CHAPTER 228

DANGEROUS DRUGS

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CHAPTER 228

DANGEROUS DRUGS

An Act to regulate the importation, exportation, manufacture, sale and use of dangerous drugs.

43 of 2000
39 of 2011

[Commencement 29th December, 2000]

PART I
PRELIMINARY

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

2. (1) In this Act — Interpretation.

"approved port" means the Port of Nassau;

"coca leaves" means the leaves of any plant of the genus of the erythroxylaecae from which cocaine can be extracted either directly or by chemical transformation;

"conveyance" includes ship, motor vehicle, aircraft, train and any other means of transport by which goods may be brought into or taken from The Bahamas;

"corresponding law" means any law stated in a certificate purporting to be issued by or on behalf of the government of any country outside The Bahamas to be a law providing for the control and regulation in that country of the manufacture, sale, use, export and import of drugs in accordance with the provisions of the Single Convention, the Vienna Convention and the United Nations Convention, and any statement in any such certificate as to the effect of the law mentioned in the certificate or any statement in any such certificate that any facts constitute an offence against that law, shall be conclusive;

"drugs" includes substance and product;

"export" means to take or cause to be taken out of The Bahamas or any other country, as the case may be, by land, air or water;

"import" means to bring or cause to be brought into The Bahamas or any other country, as the case may be, by land, air or water;

"Indian hemp" includes all parts of any plant of the genus cannabis whether growing or not from which the resin has not been extracted; the resin extracted from any part of such plant; and every compound, manufacture, salt derivative, mixture or preparation of such plant or resin;

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

"Minister" means the Minister responsible for Dangerous Drugs and Poisons;

"personal property" includes any money, aircraft or vessel or other thing;

"preparation" means —

(a) any solution or mixture in whatever physical state, containing one or more psychotropic substances; or

(b) one or more psychotropic substances in dosage form;

"prepared opium" means opium prepared for smoking and includes dross and any other residues remaining after opium has been smoked;

"psychotropic substance" means any substance natural or synthetic or any natural material;

"qualified person" means a registered medical practitioner or a registered dentist or a licensed veterinary surgeon or a licensed pharmacist or the public analyst or any person to whom special permission is granted by the Minister by Order to import or export any drug to which this Act applies and which may be imported or exported thereunder;

"raw opium" means the spontaneously coagulated juice obtained from the capsules of the papaver somniferum, which has only been submitted to the necessary manipulations for packing and transport, whatever its content of morphine;

"rules" means rules made under this Act by the Minister;

"the Single Convention" means the Single Convention on Narcotic Drugs concluded at New York on March 30, 1961 and entered into force on December 13, 1964 and acceded to by the Commonwealth of The Bahamas on August 13, 1975;

"supplying" includes distributing;

"in transit" means imported into The Bahamas for the sole purpose of being exported from The Bahamas to another country;

"the United Nations Convention" means the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances concluded at Vienna on December 20, 1988 and entered into force on November 11, 1990 and ratified by the Commonwealth of The Bahamas on January 30, 1989;

"the Vienna Convention" means the Convention on Psychotropic Substances concluded at Vienna on February 21, 1971 and entered into force on August 16, 1976 and acceded to by the Commonwealth of The Bahamas on August 31, 1987.

(2) Any reference in this Act to a drug to which this Act or a Part thereof applies is a reference to a drug in respect of which this Act or, as the case may be, that Part respectively makes provision, and a drug of either such kind shall for the purposes of this Act be deemed to be a dangerous drug.

PART II
RAW OPIUM, COCA LEAVES, INDIAN HEMP, ETC.

Restriction on cultivation, etc., of drugs to which Part II applies.

3. It shall not be lawful for any person to cultivate, trade in, import or bring into The Bahamas any of the drugs to which this Part applies except a qualified person with special authority of the Minister for medical or

scientific purposes and if any person acts in contravention of this section he shall be guilty of an offence against this Act:

Provided that nothing in this Part shall prevent the bringing of Indian hemp, coca leaves, crude cocaine and raw opium to The Bahamas in transit in accordance with the provisions of this Act.

Restriction on exportation of drugs to which Part II applies.

4. (1) It shall not be lawful for any person to export from The Bahamas any of the drugs to which this Part applies except under licence and from the approved port and if any person acts in contravention of this section he shall be guilty of an offence against this Act.

(2) If at any time the importation of any of the drugs to which this Part applies into a foreign country is prohibited or restricted by the laws of that country there shall, while that prohibition or restriction is in force, be attached to every licence which is issued by the Minister under this Act authorising the export of any such drugs from The Bahamas, such conditions as appear to him to be necessary for preventing or restricting, as the case may be, the exportation of any such drugs from The Bahamas to that country.

(3) Any such licence issued before the prohibition or restriction came into force, shall, if the Minister so directs, be deemed to be subject to the like conditions.

Provisions relating to transit, etc., apply.

5. The provisions of sections 16, 17, 18 and 19 of Part V (which relates to drugs in transit, removal licences, the tampering with drugs in transit, and the diversion of drugs) shall apply to all drugs to which this Part applies.

Drugs to which Part II applies.

6. The drugs to which this Part applies are raw opium, coca leaves, Indian hemp and resins obtained from Indian hemp and all preparations of which such resins form a base, meperidine (also known as pethidine and demerol) and any other drugs to which the Minister may by Order declare that this Part shall apply.

PART III
PREPARED OPIUM

Prohibition of prepared opium.

7. It shall not be lawful for any person to import or bring into, or export from, The Bahamas any prepared opium.

Penalty for manufacturing, selling, using, etc. prepared opium.

8. If any person —

(a) manufactures, sells or otherwise deals in prepared opium;

(b) has in his possession any prepared opium;

(c) being the owner or the occupier of any premises knowingly permits or suffers such premises to be used, whether on one occasion or more than one occasion, for the purpose of the preparation of opium for smoking or the sale or smoking of prepared opium;

(d) being concerned in the management of any premises knowingly permits or suffers those premises to be used, whether on one occasion or more than one occasion, for any such purposes aforesaid;

(e) has in his possession any pipes or other utensils for use in connection with the smoking of opium or any utensils in connection with the preparation of opium for smoking;

(f) smokes or otherwise uses prepared opium, or frequents any place used for the purpose of opium smoking,

he shall be guilty of an offence against this Act.

PART IV
COCAINE, MORPHINE, ETC.

Restriction on import and export of cocaine, etc.

9. It shall not be lawful for any person to import or bring into, or to export from, The Bahamas any drug to which this Part applies, except a qualified person and unless such importation or exportation conforms to the procedure set out in Part V, and if any person acts in contravention of this section he shall be guilty of an offence against this Act.

Control of manufacture and sale of cocaine, etc.

10. (1) For the purpose of preventing the improper use of the drugs to which this Part applies, provisions may be made by rules for controlling the manufacture, sale, possession and supply of those drugs, and in particular, but without prejudice to the generality of the foregoing powers, for —

(a) prohibiting the manufacture of any drugs to which this Part applies except on premises licensed for the purpose and subject to any condition specified in the licence;

(b) prohibiting the manufacture, sale or supply of any such drugs except by persons licensed or otherwise authorised under the rules and subject to any conditions specified in the licence or authority;

(c) regulating the issue by a registered medical practitioner, a registered dentist or a licensed veterinary surgeon of prescriptions containing any such drugs and the dispensing of any such prescriptions;

(d) requiring persons engaged in the manufacture, sale or supply of any such drugs to keep such books and furnish such information either in writing or otherwise as may be prescribed; and

(e) generally for carrying out the objects of this Part.

(2) The rules made pursuant to this section shall provide for authorising any person who lawfully keeps open any shop for the retailing of poisons in accordance with the provisions of the Pharmacy Act — Ch. 227.

(a) to manufacture at the shop in the ordinary course of his retail business any preparation, admixture or extract of any drugs to which this Part applies;

(b) to carry on at the shop the business of retailing, dispensing or compounding any such drugs,

subject to the power of the Minister to withdraw the authorisation in the case of a person who has been convicted of an offence against this Act, and who cannot, in the opinion of the Minister, properly be allowed to carry on the business of manufacturing or selling or supplying, as the case may be, any such drugs.

(3) Nothing in any rules made under this section shall be taken to authorise the sale, or the keeping of an open shop for retailing, dispensing or compounding of, poisons by any person who is not qualified in that behalf under, or otherwise than in accordance with, the provisions of any Act prohibiting, restricting or regulating the sale of poisons.

Drugs to which Part IV applies.

11. (1) The drugs to which this Part applies are —

(a) medicinal opium;

(b) any extract or tincture of Indian hemp;

(c) morphine and its salts and diacetyl-morphine (commonly known as diamorphine or heroin) and the other esters of morphine and their respective salts;

(d) cocaine (including synthetic cocaine) and ecgonine and their respective salts, and the esters of ecgonine and their respective salts;

(e) any solution or dilution of morphine or cocaine or their salts in an inert substance whether liquid or solid, containing any proportion of morphine or cocaine and any preparation, admixture, extract or other substance (not being such a solution or dilution as aforesaid) containing not less than one-fifth per cent of morphine or one-fifth per cent of cocaine or of ecgonine;

(f) any preparation, admixture, extract or other substance containing any proportion of diacetyl-morphine;

(g) dihydrohydroxycodeinone, dihydrocodeinone, dihydromorphinone, acetyldihydrocodeinone, (commonly known as ascedicone), dihydromorphine, their esters and the salts of any of these substances and of their esters, morphine-N-oxide (commonly known as genomorphine), the morphine-N-oxide derivatives, and any other pentavalent nitrogen morphine derivatives;

(h) thebaine and its salts, and (with the exception of methylmorphine, commonly known as codeine, and ethylmorphine, commonly known as dionin, and their respective salts) benzylmorphine and the other esters of morphine and their respective salts;

(i) any preparation, admixture, extract or other substance containing any proportion of any of the substances mentioned in paragraph (g) or in paragraph (h);

(j) amphetamines(beta-aminopropylbenzene and beta-aminoisopropylbenzene);

(k) pholcodine and diethylthiambutene (“themalon”);

(l) normethadone;

(m) lysergic acid diethylamide and any compound declared by the Minister by Order to be a compound related to lysergic acid diethylamide.

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

(a) the percentage in the case of liquid preparations shall, unless other provision in that behalf is made by regulations, be calculated on the basis that a preparation containing one per cent of any substance means a preparation in which one gramme of the substance, if a solid, or one millilitre of the substance, if a liquid, is contained in every one hundred millilitres of the preparation, and so in proportion for any greater or less percentage;

(b) the expression "ecgonine" means laevoecgonine and includes any derivatives of ecgonine from which it may be recovered industrially;

(c) the percentage in the case of morphine shall be calculated as in respect of anhydrous morphine.

(3) If it appears to the Minister that any new derivative of morphine or cocaine or any salts of morphine or cocaine or any other alkaloid of opium or any other drug of whatever kind is, or is likely to be productive, if improperly used, or is capable of being converted into a substance which is, or is likely to be productive, if improperly used, of ill effect substantially of the same character or nature as or analogous to those produced by morphine or cocaine the Minister may by Order declare that this Part shall apply to the new derivative or alkaloid or other drug in the same manner as it applies to the drugs mentioned in subsection (1) and make any verbal alterations in the list of drugs mentioned in subsection (1) incidental to the declaration contained in such Order.

(4) If the Minister thinks fit to declare that a finding with respect to any preparation containing any of the drugs to which this Part applies has, in pursuance of Article 3 of the Single Convention, Article 2 of the Vienna Convention and Article 12 of the United Nations Convention been communicated by the Secretary-General of the United Nations to the parties to the said Conventions, the provisions of this Part as from such date as may be specified in the declaration shall cease to apply to the preparation specified therein.

Prohibition of trade, etc., in new drugs and power to apply Part IV to certain drugs.

12. (1) It shall not be lawful for any person in The Bahamas to trade in or manufacture for the purpose of trade any product obtained from any of the phenanthrene alkaloids of opium or from the ecgonine alkaloids of the coca leaf, not being a product which was on the thirteenth day of August Nineteen Hundred and Seventy-Five being used for medical or scientific purposes:

Provided that if the Minister is at any time satisfied as respects any such product that it is of medical or scientific value, he may by Order direct that this subsection shall cease to apply to that product.

(2) If any person acts in contravention of subsection (1) he shall be guilty of an offence.

(3) If it appears to the Minister that a decision with respect to any such product as is mentioned in subsection (1) has in pursuance of Article 3 of the Single Convention, Article 2 of the Vienna Convention and Article 12 of the United Nations Convention been communicated by the Secretary-General of the United Nations to the parties to the said Conventions, the Minister by Order, may, as the case requires, either declare that the provisions of this Part shall apply to that product in the same manner as they apply to the drugs mentioned in subsection (1) of section 11 or apply this Part to that product with such modifications as may be specified in the Order.

(4) The Minister may by Order apply this Part, with such modifications as may be specified in the Order, to any of the following drugs, that is to say, methylmorphine (commonly known as codeine) ethylmorphine (commonly known as dionin) and their respective salts.

PART V
IMPORT AND EXPORT

Definitions.

13. In this Part —

"import authorisation" means a licence, issued by a competent authority, authorising the importation of a specified quantity of a dangerous drug and containing full particulars of the drug, together with the name and address of the person from whom the drug is to be obtained, and specifying the period within which the importation must be affected;

"import certificate" means a certificate substantially in Form A of the Schedule, issued by a competent authority in a country into which it is intended to import dangerous drugs;

Form A. Schedule.

"export authorisation" means an authorisation issued by a competent authority in a country from which a dangerous drug is exported, containing full particulars of such drug, and the quantity authorised to be exported, together with the names and addresses of the exporter and the person to whom it is to be sent, and stating the country to which, and the period within which, it is to be exported;

"diversion certificate" means a certificate issued by the competent authority of a country through which a dangerous drug passes in transit, authorising the diversion of such drug to a country other than that specified as the country of ultimate destination in the export authorisation, and containing all the particulars required to be included in an export authorisation, together with the name of the country from which the consignment was originally exported.

The export of dangerous drugs.

14. (1) Upon the production of an import certificate duly issued by the competent authority in any country, it shall be lawful for the Minister to issue an export authorisation in Form B of the Schedule in respect of any drug referred to in the import certificate to any person who is named as the exporter in such certificate, and is, under the provisions of this Act, otherwise lawfully entitled to export such drug from The Bahamas.

Form B. Schedule.

(2) The export authorisation referred to in subsection (1) shall be prepared in triplicate and two Copies shall be issued to the exporter, who shall send one copy with the drug to which it refers when such drug is exported and the Minister shall send the third copy direct to the appropriate authority of the country of ultimate destination.

(3) Where the intended exportation is to a country which is not a party to the Single Convention, it shall not be necessary to produce an import certificate as aforesaid.

(4) In all cases it shall be in the discretion of the Minister to issue or refuse an export authorisation, as he may see fit.

(5) No dangerous drug shall be exported from The Bahamas unless the consignor is in possession of a valid and subsisting export authorisation relating to such drug granted under this Act.

(6) At the time of exportation of any dangerous drug the exporter shall produce to the Comptroller of Customs the dangerous drug, the export authorisation relating thereto, and such other evidence as the Comptroller of Customs may require to satisfy him that the drug is being lawfully exported to the place and person named in the authorisation which refers to it.

(7) No person shall export, cause to be exported, or take any steps preparatory to exporting any dangerous drug from The Bahamas except in pursuance of and in accordance with the provisions of this Act.

The import of dangerous drugs.

15. (1) An import authorisation in Form C of the Schedule permitting the importation into The Bahamas of any dangerous drug specified therein may be granted by the Minister subject to such conditions as he shall deem fit to any person who may lawfully import such drug.

Form C. Schedule.

(2) Where an import authorisation is issued in pursuance of subsection (1), the Minister shall also issue, in relation to the dangerous drug intended to be imported, an import certificate in Form A of the Schedule which shall be forwarded by the intending importer to the person from whom the drug is to be obtained.

Form A Schedule.

(3) when the importer to whom an import authorisation is issued under this section intends to import the drug to which such authorisation relates in more than one consignment, a separate import certificate shall be issued to him in respect of each such consignment.

(4) No dangerous drug shall be imported into The Bahamas unless the person to whom the drug is consigned is in possession of a valid and subsisting import authorisation granted in pursuance of this section.

(5) Every dangerous drug imported into The Bahamas from a country which is a party to the Single, Vienna and United Nations Conventions shall be accompanied by a valid and subsisting export authorisation or diversion certificate.

(6) No person shall import, cause to be imported or take any steps preparatory to importing, any dangerous drug into The Bahamas except in pursuance of and in accordance with the provisions of this Act.

Dangerous drugs in transit.

16. (1) If a dangerous drug which is in transit —

(a) is not in course of transit from a country from which it may lawfully be exported to another country into which it may lawfully be imported; or

(b) was exported from a country which is a party to the Single, Vienna and United Nations Conventions and was not accompanied by a valid and subsisting export authorisation or diversion certificate, as the case may be,

the person to whom the dangerous drug was imported shall be guilty of an offence.

(2) Where any dangerous drug in transit is accompanied by an export authorisation or diversion certificate and the Comptroller of Customs has reasonable grounds for believing that such authorisation or certificate is false, or that it has been obtained by fraud or wilful misrepresentation of a material particular, it shall be lawful for the Comptroller of Customs to seize and detain the drug to which such authorisation or certificate relates and upon being satisfied that such authorisation or certificate is valid or has not been obtained by fraud or misrepresentation as aforesaid the Comptroller of Customs shall release the drug.

(3) Where the dangerous drug in transit is not accompanied by an export authorisation or diversion certificate by reason of the fact that the drug comes from a country not a party to the Single, Vienna and United Nations Conventions and the Comptroller of Customs has reasonable grounds for believing that such drug is being conveyed in an unlawful manner or for an unlawful purpose or is in course of transit for the purpose of being imported into another country in contravention of the laws of that country it shall be lawful for the Comptroller of Customs to seize the drug and the drug shall with effect from the seizure thereof be forfeited to the Crown.

(4) Where a dangerous drug brought into The Bahamas in transit is landed, or transshipped in The

Bahamas it shall remain under the control of the Comptroller of Customs and shall be moved only under and in accordance with a removal licence granted in pursuance of section 17.

(5) Nothing in this section contained shall be deemed to apply to any dangerous drug in transit by post or in transit by air if the aircraft passes over The Bahamas without landing, or to such quantities of dangerous drugs as may, *bona fide*, reasonably form part of the medical stores of any ship or aircraft.

Removal licences.

17. (1) No person shall —

(a) remove any dangerous drug from the conveyance by which it is brought into The Bahamas in transit; or

(b) in any way move any such drug in The Bahamas at any time after removal from such conveyance,

except under and in accordance with a licence in Form D of the Schedule (in this Act referred to as a "removal licence") issued by the Minister and in all cases it shall be in the discretion of the Minister to issue or refuse a removal licence as he shall deem fit.

Form D. Schedule.

(2) No removal licence for the transfer of any such drug to any conveyance for removal out of The Bahamas shall be issued unless a valid and subsisting export authorisation or diversion certificate relating to it is produced to the Minister save that where the drug has come from a country not a party to the Single, Vienna and United Nations Conventions this subsection shall not apply.

(3) The provisions of this section shall not apply to dangerous drugs in transit by post.

Drugs in transit not to be tampered with.

18. It shall be unlawful for any person to cause any dangerous drug in transit to be subject to any process which would alter its nature, or wilfully to open or break any package containing a dangerous drug in transit except upon the instructions of the Comptroller of Customs and in such manner as he may direct.

The diversion of dangerous drugs. Form E Schedule.

19. (1) No person shall, except under the authority of a diversion certificate in Form E of the Schedule, cause or procure any dangerous drug brought into The Bahamas in transit to be diverted to any destination other than that to which it was originally consigned.

(2) In the case of any drug in transit accompanied by an export authorisation or a diversion certificate issued by a competent authority of some other country, the country to which the drug was originally consigned shall be deemed to be the country stated in such export authorisation or diversion certificate to be the country of destination.

(3) The Minister may in his discretion issue a diversion certificate in respect of any dangerous drug in transit upon production to him of a valid and subsisting import certificate issued by a competent authority in the country to which it is proposed to divert the drug, or if that country is not a party to the Single, Vienna and United Nations Conventions upon such evidence as may satisfy him that the drug is to be sent in a lawful manner and for a proper purpose.

(4) A diversion certificate shall be issued in duplicate; one copy thereof shall accompany the drug when it is exported from The Bahamas and another copy shall be dispatched by the Minister direct to the proper authority in the country to which the consignment has been diverted.

(5) Upon the issue of a diversion certificate the export authorisation or diversion certificate (if any) accompanying the drug on its arrival in The Bahamas shall be detained by the Minister and returned to the authority issuing such authorisation or diversion certificate together with a notification of the name of the country to which the drug has been diverted.

Application of Tariff Act.

Ch. 295.

20. (1) Articles prohibited to be imported by virtue of this Act shall be deemed to be included among the goods enumerated and described in the schedules of prohibitions and restrictions contained in the Tariff Act and the provisions of this Act relating to the prohibition of the export of articles shall have effect as though such articles were articles the import of which was prohibited by the Tariff Act, and the provisions of that Act or of any Act relating to tariff shall apply in either case.

(2) If any goods prohibited to be exported by virtue of this Act are exported from The Bahamas in contravention thereof, or brought to a quay or other place to be shipped for the purpose of being so exported or of being waterborne to be so exported, the exporter or his agent shall be liable for each such offence to forfeit either treble the value

of the goods, including the duty payable thereon on import, or five thousand dollars at the election of the Comptroller; and the offender may either be detained or proceeded against by summons.

Smuggling.

21. The regulations for the prevention of smuggling, together with the provisions relating to procedure incident to such regulation, contained in the Customs Management Act* shall have effect as though they were included in this Act in relation to all the drugs to which this Act applies, and the provisions of the Customs Management Act or of any Act amending or extending that Act or in substitution therefor shall apply accordingly.

4 of 1976.

PART VI
SUPPLY OF DANGEROUS DRUGS

Restriction on possession of dangerous drugs for the purpose of supplying the same.

22. (1) It is an offence for a person to have a dangerous drug in his possession, whether lawfully or not, with intent to supply it to another in contravention of the provisions of this Act.

(2) Subject to subsections (4) and (5), any person convicted of an offence under subsection (1) shall be liable —

(a) on conviction on information, to a fine of five hundred thousand dollars or to imprisonment for thirty years or to both;

(b) on summary conviction, to a term of imprisonment within the range of four to seven years or to both imprisonment and a fine of two hundred and fifty thousand dollars:

39 of 2011, s. 2.

Provided that where the offence occurs within one mile of a school, such person shall be liable to a term of imprisonment within the range of six to seven years or to both imprisonment and a fine of two hundred and fifty thousand dollars.

(3) For the purposes of subsection (1), where a person is found in possession of two or more packets containing dangerous drugs, or a quantity of dangerous drugs in excess of such quantity as may be prescribed in regard to that drug, it shall be presumed, until the contrary is proved, that he was in possession of that drug with intent to supply it to another or others, irrespective of whether that other or others be within The Bahamas or elsewhere.

* This Act has been repealed and replaced by The Customs Management Act (No. 30 of 2011) – now Ch. 293.

(4) Where a person other than a child or young person is convicted of having committed an offence under subsection (1) with intent to supply a dangerous drug to a child or young person, the person so convicted shall be liable —

(a) on conviction on information to a fine of seven hundred and fifty thousand dollars or to imprisonment for forty years or to both;

39 of 2011, s. 2.

(b) on summary conviction, to a term of imprisonment within the range of four to seven years or to both imprisonment and a fine of five hundred thousand dollars.

(5) Notwithstanding the jurisdiction to hear a charge against a child or young person conferred upon a juvenile court under section 7 of the Children and Young Persons (Administration of Justice) Act*, where a child or young person is charged under subsection (1) with committing an offence with intent to supply a dangerous drug to another child or young person, the charge shall be heard by a magistrate who shall, if satisfied of the guilt of the child or young person so charged, order him to be committed to an industrial school or place of detention for a period not exceeding five years.

21 of 1947.

(6) Save as provided in subsection (5), the provisions of this section shall not in any way derogate from or limit the provisions of the Children and Young Persons (Administration of Justice) Act*.

21 of 1947.

(7) In this section "child", "industrial school", "place of detention" and "young person", respectively, have the same meaning as in the Children and Young Persons (Administration of Justice) Act*.

21 of 1947.

(8) Notwithstanding anything to the contrary in the foregoing provisions of this section, in any case in which a person is convicted of having committed an offence under subsection (1) and the quantity of dangerous drugs to which the charge relates is —

(a) in the case of Indian hemp, in excess of ten pounds;

(b) in the case of cocaine, in excess of two pounds; or

* This Act (formerly Ch. 97) has been repealed by The Child Protection Act (No. 1 of 2007)- now Ch. 132.

(c) in the case of opium morphine and its salts including diacetylmorphine (commonly known as heroin), in excess of twenty grams,

the provisions of subsections (2)(a) and (4)(a) shall have effect as if for the respective maximum terms of imprisonment liable to be imposed thereunder there were substituted a term of life imprisonment.

(9) In this section, any reference to any dangerous drug includes a reference to any admixture containing any proportion of that dangerous drug.

Supply of dangerous drugs.

23. (1) Subject to any rules made under section 10 for the time being in force, it shall not be lawful for any person to supply or offer to supply a dangerous drug to another.

(2) Subject to the provisions of this Act, it is an offence for a person —

(a) to supply or offer to supply a dangerous drug to another in contravention of subsection (1);

(b) to be concerned in the supplying of a dangerous drug in contravention of subsection (1); or

(c) to be concerned in making in contravention of subsection (1) an offer to supply a dangerous drug.

Qualified person authorised to be in possession and to supply dangerous drugs.

24. (1) Subject to the provisions of this Act a qualified person is authorised, so far as may be necessary for the practise or exercise of his profession, function or employment and in his capacity as such, to be in possession of and to supply a dangerous drug.

(2) Every dangerous drug in the actual custody of a qualified person authorised by subsection (1) shall, except when the necessities of the practice or exercise of his profession, function or employment by virtue of which that person is so authorised otherwise require, be kept in a locked receptacle which can be opened only by him or by some other person authorised by this Act to be in possession of the dangerous drug.

PART VII
GENERAL

Power of inspection and search.

25. (1) Any peace officer or other person authorised in that behalf by any general or special order of the Minister shall, for the purposes of the execution of this

Act, have power to enter the premises of any person carrying on the business of a producer, manufacturer, seller, or supplier of any drug to which this Act applies, and to demand the production of and to inspect any books or documents relating to dealings in any such drug and to inspect any stocks of any such drug.

(2) If a magistrate is satisfied by information on oath that there is reasonable ground for suspecting that —

(a) any drugs to which this Act applies are, in contravention of the provisions of this Act or any rules made thereunder, in the possession or under the control of any person in any premises or place; or

(b) any document, in the possession or under the control of any person in any premises or place, is directly or indirectly related to or connected with any transaction or dealing which was, or any intended transaction or dealing which would if carried out be, an offence against this Act or in the case of a transaction or dealing carried out or intended to be carried out in any place outside The Bahamas, an offence against the provision of any corresponding law in force in that place,

the magistrate may grant a search warrant authorising any peace officer named in the warrant, at any time or times within one month from the date of the warrant, to enter, if need be by force, the premises or place named in the warrant, and to search the premises or place and any person found therein.

(3) If there is reasonable ground for suspecting that an offence against this Act has been committed in relation to any drugs to which this Act applies which may be found in any premises or place or in the possession of any person in any such premises or place or that any document which may be found as aforesaid is such a document as aforesaid, the magistrate may order the peace officer to seize and detain those drugs or that document, as the case may be.

(4) If any person wilfully delays or obstructs any person in the exercise of his power under this section or fails to produce or attempts to conceal any such books, stocks, drugs or documents as aforesaid, he shall be guilty of an offence against this Act.

(5) Any person acting under the aforementioned warrant shall not be liable to any suit for seizing or detaining such books, stocks, drugs or documents.

Licenses.

26. Licences or authorities for the purposes of this Act may be issued or granted by the Minister and may be issued or granted on such terms and subject to such conditions (including in the case of a licence the payment of a fee) as the Minister thinks proper.

Permission to import drugs to be obtained.

27. (1) Any person who desires to import any drug to which Part II applies and which may be imported under the provisions of this Act shall —

(a) in the first instance apply to the Minister for permission to import such drug and state the purpose for which it is required; and

(b) every requisition for the export to the importer of any such drug shall be accompanied by a certificate from the Minister stating that the import of the consignment in question is approved of by the Minister and is required for legitimate purposes.

(2) In the case of all drugs to which Part IV for the time being applies, the certificate of approval from the Minister shall state specifically that they are required solely for medicinal or scientific purposes.

(3) The Minister may by Order require all drugs to which this Act applies, imported or otherwise brought into The Bahamas, to be deposited at the dispensary of the Princess Margaret Hospital at the risk of the importer, thence to be withdrawn on the certificate of the Minister at the request in writing of a qualified person who shall state the purpose for which such drugs are required.

Engaging in a continuing criminal enterprise.

28. (1) Any person who engages in a continuing criminal enterprise is guilty of an offence and shall be liable —

(a) on conviction on information to a fine of seven hundred and fifty thousand dollars or to imprisonment for forty years or to both; or

(b) on summary conviction to a term of imprisonment within the range of five to seven years or to both imprisonment and a fine of five hundred thousand dollars.

39 of 2011, s. 3.

(2) For the purpose of subsection (1) a person is engaged in a continuing criminal enterprise if after the coming into operation of this Act —

(a) he does any act in violation of sections 3, 4, 7, 8, 9, 12, 14, 15 or 22, or subsection (1)(e), (f) or (g) of section 29 or subsection (5) of section 29; and

(b) such violation is a part of a continuing series of violations of any of the provisions mentioned in paragraph (a) which are undertaken by such person in concert with five or more other persons with respect to whom such person occupies a position of organiser, a supervisor's position, or any other position of management.

Offences.

29. (1) Any person —

(a) who acts in contravention of, or fails to comply with the provisions of sections 14, 15, 16, 17, 18 and 19 or any rule made under this Act;

(b) who acts in contravention of, or fails to comply with, the conditions of any licence issued or authority granted under or in pursuance of this Act;

(c) who for the purpose of obtaining, whether for himself or for any other person, the issue, grant or renewal of any such licence or authority as aforesaid, makes any declaration or statement which is false in any material particular, or knowingly utters, produces or makes use of any such declaration or statement or any document containing the same;

(d) who in The Bahamas aids, abets, counsels or procures the commission in any place outside The Bahamas of any offence punishable under the provisions of any corresponding law in force in that place or does any act preparatory to, or in furtherance of, any act which, if committed in The Bahamas, would constitute an offence against this Act;

(e) who grows or cultivates in any part of The Bahamas the opium poppy (Papaver somniferum), Indian hemp (any plant of the genus cannabis) or coca leaves;

(f) who in any place, solicits any person for the purpose of selling to that person, any dangerous drug;

(g) who in any place, solicits any person for the purpose of obtaining from that person any money or valuable thing by misrepresentation,

is guilty of an offence.

(2) Every person guilty of an offence against this Act for which no other penalty is provided shall in respect of each offence, be liable —

(a) on conviction on information, to a fine of one hundred and twenty-five thousand dollars or to imprisonment for ten years, or to both;

(b) on summary conviction, to a fine of fifty thousand dollars or a term of imprisonment within the range of five to seven years or to both, *39 of 2011, s. 4.*

and shall, in every case on conviction for the offence, forfeit to the Crown all real or personal property in respect of which the offence was committed.

(3) No person shall in The Bahamas be proceeded against by information for an offence under this Act unless the proceedings are instituted by the Attorney-General.

(4) No person shall, on conviction for any offence of contravening or failing to comply with any rule under this Act —

(a) relating to the keeping of books; or

(b) the issuing or dispensing of prescriptions containing drugs to which this Act applies,

be sentenced to imprisonment without the option of fine or to pay a fine exceeding two hundred and fifty dollars, if the court dealing with the case is satisfied that the offence was committed through inadvertence and was not preparatory to, or committed in the course of, or in connection with, the commission or intended commission of any offence against this Act.

(5) If any person attempts to commit an offence against this Act, or solicits or incites another person to commit such an offence, he shall without prejudice to any other liability, be liable on summary conviction to the same punishment and forfeiture as if he had committed an offence under this Act.

(6) Where any drug to which this Act applies is, without the proper authority, found in the possession of

any person or stored or kept in a place other than a place prescribed for the storage or keeping of such drug, such person, or the occupier or owner of such place or the owner of or other person responsible for the keeping of such drug unless he can prove such drug was deposited there without his knowledge or consent, shall be guilty of an offence against this Act.

(7) Where a person convicted of an offence under this Act is a company, the chairman and every director and every officer concerned in the management of the company shall be guilty of the like offence unless he proves that the act constituting the offence took place without his knowledge or consent.

(8) Any proceedings for an offence against this Act or proceedings for attempting or soliciting or inciting another person to commit such an offence before a court of summary jurisdiction may, notwithstanding any provisions prescribing the time within which such proceedings may be brought, may be brought either within the time so prescribed or within three months from the date on which evidence sufficient in the opinion of the Attorney-General to justify the prosecution for the offence comes to his knowledge, whichever is the longer, and, for the purpose of this subsection, a certificate purporting to be signed by the Attorney-General as to the date on which such evidence as aforesaid comes to his knowledge shall be conclusive evidence thereof.

(9) For the purpose of removing doubts, it is hereby declared —

(a) that in any proceedings against any person for an offence against this Act it is not necessary to negative by evidence any licence, authority or other matter of exception or defence, and that the burden of proving any such matter lies on the person seeking to avail himself thereof;

(b) that, notwithstanding anything in any other Act to the contrary, any term of imprisonment imposed under this section on any person by a court of summary jurisdiction in respect of the non-payment of a fine for an offence against this Act may be ordered to commence at the expiration of any term of imprisonment imposed on that person for the same offence in addition to the fine;

(c) that any article shall be deemed to be imported under the provisions of this Act or exported under licence if the importer complies with the requirements of this Act and the rules made thereunder and the holder of a licence authorising the exportation complies with the conditions, if any, of the licence, but not otherwise.

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

(a) a misrepresentation is a representation made by a person that a substance is a dangerous drug, with knowledge that such representation is false or without the belief that it is true and made with the purpose to defraud;

(b) a misrepresentation may be made either by written or spoken words or by any other conduct, sign or means of whatsoever kind;

(c) where a person is found in any place in possession of dangerous drugs or any substance which having regard to its appearance, quality or texture is capable of being misrepresented as a dangerous drug, it shall be presumed that, unless the contrary is shown, that person was in possession for the purpose of committing an offence under paragraph (f) of subsection (1) or of making a misrepresentation.

Conspiracy to commit offence.

30. (1) If two or more persons agree or act together with a common purpose in committing or abetting an offence against this Act whether with or without any previous concert or deliberation, each of them is guilty of conspiracy to commit or abet that offence as the case may be, and shall be liable on conviction to the same punishment and forfeiture as if he had committed an offence under this Act.

(2) A person within the jurisdiction of the courts can be guilty of conspiracy by agreeing with another person who is beyond the jurisdiction for the commission or abetment of any offence under this Act to be committed by them or either of them, or by any other person, either within or beyond the jurisdiction; and for the purposes of this subsection as to an offence to be committed beyond the jurisdiction, "offence" means any act which, if done within the jurisdiction, would be an offence under this Act.

Power of arrest.

31. Any peace officer may arrest without warrant any person who has committed, or attempted to commit, or

is reasonably suspected by the peace officer of having committed or attempted to commit an offence against this Act, if he has reasonable grounds for believing that that person will abscond unless arrested, or if the name and address are unknown to and cannot be ascertained by him.

Forfeiture of dangerous drugs.

32. A court before which any person is charged for an offence under this Act may order that any dangerous drugs to which the charge relates shall be forfeited to the Crown.

Forfeiture of property etc., used in connection with offence.

33. (1) A court shall order to be forfeited to the Crown in addition to any other penalty provided by this Act —

(a) any personal property which has been used in the commission of or in connection with an offence under this Act; or

(b) any personal property received or possessed by any person as a result or product of an offence under this Act,

whether or not any person has been convicted of such offence.

(2) A court shall order to be forfeited to the Crown in addition to any other penalty provided by this Act —

(a) any real property which has been used in the commission of or in connection with an offence under this Act; or

(b) any real property received or possessed by any person as a result or product of an offence under this Act,

where any person has been convicted of an offence under this Act.

(3) An order made by a court for the the forfeiture of any real or personal property may include a term permitting a specified person to redeem such property 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.

(4) The court may require that notice of an application for forfeiture under subsection (1) shall be given in such manner as it thinks fit.

(5) The Minister of Finance may, in his discretion, and after any proceedings under this Act are concluded, entertain and give effect to any moral claim to, or in respect to any real or personal property which has been forfeited to the Crown.

Remission of sentence.
39 of 2011, s. 5.

33A. Notwithstanding any written law providing for the remission of a term of imprisonment by reason of good conduct and industry, the term of incarceration that a person undergoes for an offence under the provisions under this Act, shall not be less than the specific period of imprisonment imposed by the respective sentence of the court.

34. In addition to the specific power in this Act provided, the Minister may make rules generally for the purpose of carrying out the objects of this Act; and also to give effect to any requirements which may from time to time become necessary for the carrying out of the provisions of any pertinent international convention relating to drugs to which The Bahamas has adhered.

Repeal.
12 of 1939.

35. *Repealed.*

Savings.
12 of 1939.

36. (1) All proceedings for an offence brought under the repealed Dangerous Drugs Act and which commenced before the coming into force of this Act shall subsist and continue under the provisions of the repealed Dangerous Drugs Act.

12 of 1939.

(2) Any licence issued under the repealed Dangerous Drugs Act which is in force immediately before the commencement of this Act —

(a) shall have effect as from the commencement of this Act as if granted under this Act;

(b) in the case of a licence for a specified period, shall remain in force, subject to the provisions of this Act, for so much of that period as falls after the commencement of this Act.

SCHEDULE (Section 13 and 15(2))

FORM A

IMPORT CERTIFICATE
(DANGEROUS DRUGS ACT)

SINGLE CONVENTION
CERTIFICATE OF OFFICIAL APPROVAL OF IMPORT

Serial No .....
File No .....

I, being the person charged with responsibility for the administration of the law relating to dangerous drugs to which the Single Convention apply hereby certify that I have approved the importation by

Here insert name, address and business of importer.

of

Here insert exact description and amount of drugs to be imported.

from

Here insert name and address of firm in exporting country from which the drug is to be obtained.

subject to the conditions that

(1) the consignment shall be imported before the ..... ; and

(2) the consignment shall be imported by ..... and that I am satisfied that the consignment proposed to be imported is required —

Strike out words not applicable.

(a) for legitimate purposes (in the case of raw opium or the coca leaf)

(b) solely for medicinal or scientific purposes (in the case of Indian Hemp or drugs to which Article 4 of the Single Convention, and Article 5 of the Vienna Convention applies)

....
(Date) *(Signature of the Minister)*

FORM B (Section 14(1))

EXPORT AUTHORISATION
(DANGEROUS DRUGS ACT, 2000)

SINGLE CONVENTION
CERTIFICATE OF OFFICIAL APPROVAL OF IMPORT

Serial No ..... File No .....
Applicant's ref. No .....

In pursuance of The Dangerous Drugs Act, 2000 the Minister hereby authorises ..... (hereinafter called "the exporter") to export from

(1) the port of ..... by S.S . .....

(2) The Bahamas by Parcel Post in Parcels from the .... Post Office in ..... to ..... in virtue of Import Certificate No. ..... dated ..... issued by ..... the following drugs namely —

Strike out words not applicable.

This authorisation is issued subject to the following conditions —

1. This authorisation is not a licence to obtain or be in possession of drugs named herein.

2. This authorisation does not relieve the exporter from compliance with any Customs regulations in force for the time being relating to the exportation of goods from The Bahamas nor from any provision of the Post Office Act, or of any Post Office Regulations for the time being in force, nor from any rules or regulations respecting the transmission of articles by post which may for the time being be in force, whether within The Bahamas or elsewhere.

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3. If the drugs are authorised to be exported by ship the duplicate copy, which is attached, shall accompany the consignment to the place of destination, and for this purpose the exporter shall cause it to be delivered to the Master of the vessel by which the consignment is dispatched. (See footnote(3).)

4. If the drugs are authorised to be exported by post the attached duplicate copy shall be placed inside the outer wrapper of the parcel containing the drugs. If the drugs are contained in more than one parcel, the duplicate copy shall be placed inside the outer wrapper of one of them; the parcels shall be consecutively numbered on the outer wrapper and on each parcel there shall be legibly stated the number of the parcel in which the duplicate copy is to be found. (See footnote (2).)

5. The exporter, if so required by the Minister shall produce to him, within such times as he may allow, proof to his satisfaction that the said drugs were duly delivered at the destination named in the authorisation, and in the event of non-compliance with this condition the authorisation shall be deemed void and of no effect.

6. The exporter shall furnish to the Minister such returns of the goods exported by him in pursuance of this authorisation as may from time to time be required.

7. This authorisation is valid only for the exporter named above and may be revoked at any time by the Minister. It shall be produced for inspection when required by any duly authorised person. (See Note (1).)

8. This authorisation, unless sooner revoked, shall continue in force for three calendar months from the date hereof. It must be produced at the time of export, to any officer of-

(a) the Customs Department; or

(b) the Post Office,

who will retain it.

If not used it shall be surrendered to the Minister within seven days of the date of its expiry.

....
(Date) *(Signature of the Minister)*

Note:

(1) If any alteration is desired in the authorisation it must be returned with a request for amendment and a statement of the reasons therefor. No unauthorised alteration is permissible.

(2) In the case of the drugs exported by post failure to comply with this condition may lead to delay or confiscation of the parcels in the country of destination.

(3) In the case of drugs exported by ship this document is required in pursuance of Article 31(6) and (10) of the Single Convention, Article 12(1)(d) and (3)(d) and (e) of the Vienna Convention and Article 12(9) and (10) and Article 16 of the United Nations Convention to be produced to the competent authority of any country through which the consignment passes, whether it is transshipped or not. Failure to comply with the condition may lead to delay or confiscation of the consignment.

FORM C (Section 15(1))

IMPORT AUTHORISATION
(DANGEROUS DRUGS ACT, 2000)

Authorisation No .....

File No .....

In pursuance of the Dangerous Drugs Act, 2000 (hereinafter called "the Act") the Minister hereby authorises .... (hereinafter called "the importer") to import the drugs specified in the Schedule hereto, from ....

Here insert name and postal address of importer.

Here insert name and postal address of exporter.

This authorisation is issued subject to the following conditions:

(1) The drugs shall be imported before .....
(Date)

(2) This authorisation is not a licence to be in possession of or to supply the drug imported.

(3) This authorisation does not relieve the importer from compliance with any Customs regulations in force for the time being relating to the importation of goods into or transshipment of goods in The Bahamas, or any Post Office regulations for the time being in force in The Bahamas.

(4) This authorisation is valid only for the importer and may be revoked at any time by the Minister, to whom it shall in that event be immediately surrendered. It shall be produced for inspection when required by any duly authorised person.

(5) This authorisation, unless sooner revoked, shall be produced to the Customs officer at the time of importation and shall be surrendered to the Customs Officer at the time when the last consignment of drugs is imported.

(6) If the importation of all the drugs specified in the Schedule is not effected before the date specified in condition No. 1, this authorisation shall immediately after that date be surrendered to the Minister.

(7) The copy of the export authorisation, if any, which accompanied the drugs shall be forwarded to the Minister immediately the importation of the drugs has been effected.

....
(Date) *(Signature of the Minister)*

SCHEDULE specifying the drugs and quantities thereof to be imported.

This authorisation is not to leave the possession of the importer until it is surrendered to the Minister or to the Customs Officer, who will complete the certificate on the back and return the authorisation to the Minister.

ENDORSEMENT BY CUSTOMS OFFICER AT THE TIME OF IMPORTATION

Date.	Description of drugs imported.	Number and date of Export Authorisation.	Quality.	How Imported.	Customs entry or Parcel No.	Signature mark and Station of customs Officer.
				e.g., ex ..... (in the case of a ship) or by registered parcel post or by insured box post.		

This authorisation, when all the drugs to which it relates have been imported, must be returned by the Customs officer to the Minister.

FORM D (Section 17(1))

LICENCE FOR THE REMOVAL OF DANGEROUS DRUGS IN TRANSIT
(DANGEROUS DRUGS ACT, 2000)

..... is hereby authorised to move the dangerous drugs described hereunder from ..... to .....

Nature and quantity of dangerous drugs .....

Particulars of export authorisation (or diversion certificate) if any relating thereto .....

Name of ship on which the drugs were brought into The Bahamas .....

Date of arrival .....

Number of packages .....

Marks and numbers on packages .....

This licence is issued subject to the following conditions —

(1) This licence is valid only for the removal of the drugs specified above.

(2) The removal of the drugs shall take place between .... a.m./ p.m. and..... a.m/p.m. on the..... 20 .....

(3) If the removal of the drugs does not take place within the hour and on the day specified, this licence must be returned to the Minister forthwith; and in any case shall be surrendered when the removal has taken place.

(4) The drugs must not be moved unless an officer of the Customs Department is present.

(5) This licence does not authorise the person named above to be in possession of the drugs otherwise than for the purpose of removing them in accordance with this licence.

(6) The packages containing the drugs are not to be opened or broken in the course of the removal.

(7) This licence shall be produced at any time when required by a duly authorised person.

....
(Date) *(Signature of the Minister)*

FORM E (Section 19(1))

THE SINGLE, VIENNA AND UNITED NATIONS CONVENTIONS DIVERSION CERTIFICATE (DANGEROUS DRUGS ACT, 2000)

I, being the person charged with responsibility for the administration of the law relating to the dangerous drugs to which the Single, Vienna and United Nations Conventions apply, hereby certify that I have authorised the diversion of the consignment of drugs, of which particulars are given below, to the destination stated below.

Description and quantities of drugs .....

Name of vessel on which the consignment was brought to The Bahamas .....

Name and address of the exporter .....

Number and date of export authorisation and authority by whom issued .....

Name and address of original consignee named in the export authorisation .....

Name and address of consignee to whom the consignment is authorised to be diverted .....

Number and date of import certificate (and authority by whom issued) by virtue of which this diversion is authorised .....

Name of vessel on which the consignment is authorised to be carried from The Bahamas .....

Period within which the consignment is to be carried from The Bahamas .....

This certificate is issued subject to the following conditions —

(1) The duplicate copy of this certificate shall accompany the consignment to the place of destination, and for this purpose shall be delivered to the Master of the vessel by which the consignment is dispatched.

(2) This certificate does not relieve any person who may be concerned with the carriage of the consignment of drugs specified above from compliance with any Customs regulations in force for the time being relating to the exportation of goods from The Bahamas.

(3) This certificate is valid only for the consignment and for the period specified above, and may be revoked at any time.

(4) If the consignment of drugs is not carried from The Bahamas within the period specified above, this certificate shall be surrendered to the Minister.

(5) This certificate shall be produced at any time when required by a duly authorised person.

....
(Date) *(Signature of the Minister)*

NOTE:

(1) If any alteration is desired in this authorisation, it must be returned with a request for amendment and statement for the reasons therefor. No unauthorised alteration is permissible.

(2) This document is required in pursuance of Article 31(6), (10), (11) and (12) of the Single Convention, Article 12(1)(d) and (3)(d), (e) and (f) of the Vienna Convention and Article 12(9) and (10) of the United Nations Convention to be produced to the competent authority of any country through which the consignment passes, whether it is transshipped or not. Failure to comply with the condition may lead to delay or confiscation of the consignment.