

Drugs (Prevention of Misuse) Act,

No.22 of 1988.

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I ASSENT

[L.S.] STANISLAUS JAMES,

Acting Governor-General.

21 *st* December, 1988.

SAINT LUCIA

No. 22 of 1988

AN ACT to make provisions with respect to dangerous or otherwise harmful drugs and related matters, and for purposes connected therewith.

[30th December, 1988.]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly and the Senate of Saint Lucia and by the authority of the same, as follows:

1. Short title

This Act may be cited as the Drugs (Prevention Short Title. of Misuse) Act, 1988.

2. Interpretation

—

(1) In this Act, except where the context otherwise requires—

"the Advisory Council"

means the Advisory Council on the Misuse of Drugs established under this Act;

"analyst"

means any person appointed as such for the purposes of this Act by the Minister by notice in the *Gazette*;

"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);

"cannabis resin"

means the separated resin, whether crude or purified obtained from any plant or any part of a plant of the genus cannabis;

"contravention"

includes failure to comply, and "contravene" has a corresponding meaning;

"controlled drug"

has the meaning assigned by section 4;

"corresponding law"

has the meaning assigned by section 35;

"dentist"

means a person registered as a dentist under the Medical Registration Ordinance;

[Ch. 150]

"doctor"

means a person registered as a medical practitioner under the Registration of Medical Practitioners Act 1967;

[No. 13 of 1967.]

"druggist"

means a person registered as a druggist under the Druggist and Poisons Ordinance, 1960;

[No. 9 of 1960.]

"drug trafficking"

means doing or being concerned in any of the following, whether in Saint Lucia or elsewhere—

(a)

producing or supplying a controlled drug where the production or supply contravenes section 6 (1) or a corresponding law;

(b)

transporting or storing a controlled drug where possession of the drug contravenes section 7 (1) or a corresponding law;

(c)

importing or exporting a controlled drug where the importation or exportation is prohibited by section 5 (1) or a corresponding law; and

d)

entering into or being otherwise concerned in an arrangement whereby -

(i) the retention or control by or on behalf of another of the proceeds of drug trafficking by him is facilitated, or

(ii) the proceeds of drug trafficking by another are used to secure that funds are placed at his disposal or are used for his benefit to acquire property by way of investment;

" drug trafficking offence"

means any of the following —

(a)

an offence under section 6 (2) or (3) or 7 (2) or (3);

(b)

an offence under the Customs law in connection with a prohibition or restriction on importation or exportation having effect by virtue of section 5;

(c)

an offence under section 17;

(d)

conspiracy to commit any of the offences in paragraphs (a) to (c) above;

(e)

an offence or attempting to commit any of those offences;

(f)

an offence of inciting another to commit any of those offences; and

(g)

aiding, abetting, counselling or procuring the commission of those offences;

Minister" means the Minister for the time being charged with responsibility, for the subject of Health;

"possession"

shall be given the meaning assigned to it in section 7 of the Criminal Code;

[Ch. 250.]

" practitioner"

(except in the expression "veterinary practitioner ") means a doctor, a dentist or a veterinary practitioner;

" premises"

includes any building out-house or land whether enclosed or not;

"prepared opium"

means opium prepared for smoking and includes dross and any 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;

" supplying"

includes distributing;

" veterinary practitioner"

means any person in Saint Lucia holding a qualification entitling him to practice as a veterinary surgeon in any part of the Commonwealth or any person who within Saint Lucia is engaged in the practice and profession of veterinary surgery.

(2) Reference in this Act 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 assistance by another.

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

3. The Advisory Council on the Misuse of Drugs. First Schedule.

(1) Three shall be constituted in accordance with the First Schedule an Advisory Council on the Misuse of Drugs (in this Act referred to as the Advisory Council); and the supplementary provisions contained in that Schedule shall have effect in relation to the Advisory Council.

(2) It shall be the duty of the Advisory Council to keep under review the situation in Saint Lucia with respect to drugs which are being or appear to them likely to be misused and of which the misuse is having or appears to them capable of having harmful effects sufficient to constitute a social problem, and to give to the Minister, where either the Advisory Council consider it expedient to do so or they are consulted by the Minister, advice on measures (whether or not involving alteration of the law) which in the opinion of the Advisory Council ought to be taken for preventing the misuse of such drugs or dealing with social problems connected with their misuse, and in particular on measures which in the opinion of the Advisory Council, ought to be taken—

(a)

for restricting the availability of such drugs or supervising the arrangements for their supply;

(b)

for enabling persons affected by the misuse of such drugs to obtain proper advice, and for securing the provision of proper facilities and services for the treatment, rehabilitation and after-care of such persons;

(c)

for promoting co-operation between the various professional and community services which in the opinion of the Advisory Council have a part to play in dealing with social problems connected with the misuse of such drugs;

(d)

for educating the public (and in particular the young) in the dangers of misusing such drugs, and for giving publicity to these dangers; and

(e)

for promoting research into, or otherwise obtaining information about, any matter which in the opinion of the Advisory Council, is of relevance for the purpose of preventing the misuse of such drugs or dealing with any social problem connected with their misuse.

(3) It shall also be the duty of the Advisory Council to consider any matter relating to drug dependence or the misuse of drugs which may be referred to them by the Minister and to advise the Minister thereon.

4. Controlled drugs and their classification.

—

(1) In this Act —

(a)

the expression "controlled drugs" means any substance or product for the time being specified in Part I, Part II, or Part III of the Second Schedule; and

(b)

the expressions " Class A drug", "Class B drug" and "Class C drug" means any of the substances and products for the time being specified respectively in Part I, Part II and Part III of the Second Schedule;

and the provisions of Part IV of the Second Schedule shall have effect with respect to the meanings of expressions used in that Schedule.

(2) The Minister may after consultation with or on the recommendation of the Advisory Council by Order made by Statutory Instrument published in the *Gazette* make such amendments to the Second Schedule as may be requisite for the purpose of adding any substance or product to, or removing any substance or product from, any of Parts I to III of that Schedule.

(3) A Statutory Instrument made under this section may amend Part IV of the Second Schedule, and may do so whether or not it amends any other Part of that Schedule.

5. Restriction of importation and exportation of controlled drugs.

(1) Subject to subsection (2) —

(a)

the importation of a controlled drug; and

(b)

the exportation of a controlled drug;

are prohibited.

(2) Subsection (1) does not apply —

(a)

to the importation or exportation of a controlled drug which is for the time being excepted from paragraph (a) or, as the case may be, paragraph (b) of subsection (1) by Regulations under section 9; or

(b)

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

(3) Any person who imports or exports controlled drugs contrary to subsection (1) shall be guilty of an offence and liable on conviction therefor to the penalties laid down in section 27.

6. —

(1) Restriction of production and supply of controlled drugs.

Subject to any Regulations under section 9 for the time being in force, it shall not be lawful for a person —

(a)

to produce a controlled drug; or

(b)

to supply or offer to supply a controlled drug to another.

(2) Subject to section 30, it is an offence for a person —

(a)

to produce a controlled drug in contravention of subsection (1); or

(b)

to be concerned in the production of a controlled drug in contravention of subsection (1) by another.

(3) Subject to section 30, it is an offence for a person —

(a)

to supply or offer to supply a controlled drug to another in contravention of sub-section (1);

(b)

to be concerned in the supply of a controlled drug to another in contravention of subsection (1); or

(c)

to be concerned in the making to another in contravention of subsection (1), of an offer to supply a controlled drug.

7. Restriction of possession of controlled drugs.

(1) Subject to any Regulations under section 9 for the time being in force, it shall not be lawful for a person to have a drug in his possession,

(2) Subject to subsection (5) and to section 30, it is an offence for a person to have a controlled drug in his possession in contravention of subsection (1).

(3) Subject to section 30, 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 in contravention of section 6 (1).

(4) Subject to subsection (1) a person found in possession of the following controlled drugs in quantities of more than —

(a)

two grammes of diacetylmorphine (heroin)

(b)

one gramme of cocaine,

(c)

fifty-five grammes of opium,

(d)

three grammes of morphine, or

(e)

fifteen grammes of cannabis or cannabis resin,

shall be deemed to be in possession of such controlled drug for the purpose of supplying it to another or for drug trafficking in contravention of section 6 (1) unless the contrary is proved, the burden of proof being on the accused.

(5) 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.

(6) Subsection (5) shall apply in the case of proceedings for an offence under section 20 consisting of 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, that is to say —

(a)

for the references to the accused having in his possession, and to his taking possession of, a controlled drug there shall be substituted respectively references to his attempting to get, and to his attempting to take, possession of such a drug; and

(b)

in paragraphs (a) and (b) the words from "and that as soon as possible" onwards shall be omitted.

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

8. Restriction of cultivation of cannabis plant.

(1) Subject to any Regulations under section 9 for the time being in force, it shall not be lawful for a person to cultivate any plant of the genus Cannabis.

(2) Subject to section 30, it is an Offence to cultivate any such plant in contravention of subsection (1).

9. Authorisation of activities otherwise unlawful under foregoing provisions.

(1) The Minister may by Regulations made by Statutory Instrument —

(a)

exclude or except from section 5 (1) (a) or (b), 6 (1) (a) or (b) or 7 (1) such controlled drugs as may be specified in the Regulations; and

(b)

make such other provision as he thinks fit for the purpose of making it lawful for persons to do things which under the following provisions of this Act, that is to say sections 6 (1), 7 (1) and 8 (1), it would otherwise be unlawful for them to do.

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

(a)

if it is done under and in accordance with the terms of a licence or other authority issued by the Minister and in compliance with any conditions attached thereto; or

(b)

if it is done in compliance with such conditions as may be prescribed.

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

(a)

that it is not unlawful under section 6 (1) for a doctor, dentist or veterinary practitioner acting in his capacity as such, to prescribe, administer, manufacture, compound or supply a controlled drug, or for a druggist or a person lawfully conducting a retail pharmacy business, acting in either case in his capacity as such, to manufacture, compound or supply a controlled drug; and

(b

) that it is not unlawful under section 7 (1) for a doctor, dentist, veterinary practitioner, druggist or person lawfully conducting a retail pharmacy business to have a controlled drug in his possession for the purpose of acting in his capacity as such.

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

(a

for production, supply and possession of that drug to be either wholly unlawful or unlawful except for purposes of research or other special purposes; or

(b)

for it to be unlawful for practitioners, druggists and persons lawfully conducting retail pharmacy businesses to do in relation to that drug any of the things mentioned in subsection (3) except under a licence or other authority issued by the Minister,

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

(5) An Order made by Statutory Instrument under subsection (4) shall be subject to negative resolution of either the Senate or the House of Assembly.

(6) The Minister shall not make any Order by Statutory Instrument under subsection (4) except after consultation with or on the recommendation of the Advisory Council.

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

10. Occupiers etc. of premises to be punishable for permitting certain activities to take place there

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

(a)

producing or attempting to produce a there. controlled drug in contravention of section 6 (1);

(b)

supplying or attempting to supply a controlled drug to another in contravention of section 6 (1), or offering to supply a controlled drug to another in contravention of section 6 (1);

(c)

preparing cannabis, cannabis resin or opium for smoking; or

(d)

smoking cannabis, cannabis resin or prepared opium.

11. Prohibition of certain activities etc. relating to opium.

Subject to section 30, 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 opium smoking; or

(c)

to have in his possession

(i) any pipes or other utensils made or adopted for use in connection with the smoking of 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 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.

12. Power to make Regulations for preventing misuse of controlled drugs.

(1) Subject to the provisions of this Act, the Minister may by Regulations made by Statutory Instrument make such provisions as appear to him necessary or expedient for preventing the misuse of controlled drugs.

(2) Without prejudice to the generality of subsection (1), Regulations under this section may in particular make provisions for the following:

(a)

requiring precautions to be taken for the safe custody of controlled drugs;

(b)

imposing requirements as to the documentation of transactions involving controlled drugs, and for requiring copies of documents relating to such transactions to be furnished to the prescribed authority;

(c)

requiring the keeping of records and the furnishing of information with respect to controlled drugs in such circumstances and in such manner as may be prescribed;

(d)

the inspection of any precautions taken or records kept in pursuance of Regulations under this section;

(e)

the packaging and labelling of controlled drugs;

(f)

regulating the transport of controlled drugs and the methods used for destroying or otherwise, disposing of such drugs when no longer required;

(g)

regulating the issue of prescriptions containing controlled drugs and the supply of controlled drugs on prescriptions, and for requiring persons issuing or dispensing prescriptions containing such drugs to furnish to the prescribed authority such information relating to those prescriptions as may be prescribed;

(h)

requiring any doctor who attends to any 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; and

(i)

prohibiting any doctor from administering, supplying and authorising the administration and supply to persons so addicted, and from prescribing for such persons, such controlled drugs as may be prescribed, except under and in accordance with the terms of a licence issued by the Minister in pursuance of the Regulations.

13. Power to direct special precautions for safe custody of controlled drugs to be taken at certain premises.

(1) Without prejudice to any requirement imposed by Regulations made in pursuance of section 12 (2) (a), the Minister may by notice in writing served on the occupier of any premises on which controlled drugs are or are proposed to be kept give directions as to the taking of precautions or further precautions for the safe custody of any controlled drugs of a description specified in the notice which are or are proposed to be kept on those premises.

(2) It is an offence to contravene any directions given under subsection (1).

14. Directions prohibiting prescribing, supply etc. of controlled drugs by practitioners convicted of certain offences

(1) Where a person who is a practitioner or druggist has, after the coming into operation of this Act, been convicted of an offence under this Act, the Minister may give a direction in writing under subsection (2) in respect of that person.

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

(a)

if that person is a practitioner, be a direction prohibiting him from having in his possession, prescribing, administering, manufacturing, compounding and supplying and from authorising the administration and supply of such controlled drugs as may be specified in the direction;

(b)

if that person is a druggist, be a direction prohibiting him from having in his possession, manufacturing, compounding and supplying and from supervising and controlling the manufacture, compounding and supply of such controlled drugs as may be specified in the direction.

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

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

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

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

15. Directions prohibiting prescribing, supply etc. of controlled drugs by practitioners in other cases.

—

(1) In the event of a contravention by a doctor of Regulations made in pursuance of paragraph (h) or (i) of section 12 (2) or of the terms of a licence issued under Regulations made in pursuance of paragraph (i), the Minister may give a direction in respect of the doctor concerned prohibiting him from prescribing, administering and supplying and from authorising the administration and supply of such controlled drugs as may be specified in the direction.

(2) If the Minister is of the opinion that a practitioner is or has after the coming into operation of this Act been prescribing, administering or supplying or authorising the administration or supply of any controlled drugs in an irresponsible manner, the Minister may, with the approval of the Advisory Council, give a direction in respect of the practitioner concerned prohibiting him from prescribing, administering and supplying and from authorising the administration and supply of such controlled drugs as may be specified in the direction.

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

16. Drug trafficking.

(1) A person who commits the offence of [rug trafficking or of being in possession of a controlled drug for the purpose of drug trafficking is liable —

(a)

on summary conviction—

(i) to a fine of one hundred thousand dollars or where there is evidence of the street value of the controlled drug, three times the street value of the controlled drug whichever is the greater; and

(ii) to imprisonment for a term which may extend to ten years but which shall not be less than five years; or

(b)

upon conviction on indictment to imprisonment for life.

(2) A person who commits the offence of drug trafficking in a substance other than a controlled drug, which he represents or holds out to be a controlled drug is liable—

(a)

upon summary conviction to a fine of five thousand dollars and to imprisonment for two years; or

(b)

upon conviction on indictment to a fine of twenty-five thousand dollars and to imprisonment for five years.

(3) Subject to any Regulations under section 9 for the time being in force a person found in possession of a controlled drug in any school premises is deemed to have the controlled drug for the purpose of drug trafficking, unless the contrary is proved, the burden of proof being on the accused.

(4) In subsection (3) "school premises" includes buildings, playing fields or other premises established or maintained by a school for the benefit of its pupils whether or not such buildings, playing fields or other premises are within the curtilage of the school.

17. Assisting another to retain the benefit of drug trafficking.

—

(1) If a person enters into or is otherwise concerned in an arrangement whereby —

(a)

the retention or control by or on behalf of another (call him "A ") of the proceeds of drug trafficking by A is facilitated (whether . by concealment, removal from the jurisdiction, transfer to nominees or otherwise); or

(b)

the proceeds of drug trafficking by A —

(i) are used to secure that funds are placed at A's disposal, or

(ii) are used for A's benefit to acquire property by way of investment,

knowing or suspecting or having reasonable grounds to suspect that A is a person who carries on or has carried on drug trafficking, he is guilty of an offence.

(2) In this section, references to the proceeds of drug trafficking by any person include a reference to any property which directly or indirectly represented in his hands the proceeds of drug trafficking by him.

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

(a)

that he did not know or suspect that the arrangement related to the proceeds of drug trafficking by A; or

(b)

that he did not know or suspect that by the arrangement the retention or control by or on behalf of A of those proceeds was facilitated or, as the case may be, that by the arrangement those proceeds were used as mentioned in subsection (1).

(4) A person guilty of an offence under this section shall be liable—

(a)

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

(b)

on conviction on indictment to a fine of fifty thousand dollars and to imprisonment for a term not exceeding fourteen years.

18. Power to obtain information from doctors etc. in certain circumstances.

(1) If it appears to the Minister that there exists in any area in Saint Lucia a social problem caused by the extensive misuse of dangerous or other-wise harmful drugs in that area, he may by notice in writing served on any doctor or druggist practising in or in the vicinity of that area, or on any person lawfully conducting a retail pharmacy business at any premises situated in or in the vicinity of that area, require him to furnish to the Minister, with respect to any such drugs specified in the notice and as regards any period so specified, such particulars as may be so specified relating to the quantities in which and the number and frequency of the occasions on which those drugs—

(a)

in the case of a doctor, were prescribed, administered or supplied by him;

(b)

in the case of a druggist, were supplied by him; or

(c)

in the case of a person conducting a retail pharmacy business, were supplied in the course of that business at any premises so situated which may be specified in the notice.

(2) A notice under subsection (1) may require any such particulars to be furnished in such manner and within such time as may be specified in the notice and, if served on a druggist or person conducting a retail pharmacy business, may require him to furnish the names and addresses of doctors on whose prescriptions any dangerous or otherwise harmful drugs to which the notice relates were supplied, but shall not require any person to furnish any particulars relating to the identity of any person for or to whom any such drug has been prescribed, administered or supplied.

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

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

19. Miscellaneous offences.

(1) It is an offence for a person to contravene any Regulation made under this Act other than Regulations made in pursuance of section 12 (2) (*h*) or (*i*).

(2) It is an offence for a person to contravene a condition or other term of a licence issued under section 5 or of a licence or other authority issued under Regulations made under this Act, not being a licence issued under Regulations made in pursuance of section 12 (2) (*i*).

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

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

(*a*)

makes any statement or gives any information which he knows to be false in a material particular or recklessly gives any information which is so false; or

(*b*)

produces or otherwise makes use of any book, record or other document which to his knowledge contains any statement or information which he knows to be false in a material particular.

20. Attempts etc. to commit offences.

It is an offence for a person to attempt to commit an offence under any other provision of this Act or to incite or attempt to incite another to commit such an offence.

21. Assisting in or inducing commission outside Saint Lucia of offence punishable under a corresponding law.

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

22. Offences by corporations.

Where any offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or 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 and be proceeded against accordingly.

23. Further powers to make Regulations.

The Minister may by Regulations made by Statutory Instrument make provision—

(a)

for excluding in such cases as may be prescribed —

(i) the application of any provision of this Act which creates an offence; or

(ii) the application of provisions of the Customs Law in so far as they apply in relation to a prohibition or restriction on importation or exportation having effect by virtue of section 5; or

(b)

for the application of any provisions of this Act or Regulations or orders thereunder to servants or agents of the Crown, subject to such exceptions, adaptations and modifications as may be prescribed.

24. Powers to search and obtain evidence.

(1) A member of the Police Force or other person authorised in that behalf by a general or special order of the Minister shall, for the purposes of the execution of this Act, have power to enter the premises of a person carrying on business as a producer or supplier of any controlled drug and to demand the production of, and to inspect, any books or

documents relating to dealings in any such drugs and to inspect any stocks of any such drugs.

(2) If a member of the Police Force has reasonable grounds to suspect that any person is in possession of a controlled drug in contravention of this Act or of any Regulations made thereunder the member of the Police Force may subject to subsections (3), (6) and (7) —

(a)

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

(b)

search any ship, vessel, boat, aircraft, vehicle or other means of conveyance of any description in which the member of the Police Force suspects that the drug may be found, and for that purpose require the person in control of the ship, vessel, boat, aircraft, vehicle or other means of conveyance of any description to stop it; or

(c)

seize and detain for the purposes of proceedings under this Act, anything found in the course of the search which appears to the member of the Police Force to be evidence of an offence under this Act.

(3) Nothing in subsection (2) shall derogate from any power of search or any power to seize or detain property which is otherwise exercisable by a member of the Police Force.

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

(a)

that any controlled drug is, in contravention of this Act or of any Regulations made thereunder, in the possession of a person on any premises or in any place; 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 would if carried out be, an offence under this Act, or in the case of a transaction or dealing carried out or intended to be carried out in a place outside Saint Lucia an offence against the provisions of a corresponding law in force in that place, is in the possession of a person on any premises or in any place,

he may issue a warrant authorising any member of the Police Force at any time or times within one month from the date of issue of the warrant, to enter, if need be by force, the premises or place named in the warrant, and to search such premises or place and any reasonable ground for suspecting that an offence under this Act has been committed in relation to any controlled drugs found on the premises or place 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.

(5) A person commits an offence if he —

(a)

intentionally obstructs a person in the exercise of his powers under this section;

(b)

being the person in control of the ship, vessel, boat, aircraft, vehicle or other means of conveyance of any description fails to stop it when required to do so by a member of the Police Force under subsection (2) (b);

(c)

being a person being conveyed in a ship, vessel, boat, aircraft, vehicle or other means of conveyance of any description prevents or intimidates the person in control (of or any other person operating the ship, vessel, boat, aircraft, vehicle or other means of conveyance of any description from stopping when required to do so by a member of the Police Force under subsection (2)(b);

(d)

without the permission of the member of the Police Force concerned, leaves a ship, vessel, boat, aircraft, vehicle or other means of conveyance of any description which has been stopped by a member of the Police Force under subsection (2) (b);

(e)

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

(f)

without reasonable excuse (proof of which shall lie on him) fails to produce any such books or documents as are so mentioned where their production is demanded by a person in the exercise of his powers under that subsection.

(6) No person may be searched by any person of the opposite sex unless the consent of the person to be searched has first been obtained, or unless such search is made in the presence of some other person, not being a member of the Police Force, of the same sex.

(7) No article of a person's clothing may be removed from his person during a search at any place other than within a police station.

25. Power to arrest.

(1) A member of the Police Force may arrest without warrant a person who has committed, attempted to commit, or whom the member of the Police Force, with reasonable cause, suspects to have committed or attempted to commit an offence under this Act.

(2) Where any controlled drug is found on any premises searched under section 24 (1), or in any ship, vessel, boat, aircraft, vehicle or other means of conveyance of any description stopped under section 24 (2), the member of the Police Force who has made the search or stopped the ship, vessel, boat, aircraft, vehicle or other means of conveyance of any description, as the case may be, may arrest without warrant any person in such premises or in such ship, vessel, boat, aircraft, vehicle or other means of conveyance of any description whom he has reason to believe to be guilty of an offence under this Act.

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

26. Committal to the High Court for sentence.

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

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

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

27. Prosecution and punishment of offences. Third Schedule.

(1) Except where expressly otherwise provided the Third Schedule shall have effect, in accordance with subsection (2), with respect to the way in which offences under this Act are punishable on conviction.

(2) In relation to an offence under a provision of this Act specified in the first column of the Third Schedule (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 indictment or in either way;

(b)

the fourth, fifth and sixth columns show respectively the punishments which may be imposed on a person convicted of the offence in the way specified in relation thereto in the third column (that is to say, summarily or on indictment) according to whether the controlled drug in relation to which the offence was committed was a Class A drug, a Class B drug or a Class C drug; and

(c)

the seventh column shows the punishments which may be imposed on a person convicted of the offence in the way specified in relation thereto in the third column (that is to say, summarily or on indictment), whether or not the offence was committed in relation to a controlled drug and, if it was so committed, irrespective of whether the drug was a Class A drug, a Class B drug or a Class C drug;

and in the fourth, fifth, sixth and seventh columns a reference to a period gives the maximum term of imprisonment and a reference to a sum of money the maximum fine.

(3) An offence under section 20 shall be punished on summary conviction, on indictment or in either way according to whether, under the Third Schedule, the substantive offence is punishable on summary conviction, on indictment or in either way; and the punishments which may be imposed on a person convicted of an offence under that section are the same as those which, under that Schedule, may be imposed on a person convicted of the substantive offence.

(4) In subsection (3) "the substantive offence" means the offence under this Act to which the attempt or, as the case may be, the incitement or attempted incitement mentioned in section 20 was directed.

(5) Notwithstanding the provisions of section 1046 of the Criminal Code a Magistrate may try an information or complaint for an offence under this Act if the information or complaint was laid or, as the case may be, made at any time within twelve months from the commission of the offence.

[Ch. 250]

28. Forfeiture.

(1) Where a person is convicted of an offence under this Act other than a drug trafficking offence, the court shall order forfeiture to the Government of Saint Lucia of any opium pipe or other article or the controlled drug in respect of which the offence was committed and all receptacles of any kind whatsoever found containing the controlled drug and any ship, vessel, boat, aircraft, vehicle or other means of conveyance of any description, proved to have contained the opium pipe or other article or controlled drug or anything shown to the satisfaction of the court to relate to the offence.

(2) Without prejudice to subsection (1), where a person is convicted of a drug trafficking offence the court shall in passing sentence order forfeiture to the Government of Saint Lucia of—

(a)

any article;

(b)

any money; or

(c)

any valuable consideration,

relating to the offence.

(3) Forfeiture shall extend—

(a)

to any property which there is reason to believe has been obtained from the proceeds of anything relating to the offence for which a person is convicted under this Act or to a conspiracy to commit any such offence; or

(b)

to any thing into which any such property has been converted.

(4) Subject to subsection (5) forfeiture under this section may be applied to the treatment and rehabilitation of persons addicted (within the meaning of the Regulations) to controlled drugs of any description.

(5) Controlled drugs forfeited under this section shall be delivered to the Commissioner of Police for immediate disposal.

29. Certificate of analyst admissible in evidence.

(1) Subject to subsections (3) and (4), notwithstanding the provisions of any other law, a certificate of an analyst purporting to be signed by him stating that he has analysed or examined a substance and stating the result of such analysis or examination is admissible in evidence in any prosecution under this Act of the matters stated therein if it is proved by other evidence that the seals or other fastenings of the container of the substance or thing analysed and in respect of which the certificate was given were intact at the time the container was delivered to him.

(2) No evidence shall be required by the court as to the signature or qualifications of the person purporting to have signed the certificate.

(3) No certificate shall be received in evidence unless the party intending to produce it has given to the other parties seven days notice of such intention and has furnished with such notice a copy of the certificate.

(4) In any prosecution under this Act either of the parties may require the attendance or an analyst to give evidence and in such case the costs of his attendance shall, unless the Judge or Magistrate orders otherwise, be payable by the party so requiring.

30. Proof of lack of knowledge etc. to be a defence in proceedings for certain offences.

(1) This section applies to offences under any of the following provisions of this Act, that is to say, section 6 (2) and (3), section 7 (2) and (3), section 8 (2) and section 11.

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

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

(a)

shall not be acquitted of the offence charged by reason only of proving that he neither knew, nor suspected nor had reason to suspect that the substance or product in question was the particular controlled drug alleged; but

(b)

shall be acquitted thereof—

(i) if he proves that he neither believed nor suspected nor had reason to suspect that the substance or product in question was a controlled drug; or

(ii) if he proves that he believed the substance or product in question to be a controlled drug, or a controlled drug of a description, such that if it had in fact been that controlled drug or a controlled drug of that description he would not at the material time have been committing any offence to which this section applies.

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

31. Service of documents.

(1) Any notice or other document required or authorised by any provision of this Act to be served on any person may be served on him either by delivering it to him or by leaving it at his proper address or by sending it by post.

(2) Any notice or other document so required or authorised to be served on a body corporate shall be duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of this section the proper address of any person shall, in the case of the secretary or clerk of a body corporate, be that of the registered or principal office of that body, and in any other case shall be the last address of the person to be served which is known to the Minister.

32. Licences and authorities.

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

33. General provisions as to Regulations

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

(a)

may make different provisions in relation to different controlled drugs, different classes of persons, different provisions of this Act or other different cases or circumstances ;

(b)

may make the opinion, consent or approval of a prescribed authority or of any person authorised in a prescribed manner material for purposes of any provision of the Regulations ; and

(c)

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

(2) The Minister shall not make any Regulations under this Act except after consultation with the Advisory Council.

(3) Any Regulations made under this Act by the Minister shall be subject to negative Resolution of the House of Assembly and the Senate.

34. Research.

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

35. Meaning of "corresponding law ; and evidence of certain matters by certificate".

(1) In this Act 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 Saint Lucia to be a law providing for the control and regulation in that country of the production, supply, use, export and import of drugs and other substances in accordance with the provisions of the Single Convention on Narcotic Drugs signed at New York on 30th March, 1961 or a law providing for the control and regulation in that country of the production, supply, use, export and import of dangerous or otherwise harmful drugs in pursuance of any treaty, convention or other agreement or arrangement to which the Government of that country and the Government of Saint Lucia are for the time being parties.

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

36. Amendment of Schedules.

The Minister may by Order made by Statutory Instrument amend the Schedules.

37. Repeal. Ch. 55. No. 20 of 1975. No. 2 of 1979.

(1) The following enactments are repealed—

(i) The Dangerous Drugs Ordinance ;

(ii) The Dangerous Drugs (Amendment) Act 1975 ; and

(iii) The Dangerous Drugs Ordinance (Amendment) (No. 2) Act 1979.

(2) Any subsidiary legislation made under the enactments referred to in subsection (1) which is in conformity with this Act shall continue to apply until Regulations are made under this Act.

Passed in the House of Assembly this 22nd day of November, 1988.

ALLAN BOUSQUET,

Deputy Speaker.

Passed in the Senate this 29th day of November, 1988.

E. HENRY GIRAUDY,

President.

FIRST SCHEDULE

(Section 3)

CONSTITUTION OF ADVISORY COUNCIL ON THE MISUSE OF DRUGS

1.

(1) The members of the Advisory Council, of whom there shall be not more than eleven nor less than seven, shall be appointed by the Minister after consultation with such organisations as he considers appropriate, and shall include—

(a) in relation to each of the activities specified in sub-paragraph (2) at least one person appearing to the Minister to have wide and recent experience of that activity; and

(b) persons appearing to the Minister to have wide and recent experience of social problems connected with the misuse of drugs.

(2) The activities referred to in sub-paragraph (1) (a) are—

(a) the practice of medicine (other than veterinary medicine) ;

(b) the practice of dentistry ;

(c) the practice of veterinary medicine ;

(d) the practice of pharmacy ;

(3) The Minister shall appoint one of the members of the Advisory Council to be chairman of the Advisory Council.

2. The Advisory Council may appoint committees, which may consist in part of persons who are not members of the Advisory Council to consider and report to the Advisory Council on any matter referred to them by the Advisory Council.

3. At meetings of the Advisory Council the quorum shall be four, and subject to that the Advisory Council may determine their own procedure.

SECOND SCHEDULE

(Section 4)

CONTROLLED DRUGS

PART I

1. CLASS A DRUGS

The following substances and products, namely -

Acetorphine

Allylprodine

Alphacetylmethadol

Alphameprodine

Alphamethadol

Alphaprodine

Anileridine

Benzethidine

Benzylmorphine (3-benzylmorphine)

Betacetylmethadol

Betameprodine

Betamethadol

Bezitramide

Bufotenine

Cannabinol, except where contained in cannabis or cannabis resin

Cannabinol derivatives

Cannabis

Cannabis resin

Clonitazene

Coca leaf

Cocaine

Desomorphine

Dextromoramide

Diamorphine

Diampromide

Diethylthiambutene

Dihydrocodeinone - O - carboxy - methyloxime

Dihydromorphine

Dimenoxadole

Dimepheptanol

Dimethylthiambutene

Dioxaphetyl butyrate

Diphenoxylate

Dipipanone

Ecgonine, and any derivative of ecgonine which is convertible to ecgonine or to cocaine

Ethylmethylthiambutene

Etonitazene

Etorphine

Etoxidine

Fentanyl

Furethidine

Hydrocodone

Hydromorphenol

Hydromorphone

Hydroxypethidine

Isomethadone

Ketobemidone

Levomethorphan

Levomoramide

Levophenacymorphan

Levorphanol

Lysergamide

Lysergide and other N-alkyl deriva-

tives of lysergamide

Mescaline

Metazocine

Methadone

Methadyl acetate

Methyldesorphine

Methyldihydromorphine (6-methyldihydromorphine)

Metopon

Morpheridine

Morphine

Morphine methobromide, morphine N-oxide and other pentavalent nitrogen morphine derivatives

Myrophine

Nicodicodine (6-nicotinoyldi-hydrocodeine)

Nicomorphine (3,6-dinicotinoylmorphine)

Noracymethadol

Norlevorphanol

Normethadone

Normorphine

Norpipanone

Opium, whether raw, prepared or medicinal

Oxycodone

Oxymorphone

Pethidine

Phenadoxone

Phenampromide

Phenazocine

Phenomorphin

Phenoperidine

Piminodine

Piritramide

Poppy-straw and concentrate of poppy-straw

Proheptazine

Propriidine (1-methyl 4 phenyl-piperidine 4-carboxylic acid isopropyl ester)

Psilocin

Racemethorphan

Racemoramide

Racemorphan

Thebacon

Thebaine

Trimeperidine

4-Cyano-2- dimethylamino- 4, 4-diphenylbutane

4-Cyano-1-methyl-4-phenylpiperidine

N,N-Diethyltryptamine

N,N-Dimethyltryptamine

2,5-Dimethoxy-x4-dimethylphenethylamine

1-Methyl-4-phenylpiperidine-4-carboxylic acid

2-Methyl-3-morpholino-1, 1-diphenylpropanecarboxylic acid

4-Phenylpiperidine-4-carboxylic acid ethyl ester.

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

3. Any ester or ether of a substance for the time being specified in paragraph 1 or 2.

4. Any salt of a substance for the time being specified in any of paragraphs 1 to 3.

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

6. Any preparation designed for administration by injection which includes a substance or product for the time being specified in any of paragraphs 1 to 3 of Part II.

PART II

CLASS B DRUGS

1. The following substances and products, namely —

Acetyldihydrocodeine	Methylamphetamine
Amphetamine	Methylphenidate
Cannabis and cannabis resin	Nicocodine
Codeine	Norcodeine
Dexamphetamine	Phenmetrazine
Dihydrocodeine	Pholcodine
Ethylmorphine (3-ethylmorphine)	

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 of paragraph 1 or 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	Pemoline
Chlorphentermine	Phendimetrazine
Fencamfamin	Phentermine
Mephentermine	Pipradrol
Methaqualone	Prolintane

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 of this Act) 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.

THIRD SCHEDULE

(Section 21)

PROSECUTION AND PUNISHMENT OF OFFENCES

Section 5 (3)	Importation or exportation of a controlled drug	(a) Summary	3 years or \$100,000	3 years or \$100,000	2 years or \$75,000	
(b) On indictment	14 years and \$200,000	14 years and \$200,000	14 years and \$200,000			

Section 6 (2)	Production or being concerned in the production of a controlled drug	(a) Summary (b) On indictment	3 years or \$100,000 14 years and \$200,000	3 years or \$100,000 14 years and \$200,000	2 years or \$75,000 14 years and \$200,000	
Section 6 (3)	Supplying or offering to supply a controlled drug or being concerned in the doing of either activity by another	(a) Summary (b) On indictment	3 years or \$100,000 14 years and \$200,000	3 years or \$100,000 14 years and \$200,000	2 years or \$75,000 10 years and \$200,000	
Section 7 (2)	Having possession of a controlled drug	(a) Summary (b) On indictment	3 years or \$100,000 7 years or \$200,000	3 years or \$100,000 7 years or \$200,000	2 years or \$75,000 5 years or \$100,000	
Section 7 (3)	Having possession of a controlled drug with intent to supply it to another	(a) Summary (b) On indictment		3 years and/or \$100,000 14 years and/or \$200,000	3 years and/or \$100,000 14 years and/or \$200,000	2 years and/or \$75,000 10 years and/or \$200,000
Section 8 (2)	Cultivation of Cannabis plant	(a) Summary (b) On indictment				3 years and/or \$100,000 14 years and/or \$200,000
Section 10	Being the occupier or concerned in the management of premises and permitting or suffering certain activities to take place there	(a) Summary (b) On indictment	3 years and/or \$100,000 14 years and/or \$200,000	3 years and/or \$100,000 14 years and/or \$200,000	2 years and/or \$75,000 10 years and/or \$200,000	
Section 11	Offences relating to opium	(a) Summary (b) On indictment				2 years and \$75,000 14 years and \$200,000
Section 13 (2)	Contravention of directions relating to safe custody of controlled drugs	(a) Summary (b) On indictment				3 years and/or \$100,000 10 years and/or \$200,000
Section 14 (6)	Contravention of direction prohibiting practitioner, etc., from possessing,	(a) Summary (b) On indictment	3 years and/or \$100,000 14 years	3 years and/or \$100,000 14 years	2 years and/or \$75,000 10 years	

	supplying, etc. controlled drugs		and/or \$200,000	and/or \$200,000	and/or \$200,000	
Section 15 (3)	Contravention of direction prohibiting practitioner, etc., from prescribing, supplying, etc. controlled drugs	(a) Summary (b) On indictment	3 years and/or \$100,000 14 years and/or \$200,000	3 years and/or \$100,000 14 years and/or \$200,000	2 years and/or \$75,000 10 years and/or \$200,000	
Section 18 (3)	Failure to comply with notice requiring information relating to prescribing, supplying, etc. of drugs	Summary				\$75,000
Section 18 (4)	Giving false information in purported compliance with notice requiring information relating to prescribing, supplying, etc. of drugs	(a) Summary (b) On indictment				3 years and/or \$100,000 10 years and/or \$200,000
Section 19 (1)	Contravention of regulations (other than regulations relating to addicts)	(a) Summary (b) On indictment				3 years and/or \$100,000 10 years and/or \$200,000
Section 19 (2)	Contravention of terms of licence or authority	(a) Summary (b) On indictment				3 years and/or \$100,000 10 years and/or \$200,000
Section 19 (3)	Giving false information on purported compliance with obligation to give information imposed under or by virtue of regulations	(a) Summary (b) On indictment				3 years and/or \$100,000 10 years and/or \$200,000
Section 19 (4)	Giving false information or producing document etc., containing false statement, etc., for purposes of obtaining issue or renewal of a licence or other authority	(a) Summary (b) On indictment				3 years and/or \$100,000 10 years and/or \$200,000
Section	Assisting in or in-	(a) Summary				3 years

21	ducing commission outside Saint Lucia of an offence punishable under a corresponding law	(b) On indictment				and/or \$100,000 14 years and/or \$200,000
Section 24 (5)	Obstructing exercise of powers of search etc., failing to stop, preventing the person in charge from stopping, leaving a stopped vehicle, etc.,or concealing books,drugs, etc.	(a) Summary (b) On indictment				3 years and/or \$100,000 14 years and/or \$200,000