



TURKS AND CAICOS ISLANDS

CHAPTER 3.14

CONTROL OF DRUGS ORDINANCE

Revised Edition
showing the law as at 31 March 2018

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Ordinance.

This edition contains a consolidation of the following laws—

CONTROL OF DRUGS ORDINANCE

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Ordinance 4 of 1976 .. in force 28 June 1976 (L.N. 17/1976)

Amended by Ordinances: 9 of 1980 .. in force 12 September 1980 (L.N. 32/1980)

21 of 1990 .. in force 9 November 1990

7 of 1996 .. in force 16 August 1996

4 of 1998 .. in force 28 March 2003 (L.N. 13/2003)

9 of 1998 .. in force 15 May 1998

14 of 2016 .. in force 1 June 2016 (L. N. 34/2016)

No Subsidiary Legislation has been made under this Ordinance



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CHAPTER 3.14
CONTROL OF DRUGS ORDINANCE

(Ordinances 4 of 1976, 9 of 1980,
21 of 1990, 7 of 1996, 4 of 1998, 9 of 1998 and 14 of 2016)

Commencement

[28 June 1976]

AN ORDINANCE TO MAKE PROVISION WITH RESPECT TO DANGEROUS OR OTHERWISE HARMFUL DRUGS AND RELATED MATTERS, AND FOR OTHER PURPOSES CONNECTED THEREWITH.

Short title

1. This Ordinance may be cited as the Control of Drugs Ordinance.

PART I

PRELIMINARY

Interpretation

2. (1) In this Ordinance,—

“authorised person” means a person authorised to possess a controlled drug under the provisions of Schedule 2;

“cannabis” (except in the expression cannabis resin) means any plant of the *genus Cannabis* or any part of any such plant (by whatever name designated) except that it does not include cannabis resin or any of the following products after separation from the rest of the plant, namely—

- (a) mature stalk of any such plant;
- (b) fibre produced from mature stalk of any such plant;
- (c) seed of any such plant;(Substituted by Ord. 9 of 1980)

“cannabis resin” means the separated resin whether crude or purified, obtained from any plant of the *genus Cannabis*;

“contravention” includes failure to comply, and “contravene” has a corresponding meaning;

“controlled drug” has the meaning given to that expression by section 3;

“corresponding law” has the meaning given to that expression by section 23;

“pharmacist” means any person authorised, under any law for the time being in force, to dispense drugs or to conduct a retail pharmacy business, and until any such law is enacted means any person approved by the Governor as being qualified to act as a pharmacist;

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

“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;

“supply” includes distributing;

“veterinary practitioner” means any person authorised to practise as such under any law for the time being in force relating to veterinary surgery, and until any such law is enacted means any person approved by the Governor as being qualified to practise as such.

(2) References in this Ordinance to misusing a drug are references to misusing it by taking it; 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 way of any form of self-administration, whether or not involving the assistance of another.

(3) For the purposes of this Ordinance 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.

Controlled drugs and their classification

3. (1) In this Ordinance—

- (a) the expression “controlled drug” means any substance or product for the time being specified in Part I, II or III of Schedule 1; and
- (b) the expressions “Class A drug”, “Class B drug” and “Class C drug”, mean any of the substances and products for the time being specified respectively in Part I, Part II and Part III of that Schedule;

and Part IV of that Schedule has effect with respect to the meanings of expressions used in that Schedule.

(2) The Governor may by order amend, vary, delete from or add to any Part of Schedule 1.

PART II

RESTRICTIONS AND OFFENCES RELATING TO CONTROLLED DRUGS, ETC

Restriction of importation and exportation of controlled drugs

4. (1) Subject to this section, the importation into the Islands or the exportation from the Islands of any controlled drug is prohibited.

(2) Subsection (1) shall not apply to the importation or exportation of a controlled drug under and in accordance with the terms of a licence in that behalf issued in accordance with such procedure as may be prescribed.

(3) For the purposes of the Customs Ordinance, any controlled drug, the importation or exportation of which is prohibited under this section, shall be deemed to be prohibited to be imported, carried coastwise or exported under the provisions of the Customs Ordinance.

(4) Nothing in this section shall be held to prohibit the bringing into, or the taking out of, the Islands—

- (a) of any controlled drug in accordance with the provisions of this Ordinance relating to controlled drugs in transit; or
- (b) of any controlled drug carried for his own personal use, by a passenger in transit or who is entering or departing from the Islands—
 - (i) where such controlled drug has been prescribed for the passenger by a medical practitioner or, in the case of a person in transit on entering the Islands, by a doctor of medicine authorised to practise as such by the law of the country where the prescription was issued; and
 - (ii) where the quantity of the controlled drug so carried does not exceed the reasonable requirements, on medical grounds, of that person on his journey or, in the case of a person entering the Islands, for his own use within twenty-four hours of his arrival in the Islands:

Provided that the exemption conferred by this paragraph shall only apply in a case in which the possession of such controlled drug, and the quantity carried, is declared to a customs officer immediately on arrival or, in the case of a person leaving the Islands, upon seeking customs clearance.

Restriction of production and supply of controlled drugs

5. (1) Subject to the provisions of this section, section 13 and of any regulations made under this Ordinance, it shall not be lawful for any person—

- (a) to produce a controlled drug; or
 - (b) to supply or offer to supply a controlled drug to another person.
- (2) Subject to section 12, it is an offence for a person—
- (a) to produce a controlled drug in contravention of subsection (1);
 - (b) to be concerned in the production of such a drug, in contravention of subsection (1), by another person;
 - (c) to supply or offer to supply a controlled drug to another person in contravention of subsection (1);
 - (d) to be concerned in the supplying of such a drug to another person in contravention of subsection (1); or
 - (e) to be concerned in the making to another, in contravention of subsection (1), of an offer to supply such a drug;

Provided that it shall not be an offence for a person who is in possession of a controlled drug to supply such drug to a customs officer or police officer acting, and receiving such drug, in the course of his duty for the enforcement of this Ordinance or the Customs Ordinance.

Restriction of possession of controlled drugs

6. (1) Subject to this section and section 13, it shall not be lawful for any person, other than an authorised person, to have a controlled drug in his possession.

(2) Subject to section 12, it is an offence for a person to have a controlled drug in his possession in contravention of subsection (1).

(3) Subject to section 12, it is an offence for a person to have a controlled drug in his possession, whether lawfully or not, with intent to supply it to another person in contravention of section 5.

(4) In any proceedings for an offence under subsection (2) in which it is proved that the accused had a controlled drug in his possession, it shall be a defence for him to prove—

- (a) that, knowing or suspecting it to be a controlled drug, he took possession of it for the purpose of preventing another from committing or continuing to commit an offence in connection with that drug and that as soon as possible after taking possession of it he took all such steps as were reasonably open to him to destroy the drug or to deliver it into the custody of a person lawfully entitled to take custody of it; or
- (b) that, knowing or suspecting it to be a controlled drug, he took possession of it for the purpose of delivering it into the custody of a person lawfully entitled to take custody of it and that as soon as possible after taking possession of it he took all such steps as were reasonably open to him to deliver it into the custody of such a person.

(5) Subsection (4) shall apply in the case of proceedings for an attempt to commit an offence under subsection (2) as it applies in the case of proceedings for an offence under subsection (2), subject to the following modifications—

- (a) for the references to the accused having in his possession, or his taking possession of, a controlled drug, there shall be substituted respectively references to his attempting to get, or his attempting to take, possession of such a drug; and
- (b) in paragraphs (a) and (b) the words “and that as soon as possible” onwards shall be omitted.

(6) Nothing in subsections (4) or (5) shall prejudice any defence which it is open to a person, charged with an offence under this section, to raise apart from those subsections.

(7) The possession of a controlled drug by any of the following persons, in the circumstances stated, shall not be unlawful and shall not constitute an offence under this section—

- (a) a police officer or customs officer acting in the course of his duties as such;
- (b) an officer of a court in the course of his duties as such in connection with any proceedings before the court;
- (c) a person employed in the Post Office when acting in the course of his duties as such employee;
- (d) a person qualified to carry out any forensic examination of any substance when acting in the course of his duty to carry out any such examination;
- (e) a person engaged in the business of a carrier when acting in the course of that business, provided that the controlled drug concerned is at the time of such possession in an unopened package.

Special offence of possession of controlled drugs in certain circumstances

7. (1) Without prejudice to any liability for the commission of an offence under this Ordinance or any other law, a person commits an offence who has in his possession or under his control any controlled drug with intent to sell or transfer such controlled drug to any other person in contravention of this Ordinance or for the purpose of the commission of any other crime.

(2) For the purpose of subsection (1) where any controlled drug is found in any ship, vessel, aircraft, vehicle or other means of conveyance within the Islands or the Islands' waters—

- (a) the ship, vessel, aircraft, vehicle or other means of conveyance may be seized by an officer of customs or police officer; and
- (b) the master or any person in control of such ship, vessel, aircraft, vehicle or other means of conveyance, as the case may be, shall be deemed guilty of an offence under subsection (1) unless he proves that the controlled drug was in the ship, vessel, aircraft, vehicle or other means of conveyance without his consent, knowledge or connivance and that he exercised all due diligence to prevent the commission of the offence.

(3) Nothing in subsection (2)(b) shall apply if the master or other person therein referred to proves to the satisfaction of the court that the controlled drug is cargo properly manifested to consignees in the Islands or elsewhere, or are *bona fide* stores of any ship, vessel or aircraft, in the custody of the proper officer authorised for the purpose.

(4) Nothing in subsection (2) shall apply to any ship, vessel or aircraft belonging to the Royal Navy, the Royal Air Force or the naval or air forces of any other country, if permission has been granted by the competent authority for

such ship or vessel to come into the territorial waters of the Islands or for such aircraft to enter the Islands.

(5) Where any person is convicted of an offence under this section, the court before which he is convicted shall order that the ship, vessel, aircraft, vehicle or other means of conveyance, shall be forfeited and become the property of the Government to be disposed of as the Government shall deem fit.

(6) Where a person has—

- (a) been charged with an offence under subsection (1);
- (b) been released on bail under the provisions of Part IX of the Magistrate's Court Ordinance as read with section 35; and
- (c) failed to answer to his bail by not appearing before the Magistrate or the Supreme Court, as the case may be, when conditioned so to do by the recognizance of his bail,

subsection (5) shall apply as if the person so charged had been convicted of an offence under this section, and the Court before whom the person was due to appear shall make an order in terms of subsection (5).

(Inserted by Ord. 9 of 1980)

Being concerned in possession of controlled drug

8. Subject to section 11, it is an offence for a person to be concerned in the possession of a controlled drug whether lawfully or not, with intent to supply it to another person in contravention of section 5. *(Inserted by Ord 4 of 1998).*

Restriction of cultivation of cannabis plant, opium poppy or coca plant

9. (1) Subject to any regulations made under this Ordinance, it shall not be lawful for a person to cultivate any plant of the *genus Cannabis*, or the opium poppy (*Papaver somniferum*) or the coca plant (*Erythroxylum coca*).

(2) Subject to section 12, it is an offence to cultivate any such plant in contravention of subsection (1).

Occupier of premises liable for knowingly permitting certain activities thereon

10. A person commits an offence if, being the occupier or concerned in the management of any premises, he knowingly permits or suffers any of the following activities to take place on those premises—

- (a) producing or attempting to produce a controlled drug in contravention of section 5;
- (b) supplying or attempting to supply a controlled drug to another, or offering to supply a controlled drug to another, in contravention of section 5;
- (c) preparing opium for smoking;
- (d) smoking cannabis, cannabis resin or prepared opium.

Offences relating to opium

11. Subject to section 11, it is an offence for a person—

- (a) to smoke or otherwise use prepared opium;
- (b) to frequent a place used for the purpose of smoking prepared opium; or
- (c) to have in his possession—
 - (i) any pipes or other utensils made or adapted for use in connection with the smoking of prepared opium, being pipes or utensils which have been used by him or with his knowledge and permission in that connection or which he intends to use or to permit others to use in that connection; or
 - (ii) any utensils which have been used by him or with his knowledge and permission in connection with the preparation of opium for smoking.

Lack of knowledge, etc. to be a defence in certain cases

12. (1) This section applies to offences under sections 5, 6, 9 and 11.

(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 any 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 any 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 a 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.

Certain activities not to be unlawful

13. Subject to the provisions of any regulations made under this Ordinance—

- (a) it shall not be unlawful under section 5—
 - (i) for a medical practitioner, dental practitioner or veterinary 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 or compound a controlled drug or to supply the same in accordance with a written prescription from a medical, dental or veterinary practitioner;
 - (ii) for a matron, sister or nurse, who is an authorised person, to administer or supply a controlled drug to a patient in accordance with the instructions of a medical practitioner;
 - (iii) for the commander of any aircraft or the master of any ship to prescribe, administer or supply a controlled drug, which is authorised to be carried in such aircraft or ship, to any person in the event of illness, accident or emergency arising during any flight or voyage or when the aircraft or ship is in a place where the services of a medical practitioner are not available;
- (b) it shall not be unlawful under section 6 for any person to have in his possession any controlled drug supplied to him in accordance with the prescription of a medical practitioner, dental practitioner, or veterinary practitioner, for medical, dental or veterinary purposes:

Provided that this exemption shall cease to apply in case the controlled drug is used for a purpose other than that for which it was prescribed.

Restriction of acquisition of property derived from drug offence

14. (1) A person who knowingly acquires, possesses, uses, converts or transfers property that is derived from any offence under section 5, 6, 7, 8 or 18 commits an offence.

(2) In addition to the penalty provided in subsection (1), the property shall be forfeited. (*Inserted by Ord 14 of 2016*)

Restriction of possession of equipment for production of drugs, etc.

15. A person who, without lawful authority, possesses any equipment, material or substance listed in Table 1 and Table 2 in Schedule 3 or intended to be used in or for the cultivation or production of a controlled drug commits an offence. (*Inserted by Ord 14 of 2016*)

Inciting, etc. the commission of an offence

16. A person commits an offence if he incites or induces, by any means, the commission of an offence under this Ordinance or the use of any controlled drug.
(Inserted by Ord 14 of 2016)

Attempts, conspiracy, aiding, abetting etc.

17. An attempt or conspiracy to commit an offence or aiding, abetting, counseling or procuring the commission of an offence under this Part shall be punishable as if the offence had been committed. (Inserted by Ord. 14 of 2016)

Assisting, etc. in the Islands, the commission of an offence outside the Islands

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

Offences by corporations

19. Where any offence under this Ordinance 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 shall be guilty of that offence and shall be liable to be proceeded against accordingly.

PART III

LAW ENFORCEMENT AND PUNISHMENT OF OFFENCES

Powers of inspection and search

20. (1) Any medical officer, customs officer, police officer or other person authorised in that behalf by the Governor, shall for the purposes of the enforcement and administration of this Ordinance, have power to enter, during normal business hours, the premises of any person carrying on any business involving the production, use, sale or distribution of any controlled drug, and to demand the production of, and to inspect, any books or documents relating to any such drugs and to inspect and check any stock of such drugs held by that person.

(2) If a police officer has reasonable grounds to suspect that any person is in possession of a controlled drug in contravention of this Ordinance, that police officer may—

(a) search that person, and detain him for the purpose of searching him;

Provided that no woman shall be searched except by a woman;

- (b) search any vehicle or vessel in which the police officer suspects that the drug may be found and for that purpose may require the person in control of the vehicle or vessel to stop it;
- (c) seize and detain, for the purposes of proceedings under this Ordinance, anything found in the course of the search which appears to the police officer to be evidence of an offence under this Ordinance;

and in this subsection “vehicle” includes an aircraft and “vessel” includes a hovercraft. Nothing in this subsection shall prejudice any power of search or any power to seize or detain property which is exercisable by a police officer apart from this subsection.

(3) If a Magistrate or a Justice of the Peace is satisfied by information on oath that there is reasonable ground for suspecting—

- (a) that any controlled drugs are, in contravention of this Ordinance, on any premises; or
- (b) that a document directly or indirectly relating to, or connected with, a transaction or dealing which was, or an intended transaction or dealing which if carried out would be, an offence under this Ordinance, or in the case of a transaction or dealing carried out or intended to be carried out in a place outside the Islands, an offence against the provisions of a corresponding law in force in that place, is in the possession of a person on any premises,

he may grant a warrant authorising any police officer, at any time or times within one month from the date of the warrant, to enter, if need be by force, the premises named in the warrant, and to search the premises and any person found therein and, if there is reasonable ground for suspecting that an offence has been committed in relation to any controlled drug found on the premises or in the possession of any such person, or that a document so found is such a document as is mentioned in paragraph (b), to seize and detain those drugs or that document, as the case may be.

(4) A person commits an offence if he—

- (a) intentionally obstructs a person in the exercise of his powers under this section;
- (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 whereof shall lie on him, fails to produce any such books or documents as are so mentioned where their production is demanded by a person exercising his powers under subsection (1);

and is liable on summary conviction to a fine of \$1,000 or to imprisonment for a term of one year, or to both.

Powers of arrest

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

- (a) he believes, with reasonable cause, that that person will abscond unless arrested;
- (b) the name and address of that person are unknown to him and cannot be ascertained by him; or
- (c) he is not satisfied that a name and address furnished by that person as his name and address are true.

(2) Nothing in this section shall prejudice any power of arrest conferred by law apart from this section.

Forfeiture of article connected with offence

22. (1) Subject to subsection (2), the court by or before which a person is convicted of an offence under this Ordinance may order anything, shown to the satisfaction of the court to relate to the offence, to be forfeited and either destroyed or dealt with in such manner as the court may order.

(2) The court shall not order the forfeiture of anything under this section, where a person claiming to be the owner or otherwise interested in it applies to be heard by the court, unless an opportunity has been given to him to show cause why the order should not be made.

Meaning of “corresponding law”, and evidence of such law

23. (1) In this Ordinance the expression “corresponding law” means a law stated in a certificate purporting to be issued by or on behalf of the government of a country outside the Islands 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 that country and Her Majesty’s Government in the United Kingdom are for the time being parties, and which applied or has been extended to apply to the Islands.

(2) A statement in any such certificate as aforesaid to the effect that any facts constitute an offence against the law mentioned in that certificate shall be evidence of the matters stated.

(3) Without prejudice to the foregoing provisions of this section, in any proceedings under this Ordinance in which an issue arises as to the law of England in relation to any matter which under the foregoing provisions might be proved by such a certificate, the court may take judicial notice of the law for the time being in force in England without further proof.

Attempts to commit offences

24. (1) Any person who is convicted of an attempt to commit, or of inciting or attempting to incite another to commit, an offence under this Ordinance shall (notwithstanding any powers of punishment at common law upon conviction for an attempt to commit an offence) be liable to punishment, on summary conviction or on trial before the Supreme Court, as the case may be, not exceeding that which may be imposed upon conviction for the substantive offence when tried in the like manner.

(2) In this section “the substantive offence” means the offence under this Ordinance to which the attempt, or, as the case may be, the incitement or attempted incitement was directed.

Prosecution and punishment of offences under Part II

25. (1) Schedule 4 applies, in accordance with subsection (2), with respect to the punishment of persons convicted of offences under Part II.

(2) In relation to an offence referred to in the first column of Schedule 4 (the general nature of the offence being described in the second column)—

- (a) the third column shows whether the offence is punishable on summary conviction or on trial before the Supreme Court, or in either way;
- (b) the fourth column shows the punishment which may be imposed on a person convicted of the offence, according to whether the offence was committed in relation to a controlled drug in Class A, B or C and whether it is tried summarily or before the Supreme Court; and
- (c) the fifth column shows the punishment which may be imposed, in relation to each such offence, according to whether it is tried summarily or before the Supreme Court, irrespective of whether or not the offence involved a controlled drug or any particular Class of controlled drug.

(3) Notwithstanding section 20(2) of the Magistrate’s Court Ordinance, the Magistrates Court may hear and determine a complaint for an offence punishable summarily to which this section applies at any time within twelve months from the date of the commission of the offence.

Evidence as to nature of substance alleged to be controlled drug

26. (1) In any proceedings for an offence under this Ordinance or the Customs Ordinance the production of a certificate that any substance alleged to be a controlled drug is a particular controlled drug shall be *prima facie* evidence of the fact so stated, if the certificate purports to be signed by a person who is approved by the Governor as being qualified to carry out any forensic or scientific examination to establish the nature of such substance.

(2) In any proceedings in which the prosecution proposes to tender evidence by a certificate under subsection (1), the prosecution shall give

reasonable prior notice to the accused of that intention and shall inform the accused that, if he so desires, he may arrange for an independent examination of the substance involved in the charge to be made, at his own expense subject to such conditions, if any, as the court may impose.

(3) In any proceedings in which the prosecution gives notice to the accused as mentioned in subsection (2), the accused shall not be entitled to require that the person who signed the certificate be called as a witness unless the accused satisfies the court that there are substantial reasons to doubt the validity of the certificate or as to the scientific accuracy of the statements contained therein.

Destruction of evidence pending prosecution

27. Except for such quantity of a controlled drug as the court may direct not to be destroyed and to be produced in the proceedings, the court may, in any proceedings in which an accused person has been charged with an offence against this Ordinance, on the application of the prosecution, and after giving the accused person the opportunity of being heard, order the destruction of any controlled drug which has been or is intended to be produced in whole or in part in evidence in such proceedings. (*Inserted by Ord. 7 of 1996*)

PART IV

PROVISIONS FOR PREVENTING MISUSE OF CONTROLLED DRUGS

Regulations to prevent misuse of controlled drugs

28. (1) Subject to the provisions of this Ordinance the Governor, after consultation with the Chief Medical Officer, may by Regulations make such provision as appears to him necessary or expedient for preventing the misuse of controlled drugs.

(2) Regulations made under this section may provide—

- (a) for precautions required to be taken for the safe custody of controlled drugs;
- (b) for the requirements to be fulfilled as to the documentation of transactions involving controlled drugs and for requiring copies of any such documents to be furnished to prescribed authorities or persons;
- (c) for 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 made under this section;
- (e) for the packaging and labelling of controlled drugs;

- (f) for the regulation of the transport of controlled drugs, and the methods to be used for destroying or disposing of controlled drugs when no longer required;
- (g) for the regulation of the issue of prescriptions containing controlled drugs and the supply of controlled drugs on prescription, 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 medical practitioner, 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 medical practitioner from administering, supplying or authorising the administration or supply to persons so addicted, and from prescribing for such persons, except with the authority in writing of the Chief Medical Officer, such controlled drugs as may be prescribed.

(3) Regulations made under this section may provide that any person guilty of an offence thereunder shall be liable on summary conviction to a fine of \$500 or to imprisonment for six months:

Provided that no person, on conviction for an offence of contravening or failing to comply with any Regulations relating to the keeping of books or records or the issuing or dispensing of prescriptions, shall be sentenced to imprisonment without the option of a fine if the court 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 of, or intended commission of, any other offence under this Ordinance.

(4) Until such time as any Regulations are made under subsection (1) any person authorised under this Ordinance to hold, dispense or supply any controlled drug shall ensure—

- (a) that any stocks of the controlled drug are ordinarily kept in a safe place under lock and key;
- (b) that all containers or packages in which any controlled drug is kept are clearly labelled with the name of the drug;
- (c) that records are maintained of the quantity of each controlled drug held and of the quantities issued or used, with the name of the person to whom any issue is made and the purpose of such issue or use.

Any person who fails to comply with the requirements of this subsection shall be guilty of an offence and liable on summary conviction to a fine of \$500.

PART V

CONTROLLED DRUGS IN TRANSIT

The Convention

29. In this Part “the Convention” means—

- (a) in the case of a country which is a party to the Single Convention on Narcotic Drugs signed at New York on 20th March 1961, that Convention;
- (b) in the case of a country which is not a party to the Convention mentioned in paragraph (a), but is a party to any other international Convention, which applies to the Islands, for the control and regulation in that country of the production, supply, use, export or import of dangerous or otherwise harmful drugs, that other Convention.

Controlled drugs in transit

30. (1) Subject to subsection (5), no person shall bring any controlled drug to the Islands in transit unless—

- (a) the drug is in the course of transit from a country from which it may lawfully be exported to another country into which such drug may lawfully be imported; and
- (b) except where the drug comes from a country not a party to the Convention, it is accompanied by a valid and subsisting export authorisation or diversion certificate, as the case may be.

(2) When any controlled drug in transit is accompanied by an export authorisation or diversion certificate and the Collector 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, the Collector of Customs may seize and detain the controlled drug to which such authorisation or certificate relates; but if he is subsequently satisfied that such authorisation or certificate is valid or has not been obtained by fraud or misrepresentation as aforesaid, the Collector of Customs shall release the controlled drug.

(3) When a controlled drug in the course of transit is not accompanied by an export authorisation or diversion certificate by reason of the fact that the controlled drug comes from a country which is not a party to the Convention, and the Collector of Customs has reasonable grounds for believing it is being conveyed in an unlawful manner or for an unlawful purpose, or is in the course of transit for the purpose of being conveyed to another country in contravention of the laws of that country, the Collector of Customs may seize and detain the controlled drug.

(4) When a controlled drug in the course of transit is landed or trans-shipped in the Islands it shall be retained in a safe place in accordance with such directions as may be given by the Collector of Customs after consultation with

the Chief Medical Officer, and shall only be moved under and in accordance with a removal licence granted under section 31.

(5) Nothing in this section shall be deemed to apply to any controlled drug in transit by post, or in transit by air if the aircraft passes over the Islands without landing, or to such controlled drugs as are permitted under Schedule 2 to be held as medical stores or for first aid or emergency use by the owner or master of a vessel or the pilot or master of an aircraft or as are exempted under section 4(4)(b).

Removal licences

31. (1) Subject to this section, no person shall—

- (a) remove any controlled drug, which is in transit, from any aircraft, vessel or other means of conveyance in which it is brought into the Islands; or
- (b) in any way move any such controlled drug from any place in the Islands to any other place in the Islands after removal from such aircraft, vessel or other conveyance,

except under and in accordance with a licence in the prescribed form (in this Part referred to as a “removal licence”) issued by the Chief Medical Officer. In all cases it shall be in the absolute discretion of the Chief Medical Officer to grant or refuse to grant a removal licence as he shall deem fit.

(2) No removal licence for the transfer of any such controlled drug to any conveyance for removal out of the Islands shall be granted unless and until a valid subsisting export authorisation or diversion certificate relating to it is produced to the Chief Medical Officer:

Provided that this subsection shall not apply in a case in which the controlled drug has come from a country which is not a party to the Convention.

(3) The provisions of this section shall not apply to controlled drugs in transit by post or which are exempted under section 4(4)(b).

Controlled drugs not to be tampered with

32. Any person who causes any controlled drug in transit to be subjected to any process which would alter its nature, or who wilfully opens or breaks any package containing a controlled drug in transit, except upon the instructions of the Collector of Customs and in such manner as he may direct, shall be guilty of an offence and liable on summary conviction to a fine of \$1,000 or to imprisonment for one year, or to both such fine and imprisonment.

Diversion of controlled drugs

33. (1) Any person who, except under the authority of a diversion certificate in the prescribed form causes or procures any controlled drug brought into the Islands in transit to be diverted to any destination other than that to which it was originally consigned shall be guilty of an offence and shall be liable on summary conviction to a fine of \$1,000 or to imprisonment for one year or to both such

fine and imprisonment and the controlled drugs in respect of which the offence was committed may be forfeited.

(2) For the purposes of this section, in the case of any controlled 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 Chief Medical Officer, in his absolute discretion, may issue a diversion certificate in respect of any controlled 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 direct the controlled drug, or, if that country is not a party to the Convention, 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 and one copy thereof shall accompany the controlled drug when it is exported from the Islands; the other copy shall be despatched by the Chief Medical Officer 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 controlled drug on its arrival in the Islands shall be detained by the Chief Medical Officer and returned to the authority issuing such authorisation or diversion certificate together with a notification of the name of the country to which that controlled drug has been diverted.

PART VI

MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

Regulations

34. (1) Without prejudice to the power conferred by section 28, the Governor may make Regulations for carrying into effect the provisions of this Ordinance and for prescribing forms to be used for the purposes of this Ordinance.

(2) Without derogation from the generality of the powers conferred by subsection (1), regulations made under this section may provide for the procedure for the issue of licences for the importation or exportation of controlled drugs:

Provided that no regulations shall authorise the grant of a licence for the export of any controlled drug to a country which is a party to a Convention such as is referred to in section 29, except upon the production of an import certificate or licence duly issued by the competent authority in that country; and in no case shall a licence be authorised to be issued for the exportation of any controlled drug to any country where the importation of that drug into that country would be in contravention of any prohibition or restriction imposed by the law of that country.

(3) Until any forms for the purposes of section 4 (relating to importation or exportation of controlled drugs) or Part V (relating to controlled drugs in transit) are prescribed under this section, the forms in the First Schedule to the Dangerous Drugs Law of Jamaica shall continue to be used (with any necessary modifications) for the purposes to which they respectively relate, as if prescribed for similar purposes under this Ordinance, notwithstanding the repeal of that Law, in relation to the Islands, under the provisions of this Ordinance.

Restriction on admission to bail

35. (1) Notwithstanding the provisions of Part IX of the Magistrate's Court Ordinance or of any other written law relating to bail and subject to subsections (2) and (3), no person who is charged with any offence under this Ordinance shall be admitted to bail unless such person has provided a surety or sureties of not less than \$50,000 or such greater amount as is in the opinion of the court granting bail sufficient to secure his appearance.

(2) Subsection (1) shall not apply to any person who is an Islander within the meaning of the Immigration Ordinance and who is ordinarily resident in the Islands at the time when application for bail is made.

(3) Subsection (1) shall not apply to any person charged with possession of cannabis where the quantity of the cannabis involved is not greater than four ounces in weight.

(Inserted by Ord. 9 of 1980 and amended by Ord. 9 of 1998)

Power to vary Schedule 2

36. The Governor may by Order vary, delete from or add to Schedule 2 to this Ordinance.

SCHEDULE 1

(Section 3)

CONTROLLED DRUGS

PART I

Class A Drugs

1. The following substances and products, namely—

Acctorphine.	Alphacetylmethadol.
Allylprodine.	Alphameprodine.
Alphamethadol.	Methadyl acetate.
Alphaprodine.	Methyldesorphine.
Anileridine.	Methyldihydromorphine
Benzethidine.	(6-methyldihydromorphine)
Benzylmorphine (3-benzyl-morphine).	Morpheridine.
Betacetylmethadol.	Morphine.
Betameprodine.	Morphine methobromide,
Betamethadol.	Morphine N-oxide and other
Betaprodine.	Pentavalent nitrogen
Bezitramide.	Morphine derivatives
Bufotenine.	Myrophine.
Cannabinol, except where contained in cannabis or cannabis resin.	Nicomorphine (3, 6-dinicotinoylmorphine).
Cannabinol derivatives.	Noracymethadol.
Clonitazene.	Norlevorphanol.
Coca leaf.	Normethadone.
Cocaine.	Normorphine.
Desomorphine.	Norpipanone.
Dextromoramide.	Opium, whether raw, prepared or medicinal.
Diamorphine.	Oxydodone.
Diampromide.	Oxymorphone.
Diethylthiambutene.	Pethidine.
Dihydrocodeinone.	Phenadoxone.
O-carboxymethyloxime.	Paraquat.
Dihydromorphine.	Phenampromode.
Dimenoxadole.	

Dimepheptanol.	Phenazocine.
Dimethylthiambutene.	Phenomorphin
Dioxaphetyl butyrate.	Phenoperidine.
Diphenoxylate.	Piminodine.
Dipipanone.	Piritramide.
Drotebanol (3, 4-dimethoxy- 17-methylmorphinan-6B, 14-diol).	Poppy-straw and concentrate of poppy-straw.
Ecgonine, and any derivative of ecgonine which is convertible to ecgonine or to cocaine.	Proheptazine.
Ethylmethylthiambutene.	Properidine (1-methyl-4-phenyl-piperidine-4- carboxylic acid isopropyl ester).
Etonitazene.	Psilocin.
Etorphine.	Racemethorphan.
Etoperidine.	Racemoramide.
Fentanyl.	Racemorphan.
Furethidine.	Thebacon.
Hydrocodone.	Thebaine.
Hydromorphanol.	Trimeperidine.
Hydromorphone.	4-Cyano-2-dimethylamino-4, 4-diphenylbutane.
Hydroxypethidine.	4-Cyano-1-methyl-4-phenyl- piperidine.
Isomethadone.	N,N-Diethyltryptamine.
Ketobemidone.	N,N-Dimethyltryptamine.
Levomethorphan. Levomoramide.	2,5-Dimethoxy-o, 4-dimethyl- phenethylamine.
Levophenacymorphan.	1-Methyl-4-phenylpiperidine-4 carboxylic acid.
Levorphanol.	2-Methyl-3-morpholino-1, 1-di- phenylpropanecarboxylic acid.
Lysergamide.	4-Phenyl piperidine-4-carboxylic acid ethyl ester.
Lysergide and other N-alkyl derivatives of lysergamide.	
Mescaline.	
Metazocine.	
Methadone.	

2. Any stereoisomeric form of a substance for the time being specified in paragraph 1 above not being dextromethorphan or dextrophan.

3. Any ester or ether of a substance for the time being specified in paragraph 1 or 2 above, not being a substance for the time being specified in Part II of this Schedule.

4. Any salt of a substance for the time being specified in any of paragraphs 1 to 3 above.
5. Any preparation or other product containing a substance or product for the time being specified in any of paragraphs 1 to 4 above.
6. Any preparation designed for administration by injections which includes a substance or product for the time being specified in any of paragraphs 1 to 3 of Part II of this Schedule.

PART II

Class B Drugs

1. The following substances and products, namely—

Acetyldihydrocodeine.	Methylphenidate.
Amphetamine.	Nicodicodine (6-nicotinoyldi-
Cannabis and cannabis resin.	hydrocodeine).
Codeine.	Nicocodeine.
Dexamphetamine.	Norcodeine.
Dihydrocodeine.	Phenmetrazine.
Ethylmorphine (3-ethylmorphine).	Pholcodine.
Methylamphetamine.	Propiram.
2. Any stereoisomeric form of a substance for the time being specified in paragraph 1 of this Part of this Schedule.
3. Any salt of a substance for the time being specified in paragraph 1 or 2 of this Part of this Schedule.
4. Any preparation or other product containing a substance or product for the time being specified in any paragraphs 1 to 3 of this Part of this Schedule, not being a preparation falling within paragraph 6 of Part I of this Schedule.

PART III

Class C Drugs

1. The following substances, namely—

Benzphetamine.	Methaqualone.
Chlorphentermine.	Phendimetrazine.
Mephentermine.	Pipradrol.
2. Any stereoisomeric form of a substance for the time being specified in paragraph 1 of this Part of this Schedule.

3. Any salt of a substance for the time being specified in paragraph 1 or 2 of this Part of this Schedule.

4. Any preparation or other product containing a substance for the time being specified in any of paragraphs 1 to 3 of this Part of this Schedule.

PART IV

Meaning of Certain Expressions Used in This Schedule

For the purposes of this Schedule the following expressions (which are not among those defined in section 2(1) of this Ordinance) 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 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;

“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 2

(Section 2)

AUTHORISED PERSONS

The persons specified in the first column of this Schedule shall be authorised persons, subject to the conditions or qualifications (if any) specified in relation to any such person in the second column.

Medical practitioner	When employed in a Government controlled hospital or clinic or in a hospital, nursing home or clinic approved by the Chief Medical Officer: Provided that any such person shall act only in accordance with the general or special instructions of a medical practitioner in relation to the supply or administration of any controlled drug to any person.
Dental practitioner	
Veterinary practitioner	
Pharmacist	
Matron, sister or nurse	
Owner or master of any vessel which does not carry a medical practitioner	Limited to such types and quantities of controlled drugs as may be required as medical stores for compliance with the Merchant Shipping Acts, or any other law for the time being in force relating to shipping, or as may be authorised by the law of the place where the vessel is registered.
Pilot or master of any aircraft	Limited to such types and quantities of controlled drugs as are reasonably necessary for first aid or emergency use, having regard to the number of persons able to be carried on the aircraft and the places in which it is likely to operate, or as may be authorised by law in the place where the aircraft is registered.
Any other person authorised by licence granted by the Governor	Subject to the terms of the licence.

SCHEDULE 3*(Section 15)***LIST OF SUBSTANCES**

Table 1	Table 2
N-acetylanthranilic acid	Acetic anhydride
Ephedrine	Acetone
Ergometrine	Anthranilic acid
Isosafrole	Hydrochloric acid
Lysergic acid	Methyl ethyl ketone
3, 4-methylenedioxyphenyl 2-propanone	Phenylacetic acid
1-phenyl-2-propanone	Piperidine
Piperonal	Potassium permanganate
Pseudoephedrine	Sulphuric acid
Safrole	Toluene

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

The salts of the substance listed in this Table whenever the existence of such salts is possible (the salts of hydrochloric acid and sulphuric acid are specifically excluded)

(Inserted by Ord. 14 of 2016)

SCHEDULE 4

(Section 25)

SENTENCING POWERS OF THE COURT

(Substituted by Ord. 4 of 1998)

Sections creating offence	General nature of offence	Mode of trial	Punishment in particular Cases (Maximum term of imprisonment or amount of fine)			General punishment (maximum term of imprisonment or amount of fine)
			Class A Drug	Class B Drug	Class C Drug	
5(2)(a) and (b)	Production or being concerned in production of controlled drug.	(a) Summary.	5 years' imprisonment or a fine of \$75,000 or both.	4 years' imprisonment or a fine of \$50,000 or both.	3 years' imprisonment or a fine of \$40,000 or both.	
		(b) Before Supreme Court.	20 years' imprisonment or a fine without limit or both.	15 years' imprisonment or a fine without limit or both.	10 years' imprisonment or a fine without limit or both.	
5(2)(c), (d) and (e)	Supplying or offering to supply controlled drug, or being concerned in doing of either activity by another.	(a) Summary	5 years' imprisonment or a fine of \$75,000 or both.	4 years' imprisonment or a fine of \$50,000 or both.	3 years' imprisonment or a fine of \$40,000 or both.	
		(b) Before Supreme Court.	20 years' imprisonment or a fine without limit or both.	15 years' imprisonment or a fine without limit or both.	14 years' imprisonment or a fine without limit or both.	
6(2)	Having possession of controlled drug.	(a) Summary.	5 years' imprisonment or a fine of \$75,000 or both.	3 years' imprisonment or a fine of \$40,000 or both.	18 months' imprisonment or a fine of \$25,000 or both.	
		(b) Before Supreme Court.	10 years' imprisonment or a fine without limit or both.	7 years' imprisonment or a fine without limit or both.	5 years' imprisonment or a fine without limit or both.	

6(3)	Having possession of controlled drug with intent to supply it to another.	(a) Summary.	5 years' imprisonment or a fine of \$75,000 or both.	4 years' imprisonment or a fine of \$50,000 or both.	3 years' imprisonment or a fine of \$40,000 or both.	
		(b) Before Supreme Court.	20 years' imprisonment or a fine without limit or both.	15 years' imprisonment or a fine without limit or both.	10 years' imprisonment or a fine without limit or both.	
7	Having possession of a controlled drug in certain circumstances with intent to sell or transfer it to another.	(a) Summary.	5 years' imprisonment or a fine of \$75,000 or both.	4 years' imprisonment or a fine of \$50,000 or both.	3 years' imprisonment or a fine of \$40,000 or both.	
		(b) Before Supreme Court.	20 years' imprisonment or a fine without limit or both.	15 years' imprisonment or a fine without limit or both.	10 years' imprisonment or a fine without limit or both.	
8	Being concerned in possession of a controlled drug with intent to supply.	(a) Summary.	5 years' imprisonment or a fine of \$75,000 or both.	4 years' imprisonment or a fine of \$50,000 or both.	3 years' imprisonment or a fine of \$40,000 or both.	
		(b) Before Supreme Court.	20 years' imprisonment or a fine without limit or both.	15 years' imprisonment or a fine without limit or both.	10 years' imprisonment or a fine without limit or both.	
9	Cultivation of cannabis plant, coca plant or opium poppy.	(a) Summary.				5 years' imprisonment or a fine of \$75,000 or both.
		(b) Before Supreme Court.				10 years' imprisonment or a fine without limit or both.
10	Being occupier or concerned in management of premises, or permitting or suffering certain activities there.	(a) Summary.	5 years' imprisonment or a fine of \$75,000 or both.	4 years' imprisonment or a fine of \$50,000 or both.	3 years' imprisonment or a fine of \$40,000 or both.	
		(b) Before Supreme Court.	20 years' imprisonment or a fine without limit or both.	15 years' imprisonment or a fine without limit or both.	10 years' imprisonment or a fine without limit or both.	

11	Offences relating to opium.	(a) Summary.	2 years' imprisonment or a fine of \$75,000 or both.
		(b) Before Supreme Court.	5 years' imprisonment or a fine of \$75,000 or both.
14	Acquisition of property derived from drug offence.	(a) Summary.	2 years' imprisonment or a fine of \$30,000, or both.
		(b) Before the Supreme Court.	14 years' imprisonment or a fine without limit, or both.
15	Possession of equipment for production of drugs, etc.	(a) Summary.	5 years' imprisonment or a fine of \$75,000, or both.
		(b) Before the Supreme Court.	14 years' imprisonment or a fine without limit, or both.
16	Inciting or inducing commission of offence under this Ordinance or the use of controlled drug.	(a) Summary.	5 years' imprisonment or fine of \$75,000, or both.
		(b) Before the Supreme Court.	10 years' imprisonment or a fine without limit, or both.
17	Assisting in or inducing commission outside the Islands of offence punishable under corresponding law.	(a) Summary.	5 years' imprisonment or a fine of \$75,000 or both.
		(b) Before Supreme Court.	10 years' imprisonment or a fine without limit or both.

(Amended by Ord. 14 of 2016)