



Isle of Man

Ellan Vannin

AT 3 of 1996

DRUG TRAFFICKING ACT 1996



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DRUG TRAFFICKING ACT 1996

Received Royal Assent: 16 April 1996

Passed: 16 April 1996

Commenced: 1 September 1996

AN ACT to consolidate, with amendments and additions, the *Drug Trafficking Offences Act 1987*; and for connected purposes.

PART I – CONFISCATION ORDERS

Introduction

1 [Repealed]¹

Confiscation orders

2 to 10 [Repealed]²

Statements etc. in connection with confiscation orders

11 and 12³ [Repealed]

Further proceedings in connection with confiscation orders

13 to 18 [Repealed]⁴

Confiscation orders where defendant has absconded or died

19 to 24 [Repealed]⁵

Restraint orders and charging orders

25 to 28 [Repealed]⁶

Realisation of property

29 and 30 [Repealed]⁷

Exercise of powers for the realisation of property

31 [Repealed]⁸

Insolvency of defendants etc

32 and 33 [Repealed]⁹

Receivers

34 [Repealed]¹⁰

*Enforcement of orders made outside the Island*¹¹

35 to 37 [Repealed]¹²

Interpretation

38 [Repealed]¹³

PART II – DRUG TRAFFICKING MONEY IMPORTED OR EXPORTED IN CASH

39 to 44 [Repealed]¹⁴

PART III – OFFENCES IN CONNECTION WITH PROCEEDS OF DRUG TRAFFICKING

45 to 51 [Repealed]¹⁵

PART IV – MISCELLANEOUS AND SUPPLEMENTAL

Investigations into drug trafficking

52 Order to make material available

[P1994/37/55]

- (1) A constable may, for the purpose of an investigation into drug trafficking, apply to a Deemster for an order under subsection (2) in relation to particular material or material of a particular description.
- (2) If on such an application the Deemster is satisfied that the conditions in subsection (4) are fulfilled, he may make an order that the person who appears to him to be in possession of the material to which the application relates shall —
 - (a) produce it to a constable for him to take away, or
 - (b) give a constable access to it,within such period as the order may specify.

- (3) The period to be specified in an order under subsection (2) shall be 7 days unless it appears to the Deemster that a longer or shorter period would be appropriate in the particular circumstances of the application.
- (4) The conditions referred to in subsection (2) are —
 - (a) that there are reasonable grounds for suspecting that a specified person has carried on drug trafficking;¹⁶
 - (b) that there are reasonable grounds for suspecting that the material to which the application relates —
 - (i) is likely to be of substantial value (whether by itself or together with other material) to the investigation for the purpose of which the application is made; and
 - (ii) does not consist of or include items subject to legal privilege; and
 - (c) that there are reasonable grounds for believing that it is in the public interest, having regard —
 - (i) to the benefit likely to accrue to the investigation if the material is obtained, and
 - (ii) to the circumstances under which the person in possession of the material holds it,that the material should be produced or that access to it should be given.
- (5) Where the Deemster makes an order under subsection (2)(b) in relation to material on any premises he may, on the application of a constable, order any person who appears to him to be entitled to grant entry to the premises to allow a constable to enter the premises to obtain access to the material.
- (6) An application under subsection (1) or (5) may be made *ex parte* to a Deemster in chambers.
- (7) Provision may be made by rules of court as to —
 - (a) the discharge and variation of orders under this section; and
 - (b) proceedings relating to such orders.
- (8) An order of a Deemster under this section shall have effect as if it were an order of the High Court.
- (9) Where the material to which an application under subsection (1) relates consists of information contained in a computer —
 - (a) an order under subsection (2)(a) shall have effect as an order to produce the material in a form in which it can be taken away and in which it is visible and legible; and
 - (b) an order under subsection (2)(b) shall have effect as an order to give access to the material in a form in which it is visible and legible.

- (10) An order under subsection (2) —
 - (a) shall not confer any right to production of, or access to, items subject to legal privilege;
 - (b) shall have effect notwithstanding any obligation as to secrecy or other restriction upon the disclosure of information imposed by statute or otherwise; and
 - (c) may be made in relation to material in the possession of a government department.

53 Authority for search

[P1994/37/56]

- (1) A constable may, for the purpose of an investigation into drug trafficking, apply to a Deemster for a warrant under this section in relation to specified premises.
- (2) On such application the Deemster may issue a warrant authorising a constable to enter and search the premises if the Deemster is satisfied —
 - (a) that an order made under section 52 in relation to material on the premises has not been complied with;
 - (b) that the conditions in subsection (3) are fulfilled; or
 - (c) that the conditions in subsection (4) are fulfilled.
- (3) The conditions referred to in subsection (2)(b) are —
 - (a) that there are reasonable grounds for suspecting that a specified person has carried on drug trafficking;¹⁷
 - (b) that the conditions in section 52(4)(b) and (c) are fulfilled in relation to any material on the premises; and
 - (c) that it would not be appropriate to make an order under section 52 in relation to the material because —
 - (i) it is not practicable to communicate with any person entitled to produce the material;
 - (ii) it is not practicable to communicate with any person entitled to grant access to the material or entitled to grant entry to the premises on which the material is situated; or
 - (iii) the investigation for the purpose of which the application is made might be seriously prejudiced unless a constable could secure immediate access to the material.
- (4) The conditions referred to in subsection (2)(c) are —
 - (a) that there are reasonable grounds for suspecting that a specified person has carried on drug trafficking;¹⁸
 - (b) that there are reasonable grounds for suspecting that there is on the premises material relating to the specified person or to drug

trafficking which is likely to be of substantial value (whether by itself or together with other material) to the investigation for the purpose of which the application is made, but that the material cannot at the time of the application be particularised; and

- (c) that —
 - (i) it is not practicable to communicate with any person entitled to grant entry to the premises;
 - (ii) entry to the premises will not be granted unless a warrant is produced; or
 - (iii) the investigation for the purpose of which the application is made might be seriously prejudiced unless a constable arriving at the premises could secure immediate entry to them.
- (5) Where a constable has entered premises in the execution of a warrant issued under this section, he may seize and retain any material, other than items subject to legal privilege, which is likely to be of substantial value (whether by itself or together with other material) to the investigation for the purpose of which the warrant was issued.
- (6) Section 12(2) of the *Police Powers and Procedures Act 1998* shall not affect the operation of this section.¹⁹

54 Provisions supplementary to sections 52 and 53

In sections 52 and 53 —

“premises” includes any place and, in particular, includes —

- (a) any vehicle, vessel, aircraft or hovercraft;
- (b) any offshore installations; and
- (c) any tent or movable structure;

“items subject to legal privilege” has the same meaning as in the *Police Powers and Procedures Act 1998*;²⁰

54A Access to, and copying etc of seized material

- (1) For the purposes of sections 24 and 25 of the *Police Powers and Procedures Act 1998* —
 - (a) an investigation into drug trafficking shall be treated as if it were an investigation of or in connection with an offence; and
 - (b) material produced in pursuance of an order under section 51(2)(a) of this Act shall be treated as if it were material seized by a constable.

- (2) Any power of seizure conferred by this Act is without prejudice to the powers conferred by section 22 of the *Police Powers and Procedures Act 1998*.²¹

55 Offence of prejudicing investigation

[P1994/37/58]

- (1) Where, in relation to an investigation into drug trafficking —
- (a) an order under section 52 has been made or has been applied for and has not been refused, or
 - (b) a warrant under section 53 has been issued,
- a person is guilty of an offence if, knowing or suspecting that the investigation is taking place, he makes any disclosure which is likely to prejudice the investigation.
- (2) 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 disclosure was likely to prejudice the investigation; or
 - (b) that he had lawful authority or reasonable excuse for making the disclosure.
- (3) Nothing in subsection (1) makes it an offence for a professional legal adviser to disclose any information or other matter —
- (a) to, or to a representative of, a client of his in connection with the giving by the adviser of legal advice to the client; or
 - (b) to any person —
 - (i) in contemplation of, or in connection with, legal proceedings; and
 - (ii) for the purpose of those proceedings.
- (4) Subsection (3) does not apply in relation to any information or other matter which is disclosed with a view to furthering any criminal purpose.
- (5) A person guilty of an offence under this section shall be liable —
- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding level 5 on the standard scale or to both; and²²
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine or to both.

55A Construction of sections 52 to 55

- (1) This section has effect for the purposes of sections 52 to 55.
- (2) A reference to a constable includes a reference to a customs officer.

- (3) A customs officer is an officer within the meaning of the *Customs and Excise Management Act 1986*.
- (4) “**Drug trafficking**” means doing or being concerned in any of the following (whether in the Island or elsewhere) —
- (a) producing or supplying a controlled drug where the production or supply contravenes section 4(1) of the *Misuse of Drugs Act 1976* or a corresponding law;
 - (b) transporting or storing a controlled drug where possession of the drug contravenes section 5(1) of that Act or a corresponding law;
 - (c) importing or exporting a controlled drug where the importation or exportation is prohibited by section 3(1) of that Act or a corresponding law;
 - (d) manufacturing or supplying a scheduled substance within the meaning of section 4A(3) of that Act where the manufacture or supply is an offence under that section or would be such an offence if it took place in the Island;
 - (e) using any ship for illicit traffic in controlled drugs in circumstances which amount to the commission of an offence under section 9C of that Act.
- (5) In this section “corresponding law” has the same meaning as in the *Misuse of Drugs Act 1976*.²³

Prosecution of offences etc

56 Extension of certain offences to Crown servants and exemptions for regulators etc

[P1994/37/61]

- (1) The Council of Ministers may by regulations provide that, in such circumstances as may be prescribed, sections 45(2), 46 to 49 and 55 shall apply to such persons in the public service of the Crown, or such categories of person in that service, as may be prescribed.
- (2) to (4) [Repealed]²⁴
- (3) In this section —
- “the Crown” means the Crown in right of the Isle of Man and includes the Crown in right of Her Majesty’s Government in Great Britain and in Northern Ireland; and
- “prescribed” means prescribed by regulations made by the Council of Ministers.
- (4) Regulations under this section shall not come into operation unless they are approved by Tynwald.

Interpretation of Act

57 [Repealed]²⁵

58 **General interpretation**

[P1994/37/63]

- (1) and (2) [Repealed]²⁶
- (3) Subject to section 61(2) —
 - (a) [Repealed]²⁷
 - (b) any reference in this Act to “drug trafficking” includes a reference to drug trafficking carried out before the commencement of this Act.

59 [Repealed]²⁸

Supplemental

60 **Amendments**

- (1) The enactments specified in Schedule 1 are amended in accordance with that Schedule.

61 **Transitional provisions and savings**

[P1994/37/66]

- (1) The transitional provisions and savings set out in Schedule 2 shall have effect.
- (2) This Act shall not apply to any proceedings for, or in relation to —
 - (a) an offence committed before the commencement of this Act; or
 - (b) one or more offences, any one of which was so committed,and references in this subsection to proceedings include a reference to any order made by a court in the proceedings.
- (3) Accordingly (and without prejudice to section 16 of the *Interpretation Act 1976*), the relevant enactments and any instrument made under any of those enactments shall continue to apply in relation to any proceedings within subsection (2) (and, in particular, in relation to any confiscation order, within the meaning of the *Drug Trafficking Offences Act 1987*, made in any such proceedings) as if this Act had not been passed.
- (4) In subsection (3), “the relevant enactments” are —
 - (a) the *Drug Trafficking Offences Act 1987*; and
 - (b) any enactment amended or repealed by this Act,

but do not include any enactment which, immediately before the date on which this Act comes into force, had not come into force.

- (5) This section is without prejudice to section 4(7), 7(4), 26(3) or 29(7).

62 Repeals

The enactments mentioned in Schedule 3 are repealed to the extent specified in column 3 of that Schedule.

63 Financial

- (1) Any expenses incurred in the implementation of this Act shall be paid out of money provided by Tynwald.
- (2) Subject to subsection (4) and section 43, all monies representing anything confiscated or forfeited (including accrued interest thereon) under this Act shall be paid into the General Revenue of the Island.
- (3) Any payment due to the Treasury under this Act shall be treated as a Crown debt.
- (4) Without prejudice to section 43, the Treasury may transfer (upon such terms and conditions as the Treasury may determine) the whole or any part of a sum of money representing anything seized, confiscated or forfeited under this Act to authorities in any other country which participated directly or indirectly in the seizure, confiscation or forfeiture if such transfer is authorised in an agreement between the United Kingdom and such country which applies to the Island.

64 Short title and commencement

- (1) This Act may be cited as the Drug Trafficking Act 1996.
- (2) This Act shall come into operation on such day as the Department may by order appoint and different days may be appointed for different provisions and for different purposes.²⁹

SCHEDULE 1

AMENDMENTS

Section 60

[Sch 1 amended by Proceeds of Crime Act 2008 Sch 9, and amends the following Act —

Criminal Justice Act 1991 q.v.]

SCHEDULE 2

TRANSITIONAL PROVISIONS ETC

Section 61

General transitional provisions and savings

1. Anything done or having effect as if done (including the making of subordinate legislation) under or for the purposes of any provision repealed or revoked by this Act has effect as if done under or for the purposes of any corresponding provision of this Act.
2. Any reference (express or implied) in this Act or any other enactment, or in any instrument or document, to a provision of this Act is (so far as the context permits) to be read as being or (according to the context) including in relation to times, circumstances and purposes before the commencement of this Act a reference to the corresponding provision repealed by this Act.
3. Any reference (express or implied) in any enactment, or in any instrument or document, to a provision repealed by this Act is (so far as the context permits) to be read as being or (according to the context) including in relation to times, circumstances and purposes after the commencement of this Act a reference to the corresponding provision of this Act.
4. Paragraphs 1 to 3 above —
 - (a) have effect in place of Part 4 Division 4 of the *Legislation Act 2015* (default savings and transitional provisions); and
 - (b) are subject to section 61(2) to (5) of this Act.³⁰
5. References to imprisonment, detention or custody shall be construed as including references to custody in an institution under the *Custody Act 1995*.

Provision in relation to Part II of this Act

6. Nothing in section 41 shall apply to an order made before the coming into force of this Act under section 19C of the *Drug Trafficking Offences Act 1987*.

Further transitional provision

7. The Department may, in connection with the coming into force of any provision of this Act, by order make such further transitional provision or savings as it considers appropriate.

SCHEDULE 3**REPEALS**

Section 62

[Sch 3 repeals the following Acts in part —

Drug Trafficking Offences Act 1987

Criminal Justice Act 1990

Criminal Justice Act 1991.]

ENDNOTES

Table of Legislation History

| Legislation | Year and No | Commencement |
|-------------|-------------|--------------|
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Table of Renumbered Provisions

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Table of Endnote References

¹ S 1 repealed by Proceeds of Crime Act 2008 Sch 9 with transitional provisions and savings - see SD392/09 as amended by SD529/09).

² Ss 2 to 10 repealed by Proceeds of Crime Act 2008 Sch 9 with transitional provisions and savings - see SD392/09 as amended by SD529/09).

³ Ss 11 and 12 repealed by Proceeds of Crime Act 2008 Sch 9 with transitional provisions and savings - see SD392/09 as amended by SD529/09).

⁴ Ss 13 to 18 repealed by Proceeds of Crime Act 2008 Sch 9 with transitional provisions and savings - see SD392/09 as amended by SD529/09).

⁵ Ss 19 to 24 repealed by Proceeds of Crime Act 2008 Sch 9 with transitional provisions and savings - see SD392/09 as amended by SD529/09).

⁶ Ss 25 to 28 repealed by Proceeds of Crime Act 2008 Sch 9 with transitional provisions and savings - see SD392/09 as amended by SD529/09).

⁷ Ss 29 and 30 repealed by Proceeds of Crime Act 2008 Sch 9 with transitional provisions and savings - see SD392/09 as amended by SD529/09).

⁸ S 31 repealed by Proceeds of Crime Act 2008 Sch 9 with transitional provisions and savings - see SD392/09 as amended by SD529/09).

⁹ Ss 32 and 33 repealed by Proceeds of Crime Act 2008 Sch 9 with transitional provisions and savings - see SD392/09 as amended by SD529/09).

¹⁰ S 34 repealed by Proceeds of Crime Act 2008 Sch 9 with transitional provisions and savings - see SD392/09 as amended by SD529/09).

¹¹ Heading amended by Statute Law Revision Act 1997 Sch 1.

¹² Ss 35 to 37 repealed by Proceeds of Crime Act 2008 Sch 9 with transitional provisions and savings - see SD392/09 as amended by SD529/09).

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- ¹³ S 38 repealed by Proceeds of Crime Act 2008 Sch 9 with transitional provisions and savings - see SD392/09 as amended by SD529/09).
- ¹⁴ Ss 39 to 44 repealed by Proceeds of Crime Act 2008 Sch 9 with transitional provisions and savings - see SD392/09 as amended by SD529/09).
- ¹⁵ Ss 45 to 51 repealed by Proceeds of Crime Act 2008 Sch 9 with transitional provisions and savings - see SD392/09 as amended by SD529/09).
- ¹⁶ Para (a) amended by Proceeds of Crime Act 2008 Sch 9.
- ¹⁷ Para (a) amended by Proceeds of Crime Act 2008 Sch 9.
- ¹⁸ Para (a) amended by Proceeds of Crime Act 2008 Sch 9.
- ¹⁹ Subs (6) added by Police Powers and Procedures Act 1998 Sch 4.
- ²⁰ Definition of “items subject to legal privilege” substituted by Police Powers and Privileges Act 1998 Sch 4.
- ²¹ S 54A inserted by Police Powers and Procedures Act 1998 Sch 4.
- ²² Para (a) amended by Fines and Penalties Act 2024 Sch 5.
- ²³ S 55A inserted by Proceeds of Crime Act 2008 Sch 7.
- ²⁴ Subss (2) to (4) repealed by Proceeds of Crime Act 2008 Sch 9.
- ²⁵ S 57 repealed by Proceeds of Crime Act 2008 Sch 9.
- ²⁶ Subss (1) and (2) repealed by Proceeds of Crime Act 2008 Sch 9.
- ²⁷ Para (a) repealed by Proceeds of Crime Act 2008 Sch 9.
- ²⁸ S 59 repealed by Proceeds of Crime Act 2008 Sch 9.
- ²⁹ ADO (whole Act) 1/9/1996 (SD494/96)
- ³⁰ Item (a) amended by Interpretation Act 2015 s 107.