other than

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Trinidad and Tobago currency is not less than the prescribed sum that amount shall be converted at the prevailing rate of exchange.

(9) An Order made under subsection (8) shall be subject to negative resolution of Parliament.

PART VI

RESTRAINT ORDERS

Cases in which restraint orders and charging orders may be made. [27 of 1994].

36. (1) The powers conferred on the Court by sections 37(1) and 41(1) are exercisable where—

(a) proceedings have been instituted against the defendant for a drug trafficking offence;

(b) the proceedings have not been concluded; and

(c) the Court is satisfied that there is reasonable cause to believe that the defendant has benefitted from drug trafficking.

(2) Those powers are also exercisable where the Court is satisfied—

(a) that an information is to be laid that a person has committed, or is suspected of having committed, a drug trafficking offence; and

(b) that there is reasonable cause to believe that he has benefitted from drug trafficking.

(3) For the purposes of sections 37 and 38, at any time when those powers are exercisable before proceedings have been instituted—

(a) references in this Act to the defendant shall be construed as references to the person referred to in subsection (2)*(a)*;

(b) references in this Act to the prosecutor shall be construed as references to the person who the Court is satisfied is to have the conduct of the proposed proceedings; and

(c) references in this Act to realisable property shall be construed as if, immediately before that time,

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proceedings had been instituted against the person referred to in subsection (2)*(a)* for a drug trafficking offence.

(4) Where the Court has made an order under section 37(1) or 38(1) by virtue of subsection (2), the Court shall discharge the order if the proposed proceedings are not instituted within such time as the Court considers reasonable.

(5) The powers referred to in subsection (1) are exercisable, *mutatis mutandis*, in relation to an external confiscation order or an external forfeiture order.

Restraint orders.

37. (1) The Court may by order, in this Act referred to as a "restraint 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) to all realisable property held by a specified person, whether the property is described in the order or not; and

(b) to realisable property held by a specified person, being property transferred to him after the making of the order.

(3) This section shall not have effect in relation to any property for the time being subject to a charge under section 38.

(4) A restraint order—

(a) may be made only on an application by the Director of Public Prosecutions;

(b) may be made on an *ex parte* application to a Judge in Chambers; and

(c) shall provide for the notice to be given to persons affected by the order.

(5) A restraint order—

(a) may be discharged or varied in relation to any property; and

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(b) shall be discharged when proceedings for the offences are concluded.

(6) An application for the discharge or variation of a restraint order may be made by any person affected by it.

(7) Where the Court has made a restraint order, the Court may, at any time, appoint a receiver—

(a) to take possession of any realisable property; and

(b) in accordance with the Court's 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.

(8) 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 Territory.

(9) Where the Court has made a restraint order, a police officer may, for the purpose of preventing any realisable property being removed from the Territory, seize the property.

(10) Property seized under subsection (9) shall be dealt with in accordance with the Court's directions.

Charging orders in respect of realisable property and securities, etc. [27 of 1994].

38. (1) The Court may make a charging order on realisable property for securing the payment to the State—

(a) where a confiscation order has not been made of an amount equal to the value from time to time of the property charged; and

(b) where a confiscation order has been made of an amount not exceeding the amount payable under the confiscation order.

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(2) For the purposes of this Act, a charging order is an order made under this section imposing on any realisable property as may be specified in the order a charge for securing the payment of money to the State.

(3) A charging order—

(a) may be made only on an application by the Director of Public Prosecutions;

(b) may be made on an *ex parte* application to a Judge in Chambers;

(c) shall provide for notice to be given to persons affected by the order; and

(d) may be subject to such conditions as the Court thinks fit and, without prejudice to the generality of this paragraph, such conditions as it thinks fit at the time when the charge is to become effective.

(4) Subject to subsection (6), a charge may be imposed by a charging order only on—

(a) any interest in realisable property, being an interest held beneficially by the defendant or by a person to whom the defendant has directly or indirectly made a gift caught by this Act—

(i) in any asset of a kind mentioned in subsection (5); or

(ii) under any trust; or

(b) any interest in realisable property held by a person as trustee of a trust if the interest is in such an asset or is an interest under another trust and a charge may by virtue of paragraph *(a)* be imposed by a charging order on the whole beneficial interest under the first mentioned trust.

(5) The assets referred to in subsection (4) are—

(a) land in the Territory; or

(b) securities of any of the following kinds—

(i) government stock;

(ii) securities of any body incorporated within the Territory;

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(iii) securities of any body incorporated outside the Territory or of any country or territory outside the Territory being stock registered in a register kept at any place within the Territory;

(iv) units of any unit trust in respect of which a register of the unitholders is kept at any place within the Territory;

(v) foreign securities transferable by delivery which are in the Territory.

(6) In any case where a charge is imposed by a charging order on any interest in an asset of a kind mentioned in subsection (5)*(b)*, the Court may provide for the charge to extend to any interest or dividend payable in respect of the asset.

(7) The Court may make an order discharging or varying the charging order and shall make an order discharging the charging order if the proceedings for the offence are concluded or the amount, payment of which is secured by the charge is paid into Court.

(8) The Remedies of Creditors Act shall apply in relation to charging orders as they apply in relation to orders issued or made for the purpose of enforcing judgment and *lis pendens*. Ch. 8:09.

(9) An application for the discharge or variation of a charging order may be made by any person affected by it.

Realisation of property.

39. (1) Where in proceedings instituted for a drug trafficking offence a confiscation order that is not subject to appeal is made, and the proceedings have not been concluded, on an application by the Director of Public Prosecutions, the Court may—

(a) appoint a receiver in respect of realisable property;

(b) empower a receiver appointed under subparagraph *(a)*, section 37 or in pursuance of a charging order—

(i) to enforce any charge imposed under section 38 on realisable property or on interest or dividends payable in respect of such property;

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(ii) in relation to any realisable property other than property for the time being subject to a charge under section 38, to take possession of the property subject to such conditions or exceptions as may be specified by the Court;

(c) order any person having possession of realisable property to give possession of it to any such receiver;

(d) empower any such receiver to realise any realisable property in such manner as the Court may direct;

(e) 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 Act as the Court may direct and, on the payment being made, by order, transfer, grant or extinguish any interest in the property.

(2) Subsection (1)*(c)* to *(e)* do not apply to property for the time being subject to a charge under section 38.

(3) The Court shall not in respect of any property exercise the powers conferred by paragraph *(b)*(i), *(d)* or *(e)* of subsection (1) unless a reasonable opportunity has been given for persons holding any interest in the property to make representations to the Court.

Application of proceeds of realisation and other sums.

40. (1) Subject to subsection (2), the following sums in the hands of a receiver appointed under section 37 or 39 or in pursuance of a charging order, that is:

(a) the proceeds of the enforcement of any charge imposed under section 38;

(b) the proceeds of the realisation, other than by the enforcement of such a charge, of any property under section 37 or 38; and

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(c) any other sums, being property held by the defendant,

shall, after such payments, if any, as the Court may direct, have been made out of those sums, be applied on the defendant's behalf towards the satisfaction of the confiscation order.

(2) If, after the amount payable under the confiscation order has been fully paid, any sums remain in the hands of the receiver, the receiver shall distribute those sums among such of those who held property which has been realised under this Act, and in such proportions as the Court may direct after giving reasonable opportunity for such persons to make representations to the Court.

(3) The receipt of any sum by the Court on account of an amount payable under a confiscation order shall reduce the amount so payable, but the sum 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 State under section 45(2),

and the balance shall be treated as if it were a fine imposed by the Court.

Exercise of powers by Court or receiver.

41. (1) This section applies to the powers conferred on the Court by sections 37 to 40, or on a receiver appointed under section 37 or 39 or in pursuance of a charging order.

(2) Subject to this section, the powers referred to in subsection (1) shall be exercised with a view to making available for satisfying the confiscation order or, as the case may be, any confiscation order that may be made in the defendant's case the value for the time being of realisable property held by any person by the realisation of such property.

(3) In the case of realisable property held by a person to whom the defendant has directly or indirectly made a gift caught by this Act, the powers shall be exercised with a view to realising

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no more than the value for the time being of the gift together with all costs incurred in such realisation.

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

(5) In exercising those powers, no account shall be taken of any obligations of the defendant or of the recipient of any such gift which conflict with the obligation to satisfy the confiscation order.

Variation of confiscation orders.

42. (1) If, on an application by the defendant in respect of a confiscation order, the Court is satisfied that the realisable property is inadequate for the payment of any amount remaining to be recovered under the order the Court shall issue a certificate to that effect, giving the Court's reasons.

(2) For the purposes of subsection (1)—

(a) in the case of realisable property held by a person who has been adjudged bankrupt the Court shall take into account the extent to which any property held by him may be distributed among creditors; and

(b) the Court may disregard any inadequacy in the realisable property which appears to the Court to be attributable wholly or partly to anything done by the defendant for the purpose of preserving any property, held by a person to whom the defendant had directly or indirectly made a gift caught by this Act from any risk of realisation under this Act.

(3) Where a certificate has been issued under subsection (1), the defendant may apply to the Court for the amount to be recovered under the order to be reduced.

(4) The Court shall, on an application under subsection (3)—

(a) substitute for the amount to be recovered under the order such lesser amount as the Court thinks just in all the circumstances of the case; and

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(b) substitute for the term of imprisonment or of detention in respect of the amount to be recovered under the order such shorter term in respect of the lesser amount as the Court thinks just in all the circumstances of the case.

Bankruptcy of defendant.

43. (1) Where a person who holds realisable property is adjudged bankrupt—

(a) property for the time being subject to a restraint order made before the order adjudging him bankrupt; and

(b) any proceeds of property realised by virtue of section 37(7) or 39(1)*(d)* or *(e)* for the time being in the hands of a receiver appointed under section 37 or 39,

are excluded from the bankrupt's estate for the purpose of the Bankruptcy Act. Ch. 9:70.

(2) Where a person has been adjudged bankrupt, the powers conferred on the Court by sections 37 to 40 shall not be exercised in relation to property for the time being comprised in the bankrupt's estate for the purpose of sections 37 to 40.

Winding up of company holding realisable property.

44. (1) Where realisable property is held by a company and an order for the winding up of the company has been made or a resolution has been passed by the company for the voluntary winding up, the functions of the liquidator shall not be exercisable in relation to—

(a) property for the time being subject to a restraint order made before the relevant time; and

(b) any proceeds of property realised by virtue of section 37(7) or 39(1)*(d)* or *(e)* for the time being in the hands of a receiver appointed under section 37 or 38,

but there shall be payable out of such property any expenses, including the remuneration of the liquidator, properly incurred in the winding up in respect of the property.

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(2) Where, in the case of a company, such an order has been made or such a resolution has been passed, the powers conferred on the Court by sections 37 to 40 or on a receiver so appointed shall not be exercised in relation to which the functions of the liquidator are exercisable—

(a) so as to inhibit him from exercising those functions for the purpose of distributing any property held by the company to the company's creditors; or

(b) so as to prevent the payment out of any property of expenses, including the remuneration of the liquidator, properly incurred in the winding up in respect of the property.

(3) Subsection (2) does not affect the enforcement of a charging order made before the relevant time or on property which was subject to a restraint order at the relevant time.

Ch. 81:01. (4) Nothing in the Companies Act shall be taken as restricting or enabling the restriction of the exercise of powers under this section.

(5) In this section—

"company" means any company which may be wound up under the Companies Act; and

"the relevant time" means—

(a) where no order for the winding up of the company has been made, the time of the passing of the resolution for voluntary winding up;

(b) where such an order has been made and, before the presentation of the petition for the winding up of the company by the Court, such a resolution had been passed by the company, the time of the passing of the resolution; and

(c) in any other case where such an order has been made, the time of the making of the order.

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Receivers supplementary provisions.

45. (1) Where a receiver appointed under section 37 or 39 or in pursuance of a charging order 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.

(2) Any amount due in respect of the remuneration and expenses of a receiver shall be paid by the State—

(a) where a receiver is appointed under section 37 or 39 or in pursuance of a charging order and no sum is available to be applied in payment of it under section 40(3)*(a)*; or

(b) where proceedings for a drug trafficking offence are not instituted.

Compensation. [27 of 1994].

46. (1) If proceedings are instituted against a person for a drug trafficking offence and either—

(a) the proceedings do not result in his conviction or convictions for any drug trafficking offence, or

(b) where he is convicted of one or more drug trafficking offences the convictions concerned are quashed, and no conviction for any drug trafficking offence is substituted,

the Court may, on an application by a person who held property which was realisable property, order compensation to be paid to the applicant, if having regard to all the circumstances, it considers it appropriate to make such an order.

(2) The Court shall not order compensation to be paid in any case unless the Court is satisfied—

(a) that there has been some serious default on the part of a person concerned in the investigation

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or prosecution of the offence or offences concerned, and that, but for the default, the proceedings would not have been instituted or continued;

(b) that the applicant has suffered substantial loss in consequence of anything done in relation to the property by or in pursuance of an order of the Court under sections 37 to 39; or

(c) that the proceedings would have been instituted or continued if the serious default had not occurred.

(3) The amount of compensation to be paid under this section shall be such as the Court thinks just in all the circumstances of the case.

Offences relating to the proceeds of drug trafficking. [27 of 1994].

47. (1) A person is guilty of an offence if he—

(a) conceals or disguises any property which is, or which, in whole or in part directly or indirectly represents, his proceeds of drug trafficking; or

(b) converts, transfers or disposes of that property or removes it from the jurisdiction,

for the purpose of avoiding prosecution for a drug trafficking offence or the making or enforcement in his case of a confiscation order or a forfeiture order.

(2) A person is guilty of an offence if, knowing or having reasonable grounds to suspect that any property is, or in whole or in part directly or indirectly represents, another person's proceeds of drug trafficking, he—

(a) conceals or disguises that property; or

(b) converts, transfers or disposes of that property or removes it from the jurisdiction,

for the purpose of assisting any person to avoid prosecution for a drug trafficking offence or the making or enforcement of a confiscation order or a forfeiture order.

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(3) A person is guilty of an offence who conceals, disposes, disguises, transfers, brings into Trinidad and Tobago or removes from Trinidad and Tobago any money or other property knowing or having reasonable grounds to suspect that the money or other property is derived, obtained or realised, directly or indirectly from drug trafficking.

(4) A person is guilty of an offence if, knowing or having reasonable grounds to suspect that any money or other property is, or in whole or in part directly or indirectly represents another person's proceeds of drug trafficking, he receives, possesses or converts that money or other property.

(5) It is a defence to a charge of committing an offence under subsection (4) that the person charged acquired the property for adequate consideration.

(6) The provision for any person of services or goods which are of assistance to him in drug trafficking shall not be treated as consideration for the purposes of subsection (5).

(7) Where a person discloses to a police officer a suspicion or belief that any property is, or in whole or in part directly or indirectly represents, another person's proceeds of drug trafficking, or discloses to a police officer any matter on which such a suspicion or belief is based the disclosure shall not be treated as a breach of any restriction upon the disclosure of information imposed by contract or by any enactment, regulation, rule of conduct or other provision.

(8) Where a person who has made a disclosure under subsection (7) does any act in relation to the property in contravention of subsection (3) or (4) he does not commit an offence under this section if—

(a) the disclosure is made before he does the act concerned and the act is done with the consent of the police officer; or

(b) the disclosure is made after he does the act, but on his initiative and as soon as it is reasonable for him to make it.

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(9) For the purposes of subsection (7), having possession of any property shall be taken to be doing an act in relation to it.

(10) In proceedings against a person for an offence under this section, it is a defence to prove that—

(a) he intended to disclose to a police officer such a suspicion, belief or matter as is mentioned in subsection (7); and

(b) there is reasonable excuse for his failure to make the disclosure in accordance with subsection (7).

(11) In the case of a person who was in employment at the relevant time, subsections (7) and (9) shall have effect in relation to disclosures and intended disclosures to the appropriate person in accordance with the procedure established by his employer for the making of such disclosures as they have effect in relation to disclosures, and intended disclosures, to a police officer.

(12) No police officer or other person shall be guilty of an offence under this section in respect of anything done by him in the course of acting in connection with the enforcement, or intended enforcement, of any provision of this Act or of any written law relating to drug trafficking or the proceeds of such trafficking, if the Court is satisfied that the act was done in good faith and there were reasonable grounds for doing it.

(13) A person guilty of an offence under this section is liable—

(a) on summary conviction to a fine of fifty thousand dollars and to imprisonment for five years;

(b) on conviction on indictment to a fine of one hundred thousand dollars or the value of the proceeds of the drug trafficking whichever is greater and to imprisonment for ten years.

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PART VII

INVESTIGATIONS INTO DRUG TRAFFICKING

Order to make material available.

48. (1) A police officer may, for the purpose of an investigation into drug trafficking, apply to a Judge in Chambers for an order under subsection (2).

(2) If on such application the Judge is satisfied that the conditions in subsection (4) are fulfilled he may make an order—

(a) that the person who appears to him to be in possession of particular material or material of a particular description to which the application relates shall—

(i) produce it to a police officer for him to take away;

(ii) give a police officer access to it; or

(b) that the person being a relative or associate of such person shall within such period as the order may specify make a statutory declaration—

(i) identifying each item of property, whether within or outside the Territory, belonging to or possessed by such person;

(ii) identifying each property sent out of the Territory by such persons during such period as may be specified in the notice;

(iii) setting out the estimated value and location of each of the properties identified under subparagraphs (i) and (ii);

(iv) stating in respect of each of the properties identified under subparagraphs (i) and (ii) whether the property is held by such person or by any other person on his behalf, whether it has been transferred, sold to, or kept with any other person.

(3) The period to be specified in an order under subsection (2) shall be seven days unless it appears to the Judge that a longer or shorter period would be appropriate in the particular circumstances of the application.

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(4) The conditions referred to in subsection (2) are—

(a) that there are reasonable grounds for suspecting that a specified person has carried on or has benefitted from drug trafficking;

(b) that there are reasonable grounds for suspecting that the material or the declaration to which the application relates—

(i) is likely to be of substantial value, whether by itself or together with other material, to the investigation for the purpose of which the application is made; and

(ii) the material does not consist of or include items subject to legal privilege or excluded material; and

(c) that there are reasonable grounds for believing that it is in the public interest, having regard to—

(i) the benefit likely to accrue to the investigation if the material is obtained or the declaration made; and

(ii) the circumstances under which the person in possession of the material holds it, or the relationship or dealings of the person required to make the declaration with the specified person referred to in subparagraph *(a)*,

that the material should be produced or that access to it should be given or that the declarations be made.

(5) Where the Judge makes an order under subsection (2)*(b)* in relation to material on any premises, he may, on the application of a police officer, order any person who appears to him to be entitled to grant entry to the premises, to allow a police officer to enter the premises to obtain access to the material.

(6) Provision may be made by Rules of Court as to—

(a) the discharge and variation of orders under this section; and

(b) proceedings relating to such orders.

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(7) Where the material to which an application under this section relates consists of information contained in a computer—

(a) an order under subsection (2)*(a)*(i) shall have effect as an order to produce the material in a form in which it can be taken away and in which it is visible and legible; and

(b) an order under subsection (2)*(a)*(ii) shall have effect as an order to give access to the material in a form in which it is visible and legible.

(8) An order under subsection (2)—

(a) shall not confer any right to production of, or access to or disclosure of, items subject to legal privilege or excluded material;

(b) shall have effect notwithstanding any obligation as to secrecy or other restriction upon the disclosure of information imposed by statute or otherwise; and

(c) may be made in relation to material in the possession of a government department.

(9) In this section—

"associate" in relation to a person includes—

(a) any person who was or is residing in the residential premises (including appurtenances) of such person;

(b) any person who was or is an agent or nominee of such person;

(c) any person who was or is managing the affairs of keeping the accounts of such person;

(d) any partnership firm of which such person, or agent or nominee of his, is or was a partner or a person in charge or control of its business or affairs;

(e) any company within the meaning of the Companies Act, of which such person, or any agent or nominee of his, was or is a director or Ch. 81:01.

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had been or is in charge of or control of its business or affairs, or in which such person, together with any agent or nominee of his, has or had held shares to the total value of not less than ten per centum of the total issued capital of the company;

(f) any person who was or is keeping the accounts of any partnership firm or corporation referred to in paragraph *(d)* or *(e)*;

(g) the trustee of any trust, where—

(i) the trust was created by such person; or

(ii) the total value of the assets contributed by such person to the trust at any time, whether before or after the creation of the trust, amounts, or had amounted, at any time, to not less than twenty per centum of the total value of the assets of the trust;

(h) any person who has in his possession any property belonging to such person; and

(i) any person who is indebted to such person;

"relative", in relation to a person, means—

(a) spouse of the person;

(b) brother or sister of the person;

(c) brother or sister of the spouse of the person;

(d) any lineal ascendant or descendant of the person;

(e) any lineal ascendant or descendant of the spouse of the person;

(f) spouse of a person referred to in paragraph *(b)*, *(c)*, *(d)* or *(e)*;

(g) any lineal descendant of a person referred to in paragraph *(b)* or *(c)*.

Authority for search.

49. (1) A police officer may, for the purpose of an investigation into drug trafficking, apply to a Judge for a warrant under this section in relation to specified premises.

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(2) On such application the Judge may issue a warrant authorising a police officer to enter and search the premises if he is satisfied—

(a) that an order made under section 48 in relation to material on the premises has not been complied with;

(b) that the conditions in subsection (3) are fulfilled; or

(c) that the conditions in subsection (4) are fulfilled.

(3) The conditions referred to in subsection (2)*(b)* are—

(a) that there are reasonable grounds for suspecting that a specified person has carried on or has benefitted from drug trafficking;

(b) that the conditions in section 48(4)*(b)* and *(c)* are fulfilled in relation to any material on the premises; and

(c) that it would not be appropriate to make an order under that section in relation to the material because—

(i) it is not practicable to communicate with any person entitled to produce the material;

(ii) it is not practicable to communicate with any person entitled to grant access to the material or entitled to grant entry to the premises on which the material is situated; or

(iii) the investigation for the purposes of which the application is made might be seriously prejudiced unless a police officer could secure immediate access to the material.

(4) The conditions referred to in subsection (2)*(c)* are—

(a) that there are reasonable grounds for suspecting that a specified person has carried on or has benefitted from drug trafficking; and

(b) that there are reasonable grounds for suspecting that there is on the premises material relating to

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the specified person or to drug trafficking which is likely to be of substantial value, whether by itself or together with other material, to the investigation for the purpose of which the application is made, but that the material cannot at the time of the application be particularised; and

(c) that—

(i) it is not practicable to communicate with any person entitled to grant entry to the premises;

(ii) entry to the premises will not be granted unless a warrant is produced; or

(iii) the investigations for the purpose of which the application is made might be seriously prejudiced unless a police officer arriving at the premises could secure immediate entry to them.

(5) Where a police officer has entered premises in the execution of a warrant issued under this section, he may seize and retain any material, other than items subject to legal privilege and excluded material, which is likely to be of substantial value, whether by itself or together with other material, to the investigation for the purpose of which the warrant was issued.

(6) The person to whom a search warrant is issued shall furnish a report in writing to the Judge who issued the warrant—

(a) stating whether or not the warrant was executed;

(b) if the warrant was executed, setting out briefly the result of the execution of the warrant including a brief description of anything seized;

(c) if the warrant was not executed, setting out briefly the reasons why the warrant was not executed.

(7) A report with respect to a search warrant shall be made within ten days after the execution of the warrant or the expiry of the warrant whichever first occurs and if the Judge who issued the

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search warrant died, has ceased to be a Judge or is absent, the report shall be furnished to the Chief Justice.

Supplementary provisions to sections 48 and 49.

50. (1) Subject to subsection (2), in sections 48 and 49 "items subject to legal privilege" means—

(a) communications between a professional legal adviser and his client made in connection with the giving of legal advice to the client;

(b) communications between a professional legal adviser and his client or between such an adviser or his client made in connection with or in contemplation of legal proceedings and for the purposes of such proceedings; and

(c) items enclosed with or referred to in such communications and made—

(i) in connection with the giving of legal advice; or

(ii) in connection with or in contemplation of legal proceedings and for the purposes of such proceedings,

when they are in the possession of a person who is entitled to possession of them.

(2) Items held with the intention of furthering a criminal purpose are not items subject to legal privilege.

(3) Subject to subsections (4) and (5), in sections 48 and 49 "excluded material" means—

(a) personal records which a person has acquired or created in the course of any trade, business, profession or other occupation or for the purposes of any paid or unpaid office and which he holds in confidence;

(b) human tissue or tissue fluid which has been taken for the purpose of diagnosis or medical treatment and which a person holds in confidence;

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(c) journalistic material which a person holds in confidence and which consists—

(i) of documents; or

(ii) of records other than documents.

(4) A person holds material other than journalistic material in confidence for the purposes of this section if he holds it subject—

(a) to an express or implied undertaking to hold it in confidence; or

(b) to a restriction on disclosure or an obligation of secrecy contained in any enactment, including an enactment contained in an Act of Parliament passed after this Act.

(5) A person holds journalistic material in confidence for the purpose of this section if—

(a) he holds it subject to such an undertaking, restriction or obligation; and

(b) it has been continuously held, by one or more persons, subject to such an undertaking, restriction or obligation since it was first acquired or created for the purposes of journalism.

(6) Subject to subsection (7), in this Act "journalistic material" means material acquired or created for the purposes of journalism.

(7) Material is only journalistic material for the purposes of this Act if it is in the possession of a person who acquired or created it for the purposes of journalism.

(8) A person who receives material from someone who intends that the recipient shall use it for the purpose of journalism is to be taken to have acquired it for those purposes.

(9) In sections 48 and 49 "premises" includes any place and, in particular, includes—

(a) any vehicle, vessel, aircraft;

(b) any offshore installation; and

(c) any tent or movable structure.

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Disclosure of information held by government departments.

51. (1) Subject to subsection (4), the Court may on an application by the Director of Public Prosecutions order any material mentioned in subsection (3) which is in the possession of a government department to be produced to the Court within such period as the Court may specify.

(2) The power to make an order under subsection (1) is exercisable if—

(a) the powers conferred on the Court by sections 37(1) and 41(1) are exercisable by virtue of section 36(1); or

(b) those powers are exercisable by virtue of section 36(2) and the Court has made a restraint or charging order which has not been discharged,

but where the power to make an order under subsection (1) is exercisable by virtue only of paragraph *(b)*, section 36(3) shall apply for the purposes of this section as it applies for the purposes of sections 37 and 38.

(3) The material referred to in subsection (1) is any material which—

(a) has been submitted to an officer of a government department by the defendant or by a person who has at any time held property which was realisable property;

(b) has been made by an officer of a government department in relation to the defendant or a person, referred to in paragraph *(a)*; or

(c) is correspondence which passed between an officer of a government department and the defendant or a person, referred to in paragraph *(a)*,

and an order under that subsection may require the production of all such material or of a particular description of such material, being material in the possession of the department concerned.

(4) An order under subsection (1) shall not require the production of any material unless it appears to the Court that the

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material is likely to contain information that would facilitate the exercise of the powers conferred on the Court by sections 37 and 39 or on a receiver appointed under section 37 or 39, or in pursuance of a charging order.

(5) The Court may by order authorise the disclosure to such a receiver of any material produced under subsection (1) or any part of such material but the Court shall not make an order under this subsection unless a reasonable opportunity has been given for an officer of the department to make representations to the Court.

(6) Material disclosed in pursuance of an order under subsection (5) may, subject to any conditions contained in the order, be further disclosed for the purposes of the functions under this Act of the receiver or the Court.

(7) The Court may, by order, authorise the disclosure to a person mentioned in subsection (8) of any material produced under subsection (1) or any part of such material but the Court shall not make an order under this subsection unless—

(a) a reasonable opportunity has been given for an officer of the department to make representations to the Court; and

(b) it appears to the Court that the material is likely to be of substantial value in exercising functions relating to drug trafficking.

(8) The persons referred to in subsection (7) are—

(a) a police officer; and

(b) the Director of Public Prosecutions or his nominee.

(9) Material disclosed in pursuance of an order under subsection (7) may, subject to any conditions contained in the order, be further disclosed for the purpose of functions relating to drug trafficking.

(10) Material may be produced or disclosed in pursuance of this section notwithstanding any obligation as to secrecy or other restriction upon the disclosure of information imposed by statute or otherwise.

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(11) An order under subsection (1) and, in the case of material in the possession of a government department, an order under section 48(2) may require any officer of the department, whether named in the order or not, who may for the time being be in possession of the material concerned to comply with it, and such an order shall be served as if the proceedings were civil proceedings against the department.

(12) The person on whom such an order is served—

(a) shall take all reasonable steps to bring it to the attention of the officer concerned; and

(b) if the order is not brought to that officer's attention within the period referred to in subsection (1), shall report the reasons for the failure to the Court,

and it shall also be the duty of any other officer of the department in receipt of the order to take such steps as are mentioned in paragraph *(a)*.

Offence of prejudicing investigation.

52. (1) Where, in relation to an investigation into drug trafficking, an order under section 48 has been made or has been applied for and has not been refused or a warrant under section 49 has been issued, a person who, knowing or suspecting that the investigation is taking place, makes any disclosure which is likely to prejudice the investigation is guilty of an offence.

(2) In proceedings against a person for an offence under this section, it is a defence to prove—

(a) that he did not know or suspect that the disclosure was likely to prejudice the investigation; or

(b) that he had lawful authority or reasonable excuse for making the disclosure.

(3) A person who is guilty of an offence under this section shall be liable—

(a) on summary conviction to a fine of two thousand dollars and to imprisonment for two years; and

(b) on conviction on indictment to a fine of five thousand dollars and to imprisonment for five years.

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PART VIII

FORFEITURE ORDERS

Forfeiture orders. [27 of 1994].

53. (1) Where a person is convicted of a drug trafficking offence and the Court by or before which he is convicted is satisfied that any property which was in his possession or under his control at the time of his apprehension—

(a) has been used for the purpose of committing a drug trafficking offence;

(b) has been used for the purpose of facilitating the commission of a drug trafficking offence; or

(c) was intended by him to be used for the purpose of committing a drug trafficking offence,

the Court may make an order for forfeiture of that property under this section.

(2) Facilitating, the commission of an offence shall be taken for the purpose of this section to include the taking of any steps after it has been committed for the purpose of disposing of any property to which it relates or of avoiding apprehension or detection.

(3) Where, upon application made by the Director of Public Prosecutions, the Court determines that property identified in the application constitutes the proceeds of drug trafficking and is satisfied that the property—

(a) forms part of or represents the estate of a deceased person; or

(b) has been abandoned,

the Court may make an order for forfeiture of that property under this section.

(4) In making its determination—

(a) under subsection (3)*(a)* the Court shall consider any representations made by a personal representative, beneficiary, or other relevant party regarding the estate of the deceased person;

(b) under subsection (3)*(b)* the Court shall do so one month after notice of the application made by the Director of Public Prosecutions has been advertised in a daily newspaper.

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SUBSIDIARY LEGISLATION

DANGEROUS DRUGS (DESIGNATED COUNTRY) ORDER 65/1997.

made under section 35A

WHEREAS it is provided by section 35A of the Dangerous Drugs Act, that the Minister may by Order declare a country to be a designated country for the purposes of the Act: Preamble.

And whereas it is expedient for the Minister to declare the United States of America a designated country:

Now, therefore, the Minister in exercise of the powers conferred on her by section 35A of the Act, hereby declares as follows:

1. This Order may be cited as the Dangerous Drugs (Designated Country) Order. Citation.

2. The United States of America is hereby declared a designated country, for the purposes of the Act. Designation.

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175/1997.

DANGEROUS DRUGS (SEIZURE AND DETENTION—PRESCRIBED SUM) ORDER

made under section 35D

Preamble.

WHEREAS it is provided by section 35D of the Dangerous Drugs Act, that the Senior Customs Officer on duty or a police officer of the rank of sergeant or higher may seize and detain any cash which is being imported into or exported from Trinidad and Tobago if its amount is not less than the prescribed sum if he has reasonable grounds for suspecting that it directly or indirectly represents any person's proceeds of, or is intended by any person for use in, drug trafficking:

And whereas it is also provided by subsection (8) of section 35D that "the prescribed sum" means such sum in Trinidad and Tobago currency as may be prescribed for the purposes of that section by an Order made by the Minister to whom responsibility for National Security is assigned:

Now, therefore, the Minister in exercise of the powers conferred on him by section 35D of the Act, hereby declares as follows:

Citation.

1. This Order may be cited as the Dangerous Drugs (Seizure and Detention—Prescribed Sum) Order.

Prescribed sum.

2. It is hereby declared that the prescribed sum is twenty thousand dollars in Trinidad and Tobago currency.

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DANGEROUS DRUGS (REGISTRATION OF EXTERNAL CONFISCATION AND EXTERNAL FORFEITURE ORDERS) ORDER

ARRANGEMENT OF CLAUSES

CLAUSE

1. Title, Commencement and Extent.
2. Interpretation.
3. Designation of and application of the Act to countries.
4. Proof of order and judgments of Court in a designated country.
5. Evidence in relation to proceedings and orders in a designated country.
6. Representation of a designated country.
7. Currency conversion.

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235/1999.

DANGEROUS DRUGS (REGISTRATION OF EXTERNAL CONFISCATION AND EXTERNAL FORFEITURE ORDERS) ORDER

made under section 35A

Preamble.

WHEREAS it is provided by section 35A of the Dangerous Drugs Act that the Minister may by Order apply section 35A of the Dangerous Drugs Act, to an external confiscation order or an external forfeiture order made by a Court of a designated country:

And whereas it is expedient for the Minister to make provision for the registration of external confiscation orders and external forfeiture orders made in a country designated pursuant to section 35A of the Act:

Now, therefore, the Minister in the exercise of the powers conferred by section 35A(3) and (9) of the Dangerous Drugs Act is pleased to order, and it is hereby ordered, as follows:

Title, Commencement and Extent.

1. This Order may be cited as the Dangerous Drugs (Registration of External Confiscation and External Forfeiture Orders) Order.

Interpretation.

2. In this Order—

"the Act" means the Dangerous Drugs Act;

"designated country" means any country designated under paragraph 3(1) of this Order or by any Order made by the Minister under section 35A(2) of the Act declaring a country to be a designated country for the purposes of the Act;

"appropriate authority of a designated country" means an authority specified against the name of that country in Schedule 1 to this Order or in any Order made by the Minister under section 35A(2) of the Act declaring a country to be a designated country for the purposes of the Act;

"a Court of a designated country" includes a Court of any State or territory of a designated country.

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Designation of and application of the Act to countries.

3. (1) This Order shall apply to any country designated before or after the coming into force of this Order.

(2) In relation to a designated country, section 35A of the Act shall apply to external confiscation orders or external forfeiture orders and to proceedings which have been or are to be instituted in the designated country which may result in an external confiscation order or an external forfeiture order being made there, and, accordingly, in relation to such orders and such proceedings.

Proof of order and judgments of Court in a designated country.

4. (1) For the purposes of section 35A(5) and (9) of the Act—

(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 the 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)* above 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 section 35A(5) and (9) of the Act 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;

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(b) that an external confiscation order or an external forfeiture order, as the case may be, is in force and is not subject to appeal;

(c) that all or a certain amount of the sum payable under a confiscation order or an external forfeiture order remains unpaid in the designated country, or that other property recoverable thereunder 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 High 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) above 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.

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Representation of a designated country.

6. A request for assistance 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 office of the Director of Public Prosecutions to act on its behalf in any proceedings in the High Court under section 35A of the Act.

Currency conversion.

7. (1) Where an amount of money payable or remaining to be paid under an external confiscation order or an external forfeiture order registered in the High Court under section 35A of the Act is expressed in a currency other than that of Trinidad and Tobago, for the purpose of any action taken in relation to that order under the Act as applied under paragraph 3(2) the amount shall be converted into the currency of Trinidad and Tobago on the basis of the exchange rate prevailing on the date of registration of the order.

(2) Where at the date of enforcement the amount as expressed in Trinidad and Tobago currency would not be sufficient to recover the amount payable under the external confiscation order or external forfeiture order due to any change in the value of Trinidad and Tobago currency the amount of the order as expressed in Trinidad and Tobago currency shall be varied at the date of enforcement to take account of that change.

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

SCHEDULE

Designated Country	Appropriate Authority
United States of America	The Attorney General of the United States of America or any Official designated by the Attorney General

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