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**Fifth Session Fifth Parliament Republic of Trinidad
and Tobago**



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 44 of 2000

[L.S.]

AN ACT to amend the Dangerous Drugs Act, 1991

[Assented to 29th September, 2000]

WHEREAS it is enacted *inter alia* by subsection (1) of ^{Preamble} section 13 of the Constitution that an Act 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 such Act does so declare, it shall have effect accordingly:

And whereas it is provided by subsection (2) of the said section 13 of the Constitution that an Act to which this 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 the provisions of this Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution:

- Enacted ENACTED by the Parliament of Trinidad and Tobago as follows:
- Short title **1.** This Act may be cited as the Dangerous Drugs (Amendment) Act, 2000.
- Act inconsistent with Constitution **2.** This Act has effect even though inconsistent with sections 4 and 5 of the Constitution.
- Interpretation **3.** In this Act “the Act” means the Dangerous Drugs Act, 1991.
- Section 3 amended **4.** Section 3 of the Act is amended—
- (a) in subsection (1)—
- (i) by inserting after the definition of the word “dentist” the following:
- ““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;”;
- (ii) by inserting after the definition of the word “import” the following:
- “ “life” means the natural life of a person;”; and

(b) by inserting after subsection (2) the following:

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

5. Section 5(3) of the Act is repealed and the following subsections substituted: Section 5(3) repealed and replaced

“ (3) A person who cultivates, gathers or produces any marijuana, 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—

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

(b) upon conviction on indictment to a fine of one hundred thousand dollars or where there is evidence of the street value of the marijuana, ten times the street value of the marijuana, whichever is greater or to imprisonment for twenty-five years to 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.”.

Sections 5(5), (6)
and (7) repealed
and replaced

6. Subsections (5), (6) and (7) of section 5 of the Act are repealed and the following subsections substituted:

“ (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 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 of twenty-five years to life.

(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 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 of twenty-five years to 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 one 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 thirty-five years to 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 twenty-five thousand dollars and to imprisonment for five years.”.

7. Subsection 5(9) of the Act is repealed and the following subsection substituted: Section 5(9) repealed and replaced

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

- (a) twenty grams of diacetylmorphine (heroin);
- (b) ten grams of cocaine;
- (c) five hundred grams of opium;
- (d) thirty grams of morphine; or
- (e) one kilogram of cannabis or cannabis resin,

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.”.

Section 6A repealed
and replaced

8. Section 6A of the Act is repealed and the following section substituted:

“ 6A. A person who—

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

Fourth Schedule

(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.”.

Section 10 repealed
and replaced

9. Section 10 of the Act is repealed and the following section substituted:

“Contraven-
tion of
section 7, 8 or
9—offence
and penalty

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.”.

Section 11(3)
repealed and
replaced

10. Section 11(3) of the Act is repealed and the following subsection substituted:

“ (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.”.

11. Subsection (1) of section 17 of the Act is repealed and the following subsection substituted: Section 17(1) repealed and replaced

“ (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.”.

12. Section 18 of the Act is repealed and the following section substituted: Section 18 repealed and replaced

“Liability for imprisonment for non-payment of fine 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.”.

Act amended by including new Part IVA

13. The Act is amended by inserting after section 29 the following Part as Part IVA:

“PART IVA

BURDEN OF PROOF AND PRESUMPTIONS

Burden of proof

29A. It shall not be necessary in any proceedings against any person for an offence against this Act to negative by evidence any licence, authorization, 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

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;
- (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;

- (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.”.

14. Section 53A(1) of the Act is amended by inserting Section 53A amended before the definition of the word “ship” the following definition:

“archipelagic waters” has the meaning assigned to it in section 1 of the Archipelagic Waters and Exclusive Economic Zone Act, 1986;”.

Act No. 24 of 1986

15. Section 53B of the Act is repealed and the Section 53B repealed and replaced following section substituted:

“Ships used for illicit trading

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

(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.”.

Section 53c
amended

16. The Act is amended in section 53c(2), by deleting the words “territorial sea” and substituting the words “archipelagic waters”.

Section 53E
inserted

17. The Act is amended by inserting in Part IX, after section 53D, the following:

“Offences and
penalties

53E. (1) Notwithstanding any sentence of imprisonment prescribed under this Act, the court may, on the application of the Director of Public Prosecutions, impose a lesser sentence upon a defendant who at any time prior to conviction, cooperates 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.”.

New section 54A
inserted

18. The Act is amended by inserting after section 54 the following:

“Destruction
of drug
exhibits

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

(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.”.

18A. The Act is amended by inserting after section 56 Section 56A inserted the following new section:

“Lesser
penalty for
younger
offender

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 judge or magistrate may impose a lesser penalty on such a person than that specified for the offence in this Act.”.

New section 61
inserted

19. The Act is amended by inserting after section 60 the following new section:

“Section 68 of the interpretation Act, Chap. 3:01 not applicable”
61. The provisions of sections 68(2) and (3) of the Interpretation Act shall apply only to the penalties prescribed for possession of dangerous drugs under this Act.”.

Schedule V
amended

20. The Act is amended in section 1(1)(b) of the Fifth Schedule by deleting the words “an officer” and substituting the words “a member”.

Second Schedule
amended
Chap. 4:20

21. The Second Schedule to the Summary Courts Act is amended by deleting therefrom Item 12.

Passed in House of Representatives this 5th day of June, 2000.

J. SAMPSON-JACENT

Clerk of the House

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the House of Representatives and at the final vote thereon in the House has been supported by the votes of not less than three-fifths of all the members of the House, that is to say by the votes of 26 members of the House.

J. SAMPSON-JACENT

Clerk of the House

Passed in the Senate this 8th day of August, 2000.

N. JAGGASSAR

Acting Clerk of the Senate

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the Senate and at the final vote thereon in the Senate has been supported by the votes of not less than three-fifths of all the members of the Senate, that it to say by the votes of 29 Senators.

N. JAGGASSAR
Acting Clerk of the Senate

Senate amendments agreed to by the House of Representatives this 14th day of August, 2000.

J. SAMPSON-JACENT
Clerk of the House