



BERMUDA

MISUSE OF DRUGS ACT 1972

1972 : 159

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2 *[repealed]*

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#### SCHEDULE 1

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Controlled drugs and increased penalty

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Period of imprisonment in default of payment of fine

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### SCHEDULE 7

#### Statutory amount of controlled drugs to be deemed for supply

*[preamble and words of enactment omitted]*

#### Interpretation

- 1 (1) In this Act, except in so far as the context otherwise requires,—
- “cannabis” (except in the expression “cannabis resin”) means any plant or part thereof within the botanically designated genus *Cannabis*, but does not include any fibre produced from the stalk of the plant;
  - “cannabis resin” means the separated resin, whether crude or purified, obtained from any plant of the genus *Cannabis*;
  - “controlled drug” has the meaning assigned by section 3;
  - “corresponding law” has the meaning assigned by section 40;
  - “dentist” means a dental practitioner registered under the Dental Practitioners Act 1950 [*title 30 item 4*] and includes an exempted dental practitioner within the meaning of that Act;
  - “export” means to take or to cause to be taken out of Bermuda by land, air or water;
  - “import” means to bring or to cause to be brought into Bermuda by land, air or water;
  - “Minister” means the Minister responsible for drug prevention;
  - “pharmacist” means a person registered under the Pharmacy and Poisons Act 1979 [*title 11 item 5*];
  - “physician” means a medical practitioner registered under the Medical Practitioners Act 1950 [*title 30 item 8*] and includes an exempted medical practitioner within the meaning of that Act;
  - “practitioner” (except when preceded by the word “dental”, “medical” or “veterinary”) means a physician, dentist or veterinary practitioner;
  - “prepared opium” means opium prepared for smoking and includes dross and any other residues remaining after opium has been smoked;
  - “prescribed” means prescribed by regulations made by the Minister under this Act;
  - “produce”, where the reference is to producing a controlled drug, means producing it by manufacture, cultivation or any other method, and “production” has a corresponding meaning;
  - “supplying” includes distributing;
  - “veterinary practitioner” means a person who holds a certificate issued under the Veterinary Practitioners Act 2008.

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(2) References in this Act to misusing a drug are references to using it otherwise than as authorised by or under this Act by taking; and the reference in the foregoing provision to the taking of a drug is a reference to the taking of it by a human being by smoking, inhaling, ingesting or injecting it or any other form of self-administration, whether or not involving assistance by another.

(3) For the purposes of this Act the things which a person has in his possession shall be taken to include any thing subject to his control which is in the custody of another.

(4) For the purposes of this Act the street value of a controlled drug shall be the value for which evidence is accepted by the court as the maximum value the controlled drug can be sold for in Bermuda.

*[Section 1 consequentially amended by 1993:33; subsection (4) inserted by 2005:26 s.2 effective 4 August 2005; "Minister" substituted by BR67/2007 effective 13 July 2007; "veterinary practitioner" amended by 2008 : 20 s.17 & Sch. 2 effective 9 July 2010]*

2 *[Section 2 repealed]*

### CONTROLLED DRUGS

#### Controlled drugs

3 (1) In this Act "controlled drug" means any substance or product for the time being specified in Part I of Schedule 2 and Part II of that Schedule shall have effect with respect to the meanings of expressions used in that Schedule.

(2) *[Repealed]*

(3) *[Repealed]*

(4) *[Repealed]*

*[Section 3 subsections (2)-(4) repealed by 2005:26 s.3 effective 4 August 2005]*

#### Importation and exportation of controlled drugs

4 (1) Subject to subsection (2), no person shall—

(a) import a controlled drug; or

(b) export a controlled drug.

(2) Subsection (1) does not apply—

(a) to the importation or exportation of a controlled drug which is for the time being excepted from paragraph (a) or, as the case may be, paragraph (b) of subsection (1) by regulations under section 12; or

(b) to the importation or exportation of a controlled drug under and in accordance with the terms of a licence issued by the Minister and in compliance with any conditions attached thereto.

(3) Subject to section 29, it is an offence for a person to import or export a controlled drug in contravention of subsection (1).

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### Production and supply of controlled drugs

5 (1) Subject to any regulations under section 12 for the time being in force, no person shall—

- (a) produce a controlled drug; or
  - (b) supply or offer to supply a controlled drug to another.
- (2) Subject to section 29, it is an offence for a person—
- (a) to produce a controlled drug in contravention of subsection (1); or
  - (b) to be concerned in the production of such a drug in contravention of that subsection by another.
- (3) Subject to section 29, it is an offence for a person—
- (a) to supply or offer to supply a controlled drug to another in contravention of subsection (1); or
  - (b) to be concerned in the supplying of such a drug to another in contravention of that subsection; or
  - (c) to be concerned in the making to another in contravention of that subsection of an offer to supply such a drug.

### Possession of controlled drugs

6 (1) Subject to any regulations under section 12 for the time being in force, no person shall have a controlled drug in his possession.

(2) Subject to section 29, it is an offence for a person to have a controlled drug in his possession in contravention of subsection (1).

(3) Subject to section 29, it is an offence for a person to have a controlled drug in his possession, whether lawfully or not, which is intended, whether by him or some other person, for supply in contravention of section 5(1).

### Handling of controlled drugs

7 (1) A person commits an offence if he knowingly handles a controlled drug which is intended, whether by him or some other person, for supply in contravention of section 5(1).

- (2) A person handles a controlled drug for the purposes of this section if—
- (a) he is in any way concerned in carrying, removing, harbouring, keeping or concealing the controlled drug or anything containing the controlled drug;  
or
  - (b) he deals in any manner with the controlled drug.

### Misuse of controlled drugs

8 (1) No person shall misuse a controlled drug.

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(2) Subject to section 29, it is an offence for a person to misuse a controlled drug in contravention of subsection (1).

### Possession of pipe, equipment or apparatus

9 (1) No person shall have in his possession any pipe, equipment or apparatus fit and intended for use in connection with the misuse of a controlled drug or the preparation of any such drug for misuse.

(2) Subject to section 29, it is an offence for a person to have in his possession a pipe, equipment or apparatus in contravention of subsection (1).

### Acts preparatory to importation or supply of controlled drugs

10 (1) It shall not be lawful for any person to do any act preparatory to the commission of an offence under section 4(3) or 5(3).

(2) Subject to section 29, it is an offence for a person to do an act preparatory to the commission of an offence under section 4(3) or 5(3).

### Cultivation of cannabis plant

11 (1) Subject to any regulations under section 12 for the time being in force, no person shall cultivate any plant of the genus *Cannabis*.

(2) Subject to section 29, it is an offence to cultivate any such plant in contravention of subsection (1).

### Minister may make regulations to authorize certain activities

12 (1) The Minister may by regulations—

- (a) except from section 4(1)(a) or (b), 5(1)(a) or (b), or 6(1) such controlled drugs as may be specified in the regulations; and
- (b) make such other provision as he thinks fit for the purpose of making it lawful for persons to do things which under any of the following provisions of this Act, that is to say sections 5(1), 6(1) and 11(1), it would otherwise be unlawful for them to do.

(2) Without prejudice to the generality of paragraph (b) of subsection (1), regulations under that subsection authorising the doing of any such thing as is mentioned in that paragraph may in particular provide for the doing of that thing to be lawful—

- (a) if it is done under and in accordance with the terms of a licence or other authority issued by the Minister and in compliance with any conditions attached thereto; or
- (b) if it is done in compliance with such conditions as may be prescribed.

(3) Subject to subsection (4), the Minister shall so exercise his power to make regulations under subsection (1) as to secure—

- (a) that it is not unlawful under section 5(1) for a practitioner, acting in his capacity as such, to prescribe, administer, manufacture, compound or

supply a controlled drug, or for a pharmacist, acting in his capacity as such, to manufacture, compound or supply a controlled drug; and

- (b) that it is not unlawful under section 6(1) for a practitioner or pharmacist to have a controlled drug in his possession for the purpose of acting in his capacity as such.

(4) If in the case of any controlled drug the Minister is of the opinion that it is in the public interest—

- (a) for production, supply and possession of that drug to be either wholly unlawful or unlawful except for purposes of research or other special purposes; or
- (b) for it to be unlawful for practitioners or pharmacists to do in relation to that drug any of the things mentioned in subsection (3) except under a licence or other authority issued by the Minister,

he may by order designate that drug as a drug to which this subsection applies; and while there is in force an order under this subsection designating a controlled drug as one to which this subsection applies, subsection (3) shall not apply as regards that drug.

(5) The negative resolution procedure shall apply to an order made under this subsection (4).

(6) *[Repealed]*

(7) *[Repealed]*

(8) References in this section to a person's "doing" things include references to having things in his possession.

*[Section 12 subsection (7) repealed by 2005:26 s.4 effective 4 August 2005]*

#### Occupier permitting activity to take place

13 (1) A person commits an offence if, being the owner, occupier or person in charge of or concerned in the management of any premises or place, he knowingly permits or suffers any of the following activities to take place on those premises or at that place—

- (a) producing or attempting to produce a controlled drug in contravention of section 5(1);
- (b) supplying or attempting to supply a controlled drug to another in contravention of section 5(1) or offering to supply a controlled drug to another in contravention of section 5(1);
- (c) handling a controlled drug in contravention of section 7(1);
- (d) misusing any controlled drug or preparing any such drug for misuse.

(2) In this section "premises" includes a vessel, aircraft, vehicle, building, structure and enclosure, whether movable or not.

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Minister may make regulations for preventing misuse of controlled drugs

14 (1) Subject to this Act, the Minister may by regulations make such provision as appears to him necessary or expedient for preventing the misuse of controlled drugs.

(2) Without prejudice to the generality of subsection (1), regulations under this section may in particular make provision—

- (a) for regulating the importation of such controlled drugs as may be prescribed and for requiring precautions to be taken for the safe custody of controlled drugs;
- (b) for imposing requirements as to the documentation of transactions involving controlled drugs, and for requiring copies of documents relating to such transactions to be furnished to the prescribed authority;
- (c) for requiring the keeping of records and the furnishing of information with respect to controlled drugs in such circumstances and in such manner as may be prescribed;
- (d) for the inspection of any precautions taken or records kept in pursuance of regulations under this section;
- (e) as to the packaging and labelling of controlled drugs;
- (f) for regulating the transport of controlled drugs and the methods used for destroying or otherwise disposing of such drugs when no longer required;
- (g) for regulating the issue of prescriptions containing controlled drugs and the supply of controlled drugs on prescriptions, and for requiring persons issuing or dispensing prescriptions containing such drugs to furnish to the prescribed authority such information relating to those prescriptions as may be prescribed;
- (h) for requiring any physician who attends a person whom he considers, or has reasonable grounds to suspect, is addicted (within the meaning of the regulations) to controlled drugs of any description to furnish to the prescribed authority such particulars with respect to that person as may be prescribed:
  - (i) for prohibiting any physician from administering, supplying and authorising the administration and supply to persons so addicted, and from prescribing for such persons, such controlled drugs as may be prescribed, except under and in accordance with the terms of a licence issued by the Minister in pursuance of the regulations.

(3) All records, reports, particulars and other information supplied in pursuance of regulations made under this section shall be treated as confidential information by the prescribed authority and shall be used only for official purposes under the direction of the Minister.

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### Minister may give directions for safe custody of controlled drugs

15 (1) Without prejudice to any requirement imposed by regulations made in pursuance of section 14(2)(a), the Minister may by notice in writing served on the occupier of any premises on which controlled drugs are or are proposed to be kept give directions as to the taking of precautions or further precautions for the safe custody of any controlled drugs of a description specified in the notice which are kept on those premises.

(2) It is an offence to contravene any directions given under sub-section (1).

### Minister may give direction in respect of convicted practitioner or pharmacist

16 (1) Where a person who is a practitioner or pharmacist has after 8 September 1973 been convicted of an offence under this Act or under the Dangerous Drugs Act 1936 [repealed] the Minister may give a direction under subsection (2) in respect of that person.

(2) A direction under this subsection in respect of a person shall—

- (a) if that person is a practitioner, be a direction prohibiting him from having in his possession, prescribing, administering, manufacturing, compounding and supplying and from authorising the administration and supply of such controlled drugs as may be specified in the direction;
- (b) if that person is a pharmacist, be a direction prohibiting him from having in his possession, manufacturing, compounding and supplying and from supervising and controlling the manufacture, compounding and supply of such controlled drugs as may be specified in the direction.

(3) The Minister may at any time give a direction cancelling or suspending any direction given by him under subsection (2), or cancelling any direction of his under this subsection by which a direction so given is suspended.

(4) The Minister shall cause a copy of any direction given by him under this section to be served on the person to whom it applies, and shall cause notice of any such direction to be published in the Gazette.

(5) A direction under this section shall take effect when a copy of it is served on the person to whom it applies.

(6) It is an offence to contravene a direction given under subsection (2).

### Minister may give directions prohibiting a physician from supplying controlled drugs

17 (1) In the event of a contravention by a physician of regulations made in pursuance of paragraph (h) or (i) of section 14(2), or of the terms of a licence issued under regulations made in pursuance of the said paragraph (i), the Minister may, subject to and in accordance with section 18, give a direction in respect of the physician concerned prohibiting him from prescribing, administering and supplying and from authorising the administration and supply of such controlled drugs as may be specified in the direction.

(2) If the Minister is of the opinion that a practitioner is or has after the coming into operation of this subsection been prescribing, administering or supplying or authorising the administration or supply of any controlled drugs in an irresponsible

manner, the Minister may, subject to and in accordance with section 18, give a direction in respect of the practitioner concerned prohibiting him from prescribing, administering and supplying and from authorising the administration and supply of such controlled drugs as may be specified in the direction.

(3) A contravention such as is mentioned in subsection (1) does not as such constitute an offence, but it is an offence to contravene a direction given under subsection (1) or (2).

Minister may refer investigation to a tribunal

18 (1) If the Minister considers that there are grounds for in giving a direction under section 17(1) on account of such a contravention by a physician as is there mentioned, or for giving a direction under section 17(2) on account of such conduct by a practitioner as is mentioned in section 17(2), he shall refer the case to a tribunal constituted for the purpose in accordance with the following provisions of this Act; and it shall be the duty of the tribunal to consider the case and report on it to the Minister.

(2) In this Act “the respondent”, in relation to a reference under this section, means the physician or other practitioner in respect of whom the reference is made.

(3) Where—

- (a) in the case of a reference relating to the giving of a direction under section 17(1), the tribunal finds that there has been no such contravention as aforesaid by the respondent or finds that there has been such a contravention but does not recommend the giving of a direction under that subsection in respect of the respondent; or
- (b) in the case of a reference relating to the giving of a direction under section 17(2), the tribunal finds that there has been no such conduct as aforesaid by the respondent or finds that there has been such conduct by the respondent but does not recommend the giving of a direction under section 17(2) in respect of him,

the Minister shall cause notice to that effect to be served on the respondent.

(4) Where the tribunal finds—

- (a) in the case of a reference relating to the giving of a direction under section 17(1), that there has been such a contravention as aforesaid by the respondent; or
- (b) in the case of a reference relating to the giving of a direction under section 17(2), that there has been such conduct as aforesaid by the respondent,

and considers that a direction under section 17(1) or (2) should be given in respect of him, the tribunal shall include in its report a recommendation to that effect indicating the controlled drugs which it considers should be specified in the direction or indicating that the direction should specify all controlled drugs.

(5) Where the tribunal makes such a recommendation as aforesaid, the Minister, after considering the recommendation of the tribunal, may—

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- (a) give in respect of the respondent a direction under section 17(1) or, as the case may be, section 17(2) specifying all or any of the controlled drugs indicated in the recommendation of the tribunal; or
- (b) order that no further proceedings shall be taken in the case.

### Constitution of a tribunal

19 (1) Schedule 3 shall have effect with respect to the constitution and procedure of the tribunal appointed for the purposes of section 18, and with respect to the other matters there mentioned.

(2) The Minister shall cause a copy of any order or direction made or given by him in pursuance of section 18(5) to be served on the person to whom it applies and shall cause notice of any such direction to be published in the Gazette.

(3) The Minister may at any time give a direction cancelling or suspending any direction given by him in pursuance of section 18(5) or cancelling any direction of his under this subsection by which a direction so given is suspended and shall cause a copy of any direction of his under this subsection to be served on the person to whom it applies and notice of it to be published as aforesaid.

(4) A direction given under section 17(1) or (2) or under subsection (3) shall take effect when a copy of it is served on the person to whom it applies.

### Minister may require practitioner or pharmacist to give information

20 (1) If it appears to the Minister that there exists a problem caused by the extensive misuse of controlled drugs he may by notice in writing served on any practitioner or pharmacist require him to furnish to the Minister, with respect to any controlled drugs specified in the notice and as regards any period so specified, such particulars as may be so specified relating to the quantities in which and the number and frequency of the occasions on which those drugs—

- (a) in the case of a practitioner, were prescribed, administered or supplied by him; or
- (b) in the case of a pharmacist, were supplied by him.

(2) A notice under this section may require any such particulars to be furnished in such manner and within such time as may be specified in the notice and, if served on a pharmacist may require him to furnish the names and addresses of practitioners on whose prescriptions any controlled drugs to which the notice relates were supplied, but shall not require any person to furnish any particulars relating to the identity of any person for or to whom any controlled drug has been prescribed, administered or supplied.

(3) A person commits an offence if without reasonable excuse (proof of which shall lie on him) he fails to comply with any requirement to which he is subject by virtue of subsection (1).

(4) A person commits an offence if in purported compliance with a requirement imposed under this section he gives any information which he knows to be false in a material particular or recklessly gives any information which is so false.

*MISCELLANEOUS OFFENCES AND POWERS*

Miscellaneous offences

21 (1) It is an offence for a person to contravene any regulations made under this Act other than regulations made in pursuance of section 14(2)(h) or (i).

(2) It is an offence for a person to contravene a condition or other term of a licence issued under section 4 or of a licence or other authority issued under regulations made under this Act, not being a licence issued under regulations made in pursuance of section 14(2)(i).

(3) A person commits an offence if, in purported compliance with any obligation to give information to which he is subject under or by virtue of regulations made under this Act, he gives any information which he knows to be false in a material particular or recklessly gives any information which is so false.

(4) A person commits an offence if, for the purpose of obtaining, whether for himself or another, the issue or renewal of a licence or other authority under this Act or under any regulations made under this Act, he—

- (a) makes any statement or gives any information which he knows to be false in a material particular or recklessly gives any information which is so false; or
- (b) produces or otherwise makes use of any book, record or other document which to his knowledge contains any statement or information which he knows to be false in a material particular.

Assisting or inducing in Bermuda commission of offence punishable outside Bermuda under corresponding law;

22 A person commits an offence if in Bermuda he assists in or induces the commission in any place outside Bermuda of an offence punishable under the provisions of a corresponding law in force in that place.

Offences by corporations

23 Where any 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 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 commits that offence and shall be liable to be proceeded against accordingly.

Minister may make other regulations

24 (1) The Minister may by regulations make provision—

- (a) for excluding in such cases as may be prescribed the application of any provision of this Act which creates an offence;
- (b) for applying any of the provisions of section 18 and 19 and Schedule 3, with such modifications (if any) as may be prescribed—

- (i) in relation to any proposal by the Minister to give a direction under section 16(2); or
- (ii) for such purposes of regulations under this Act as may be prescribed;
- (c) for the application of any of the provisions of this Act or regulations or orders thereunder to servants or agents of the Crown, subject to such exceptions, adaptations and modifications as may be prescribed;
- (d) for the establishment, regulation and administration of treatment and rehabilitation centres for the detention, education and treatment of persons addicted to controlled drugs;
- (e) generally for the better carrying out of this Act and for prescribing anything which is to be or may be prescribed.

(2) The Minister may by regulations amend the Schedules to this Act.

*[Section 24 subsection (2) inserted by 2005:26 s.5 effective 4 August 2005]*

*LAW ENFORCEMENT AND PUNISHMENT OF OFFENCES*

Entry on premises; search; seizure

25 (1) A police officer or other person authorised in that behalf by a general or special order of the Commissioner of Police shall, for the purposes of the execution of this Act, have power to enter the premises of a person carrying on business as a producer or supplier of any controlled drugs and to demand the production of, and to inspect, any books or documents relating to dealings in any such drugs and to inspect any stocks of any such drugs.

(2) If a police officer has reasonable grounds to suspect that any person is in possession of an article liable to seizure, the police officer may, without warrant,—

- (a) search that person, and detain him for the purpose of searching him;
- (b) search any vehicle or vessel in which the police officer suspects that an article liable to seizure may be found, and for that purpose require the person in control of the vehicle or vessel to stop it;
- (c) seize and detain anything which appears to the police officer to be an article liable to seizure:

Provided that the onus of proving the reasonableness of the police officer's grounds of suspicion shall lie on the police officer.

(3) If a magistrate is satisfied on information on oath that there is reasonable ground for suspecting that there is in any place or premises an article liable to seizure, he may grant a search warrant authorising any police officer named in the warrant, at any time within one month from the date of the warrant, to enter, if need be by force, the place or premises named in the warrant and to search the place or premises and any persons found therein and to seize and detain anything which appears to the police officer to be an article liable to seizure.

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(4) No female shall be searched under this section except by a woman police officer.

(5) The power of search under this section shall extend to any receptacle or other article then in the possession of the person being searched and subsection (4) shall not apply to any such receptacle or article not being part of the wearing apparel of the female at the time of the search.

(6) A person commits an offence if he—

- (a) intentionally obstructs a person in the exercise of his powers under this section; or
- (b) conceals from a person acting in the exercise of his powers under subsection (1) any such books, documents, stocks or drugs as are mentioned in that subsection; or
- (c) without reasonable excuse (proof of which shall lie on him) fails to produce any such books or documents as are so mentioned where their production is demanded by a person in the exercise of his powers under that subsection.

(7) In this section—

“articles liable to seizure” means—

- (a) any controlled drug in respect of which an offence is being or has been committed;
- (b) any money or thing liable to forfeiture under this Act;
- (c) any thing which is or contains evidence of an offence under this Act or a corresponding law.

(8) Any controlled drug in respect of which an offence under this Act is being or has been committed shall, with effect from the seizure thereof, be forfeited to the Crown.

(9) Nothing in this section shall prejudice any power of search or any power to seize or detain property which is exercisable by a police officer apart from this section.

*[Section 25 subsection (3) amended by 2009:52 s.5 effective 4 January 2010]*

### Arrest

26 (1) A police officer may arrest without warrant a person who has committed, or whom the police officer, with reasonable cause, suspects to have committed, an offence under this Act.

(2) This section shall not prejudice any power of arrest conferred by law apart from this section.

### Prosecution and punishment of offenders

27 (1) Where a person commits an offence under section 4, 5, 6(3), 7, 8, 9, 10, 11, 13, 16(6), 17(3) or 22:

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- (a) punishment on conviction on indictment: imprisonment for life or a fine of one million dollars or three times the street value of the controlled drug, whichever is greater or both such fine and imprisonment;
  - (b) punishment on summary conviction: imprisonment for ten years or a fine of five hundred thousand dollars or three times the street value of the controlled drug, whichever is greater or both such fine and imprisonment.
- (2) Where a person commits an offence under section 6(2):
- (a) punishment on conviction on indictment:
    - (i) for a first offence, imprisonment for 5 years or a fine or both such imprisonment and fine;
    - (ii) for a second or subsequent offence imprisonment for 10 years or a fine or both such imprisonment and fine;
  - (b) punishment on summary conviction: imprisonment for 12 months or a fine of \$1,000 or both such imprisonment and fine.
- (3) Where a person commits an offence under section 15(2), 20(4), 21 or 25(6):
- (a) punishment on conviction on indictment: imprisonment for 2 years or a fine or both such imprisonment and fine.
  - (b) punishment on summary conviction: imprisonment for 12 months or a fine of \$1,000 or both such imprisonment and fine.
- (4) Where a person commits an offence under section 20(3) or 36(2):

Punishment on summary conviction: a fine of \$250.

(5) Notwithstanding anything in section 452 of the Criminal Code [*title 8 item 31*] summary proceedings for an offence under this Act may be commenced at any time within twelve months from the time when the offence was committed.

(6) Without prejudice to this section, where a person is convicted of an offence under section 5, 6, 7 or 8 and it appears to the court that he is addicted to or dependent upon, or, in the opinion of the court, is likely to become addicted to or dependent upon, any controlled drug, the court may, in addition to or in lieu of any sentence which may be imposed in pursuance of the preceding provisions of this section, order him to be detained for the purpose of care and treatment for such period, not exceeding six months, as the court may determine in a treatment and rehabilitation centre established by regulations made under section 24; and if, at the termination of such period, the court is satisfied, on the recommendation of a physician, that the convicted person would benefit from a further period of detention, it may order the convicted person to be detained for the purpose of care and treatment for such further period not exceeding six months as it thinks fit.

(7) For the purposes of any Act relating to appeals an order made under subsection (6), shall be a sentence imposed by the court.

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(8) Section 54 of the Criminal Code [*title 8 item 31*] shall not have effect to limit the amount of a fine under this section.

*[Section 27 subsection (1)(a) and (b) substituted by 2005:26 s.6 effective 4 August 2005]*

### Increased penalty zones

27A (1) Where a person is being sentenced for an offence under any of sections 5 to 11 of this Act which was committed (whether wholly or partly) in an increased penalty zone, the court shall—

- (a) first determine the sentence (“the basic sentence”) in accordance with established principles but without regard to this section; then
- (b) where the basic sentence includes a term of imprisonment or a fine, increase that sentence by adding an additional element determined in accordance with subsection (2).

(2) The additional element shall be—

- (a) a term of imprisonment of at least one year but not more than three years, where the basic sentence includes a term of imprisonment of less than seven years;
- (b) a term of imprisonment of at least three years but not more than five years, where the basic sentence includes a term of imprisonment of seven years or more;
- (c) a fine of at least \$1000 but not more than \$10,000, where the basic sentence includes a fine.

(3) The court shall not add an additional element under this section where the basic sentence is one of imprisonment for life.

(4) For the purposes of this section, “increased penalty zone” means any of the places listed in Schedule 4.

(5) *[Repealed]*

*[Section 27A inserted by 1997:6 effective 20 March 1997; subsection (5) repealed by 2005:26 s.7 effective 4 August 2005]*

### Controlled drugs and increased penalty

27B In sentencing a person convicted for an offence involving a controlled drug prescribed under Schedule 5, the court shall have regard to—

- (a) the street value of the controlled drug; and
- (b) the destructive effect on society of the controlled drugs prescribed under Schedule 5;

and add an increased sentence of fifty per cent to the basic sentence.

*[Section 27B inserted by 2005:26 s.8 effective 4 August 2005]*

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### Period of imprisonment in default of payment of fine

27C Where a court imposes a penalty of a fine on a person after conviction for an offence under this Act and the fine so ordered to be paid is not paid within the time allowed by the court, the court shall have the power to impose a sentence of imprisonment as prescribed under Schedule 6, in default of the payment of the fine and this period of imprisonment shall be consecutive to any period of imprisonment imposed for the same offence.

*[Section 27C inserted by 2005:26 s.8 effective 4 August 2005]*

### Statutory amount to be deemed, for supply

27D Where a person is charged with an offence pertaining to a controlled drug prescribed under Schedule 7, and supply is an element, where the amount of controlled drug equals or exceeds the respective weight specified in that Schedule, until the contrary is proved, the person shall be presumed to have that controlled drug with the intention, whether by him or another person, for supply.

*[Section 27D inserted by 2005:26 s.8 effective 4 August 2005]*

### Sentencing discounts for assistance

27E Where a person charged with an offence under this Act gives assistance to the investigation and prosecution of any offender—

- (a) in the same case in which he is charged, such person may be rewarded with a discount not exceeding fifty per cent of the basic sentence; and
- (b) in a case other than that for which he has been charged, the person may be rewarded with a discount not exceeding seventy-five per cent of the basic sentence.

*[Section 27E inserted by 2005:26 s.8 effective 4 August 2005]*

### Consecutive sentencing for drug offences and offences relating to violence or use of weapons

27F Where a person charged with an offence under this Act, is also charged with an offence under the—

- (a) Firearms Act 1973;
- (b) Criminal Code Part XV - (provisions of law relating to violence to the person and to the preservation of human life);
- (c) Criminal Code Part XVI - (homicide, suicide and offences relating to childbirth); or
- (d) Criminal Code Part XVII - (offences endangering life or health: assaults);

on the same information or indictment, the sentences shall be consecutive to each other.

*[Section 27F inserted by 2005:26 s.8 effective 4 August 2005]*

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### Attempts

28 Notwithstanding anything in the Criminal Code [*title 8 item 31*], a person who attempts to commit an offence under this Act or solicits, incites, procures or conspires with another to commit an offence under this Act shall be liable to the same punishment as is provided for that offence.

### Defence of lack of knowledge

29 (1) This section applies to offences under sections 4(3), 5(2) and (3), 6(2) and (3), 8(2), 9(2), 10(2) and 11(2).

(2) Subject to subsection (3), in any proceedings for an offence to which this section applies it shall be a defence for the accused to prove that he neither knew of nor suspected nor had reason to suspect the existence of some fact alleged by the prosecution which it is necessary for the prosecution to prove if he is to be convicted of the offence charged.

(3) Where in any proceedings for an offence to which this section applies it is necessary, if the accused is to be convicted of the offence charged, for the prosecution to prove that some substance or product involved in the alleged offence was the controlled drug which the prosecution alleges it to have been, and it is proved that the substance or product in question was that controlled drug, the accused—

- (a) shall not be acquitted of the offence charged by reason only of proving that he neither knew nor suspected nor had reason to suspect that the substance or product in question was the particular controlled drug alleged; but
- (b) shall be acquitted thereof—
  - (i) if he proves that he neither believed nor suspected nor had reason to suspect that the substance or product in question was a controlled drug; or
  - (ii) if he proves that he believed the substance or product in question to be a controlled drug, or a controlled drug of a description, such that, if it had in fact been that controlled drug or a controlled drug of that description, he would not at the material time have been committing any offence to which this section applies.

(4) Nothing in this section shall prejudice any defence which it is open to a person charged with an offence to which this section applies to raise apart from this section.

## EVIDENCE

### Certificate of corresponding law

30 A document purporting to be issued by or on behalf of the government of a country and purporting to state the terms of a corresponding law in force in that country shall be admitted in evidence, in proceedings for an offence under this Act before any court, on its production by the prosecution without further proof, and such document shall be conclusive evidence—

- (a) that it is issued by or on behalf of the government of that country;
- (b) that the terms of such law are as stated in the document;
- (c) that any facts stated in the document to constitute an offence under such law do constitute such offence.

Certificate of analyst

31 (1) Without prejudice to section 29 of the Evidence Act 1905 [*title 8 item 10*], but subject to subsection (2), in any proceedings for an offence under this Act a certificate in the prescribed form purporting to be signed by an authorised analyst and certifying any substance specified in the certificate to be a controlled drug or to contain such proportion of a controlled drug as may be so certified shall, on its production by the prosecution, without further proof be prima facie evidence of the matters so certified and of the qualification of the analyst.

(2) Subsection (1) shall not apply to a certificate tendered on behalf of the prosecution—

- (a) unless a copy thereof has been served on the accused not less than ten days before the trial; or
- (b) if the accused not less than five days before the trial has served notice on the prosecution requiring the attendance at the trial of the person by whom the certificate was signed.

(3) In this section “authorised analyst” means a person authorised by the Minister by notice in the Gazette to analyse any substance for the purposes of this Act.

Presumptions of possession and knowledge of controlled drug

32 (1) Without prejudice to any other provision of this Act—

- (a) where it is proved that a person imported anything containing a controlled drug it shall be presumed, until the contrary is proved, that such person knew that such drug was contained in such thing;
- (b) where it is proved that a person had in his possession or custody or under his control anything containing a controlled drug, it shall be presumed until the contrary is proved, that such person was in possession of such drug;
- (c) where it is proved that a person supplied to any other person anything containing a controlled drug, it shall be presumed, until the contrary is proved, that such first-mentioned person knew that such drug was contained in such thing;
- (d) where it is proved that a person handled, within the meaning of section 7, anything containing a controlled drug, it shall be presumed, until the contrary is proved, that such person knew that such drug was contained in such thing;

- (e) where it is proved that a person had in his possession or custody or under his control—
  - (i) any document of title relating to anything containing a controlled drug; or
  - (ii) any other document or written or printed matter including a dock warrant, warehouse warrant or order, baggage receipt or baggage claim, relating to anything containing a controlled drug,

it shall be presumed, until the contrary is proved, that such person was in possession of such drug.

(2) The presumption provided by this section shall not be rebutted by proof that a person never had physical possession of the controlled drug.

(3) The presumptions provided by this section shall not be construed as requiring the prosecution to prove any fact which, by virtue of any other provision of this Act, the prosecution does not have to prove.

*Presumptions relating to places used for drug misuse*

33 (1) Whenever any pipe, equipment or apparatus fit and intended for use in connection with the misuse of a controlled drug is found in any premises or place it shall be presumed, until the contrary is proved, that such premises or place is used for the purpose of misusing a controlled drug.

(2) Any person who is in or is found escaping from any premises or place used for the purpose of misusing a controlled drug shall, until the contrary is proved, be presumed to have been misusing a controlled drug therein.

*MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS*

*Service of documents*

34 (1) Any notice or other document required or authorised by any provision of this Act to be served on any person may be served—

- (a) by delivering it to the person on whom it is to be served;
- (b) by sending it by prepaid post addressed to that person at his usual or last known place of abode or
- (c) in the case of a body corporate, by delivering it or sending it by prepaid post to the secretary or clerk of that body at its registered office or other place of business,

(2) Service effected by delivery pursuant to subsection (1)(a) or (c) shall have effect as from the time of delivery.

(3) Service effected otherwise than by delivery shall be deemed to have effect three days after the steps taken pursuant to any of the provisions of subsection (1) have been taken, unless and to the extent that the contrary is proved.

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### Licences and authorities

35 A licence or other authority issued by the Minister for purposes of this Act or of regulations made under this Act may be, to any degree, general or specific, may be issued on such terms and subject to such conditions (including, in the case of a licence, the payment of a prescribed fee) as the Minister thinks proper, and may be modified or revoked by him at any time.

### Chemical tests and handwriting

36 (1) Any police officer not below the rank of inspector may require any person whom he reasonably suspects to be guilty of an offence under this Act—

- (a) to have his finger nails pared and his hands washed in water for the purpose of analysis of such finger nails and water; or
- (b) to give a specimen of his handwriting for the purpose of comparison.

(2) Any person who fails to comply with a requirement under subsection (1) commits an offence.

### Forfeiture

37 (1) A court may (whether or not any person has been convicted of such offence) order to be forfeited to the Crown—

- (a) any money or thing (other than premises, a ship exceeding two hundred and fifty gross tons or an aircraft) which has been used in the commission of or in connection with an offence under this Act; and
- (b) any money or other property received or possessed by any person as the result or product of an offence under this Act.

(2) An order under subsection (1) for the forfeiture of a thing may include a term permitting a specified person to redeem such thing on such conditions, including conditions as to the payment of the value or a proportion of the value thereof to the Crown, as the court may think fit.

(3) No order shall be made under this section unless the court has given notice to any person appearing to the court to have an interest in or right over the money, property or thing in question that an order may be made and such person is given an opportunity to show cause why the order should not be made.

### Regulations; general provisions

38 (1) Regulations made by the Minister under any provisions of this Act—

- (a) may make different provision in relation to different controlled drugs, different classes of persons, different provisions of this Act or other different cases or circumstances; and
- (b) may make the opinion, consent or approval of a prescribed authority or of any person authorised in a prescribed manner material for purposes of any provision of the regulations; and

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(c) may contain such supplementary, incidental and transitional provisions as appear expedient to the Minister.

(2) *[Repealed]*

(3) The negative resolution procedure shall apply to regulations made under this Act.

(4) *[repealed]*

*[Section 38 subsection (2) repealed by 2005:26 s.9 effective 4 August 2005]*

Research by Minister

39 The Minister may conduct or assist in conducting research into any matter relating to the misuse of dangerous or otherwise harmful drugs.

Meaning of corresponding law

40 In this Act “corresponding law” means a law stated in a certificate purporting to be issued by or on behalf of the government of a country outside Bermuda to be a law providing for the control and regulation in that country of the production, supply, use, export and import of drugs and other substances in accordance with the provisions of the Single Convention on Narcotic Drugs signed at New York on 30th March, 1961, or a law providing for the control and regulation in that country of the production, supply, use, export and import of dangerous or otherwise harmful drugs in pursuance of any treaty, convention or other agreement or arrangement to which the government of that country and Her Majesty’s Government in the United Kingdom are for the time being parties and which extends to Bermuda.

*[Section 40 amended by 2005:26 s.10 effective 4 August 2005]*

Repeal

41 *[omitted]*

Transitional

42 *[omitted]*

Commencement

43 *[omitted]*

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SCHEDULE 1

(Section 2)

*[Repealed]*

SCHEDULE 2

(Section 3)

PART I

1. The following substances and products, namely:-  
(a)

ACETORPHINE  
ACETYLDIHYDROCODEINE  
ALFENTANIL  
ALLYLPRODINE  
ALPHACETYLMETHADOL  
ALPHAMEPRODINE  
ALPHAMETHADOL  
ALPHAPRODINE  
ALPRAZOLAM  
AMPHETAMINE  
ANILERIDINE  
ATAMESTANE

BENZETHIDINE  
BENZPHETAMINE  
BENZYL MORPHINE (3-Benzylmorphine)  
BETACETYLMETHADOL  
BETAMEPRODINE  
BETAMETHADOL  
BETAPRODINE  
BEZITRAMIDE  
BOLANDIOL  
BOLASTERONE  
BOLAZINE  
BOLDENONE  
BOLENOL  
BOLMANTALATE  
BROMAZEPAM  
BUFOTENINE  
BUPRENORPHINE

CALUUSTERONE  
CAMAZEPAM  
CANNABINOL DERIVATIVES  
CANNABINOL except where contained in Cannabis or Cannabis resin  
CANNABIS AND CANNABIS RESIN  
CARFENTANIL  
CATHINE  
CATHINONE  
CHLORDIAZEPOXIDE

CHLORPHENTERMINE  
4-CHLOROMETHANDIENONE  
CHORIONIC GONADOTROPHIN (HCG) and NON-HUMAN  
CHORIONIC GONADOTROPHIN  
CLENBUTEROL  
CLOBAZAM  
CLONAZEPAM  
CLONITAZENE  
CLORAZEPIC ACID  
CLOSTEBOL  
CLOTIAZEPAM  
CLOXAZOLAM  
COCA LEAF  
COCAINE  
CODEINE

DELORAZEPAM  
DESOMORPHINE  
DEXTROMORAMIDE  
DEXTROPROPOXYPHENE  
DIAMORPHINE  
DIAMPROMIDE  
DIAZEPAM  
DIETHYLPROPION  
DIETHYLTHIAMBUTENE  
DIFENOXIN (1-(3-cyano-3,3-diphenylpropyl)-4-  
phenylpiperidine-4-carboxylic acid)  
DIHYDROCODEINE  
DIHYDROCODEINONE O-CARBOXYMETHYLOXIME  
DIHYDROMORPHINE  
DIMENOXADOLE  
DIMEPHEPTANOL  
DIMETHYLTHIAMBUTENE  
DIOXAPHETYL BUTYRATE  
DIPHENOXYLATE  
DIPANONE  
DROSTANOLONE  
DROTEBANOL (3,4-dimethoxy-17-methylmorphinan-  
6 $\beta$ ,14-diol)

ECGONINE and any derivative of ecgonine which is convertible  
to ecgonine or to cocaine  
ENESTEBOL  
EPITIOSTANOL  
ESTAZOLAM  
ETHCHLORVYNOL  
ETHINAMATE

ETHYL LOFLAZEPATE  
ETHYLMETHYLTHIAMBUTENE  
ETHYLMORPHINE (3-ethylmorphine)  
ETHYLOESTRENOL  
ETICYCLIDINE  
ETONITAZENE  
ETORPHINE  
ETOXERIDINE

FENCANFAMIN  
FENETHYLLINE  
FENPROPOREX  
FENTANYL  
FLUDIAZEPAM  
FLUNITRAZEPAM  
FLUOXYMESTERONE  
FLURAZEPAM  
FORMEBOLONE  
FURAZABOL  
FURETHIDINE

GAMMA-BUTYROLACTONE  
GAMMA-HYDROXY-BUTYRATE  
GLUTETHIMIDE

HALAZEPAM  
HALOXAZOLAM  
HYDROCODONE  
HYDROMORPHINOL  
HYDROMORPHONE  
HYDROXPETHIDINE

ISOMETHADONE

KETAMINE  
KETAZOLAM  
KETOBEMIDONE

LEFETAMINE  
LEVOMETHORPHAN  
LEVOMORAMIDE  
LEVOPHENACYLMORPHAN  
LEVORPHANOL  
LOFENTANIL  
LOPRAZOLAM  
LORAZEPAM  
LORMETAZEPAM

LYSERGAMIDE  
LYSERGIDE and other N-alkyl derivatives of lysergamide

MAZINDOL  
MECLOQUALONE  
MEDAZEPAM  
MEDOLAZINE  
MEFENOREX  
MEPHENTERMINE  
MEPITIOSTANE  
MEPROBAMATE  
MESABOLONE  
MESCALINE  
MESTANOLONE  
MESTEROLONE  
METAZOCINE  
METHADONE  
METHADYL ACETATE  
METHANDIENONE  
METHANDRIOL  
METHAQUALONE  
METHENOLONE  
METHYLAMINOREX  
METHYLAMPHETAMINE  
METHYLDESORPHINE  
METHYLDIHYDROMORPHINE (6-methyldihydromorphine)  
METHYLPHENIDATE  
METHYLPHENOBARBITONE  
METHYLTESTOSTERONE  
METHYPRYLONE  
METOPON  
METRIBOLONE  
MIBOLERONE  
MIDAZOLAM  
MORPHERIDINE  
MORPHINE  
MORPHINE METHOBROMIDE, morphine n-oxide and other  
pentavalent nitrogen morphine derivatives  
MYROPHINE

NANDROLONE  
N, N-DIETHYLTRYPTAMINE  
N, N-DIMETHYLTRYPTAMINE  
N-ETHYLAMPHETAMINE  
N-HYDROXYTENAMPHETAMINE (N-hydroxy MDA)  
NICOCODINE  
NICODICODINE (6-nicotinoyldihydrocodeine)

NICOMORPHINE (3,6-dinicotinoylmorphine)  
NIMETAZEPAM  
NITRAZEPAM  
NORACYMETHADOL  
NORBOLETONE  
NORCLOSTEBOL  
NORCODEINE  
NORDIAZEPAM  
NORETHANDROLONE  
NORLEVORPHANOL  
NORMETHADONE  
NORMORPHINE  
NORPIANONE

OPIUM whether raw, prepared or medicinal  
OVANDROTONE  
OXABOLONE  
OXANDROLONE  
OXAZEPAM  
OXAZOLAM  
OXYCODONE  
OXYMESTERONE  
OXYMETHLONE  
OXYMORPHONE

PEMOLINE  
PENTAZOCINE  
PETHIDINE  
PHENADOXONE  
PHENAMPROMIDE  
PHENAZOCINE  
PHENCYCLIDINE  
PHENDIMETRAZINE  
PHENMETRAZINE  
PHENOMORPHAN  
PHENOPERIDINE  
PHENTERMINE  
PHOLCODINE  
PIMINODINE  
PINAZEPAM  
PIPRADROL  
PIRITRAMIDE  
POPPY-STRAW and concentrate of poppy-straw  
PRASTERONE  
PRAZEPAM  
PROHEPTAZINE

PROPERIDINE (1-methyl-4-phenylpiperidine-4-carboxylic acid  
isopropyl ester)  
PROPETANDROL  
PROPIRAM  
PROPYLHEXEDRINE  
PSILOCIN  
PYROVALERONE

QUINBOLONE

RACEMETHORPHAN  
RACEMORAMIDE  
RACEMORPHAN  
ROLYCYCLIDINE  
ROXIBOLONE

SILANDRONE  
SOMATOTROPIN  
SOMATREM  
SOMATROPIN  
STANOLONE  
STANZOLOL  
STENBOLONE  
SUFENTANIL

TEMAZEPAM  
TENOCYCLIDINE  
TESTOSTERONE  
TETRAZEPAM  
THEBACON  
THEBAINE  
THIOMESTERONE  
TILIDATE  
TRENBOLONE  
TRIAZOLAM  
TRIMEPERIDINE

4-BROMO-2,5-DIMETHOXY- $\alpha$ -METHYLPHENETHYLAMINE  
4-CYANO-2-DIMETHYLAMINO-4,4-DIPHENYLBUTANE  
4-CYANO-1-METHYL-4-PHENYLPiperidine  
2,5 -DIMETHOXY- $\alpha$ ,4-DIMETHYLPHENETHYLAMINE  
2-METHYL-3-MORPHOLINO-1,1-  
DIPHENYLPROPANECARBOXYLIC ACID  
1-METHYL-4-PHENYLPiperidine-4-CARBOXYLIC ACID  
4-PHENYLPiperidine-4-CARBOXYLIC ACID ETHYL ESTER  
(norpethidine)

- (b) any 5,5 disubstituted barbituric acid;
- (c) any compound (not being a compound for the time being specified in sub-paragraph (a) above) structurally derived from tryptamine or from a ring-hydroxy tryptamine by substitution at the nitrogen atom of the sidechain with one or more alkyl substituents but no other substituent;
- (d) any compound (not being methoxyphenamine or a compound for the time being specified in sub-paragraph (a) above) structurally derived from phenethylamine, an N-alkylphenethylamine,  $\alpha$ -methylphenethylamine, and N-Alkyl  $\alpha$ -methylphenethylamine, or an N-alkyl  $\alpha$ -ethylphenethylamine by substitution in the ring to any extent with alkyl, alkoxy, alkylendioxy or halide substituents, whether or not further substituted in the ring by one or more other univalent substituents.
- (e) any compound (not being a compound for the time being specified in sub-paragraph (a) above) structurally derived from fentanyl by modification in any of the following ways, that is to say—
  - (i) by replacement of the phenyl portion of the phenethyl group by any heteromonocycle whether or not further substituted in the heterocycle;
  - (ii) by substitution in the phenethyl group with alkyl, alkenyl, alkoxy, hydroxy, halogeno, haloalkyl, amino or nitro groups;
  - (iii) by substitution in the piperidine ring with alkyl or alkenyl groups;
  - (iv) by substitution in the aniline ring with alkyl, alkoxy alkylendioxy, halogeno or haloalkyl groups;
  - (v) by substitution at the 4-position of the piperidine ring with any alkoxy carbonyl or alkoxyalkyl or acyloxy group;
  - (vi) by replacement of the N-propionyl group by another acyl group;

- (f) any compound (not being a compound for the time being specified in sub-paragraph (a) above) structurally derived from pethidine by modification in any of the following ways, that is to say—
- (i) by replacement of the 1-methyl group by an acyl, alkyl whether or not unsaturated, benzyl or phenethyl group, whether or not further substituted;
  - (ii) by substitution in the piperidine ring with alkyl or alkenyl groups or with a propano bridge, whether or not further substituted;
  - (iii) by substitution in the 4-phenyl ring with alkyl, alkoxy, aryloxy, halogeno or haloalkyl groups;
  - (iv) by replacement of the 4-ethoxycarbonyl by any other alkoxy carbonyl or any alkoxyalkyl or acyloxy group;
  - (v) by formation of a N-oxide or of a quaternary base;
- (g) [any drug falling within the following generic definition:], that is to say, any compound (not being Trilostane or a compound for the time being specified in sub-paragraph (a)) structurally derived from 17-hydroxyandrostane-3-one or from 17-hydroxyestrane-3-one by modification in any of the following ways—
- (i) by further substitution at position 17 by a methyl or ethyl group;
  - (ii) by substitution to any extent at one or more of positions 1, 2, 4, 6, 7, 9, 11 or 16 but at no other positions;
  - (iii) by unsaturation in the carbocyclic ring system to any extent, provided that there are no more than two ethylenic bonds in any one carbocyclic ring;
  - (iv) by fusion of ring A with a heterocyclic system.

2. Any stereoisomeric form of a substance for the time being specified in paragraph 1 not being dextromethorphan or dextrorphan.
3. Any ester or ether or a substance for the time being specified in paragraph 1 or 2.
4. Any substance which is an ester or ether (or, where more than one hydroxyl function is available, both an ester and an ether) or a substance specified in the paragraphs 1(f)(i) to (iv).
5. Any salt of a substance for the time being specified in any of paragraphs 1 to 3.
6. Any preparation or other product containing a substance or product for the time being specified in any of paragraphs 1 to 4.

*[Part 1 of Schedule 2 substituted by BR 33/1996 effective 1 July 1996; and by BR37/2001 effective 1 August 2001]*

PART II  
MEANING OF CERTAIN EXPRESSIONS USED IN THIS SCHEDULE

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

“cannabinol derivatives” means the following substances, except where contained in cannabis or cannabis resin, namely tetrahydro derivatives of cannabinol and 3-alkyl homologues of cannabinol or of its tetrahydro derivatives;

“coca leaf” means the leaf of any plant of the genus *Erythroxylon* from whose leaves cocaine can be extracted either directly or by chemical transformation;

“concentrate of poppy-straw” means the material produced when poppy-straw has entered into a process for the concentration of its alkaloids;

“medicinal opium” means raw opium which has undergone the process necessary to adapt it for medicinal use in accordance with the requirements of the British Pharmacoposia, whether it is in the form of powder or is granulated or is in any other form, and whether it is or is not mixed with neutral substances;

“opium poppy” means the plant of the species *Papaver somniferum* L;

“poppy-straw” means all parts, except the seeds, of the opium poppy, after mowing;

“raw opium” includes powdered or granulated opium but does not include medicinal opium.

SCHEDULE 3

(Section 19)

TRIBUNALS

- 1 A tribunal shall consist of three persons of whom—
  - (a) one shall be a barrister and attorney appointed by the Minister, after consultation with the Chief Justice, to be Chairman of the tribunal;
  - (b) wherever practicable, two shall be persons engaged in the same profession as the respondent appointed by the Minister and where the respondent is a member of a professional association in Bermuda the Minister shall before making any appointment under this paragraph consult with that association.
- 2 At any meeting a tribunal shall not be properly constituted unless all members are present.
- 3 Proceedings before a tribunal shall be held in private unless the respondent requests otherwise and the tribunal accedes to that request.
- 4 The Chief Justice may make rules as to the procedure to be followed, and the rules of evidence to be observed, in proceedings before a tribunal, and in particular—
  - (a) for securing that notice that the proceedings are to be brought shall be given to the respondent at such time and in such manner as may be specified in the rules;
  - (b) for determining who, in addition to the respondent shall be a party to the proceedings;
  - (c) for securing that any party to the proceedings shall, if he so requires, be entitled to be heard by the tribunal;
  - (d) for enabling any party to the proceedings to be represented by a barrister and attorney.
- 5 For the purpose of any proceedings before a tribunal the tribunal may administer oaths and any party to the proceedings may sue out writs of subpoena ad testificandum and duces tecum, but no person shall be compelled under any such writ to give any evidence or produce any document which he could not be compelled to give or produce on the trial of an action.
- 6 Subject to the foregoing provisions of this Schedule a tribunal may regulate its own procedure.

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7 The validity of the proceedings of a tribunal shall not be affected by any defect in the appointment of a member of the tribunal or by reason of the fact that a person not entitled to do so took part in the proceedings.

8 Fees shall be paid to members of a tribunal in accordance with the Government Authorities (Fees) Act 1971 [*title 14 item 6*].

9 The Minister shall make available to a tribunal such accommodation, the services of such officers and such other facilities as he considers appropriate for the purpose of enabling the tribunal to perform its functions.

10 Section 6 of the Statutory Instruments Act 1977 [*title 1 item 3*] shall not apply to rules made under paragraph 4.

SCHEDULE 4

(Section 27A)

INCREASED PENALTY ZONES

1 For the purposes of section 27A, the following places are increased penalty zones—

- (a) any of the following places—
  - (i) any premises of a school or day care centre as defined by the Education Act 1996 [*title 12 item 1*] or Part IX of the Children Act 1998 [*title 27 item 26*];
  - (ii) any registered children's home or residential home under the Children Act 1998 [*title 27 item 26*];
  - (iii) a playground;
  - (iv) the Bermuda College;and any place within 300 metres of such a place; and
- (b) any of the following places—
  - (i) a public park, public garden or public beach;
  - (ii) a camp site maintained by the Department of Youth Development, Sport and Recreation;
  - (iii) a swimming pool intended for use by the public;
  - (iv) a video games facility;
  - (v) a youth centre;
  - (vi) the bus terminal in Washington Street, Hamilton;
  - (vii) a drug treatment or rehabilitation facility;
  - (viii) the hospitals, as defined by the Bermuda Hospitals Board Act 1970 [*title 11 item 26*];
  - (ix) a prison;and any place within 100 metres of such a place.

2 In this Schedule—

“drug treatment or rehabilitation facility” means—

- (a) a treatment or rehabilitation centre established by regulations made under section 24; or

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(b) any other place where persons addicted to or dependent upon any controlled drug receive treatment or assistance with rehabilitation;

“playground” means an open area with playground equipment intended for use by the public for recreational purposes;

“prison” means a place declared to be a prison under section 5 of the Prisons Act 1979 [*title 10 item 32*];

“video games facility” means a place of business where young persons may play video or electronic games;

“youth centre” means any place operated by—

(a) the Department of Youth Development, Sport and Recreation;

(b) a church; or

(c) a sports club;

where young persons may pursue organised sports or leisure activities;

“young persons” means persons under the age of eighteen.

*[Schedule 4 inserted by 1997:6 effective 20 March 1997; and amended by 1998:38 effective 1 January 2000]*

SCHEDULE 5

(Section 27B)

CONTROLLED DRUGS AND INCREASED PENALTY

1.
  - (a) Cocaine;
  - (b) Diamorphine;
  - (c) Methylamphetamine;
  - (d) Any compound (not being methoxyphenamine) structurally derived from phenethylamine, an N-alkylphenethylamine, -methylphenethylamine, and N-Alkyl -methylphenethylamine or an N-alkyl -ethylphenethylamine by substitution in the ring to any extent with alkyl, alkoxy, alkylendioxy or halide substituents, whether or not further substituted in the ring by one or more other univalent substituents.
2. Any stereoisomeric form of a substance for the time being specified in paragraph 1.
3. Any salt of a substance for the time being specified in paragraph 1.
4. Any preparation or other product containing a substance or product for the time being specified in paragraph 1.

*[Schedule 5 inserted by 2005:26 s.12 effective 4 August 2005]*

SCHEDULE 6

(Section 27C)

PERIOD OF IMPRISONMENT IN DEFAULT OF PAYMENT OF FINE

Amount of Fine	Period of Imprisonment
1. For a fine not exceeding three hundred thousand dollars	Three years imprisonment
2. For a fine exceeding three hundred thousand dollars but not exceeding six hundred thousand dollars	Four years imprisonment
3. For a fine exceeding six hundred thousand dollars but not exceeding nine hundred thousand dollars	Five years imprisonment
4. For a fine exceeding nine hundred thousand dollars	Six years imprisonment

*[Schedule 6 inserted by 2005:26 s.12 effective 4 August 2005]*

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SCHEDULE 7

(section 27D)

STATUTORY AMOUNT OF CONTROLLED DRUGS TO BE DEEMED FOR SUPPLY

Controlled drug	Weight
(a) Diamorphine (heroin)	1 gram
(b) Cocaine	1 gram
(c) Cannabis	20 grams
(d) 3,4-Methylenedioxyamphetamine (MDMA (Ecstasy))	4 tablets or 1 gram.

*[Schedule 7 inserted by 2005:26 s.12 effective 4 August 2005]*

*[This Act (except section 27(6) and (7)) was brought into operation on various dates between 16 June 1973 and 8 September 1973 by SR&O 32/1973 58/1973 and 61/1973]*

[Assent Date: 21 December 1972]

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*[Amended by:*

1974 : 43  
1976 : 5  
1977 : 35  
1978 : 32  
1987 : 29  
1988 : 4  
BR 82 / 1988  
1993 : 33  
BR 33 / 1996  
1997 : 6  
1998 : 38  
BR 37 / 2001  
2005 : 26  
BR 67 / 2007  
2009 : 52  
2008 : 20]