



FALKLAND ISLANDS

Misuse of Drugs Ordinance 1987

(ORDINANCE No. 16 OF 1987)

ARRANGEMENT OF SECTIONS

Section

1. Short title
2. Interpretation
3. Restriction on importation and exportation of controlled drugs
4. Restriction of production and supply of controlled drugs
5. Restriction on possession of controlled drugs
6. Restriction on cultivation of cannabis plant
7. Authorization of activities otherwise unlawful under foregoing provisions
8. Occupiers of premises commit offence by permitting certain activities to take place there
9. Prohibition of certain activities relating to opium
10. Prohibition of supply of articles for administering or preparing controlled drugs
11. Power to make regulations for preventing misuse of controlled drugs
12. Directions as to special precautions for safe custody of controlled drugs
13. Directions prohibiting prescription, supply, etc., of controlled drugs by convicted practitioners or pharmacists
14. Directions prohibiting prescription, administration and supply of controlled drugs by practitioners in other cases
15. Power to obtain information in certain circumstances
16. Miscellaneous offences

17. Attempts to commit offences
 18. Assisting in or inducing commission of offence outside Falkland Islands
 19. Offences by corporations
 20. Further power to make regulations
 21. Powers to search and obtain evidence
 22. Power of arrest
 23. Trial of offences by Senior Magistrate or justices of the peace and sentencing
 24. Forfeiture
 25. Proof of lack of knowledge to be defence in proceedings for certain offences
 26. Service of documents
 27. Licence and authorities
- Schedule: Controlled drugs
- Part 1 - Class A drugs
- Part 2 - Class B drugs
- Part 3 - Class C drugs
- Part 4 - Meaning of certain expressions used in this Schedule



FALKLAND ISLANDS

Misuse of Drugs Ordinance 1987

AN ORDINANCE To provide for the prevention of the misuse of drugs.

*[DATE OF COMMENCEMENT: 31ST MARCH 1989]
(Unless otherwise indicated)*

1 Short title

This Ordinance may be cited as the Misuse of Drugs Ordinance 1987.

2 Interpretation

(1) In this Ordinance, unless the context otherwise requires-

"**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; and
- (c) seed of any such plant;

"**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**" means any substance or product for the time being specified in the Schedule;

"**corresponding law**" has the meaning given in section 18(2);

"**dentist**" means a person entitled to practise as such in the Falkland Islands;

"doctor" means a person entitled to practise as such in the Falkland Islands;

"hovercraft" means a vehicle which is designed to be supported when in motion wholly or partly by air expelled from the vehicle to form a cushion of which the boundaries include the ground, water or other surface beneath the vehicle;

"practitioner" means a doctor, dentist, veterinary practitioner or veterinary surgeon;

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

"prescribed" means prescribed by the Governor by order;

"produce" where the reference is to producing a controlled drug, means producing by manufacture, cultivation or any other method and "production" has a corresponding meaning;

"supplying" includes distributing;

"veterinary practitioner" or **"veterinary surgeon"** means a person entitled to practise as such in the Falkland Islands.

(2) References in this Ordinance to misusing a drug are references to misusing it by 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 purpose of this Ordinance the things which a person has in his possession shall be taken to include any thing subject to his control but which is in the custody of another.

(4) The Governor may by Order make such amendments in the Schedule to this Ordinance as may be requisite for the purpose of adding any substance or product to, or removing any substance or product from, any of Parts 1 to 3 of that Schedule, including amendments for securing that no substance or product for the time being specified in a particular way of those Parts or for inserting any substance into any of those Parts in which no substance or product is for the time being specified.

[S. 2(a)/Ord. 8/97/w.e.f. 1/1/1998.]

(5) An Order under this section may amend Part 4 of the Schedule, and may do so whether or not it amends any other Part of that Schedule

[S. 2(a)/Ord. 8/97/w.e.f. 1/1/1998.]

3 Restriction on importation and exportation of controlled drugs

(1) Subject to section 7 the importation of a controlled drug and the exportation of a controlled drug are prohibited.

Penalty:

Class A or B drug - 14 years' imprisonment except if the drug concerned is cannabis, when it shall be 7 years, and a fine of level 10 in the standard scale except if the drug concerned is cannabis, when it shall be level 8;

[S. 2(1)/Ord. 12/03/w.e.f. 19/6/03.]

Class C drug - 5 years' imprisonment and a fine of level 6 on the standard scale.

[S. 2(1)/Ord. 12/03/w.e.f. 19/6/03.]

(2) Subsection (1) does not apply to the importation or exportation of a controlled drug in accordance with and in compliance with any condition attached to a licence issued by the Chief Medical Officer.

4 Restriction of production and supply of controlled drugs

Subject to section 7, it is an offence for a person to-

- (a) produce a controlled drug;
- (b) be concerned in the production of such a drug by another;
- (c) supply a drug to another;
- (d) be concerned in the supplying of such a drug to another; or
- (e) be concerned in the making to another of an offer to supply such a drug.

Penalty:

Class A or B drug - 14 years' imprisonment, except if the drug concerned is cannabis, when it shall be 7 years, and a fine of level 10 on the standard scale;

[S. 2(1)/Ord. 12/03/w.e.f. 19/6/03.]

Class C drug - 5 years' imprisonment and a fine of level 6 on the standard scale.

[S. 2(1)/Ord. 12/03/w.e.f. 19/6/03.]

5 Restriction on possession of controlled drugs

(1) Subject to section 7, it is an offence for a person to have a controlled drug in his possession.

Penalty:

Class A drug - 7 years' imprisonment and a fine of level 8 on the standard scale;

[S. 2(1)/Ord. 12/03/w.e.f. 19/6/03.]

Class B drug - 5 years' imprisonment and a fine of level 6 on the standard scale, except where the drug concerned is cannabis, when it shall be level 5;

[S. 2(1)/Ord. 12/03/w.e.f. 19/6/03.]

Class C drug - 2 years' imprisonment and a fine of level 4 on the standard scale.

[S. 2(1)/Ord. 12/03/w.e.f. 19/6/03.]

(2) Subject to section 24, 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 4.

Penalty:

Class A or B drug - 14 years' imprisonment and a fine of level 10 on the standard scale, except when the drug concerned is cannabis, when it shall be level 8;

[S. 2(1)/Ord. 12/03/w.e.f. 19/6/03.]

Class C drug - 5 years' imprisonment and a fine of level 6 on the standard scale.

[S. 2(1)/Ord. 12/03/w.e.f. 19/6/03.]

(3) In any proceedings for an offence under subsection (1) 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 or 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.

(4) Subsection (3) shall apply in the case of proceedings for an offence under section 16 consisting of an attempt to commit an offence under subsection (1) as it applies in the case of proceedings for an offence under subsection (1), subject to the following modifications:

- (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.

(5) Nothing in subsection (3) or (4) shall prejudice any defence which is open to a person charged with an offence under this section to raise apart from that subsection.

6 Restriction on cultivation of cannabis plant

Subject to sections 7 and 24, it is an offence for a person to cultivate any plant of the genus Cannabis.

Penalty: 7 years' imprisonment and a fine of level 8 on the standard scale.

[S. 2(1)/Ord. 12/03/w.e.f. 19/6/03.]

7 Authorization of activities otherwise unlawful under foregoing provisions

(1) The Governor may by order-

- (a) except from sections 3(1) or 5(1) such controlled drugs as may be specified in the order; and
 - (b) make such other provision as he considers fit for the purpose of making it lawful for persons to do things which under sections 4, 5 and 6 it would otherwise be unlawful for them to do.
- (2) Without prejudice to the generality of subsection (1)(b) an order made under that subsection may in particular provide for the doing of anything to be lawful-
- (a) if it is done under and in accordance with the terms of a licence or other authority issued by the Governor or the Chief Medical Officer 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 Governor may by order provide-
- (a) that it is not an offence under section 4 for a doctor, veterinary practitioner or veterinary surgeon, acting in his capacity as such or such other person or class of persons as may be specified by the Governor by order to prescribe, administer, manufacture, compound or supply a controlled drug; and
 - (b) that it is not an offence under section 5(1) for a doctor, dentist, veterinary practitioner, veterinary surgeon, pharmacist 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 case of any controlled drug the Governor in Council is of the opinion that it is in the public interest-
- (a) for the production, supply and possession of that drug to be either wholly unlawful or unlawful except for the purpose of research or other special purposes; or
 - (b) for it to be an offence for practitioners, pharmacists and persons lawfully conducting any retail pharmacy business 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 Governor,

he may by order designate that drug as a drug to which this subsection applies; and while there is in force such an order subsection (3) shall not apply to the drug specified in the order.

8 Occupiers of premises commit offence by permitting certain activities to take place there

A person being the occupier or concerned in the management of any premises commits an offence if 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 4;
- (b) supplying or attempting to supply a controlled drug to another in contravention of section 4 or offering to supply a controlled drug to another in contravention of section 4;
- (c) preparing opium for smoking;
- (d) smoking cannabis, cannabis resin or prepared opium.

Penalty:

Class A or B drug - 14 years' imprisonment and a fine of level 10 on the standard scale, except when the drug concerned is cannabis, when it shall be level 8;

[S. 2(1)/Ord. 12/03/w.e.f. 19/6/03.]

Class C drug - 5 years' imprisonment and a fine of level 6 on the standard scale.

[S. 2(1)/Ord. 12/03/w.e.f. 19/6/03.]

9 Prohibition of certain activities relating to opium

Subject to section 24, it is an offence for a person-

- (a) to smoke or otherwise use prepared opium;
- (b) to frequent a place used for opium smoking; or
- (c) to have in his possession-
 - (i) any pipes or other utensils made or adapted 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.

Penalty: 14 years' imprisonment and a fine of level 10 on the standard scale.

[S. 2(1)/Ord. 12/03/w.e.f. 19/6/03.]

10 Prohibition of supply of articles for administering or preparing controlled drugs

(1) A person who supplies or offers to supply any article which may be used or adapted to be used (whether by itself or in combination with another article or other articles) in the administration by any person of a controlled drug to himself or another, believing that the article (or the article as adapted) is to be so used in circumstances where the administration is unlawful, commits an offence.

Penalty: 6 months' imprisonment and a fine of level 3 on the standard scale.

[S. 2(1)/Ord. 12/03/w.e.f. 19/6/03.]

(2) It is not an offence under subsection (1) to supply or offer to supply a hypodermic syringe, or any part of one.

(3) A person who supplies or offers to supply any article which may be used to prepare a controlled drug for administration by any person to himself or another believing that the article is to be so used in circumstances where the administration is unlawful is guilty of an offence.

Penalty: 6 months' imprisonment and a fine on level 3 on the standard scale.

[S. 2(1)/Ord. 12/03/w.e.f. 19/6/03.]

- (4) For the purposes of this section, any administration of a controlled drug is unlawful except-
- (a) the administration by any person of a controlled drug to another in circumstances where the administration of the drug is not unlawful under section 4; or
 - (b) the administration by any person of a controlled drug to himself in circumstances where having the controlled drug in his possession is not unlawful under section 5(1).

11 Power to make regulations for preventing misuse of controlled drugs

(1) Subject to this Ordinance the Governor may by order make regulations for preventing the misuse of controlled drugs.

(2) Without prejudice to the generality of subsection (1) regulations made under this section may in particular provide-

- (a) for the precautions to be taken for the safe custody of controlled drugs;
- (b) for the documentation of transactions involving controlled drugs and the furnishing of documents relating to such transactions to the prescribed authority;
- (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 under this section;
- (e) for the packaging and labelling of controlled drugs;
- (f) for the manner of the transport of controlled drugs and the method used for destroying or otherwise disposing of such drugs when no longer required;
- (g) for regulating the issue of prescriptions containing controlled drugs and the supply of controlled drugs on prescriptions, and for furnishing to the prescribed authority such information relating to prescriptions as may be prescribed;
- (h) for requiring any doctor who attends a person whom he considers, or has reasonable grounds to suspect, is addicted 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 doctor from administering, supplying and authorizing the administration and supply to persons addicted to controlled drugs 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 Chief Medical Officer under the regulations.

12 Directions as to special precautions for safe custody of controlled drugs

(1) Without prejudice to any requirement imposed by regulations made under section 11 the Chief Medical Officer may by notice in writing served on the occupier of any premises in which controlled drugs are or are proposed to be kept give directions as to the taking of precautions or further precautions for the safe custody of any controlled drugs of a description specified in the notice which are kept on those premises.

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

Penalty: 2 years' imprisonment and a fine on level 4 on the standard scale.

[S. 2(1)/Ord. 12/03/w.e.f. 19/6/03.]

13 Directions prohibiting prescription, supply, etc., of controlled drugs by convicted practitioners or pharmacists

(1) Where a person who is a practitioner or pharmacist has after the coming into force of this subsection been convicted-

- (a) of an offence under this Ordinance;
- (b) of any offence under the Customs Ordinance in connection with a prohibition of, or restriction on, importation or exportation of a controlled drug;
- (c) of an offence under section 13 or 14 of the Criminal Justice (International Co-operation) Ordinance 1991,

[Revision w.e.f. 31/07/2017]

the Chief Medical Officer may give a direction under subsection (2) in respect of that person.

[S. 22(1) and (2)(a)/Ord. 20/91/w.e.f. 16/3/92.]

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

(3) The Chief Medical Officer 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 Chief Medical Officer 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).

Penalty:

Class A or B drug - 14 years' imprisonment and a fine of level 10 on the standard scale;

[S. 2(1)/Ord. 12/03/w.e.f. 19/6/03.]

Class C drug - 5 years' imprisonment and a fine of level 6 on the standard scale.

[S. 2(1)/Ord. 12/03/w.e.f. 19/6/03.]

14 Directions prohibiting prescription, administration and supply of controlled drugs by practitioners in other cases

(1) In the event of a contravention by a doctor of regulations made in pursuance of section 11(2)(h) or (i) or of the terms of a licence issued under regulations made under the said paragraph (i) the Governor may give a direction in respect of the doctor prohibiting him from prescribing, administering and supplying and from authorizing the administration and supply of such controlled drugs as may be specified in the direction.

(2) If the Chief Medical Officer is of the opinion that a practitioner is or has after the coming into operation of this subsection been prescribing, administering or supplying or authorizing the administration or supply of any controlled drugs in an irresponsible manner, the Chief Medical Officer may give a direction in respect of the practitioner prohibiting him from prescribing, administering and supplying and from authorizing the administration and supply of such controlled drugs as may be specified in the direction.

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

Penalty:

Class A or B drug - 14 years' imprisonment and a fine of level 10 on the standard scale;

[S. 2(1)/Ord. 12/03/w.e.f. 19/6/03.]

Class C drug - 5 years' imprisonment and a fine of level 6 on the standard scale.

[S. 2(1)/Ord. 12/03/w.e.f. 19/6/03.]

15 Power to obtain information in certain circumstances

(1) If it appears to the Governor in Council that there exists in the Falkland Islands a social problem caused by the extensive misuse of dangerous or otherwise harmful drugs he may by notice in writing served on any doctor or pharmacist at any premises require him to furnish to the Governor, 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 pharmacist, were supplied by him.

(2) A notice under this section may require any such particulars to be furnished in such manner and within such time as may be specified in the notice and, if served on a pharmacist, may require him to furnish the names and addresses of 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 requirement to which he is subject by virtue of subsection (1).

Penalty: a fine of level 2 on the standard scale.

[S. 2(1)/Ord. 12/03/w.e.f. 19/6/03.]

(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.

Penalty: 2 years' imprisonment and a fine of level 4 on the standard scale.

[S. 2(1)/Ord. 12/03/w.e.f. 19/6/03.]

16 Miscellaneous offences

(1) It is an offence for a person to contravene any regulations made under this Ordinance other than regulations made in pursuance of section 11(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 7 or of a licence or other authority issued under this Ordinance, not being a licence issued under regulations made in pursuance of section 11(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 Ordinance, he gives any information which he knows to be false in a material particular or recklessly gives 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 Ordinance or under any regulation made under this Ordinance, 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.

Penalty: 2 years' imprisonment and a fine of level 4 on the standard scale.

[S. 2(1)/Ord. 12/03/w.e.f. 19/6/03.]

17 Attempts to commit offences

(1) It is an offence for a person to attempt to commit an offence under this Ordinance or to incite or attempt to incite another to commit such an offence.

(2) The punishment for an offence under subsection (1) shall be the same as the punishment that may be imposed on a person for the substantive offence.

18 Assisting in or inducing commission of offence outside Falkland Islands

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

Penalty: 14 years' imprisonment and a fine of level 10 on the standard scale.

[S. 2(1)/Ord. 12/03/w.e.f. 19/6/03.]

(2) 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 Falkland 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 to which the government of that country and Her Majesty's Government in the United Kingdom are for the time being parties and which said treaty, convention or other agreement has been extended to or applied in the Falkland Islands.

19 Offences by corporations

Where any offence under this Ordinance or Part III of the Criminal Justice (International Co-operation) 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.

[S. 22(1) and (3)/Ord. 20/91/w.e.f. 16/3/92.]

20 Further power to make regulations

The Governor may by order make regulations providing-

- (a) for excluding-
 - (i) the application of any provision of this Ordinance which creates an offence; or
 - (ii) the application of any of the provisions of the Customs Ordinance in so far as they apply in relation to a prohibition or restriction on importation or exportation having effect by virtue of section 3 of this Ordinance;
- (b) for the application of any of the provisions of this Ordinance or regulations or orders hereunder to servants or agents of the Crown, subject to such exceptions, adaptations and modifications as may be prescribed.

21 Powers to search and obtain evidence

(1) A police officer or other person authorized in that behalf by a general or special order of the Attorney General shall, for the purposes of the execution of this Ordinance have power to enter the premises of a person carrying on business as a producer or supplier of any controlled drugs

and to demand the production of, and to inspect, any books or documents relating to dealings in any such drugs and to inspect any stocks of any such drugs.

(2) If a police officer has reasonable grounds to suspect that any person is in possession of a controlled drug in contravention of this Ordinance or of any regulations made hereunder the officer may-

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

In this subsection "vessel" includes a hovercraft; and 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 justice of the peace or the Senior Magistrate is satisfied by information on oath that there is reasonable ground for suspecting-

- (a) that any controlled drugs are, in contravention of this Ordinance or of any regulations made hereunder, in the possession of a person on any premises; or
- (b) that a document directly or indirectly relating to, or connected with, a transaction or dealing which was, or is an intended transaction or dealing which would if carried out be an offence under this Ordinance, or in the case of a transaction or dealing carried out in a place outside the Falkland 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 authorizing 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 persons found therein and if there is reasonable ground for suspecting that an offence under this Ordinance 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 as is mentioned in paragraph (b), to seize and detain that drug or that document, as the case may be.

[S. 22(1) and (4)(a)/Ord. 20/91/w.e.f. 16/3/92.]

(4) The powers conferred by subsection (1) above shall be exercisable also for the purposes of the execution of Part III of the Criminal Justice (International Co-operation) Ordinance and subsection (3) above (excluding paragraph (a)) shall apply also to offences under section 13 or 14 of that Ordinance, taking references in those provisions to controlled drugs as references to scheduled substances within the meaning of that Part.

[S. 22(1) and (4)(b)/Ord. 20/91/w.e.f. 16/3/92.]

(5) A person commits an offence if he-

- (a) intentionally obstructs a person in the exercise of his powers under this section; or

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

Penalty: 2 years' imprisonment and a fine of level 4 on the standard scale.

[S. 2(1)/Ord. 12/03/w.e.f. 19/6/03.]

22 Power of arrest

- (1) A police officer may arrest without a warrant a person who has committed, or whom the officer with reasonable cause suspects to have committed, an offence under this Ordinance if-
 - (a) he with reasonable cause believes that the person will abscond unless arrested; or
 - (b) the name and address of that person are unknown to 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) This section shall not prejudice any power of arrest conferred by law apart from this section.

23...

[S. 25/Ord. 4/2019/w.e.f. 10/4/2019]

24 Forfeiture

(1) Subject to subsection (2) of this section the court by or before which a person is convicted of an offence under this Ordinance or a drug trafficking offence, as defined in Drug Trafficking Offences Ordinance, section 2(1) 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 other manner as the court may order.

[S. 4/Ord. 20/89/w.e.f. 22/12/89.]

(2) The court shall not order anything to be forfeited under this section where a person claiming to be the owner of 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.

25 Proof of lack of knowledge to be a defence in proceedings for certain offences

(1) This section applies to offences under sections 4, 5, 6 and 9.

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

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

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

26 Service of documents

(1) Any notice or other document required or authorized by this Ordinance to be served on any person may be served on him by delivering it to him or by leaving it at his last known address or by sending it by post.

(2) Any notice or other document so required or authorized to be served on a body corporate shall be duly served on it if served on the Secretary or Clerk of that body at the registered or principal office of that body by delivering it to him or by leaving it addressed to him at such address or by sending it to him there by post.

27 Licence and authorities

A licence or other authority issued by the Chief Medical Officer for the purposes of this Ordinance or of regulations made hereunder may be general or specific and issued on such terms and subject to such conditions (including in the case of a licence the payment of a prescribed fee) as the Chief Medical Officer shall consider proper, and may be modified or revoked by him at any time.

SCHEDULE CONTROLLED DRUGS

[S.R. & O. 20/2014/w.e.f. 23/12/14.]

PART 1 CLASS A DRUGS

1. The following substances and products:

- (a) Acetorphine
- Alfentanil
- Allylprodine
- Alphacetylmethadol
- Alphameprodine
- Alphamethadol
- Alphaprodine
- Anileridine
- Benzethidine
- Benzylmorphine (3-benzylmorphine)
- Betacetylmethadol
- Betameprodine
- Betamethadol
- Betaprodine
- Bezitramide
- Bufotenine
- Cannabinol, except where contained in cannabis or cannabis resin
- Cannabinol derivatives
- Carfentanil
- Clonitazene
- Coca leaf
- Cocaine
- Desomorphine
- Dextromoramide
- Diamorphine
- Diampromide
- Diethylthiambutene
- Difenoxin (1-(3-cyano-3,3-diphenylpropyl)-4-phenylpiperidine-4-carboxylic acid)
- Dihydrocodeineone O-carboxy-methyl oxime
- Dihydromorphine
- Dimenoxadole
- Dimepheptanol
- Dimethylthiambutene
- Dioxaphetyl butyrate
- Diphenoxylate
- Dipipanone
- Drotebanol (3,4-dimethoxy-17-methylmorphinan-6 β , 14-diol)
- Ecgonine, and any derivative of ecgonine which is convertible to ecgonine or to cocaine
- Ethylmethylthiambutene
- Eticyclidine
- Etonitazene
- Etorphine
- Etoperidine
- Etryptamine
- Fentanyl
- Furethidine
- Hydrocodone
- Hydromorphenol

Hydromorphone
 Hydroxypethidine
 Isomethadone
 Ketobemidone
 Levomethorphan
 Levomoramide
 Levophenacymorphan
 Levorphanol
 Lofentanil
 Lysergamide
 Lysergide and other N-alkyl derivatives of lysergamide
 Mescaline
 Metazocine
 Methadone
 Methadyl acetate
 Methyldesorphine
 Methyldihydromorphone (6-methyldihydromorphone)
 Metopon
 Morpheridine
 Morphine
 Morphine methobromide, morphine N-oxide and other pentavalent nitrogen morphine derivatives
 Myrophine
 Nicomorphine (3,6-dinicotinoylmorphine)
 Noracymethadol
 Norlevorphanol
 Normethadone
 Normorphine
 Norpipanone
 Opium, whether raw, prepared or medicinal
 Oxycodone
 Oxymorphone
 Pethidine
 Phenadoxone
 Phenampromide
 Phenazocine
 Phencyclidine
 Phenomorphan
 Phenoperidine
 Piminodine
 Pirtramide
 Poppy-straw and concentrate of poppy-straw
 Proheptazine
 Properidine (1-methyl-4-phenyl-piperidine-4-carboxylic acid isopropyl ester)
 Psilocin
 Racemethorphan
 Racemoramide
 Racemorphan
 Rolicyclidine

Sufentanil
 Tenocyclidine
 Thebacon
 Thebaine
 Tilidate
 Trimeperidine
 4-Bromo-2,5-dimethoxy- α -methylphenethylamine
 4-Cyano-2-dimethylamino-4,4-diphenylbutane
 4-Cyano-1-methyl-4-phenylpiperidine
 N,N-Diethyltryptamine
 N,N-Dimethyltryptamine
 2,5-Dimethoxy- α ,4-dimethylphenethylamine
 N-Hydroxy-tenamphetamine
 1-Methyl-4-phenylpiperidine-4-carboxylic acid
 2-Methyl-3-morpholino-1,1-diphenylpropanecarboxylic acid
 4-Methyl-aminorex
 4-Phenylpiperidine-4-carboxylic acid ethyl ester

- (b) any compound (not being a compound for the time being specified in subparagraph (a) above) structurally derived from tryptamine or from a ring-hydroxy tryptamine by substitution at the nitrogen atom of the side chain with one or more alkyl substituents but no other substituent;
- (c) any compound (not being methoxyphenamine or a compound for the time being specified in subparagraph (a) above) structurally derived from phenethylamine, an N-alkylphenethylamine, α -methylphenethylamine, an N-alkyl- α -methylphenethylamine, α -ethylphenethylamine, or an N-alkyl- α -ethylphenethylamine by substitution in the ring to any extent with alkyl, alkoxy, alkylene-dioxy or halide substituents, whether or not further substituted in the ring by one or more other univalent substituents;
- (d) any compound (not being a compound for the time being specified in subparagraph (a) above) structurally derived from fentanyl by modification in any of the following ways:
 - (i) by replacement of the phenyl portion of the phenethyl group by any heteromonocycle whether or not further substituted in the heterocycle;
 - (ii) by substitution in the phenethyl group with alkyl, alkenyl, alkoxy, hydroxy, halogeno, haloalkyl, amino or nitro groups;
 - (iii) by substitution in the piperidine ring with alkyl or alkenyl groups;
 - (iv) by substitution in the aniline ring with alkyl, alkoxy, alkylenedioxy, halogeno or haloalkyl groups;
 - (v) by substitution at the 4-position of the piperidine ring with any alkoxycarbonyl or alkoxyalkyl or acyloxy group;
 - (vi) by replacement of the N-propionyl group by another acyl group; and

- (e) any compound (not being a compound for the time being specified in subparagraph (a) above) structurally derived from pethidine by modification in any of the following ways-
- (i) by replacement of the 1-methyl group by an acyl, alkyl whether or not unsaturated, benzyl or phenethyl group, whether or not further substituted;
 - (ii) by substitution in the piperidine ring with alkyl or alkenyl groups or with a propano bridge, whether or not further substituted;
 - (iii) by substitution in the 4-phenyl ring with alkyl, alkoxy, aryloxy, halogeno or haloalkyl groups;
 - (iv) by replacement of the 4-ethoxycarbonyl by any other alkoxycarbonyl or any alkoxyalkyl or acyloxy group;
 - (v) by formation of an N-oxide or of a quaternary base.
2. Any stereoisomeric form of a substance for the time being specified in paragraph 1 not being dextromethorphan or dextrorphan.
3. Any ester or ether of a substance for the time being specified in paragraph 1 or 2 not being a substance for the time being specified in Part 2 of this Schedule.
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 2 of this Schedule.

PART 2

CLASS B DRUGS

1. The following substances and products:
- (a) Acetyldihydrocodeine
 - Amphetamine
 - Cannabis and cannabis resin
 - Codeine
 - Dihydrocodeine
 - Ethylmorphine (3-ethylmorphine)
 - Glutethimide
 - Lefetamine
 - Mecloqualone
 - Methaqualone
 - Methcathinone
 - Methylamphetamine
 - Methylphenidate

Methylphenobarbitone
Nicocodine
Nicodicodine (6-nicotinoyldihydrocodeine)
Norcodeine
Pentazocine
Phenmetrazine
Pholcodine
Propiram
Zipeprol

- (b) any 5,5 disubstituted barbituric acid.
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 paragraphs 1 to 3 of this Part of this Schedule, not being a preparation falling within paragraph 6 of Part 1 of this Schedule.

PART 3

CLASS C DRUGS

1. The following substances:

(a) Alprazolam
Aminorex
Benzphetamine
Bromazepam
Brotizolam
Buprenorphine
Camazepam
Cathine
Cathinone
Chlordiazepoxide
Chlorphentermine
Clobazam
Clonazepam
Clorazepic acid
Clotiazepam
Cloxazolam
Delorazepam
Dextropropoxyphene
Diazepam
Diethylpropion
Estazolam
Ethchlorvynol

Ethinamate
Ethyl loflazepate
Fencamfamin
Fenethylline
Fenproporex
Fludiazepam
Flunitrazepam
Flurazepam
Halazepam
Haloxazolam
Ketazolam
Loprazolam
Lorazepam
Lormetazepam
Mazindol
Medazepam
Mefenorex
Mephentermine
Meprobamate
Mescocarb
Methypylone
Midazolam
Nimetazepam
Nitrazepam
Nordazepam
Oxazepam
Oxazolam
Pemoline
Phendimetrazine
Phentermine
Pinazepam
Pipradrol
Prazepam
Pyrovalerone
Temazepam
Tetrazepam
Triazolam
N-Ethylamphetamine

- (b) Atamestane
Bolandiol
Bolasterone
Bolazine
Boldenone
Bolenol
Bolmantelate
Calusterone
4-Chloromethandienone
Clostebol

Drostanolone
 Enestebol
 Epitiostanol
 Ethyloestrenol
 Fluoxymesterone
 Formebolone
 Furazabol
 Mebolazine
 Mepitiostane
 Mesabolone
 Mestanolone
 Mesterolone
 Methandienone
 Methandriol
 Methenolene
 Methyltestosterone
 Metribolone
 Mibolerone
 Nandrolone
 Norboletone
 Norclostebol
 Norethandrolone
 Ovandrotone
 Oxabolone
 Oxandrolone
 Oxymesterone
 Oxymetholone
 Prasterone
 Propetandrol
 Quinbolone
 Roxibolone
 Silandrone
 Stanolone
 Stanozolol
 Stenbolone
 Testosterone
 Thiomesterone
 Trenbolone

- (c) any compound (not being Trilostane or a compound for the time being specified in subparagraph (b) of this paragraph) structurally derived from 17-hydroxyandrostane-3-one or from 17-hydroxyestrane-3-one by modification in any of the following ways-
- (i) by further substitution at position 17 by a methyl or ethyl group;
 - (ii) by substitution to any extent at one or more of positions 1, 2, 4, 6, 7, 9, 11 or 16 but at no other position;
 - (iii) by unsaturation in the carbocyclic ring system to any extent, provided that there are no more than two ethylenic bonds in any one carbocyclic ring;

- (iv) by fusion of ring A with a heterocyclic system;
 - (d) any substance which is an ester or ether (or, where more than one hydroxyl function is available, both an ester or an ether) of a substance specified in sub-paragraph (b) of this paragraph or described in sub-paragraph (c) of this paragraph;
 - (e) Chorionic gonadotrophin (HCG)
Clenbuterol
Non-human chorionic gonadotrophin
Somatotropin
Somatrem
Somatropin
2. Any stereoisomeric form of a substance for the time being specified in paragraph 1 of this Part of this Schedule not being phenylpropanolamine.
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 4

MEANING OF CERTAIN EXPRESSIONS USED IN THIS SCHEDULE

For the purposes of this Schedule the following expressions have the meanings assigned to them respectively-

"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; and

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

ⁱ S.R. & O. No. 4 of 1989