

CONSOLIDATED TO 31 DECEMBER 2015

LAWS OF SEYCHELLES

CHAPTER 133

MISUSE OF DRUGS ACT

[1st July, 1995]

Act 11 of 1990
Act 14 of 1994
*Act 5 of 2006
Act 15 of 2008
Act 4 of 2012
Act 3 of 2014

[*Act 5 of 2006 as amended by Act 18 of 2008 with effect from 25 August 2008.]

ARRANGEMENT OF SECTIONS

MISUSE OF DRUGS ACT

PART I - PRELIMINARY

Short title
Interpretation

**PART II - PROHIBITION OF CERTAIN
ACTIVITIES INVOLVING CONTROLLED DRUGS**

Importation or exportation of a controlled drug
Manufacture of a controlled drug
Trafficking in a controlled drug
Possession of a controlled drug
Possession of utensils etc
Cultivation of cannabis etc
Precursors, equipment or materials
Provisions relating to precursors, equipment or material
Inspection of persons and establishments
Prohibition on cultivation by enhanced indoor means
Driving under the influence of controlled drugs
Owner or occupier of premises used for the purpose of contravening the Act
Aiding etc the commission of offence outside Seychelles
Assisting another to retain the benefit of drug trafficking
Forging or altering of prescription, etc

PART III - EVIDENCE

Certificate of Government pharmacist
Certificate of corresponding law of the countries
Presumption of trafficking

Presumption of possession
Presumption concerning premises
Presumption relating to ship or aircraft
Presumption relating to vehicle etc
Presumption of consumption
Power of search and seizure
Power of arrest
Power to stop and search vessel etc
Urine etc test
Protection of informers
Authorised person
Powers of investigation
Controlled delivery
Power to destroy plants and substances containing controlled drug
Burden of proving exemption or possession of licence on person claiming to be exempted etc

PART IV - OFFENCES AND PENALTIES

Offences
Aiding etc the commission of an offence
Conspiracy to commit an offence
Penalties
Forfeiture of things used in connection with offence
Prohibition order
Determination whether a person has benefited from drug trafficking
Forfeiture of proceeds of trafficking
Presumption relating to property of offender
Value of property or gift
Enforcement of payment of amount to be recovered
Imprisonment in default of payment

PART V - TREATMENT AND REHABILITATION

Addict may be examined and treated
Order of treatment by court
Discharge from approved institution
Arrest of drug addicts without warrant

PART VI - GENERAL

Jurisdiction
Indemnity
Regulations

FIRST SCHEDULE – CONTROLLED DRUGS

PART I - CLASS A DRUGS

PART II - CLASS B DRUGS

PART III - CLASS C DRUGS

PART IV - MEANING OF CERTAIN EXPRESSIONS
USED IN THIS SCHEDULE

SECOND SCHEDULE

THIRD SCHEDULE

SUBSIDIARY LEGISLATION: Section 44(1): Misuse
of Drugs Regulations

Citation
Republic bound by Regulations
Interpretation
Importation of controlled drugs
Manufacture of controlled drugs
Sale or dispensing of controlled drugs
Possession
Inspection

SCHEDULE - SPECIFIED CONTROLLED DRUGS

PART I - CLASS A DRUGS

PART II - CLASS B DRUGS

PART III - CLASS C DRUGS

SUBSIDIARY LEGISLATION: Section 44(1)(c):
Misuse of Drugs (Centre Mont Royal) Regulations

PART 1 - PRELIMINARY

Citation
Declaration of approved institution
Interpretation

PART 2 - THE CENTRE

Establishment of the Board
Objects of the Centre
Composition of the Board
Functions of the Board
Meetings of the Board

PART 3 - STAFF OF THE CENTRE

Director
Staff of the Centre

PART 4 - FINANCE

PART I - PRELIMINARY

Short title

1. This Act may be cited as the Misuse of Drugs Act.

Interpretation

2. In this Act -

"approved institution" means an institution or place approved under this Act for the purposes of treatment and rehabilitation of drug addicts or other persons;

"article liable to seizure" means any thing whatsoever by means of or in respect of which an offence under this Act has been committed or which contains evidence of an offence under this Act;

"authorised person" means a person authorised under section 24A(1)(a) to act as an undercover officer, which authorisation has not been revoked;

Definition of "authorised person" inserted by s 2(a)(i) of Act 4 of 2012 with effect from 6 August 2012.

"cannabis" means any part, including the seeds, of a plant of the genus cannabis from which the resin has not been extracted, by whatever name it may be designated;

Definition of "cannabis" repealed and substituted by s 2(a)(ii) of Act 4 of 2012 with effect from 6 August 2012.

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

"chief officer of the NDEA" means a person appointed under section 12(1) of the National Drugs Enforcement Agency Act, 2008;

Definition of "chief officer of the NDEA" inserted by s 2(a)(iii) of Act 4 of 2012 with effect from 6 August 2012.

"Class A drug", "Class B drug" or "Class C drug" means a controlled drug specified in Part I, II or III respectively of the First Schedule;

"controlled drug" means a substance, preparation or product specified in the First Schedule or section 14;

Definition of "controlled drug" amended by s 2(a)(i) of Act 3 of 2014 with effect from 14 April 2014.

"corresponding law" means a law stated in a certificate purporting to be issued by or on behalf of the government of a country other than Seychelles to be a law providing for the

control and regulation in that country of the manufacture, sale, use, export and import of a controlled or otherwise harmful or dangerous drug in pursuance of a treaty, convention, agreement or arrangement to which the Republic and the government of that country are parties;

"cultivation by enhanced indoor means" in relation to a controlled drug, means cultivation of a plant inside a building or a structure involving at least one of the following processes –

- (a) nurturing the plant in nutrient enriched water, with or without mechanical support;
- (b) application of an artificial source of light or heat;
- (c) suspending the plant's roots and spraying them with nutrient solution;

Definition of "cultivation by enhanced indoor means" inserted by s 2(a)(iv) of Act 4 of 2012 with effect from 6 August 2012.

"drug addict" means a person who through the use of a controlled drug -

- (a) has developed a desire or need to continue to take the controlled drug, or
- (b) has developed a psychological or physical dependence upon the effect of the controlled drug;

"manufacture" includes any process of production of a controlled drug or the refining or transformation of one controlled drug into another;

"NDEA agent" means a person appointed under section 13(1) of the National Drugs Enforcement Agency Act, 2008;

Definition of "NDEA agent" inserted by s 2(a)(v) of Act 4 of 2012 with effect from 6 August 2012.

"offender" means a person who has been convicted of an offence under this Act;

"police officer in charge of a police station" includes -

- (a) any police officer superior in rank to a police officer in charge of a police station;
- (b) when the police officer in charge of a police station is absent from the station or unable from illness or otherwise to perform his duties, the police officer present at the station who is next in rank to the police officer in charge, or
- (c) when directed by the President, any other police officer present at the station;

"precursors" means any substance listed under the Third Schedule;

Definition of "precursors" inserted by s 2(a)(ii) of Act 3 of 2014 with effect from 14 April 2014.

"realisable property" means -

(a) any property held by a person charged with an offence under this Act or an offender;

(b) any property held by a person to whom the person charged or the offender has directly or indirectly made a gift;

"traffic" means -

(a) to sell, give, administer, transport, send, deliver or distribute, or

(b) to offer to do anything mentioned in paragraph (a) or ;

(c) to do or offer to do any act preparatory to or for the purposes mentioned in paragraph (a); or

(d) to possess, whether lawfully or not, with intent to supply to another person contrary to this Act;

Definition of "traffic" amended by s 2(a)(iii) of Act 3 of 2014 with effect from 14 April 2014.

"trafficking" has a corresponding meaning;

"undercover officer" means a person authorised under section 24A(1)(a) to assist in the detection of the commission of an offence under this Act and whose identity is concealed for the time being.

Definition of "undercover officer" inserted by s 2(a)(vi) of Act 4 of 2012 with effect from 6 August 2012.

PART II - PROHIBITION OF CERTAIN ACTIVITIES INVOLVING CONTROLLED DRUGS

Importation or exportation of a controlled drug

3 Subject to this Act, a person shall not import or export a controlled drug.

Manufacture of a controlled drug

4. Subject to this Act, a person shall not manufacture a controlled drug.

Trafficking in a controlled drug

5. Subject to this Act, a person shall not, whether on his behalf or on behalf of another person, whether the other person is in Seychelles or not, traffic in a controlled drug.

Possession of a controlled drug

6. Subject to this Act, a person shall not -

(a) have in his possession, or

(b) smoke, consume or administer to himself, a controlled drug.

Possession of utensils etc

7 (1) Subject to this Act, a person shall not have in his possession any pipe, syringe, utensil, apparatus or other article intended for the smoking, consumption or administration of a controlled drug.

(2) Subject to this Act, a person shall not have in his possession or control any instrument, utensil, apparatus or equipment intended for the manufacture of a controlled drug.

Cultivation of cannabis etc

8. Subject to this Act, a person shall not cultivate a plant of the genus cannabis, a plant of the species papaver somniferum, a plant of the genus erythroxylon from which cocaine may be extracted or prepared or any other plant which the Minister may, by Notice in the Gazette, specify and from which a controlled drug may be extracted or prepared.

Precursors, equipment or materials

8A. Subject to this Act, a person shall not unlawfully produce, manufacture, import, export, transport, offer, sell, distribute, deliver on any terms whatsoever, consign, dispatch, purchase or offer to purchase or hold precursors, equipment or materials –

(a) for the purpose of using them in or for the unlawful cultivation, production or manufacture of a controlled drug; or

(b) knowing that the precursors, equipment and materials are to be used for any of the purposes specified in paragraph (a).

Section 8A inserted by s 2(b) of Act 4 of 2012 with effect from 6 August 2012.

Provisions relating to precursors, equipment or material

8AA. (1) Every person who produces, manufactures, imports, exports, trades or distributes whether in wholesale or retail any precursors, equipment or material shall be subject to this section.

(2) An import or export permit shall not be granted for any precursors, equipment or material if there are reasonable grounds to suspect that the consignment is destined for the unlawful cultivation, production or manufacture of controlled drugs.

(3) A person referred to in subsection (1), shall enter in a register any acquisition or transfer of any precursors, equipment or material, at the time of acquisition or transfer of such precursors, equipment or material, without leaving any blank space, erasing any writing or overwriting, indicating the date of the acquisition or transfer, the name and the quantity of the precursors, equipment or material acquired or transferred, and the name, address and profession of both the purchaser and vendor, provided that the retailer need not to enter the name of the purchaser in the register.

(4) The register maintained under this section shall be kept for at least five years after the last entry, for presentation, whenever required by the chief officer of the NDEA or the Commissioner of Police or summoned by the court.

(5) A person referred to in subsection (1), shall forthwith notify the chief officer of the NDEA of any suspect order or purchase, specifically as regard to the quantity of the precursors ordered or purchased, the repetition of such orders and purchases, or modes of payment or transport used in connection with the order or purchase or any loss or theft of the precursors.

(6) Where there is serious ground to suspect that any precursors, equipment or material is to be used in the cultivation, production or manufacture of a controlled drug contrary to this Act, any police officer authorised in writing by the Commissioner of police or any NDEA agent authorised in writing by the chief officer of the NDEA may seize and impound such precursors, equipment or material and detain until a competent court on the application of that officer gives direction as to its disposition.

Section 8AA inserted by s 2(b) of Act 3 of 2014 with effect from 14 April 2014.

Inspection of persons and establishments

8AB. (1) Every person or establishment licensed to produce, manufacture, import, export, transport, trade or distribute whether in wholesale or retail any precursors, equipment or material shall be subject to inspections carried out at least every 2 years, in the manner prescribed by regulations and the Pharmacy Act.

(2) A person or establishment licensed to produce, manufacture, import, export, transport, trade or distribute whether in wholesale or retail any precursors, equipment or material shall comply with the requirement of the inspection under subsection (1).

Section 8AB inserted by s 2(b) of Act 3 of 2014 with effect from 14 April 2014.

Prohibition on cultivation by enhanced indoor means

8B. Subject to this Act, a person shall not cultivate by enhanced indoor means a plant of the genus *cannabis*, a plant of the species *papaver somniferum*, a plant of the genus *erythroxylon* from which cocaine may be extracted or prepared or any other plant which the Minister may, by Notice in the Gazette, specify and from which a controlled drug may be extracted or prepared.

Section 8B inserted by s 2(b) of Act 4 of 2012 with effect from 6 August 2012.

Driving under the influence of controlled drugs

8C. Subject to this Act, a person shall not drive a motor-powered vehicle, steer a motor-powered marine craft or fly a motor-powered aircraft while under the influence of a controlled drug.

Section 8C inserted by s 2(b) of Act 4 of 2012 with effect from 6 August 2012.

Owner or occupier of premises used for the purpose of contravening the Act

9. Subject to this Act, an owner, occupier or person in charge of or concerned with the management of any land, place or premises shall not permit or suffer such land, place or premises or any part thereof to be -

(a) used in connection with the import or export of a controlled drug contrary to section 3;

- (b) used for the manufacture of a controlled drug contrary to section 4;
- (c) opened, kept or used for the purpose of trafficking in a controlled drug contrary to section 5 or in connection with the smoking, consumption or administration of a controlled drug contrary to section 6(b) or ;
- (d) used for the cultivation of any plant referred to in section 8 contrary to that section.

Aiding etc the commission of offence outside Seychelles

10. A person shall not -

- (a) aid, abet counsel, incite or procure the commission in any place outside Seychelles of an offence under this Act which is punishable under a corresponding law in force in that place; or
- (b) do an act preparatory to, or in furtherance of, an act outside Seychelles which if committed in Seychelles would constitute an offence under this Act.

Assisting another to retain the benefit of drug trafficking

11 (1) Subject to subsection (3), a person who, knowing or suspecting that another person is carrying on or has carried on or is involved in or has benefited from drug trafficking, shall not enter into or be otherwise concerned with an arrangement whereby -

- (a) that other person is helped to retain or control that other person's benefit from drug trafficking, or
- (b) that other person's benefit from drug trafficking is used to secure funds for that other person or to acquire property for the benefit of that other person by way of investment.

(2) Reference in this section to any person's benefit from drug trafficking includes a reference to any property which in whole or in part, directly or indirectly, represents in the hands of that person proceeds of drug trafficking.

(3) A person does not contravene subsection (1) if -

- (a) before he does any act under subsection (1) he discloses to a police officer his suspicion or belief or any matter on which his suspicion or belief is based that any investment or funds of the other person referred to in subsection (1) are benefit of, or derived from, or used in connection with, drug trafficking and he does the act under subsection (1) with the consent of the police officer;
- (b) as soon as is reasonable after doing any act under subsection (1) he, on his own initiative, discloses to a police officer his suspicion or belief, or any matter on which his suspicion or belief is based, referred to in paragraph (a); or
- (c) he did not know or suspect -

(i) that the arrangement related to benefit from drug trafficking; or

(ii) that the arrangement would have the effect of assisting a person he knows is or suspects of carrying on or has carried on or is involved in or has benefited from drug trafficking; or

(d) he has any other excuse which the court thinks is reasonable for not disclosing his suspicion or belief that any investment or funds of the other person referred to in subsection (1) are benefits or derived from or used in connection with drug trafficking.

(4) Where a person discloses to a police officer of his suspicion or belief or any matter on which his suspicion or belief is based he shall not be treated to be in breach of any restriction upon the disclosure of information imposed by any contract or written law.

Forging or altering of prescription, etc

11A. (1) A person shall not forge or alter a prescription for the purpose of obtaining a controlled drug or be in possession of a forged or altered prescription.

(2) A person shall not obtain or attempt to obtain a controlled drug by means of a forged or altered prescription.

Section 11A inserted by s 2(c) of Act 3 of 2014 with effect from 14 April 2014.

PART III - EVIDENCE

Certificate of Government pharmacist

12. A certificate purporting to be signed by a Government pharmacist, or such other person appointed by the Minister for the purposes of issuing a certificate under this section, and purporting to relate to a controlled drug shall be admitted in evidence in any proceedings for an offence under this Act, on its production by the prosecution without proof of signature and, until the contrary is proved, the certificate shall be prima facie evidence of all matters contained therein.

Certificate of corresponding law of the countries

13. A certificate purporting to be issued by or on behalf of the government of a country other than Seychelles and purporting to state the terms of a corresponding law in force in that country shall be admitted in evidence, in any proceedings for an offence under this Act, on its production by the prosecution without proof of signature and the certificate shall be conclusive evidence-

(a) that it is issued by or on behalf of the government of that country;

(b) that the terms of the law are as stated in the certificate, and

(c) that any facts stated in the certificate as constituting an offence under the corresponding law do constitute the offence.

Presumption of trafficking

14. (1) A person who is proved or presumed to have had in his possession or custody or under his control -

(a) 100 grammes or more of -

(i) opium; or

(ii) any substance, preparation or product containing any quantity of opium;

(b) 3 grammes or more of -

(i) morphine; or

(ii) any substance, preparation or product containing any quantity of morphine;

(c) 2 grammes or more of -

(i) diamorphine (heroin); or

(ii) any substance, preparation or product containing any quantity of diamorphine (heroin);

(d) 2 grammes or more of -

(i) cocaine; or

(ii) any substance, preparation or product containing any quantity of cocaine; or

(e) 25 grammes or more of -

(i) cannabis; or

(ii) cannabis resin,

shall, until he proves the contrary, be presumed to have had the opium, morphine, diamorphine (heroin), cocaine, cannabis or cannabis resin or the substance, preparation or product containing opium, morphine, diamorphine (heroin) or cocaine, as the case may be, in his possession for the purpose of trafficking in the controlled drug contrary to section 5.

(2) The substance, preparation or product containing any quantity of opium, morphine, diamorphine (heroin) or cocaine shall be deemed to be the opium, morphine, diamorphine (heroin) or cocaine, as the case may be, for the purposes of this Act.

Presumption of possession

15 (1) A person who is proved to have had in his possession or custody or under his control -

- (a) anything containing a controlled drug;
- (b) the key of anything containing a controlled drug;
- (c) the key of any place or premises or any part thereof in which a controlled drug is found, or
- (d) a document of title relating to a controlled drug, or any other document intended for the delivery, or which would require the delivery to him, of a controlled drug,

shall, until he proves the contrary, be presumed to have had the controlled drug in his possession.

(2) The fact that a person never had physical possession of a controlled drug shall not be sufficient to rebut a presumption under this section.

(3) Where one of two or more persons with the knowledge and consent of the other person or persons has any controlled drug in his possession each person shall be deemed to be in possession of the drug.

Presumption concerning premises

16 (1) Where a pipe, syringe, utensil, apparatus or other article intended for the smoking, consumption or administration of a controlled drug is found in any place or premises, it shall be presumed, until the contrary is proved, that the place or premises is used for the purpose of smoking, consumption or administration of a controlled drug.

(2) A person found in or escaping from any place or premises which is proved or presumed to be used for the purpose of smoking, consumption or administration of a controlled drug shall, until he proves the contrary, be presumed to have been smoking, consuming or administering a controlled drug in the place or premises.

(3) A person found in or escaping from any place or premises on which it is found that plants referred to in section 8 are being cultivated shall be presumed, until he proves the contrary, to have been cultivating the plants.

(4) A person found in or escaping from any place or premises on which it is found that a controlled drug is being manufactured shall be presumed, until he proves the contrary, to have been manufacturing the controlled drug.

Presumption relating to ship or aircraft

17. Where a controlled drug is found in any vessel or aircraft arriving from any place outside Seychelles, it shall be presumed, until the contrary is proved, that the drug has been imported in the vessel or aircraft with the knowledge of the master or captain of the vessel or aircraft.

Presumption relating to vehicle etc

18. Where a controlled drug is found in a vehicle, vessel or aircraft, other than a vessel or aircraft referred in section 17, it shall be presumed, until the contrary is proved, that the drug is in the possession of the owner of the vehicle, vessel or aircraft and of the person in charge of the vehicle, vessel or aircraft for the time being.

Presumption of consumption

19. Where a controlled drug is found in the urine or blood of a person as a result of a test carried out under this Act, the person shall be presumed, until he proves the contrary, to have smoked, consumed or self-administered the controlled drug.

Power of search and seizure

20. (1) A police officer may at any time, without a warrant -

(a) stop and search any person whom he reasonably suspects of having in possession a controlled drug or an article liable to seizure;

(b) enter and search any place or premises in which he reasonably suspects that there is to be found a controlled drug or an article liable to seizure;

(c) search a person found in the place or premises referred to in paragraph (a);

(d) seize and detain a controlled drug or an article liable to seizure found on the person referred to in paragraph (a), (b) or (c) or in the place or premises referred to in paragraph (b).

(2) For the purpose of exercising his functions under subsection (1) the police officer may, with such assistance as he deems necessary in the circumstances, use such force as is reasonably necessary in the circumstances.

Power of arrest

21. (1) A police officer may arrest without warrant a person who has committed, or whom the police officer reasonably suspects to have committed, an offence under this Act and the police officer may search the person arrested.

(2) A police officer referred to in subsection (1) may, when making an arrest under this section, seize and detain a controlled drug or an article liable to seizure found on a person arrested under subsection (1).

(3) Where a person arrested under subsection (1) is a woman, she shall not be searched under this Act except by a woman police officer.

Power to stop and search vessel etc

22. (1) A police officer or a customs officer or an officer referred to in the Trades Tax Act to whom the Comptroller of Trades Tax Imports or the Commissioner of Police has delegated his functions under that Act may -

(a) stop, board and search a vessel, aircraft or vehicle if he reasonably suspects that there is to be found in the vessel, aircraft or vehicle a controlled drug or an article liable to seizure contrary to this Act;

(b) search any person on a vessel, aircraft or vehicle referred to in paragraph (a);

(c) search any person entering or leaving Seychelles whom he reasonably suspects to have contravened any provisions of this Act.

(2) A police officer or customs officer or officer referred to in the Trades Tax Act and referred to in subsection (1) may seize and detain a controlled drug or an article liable to seizure when making a search under subsection (1) and may seize and detain a vessel, aircraft or vehicle on which the controlled drug or article liable to seizure has been found.

Urine etc test

23. A police officer in charge of a police station or a police officer not below the rank of Superintendent may, if he reasonably suspects that a person has committed an offence under section 6(b), require the person within such time as may be specified by him to provide a specimen of his urine or blood for a test.

Protection of informers

24. (1) Subject to any written law, no witness in any civil or criminal proceedings shall be obliged -

(a) to disclose the name and address of an informer; or

(b) to answer any question if the answer thereto would lead, or would tend to lead, to the discovery of the identity or of the name or address of the informer.

(2) If any books, documents, papers, tapes, discs or other devices on which information is stored or recorded which are in evidence or liable to inspection in any civil or criminal proceedings contain an entry in which an informer is named or described or which might lead to his discovery, the court shall cause all such entries to be concealed from view or to be obliterated so far as may be necessary to protect the informer from discovery.

(3) For the purposes of this section, "informer" means a person who has given information with respect to an offence under this Act.

Authorised person

24A. (1) (a) The Commissioner of Police or the chief officer of the NDEA may authorise a person, in writing, to act as an undercover officer for the purpose of detecting the commission of an offence under this Act.

(b) An authorisation granted under paragraph (a) may be revoked in writing.

(2) For the purpose of subsection (1)(a), an authorised person may acquire and have in his or her possession a controlled drug.

(3) An authorised person who exercises the powers conferred on him or her by subsection (2) is not an accomplice in respect of, and does not commit, any offences detected in the exercise of his or her powers and his or her evidence is admissible in any proceedings against an accused person for such offences.

(4) An authorised person other than a police officer or an NDEA agent who, after having acquired a controlled drug under subsection (2), fails to deliver such controlled drug as soon as possible, to a police officer or an NDEA agent commits an offence.

(5) The Commissioner of Police or the chief officer of the NDEA shall warn an authorised person who is not a police officer or an NDEA agent, in writing, of the provisions of subsection (4).

(6) A certificate issued and signed by the Commissioner of Police or the chief officer of the NDEA stating that the person named therein is an authorised person during the specified period shall, until the contrary is proved, be evidence of the matters stated therein.

Section 24A inserted by s 2(d) of Act 4 of 2012 with effect from 6 August 2012.

Powers of investigation

24B. (1) Where a Judge in Chambers is satisfied by information on oath that there is reasonable ground to suspect that an offence under this Act has been or is likely to be committed, he may issue a warrant authorising a police officer or an NDEA agent to –

(a) tap or place under surveillance, for a period not exceeding six months, the telephone lines used by any person suspected of participation in the commission of such an offence;

(b) have access to the computer systems used by any person suspected of participation in the commission of such an offence and place them under surveillance;

(c) place a bank account under surveillance when it is suspected of being used for operations related to such an offence;

(d) have access to all banks, financial and commercial records that may reasonably concern transactions related to such an offence.

(2) Notwithstanding any other enactments, a person shall not, on the ground of professional secrecy or otherwise refuse, to comply with the requirements of a warrant issued under subsection (1).

Section 24B inserted by s 2(d) of Act 4 of 2012 with effect from 6 August 2012.

Controlled delivery

24C. (1) The Commissioner of Police, the chief officer of the NDEA, or a person authorised, in writing, by the Commissioner of Police or the chief officer of the NDEA in writing, may authorise the passage or entry into Seychelles of any consignment of controlled drug suspected of being dispatched with a view to the commission of an offence under this Act, for the purpose of identifying the persons involved in the commission of such an offence.

(2) The Commissioner of Police, the chief officer of the NDEA or a person authorised under subsection (1) may, if he thinks fit, cause the consignment to be lawfully intercepted and allowed to proceed upon its way either intact or after seizure of the controlled drugs contained therein and may also direct their replacement by substances other than controlled drugs.

(3) The exercise of any of the powers contained in this section shall not afford any defence to a person charged with an offence under this Act.

Section 24C inserted by s 2(d) of Act 4 of 2012 with effect from 6 August 2012.

Power to destroy plants and substances containing controlled drug

24D. The court may, on application by the prosecution, order the destruction of the plants and substances containing a controlled drug before the completion of legal proceedings for an offence under this Act if –

(a) the prosecution has led scientific evidence of the content of the plants or substances and has given the accused person seven days notice of intention to make such an application,

(b) there are photographic or video evidence of the nature, quality, quantity, size packaging and location of the plants or substances containing a controlled drug, and

(c) the accused person fails to give good reasons why the plants and substances should not be destroyed before completion of legal proceedings.

Section 24D inserted by s 2(d) of Act 4 of 2012 with effect from 6 August 2012.

Burden of proving exemption or possession of licence on person claiming to be exempted etc

25. In any proceeding under this Act the evidential burden of proving that he is exempted from any provisions of this Act or that he holds any licence or permit under this Act rests on the person who claims to be so exempted or that he holds the licence or permit.

PART IV - OFFENCES AND PENALTIES

Offences

26. (1) A person who -

(a) contravenes this Act;

(b) obstructs a police officer or any other person in the exercise of his functions under this Act;

(c) makes a false declaration or gives any false information in respect of any matter under this Act;

(d) ...

(e) fails without reasonable excuse to provide a specimen of urine or blood

within the time specified by a police officer under section 23,

(f) fails to provide any information, return or other document or comply with any lawful requirement,

is guilty of an offence.

Section 26(1)(d) repealed by section 66 of Act 5 of 2006 (as amended by Act 18 of 2008) with effect from 25 August 2008.

(2) Where a person is charged with an offence under section 5 and the court is of the opinion that he is not guilty of the offence but is guilty of an offence under section 6, the court may convict him of the offence under section 6 although he was not charged with the offence.

Aiding etc the commission of an offence

27. A person who -

(a) aids, abets, counsels, incites or procures another person to commit an offence under this Act;

(b) does or omits to do any act for the purpose of enabling another person to commit an offence under this Act;

(c) attempts to commit or does any act preparatory to or in furtherance of the commission of an offence under this Act,

is guilty of an offence and liable to the punishment provided for the offence and he may be charged with committing the offence.

Conspiracy to commit an offence

28. A person who agrees with another person or persons that a course of conduct shall be pursued which, if pursued -

(a) will necessarily amount to or involve the commission of an offence under this Act by one or more of the parties to the agreement;

(b) would necessarily amount to or involve the commission of an offence under this Act by one or more of the parties to the agreement but for the existence of facts which renders the commission of the offence impossible,

is guilty of the offence and liable to the punishment provided for the offence.

Penalties

29. (1) The Second Schedule shall have effect, in accordance with subsections (2) and (3), with respect to the way in which offences under this Act are punishable.

(2) In the Second Schedule -

(a) column 1 shows the provisions of this Act creating the offence;

(b) column 2 describes the general nature of the offence;

(c) columns 3, 4 and 5 show respectively the punishment according to whether the controlled drug in relation to which the offence was committed was a Class A drug, Class B drug or Class C drug, except as otherwise provided in paragraph (d);

(d) column 6 shows the punishment to be imposed on an offender where the offence was committed -

(i) in the case of unauthorised manufacture, in relation to the drug specified in column 2, and

(ii) in the case of unauthorised import, export or traffic, in relation to a specified quantity of the controlled drug or to a controlled drug as is mentioned in column 2; and

(e) column 7 shows the punishment to be imposed on an offender whether or not the offence was committed in relation to a controlled drug and, if it was so committed, irrespective of the nature of the drug;

(f) in columns 3, 4, 5, 6, and 7 a reference to a period gives the maximum or, subject to subsection (3), minimum term of imprisonment as is specified, and reference to a sum gives the maximum or minimum fine as is specified.

(3) In the case of a first offence in relation to section 6 the court may, if it considers that there are exceptional reasons for not imposing the minimum term of imprisonment specified in column 7 of the Second Schedule, impose such other term of imprisonment, as it thinks fit.

(4) Any term of imprisonment which is imposed on an offender under this Act, for committing an offence-

(a) of importation or exportation of a controlled drug;

(b) of manufacture of a controlled drug;

(c) of cultivation of a controlled drug;

(d) of trafficking in a controlled drug; or

(e) under sections 10, 27 or 28 in connection with any of the aforementioned offences,

shall be one of rigorous imprisonment, that is, with forced or compulsory labour.

Section 29(4) inserted by s 2 of Act 15 of 2008 with effect from 25 August 2008.

Forfeiture of things used in connection with offence

30. Repealed

Repealed by s 66 of Act 5 of 2006 (as amended by Act 18 of 2008) with effect from 25 August 2008.

Prohibition order

31. Repealed

Repealed by s 66 of Act 5 of 2006 (as amended by Act 18 of 2008) with effect from 25 August 2008.

Determination whether a person has benefited from drug trafficking

32. Repealed

Repealed by s 66 of Act 5 of 2006 (as amended by Act 18 of 2008) with effect from 25 August 2008.

Forfeiture of proceeds of trafficking

33. Repealed

Repealed by s 66 of Act 5 of 2006 (as amended by Act 18 of 2008) with effect from 25 August 2008.

Presumption relating to property of offender

34. Repealed

Repealed by s 66 of Act 5 of 2006 (as amended by Act 18 of 2008) with effect from 25 August 2008.

Value of property or gift

35. Repealed

Repealed by s 66 of Act 5 of 2006 (as amended by Act 18 of 2008) with effect from 25 August 2008.

Enforcement of payment of amount to be recovered

36. Repealed

Repealed by s 66 of Act 5 of 2006 (as amended by Act 18 of 2008) with effect from 25 August 2008.

Imprisonment in default of payment

37. Repealed

Repealed by s 66 of Act 5 of 2006 (as amended by Act 18 of 2008) with effect from 25 August 2008.

PART V - TREATMENT AND REHABILITATION

Addict may be examined and treated

38. (1) The Commissioner of Police or the chief officer of the NDEA, or any other person appointed by the Minister for the purposes of this Part may, after consultation with the Attorney-General, by order in writing, require any person whom he reasonably suspects to be a drug addict to be medically examined or observed by a medical practitioner.

Subsection (1) amended by s 2(e)(i) of Act 3 of 2014 with effect from 14 April 2014.

(1A) Where the person required to be medically examined or observed by a medical practitioner under subsection (1), refuses or resists so to do, the Commissioner of Police or the chief officer of the NDEA or the person appointed by the Minister, may arrest and detain or cause to be arrested or detained such person and make an application, within 24 hours, to the court for an appropriate order.

Subsection (1A) inserted by s 2(e)(ii) of Act 3 of 2014 with effect from 14 April 2014.

(1B) The court may, after perusing the materials available, order that the person shall be medically examined or observed by a medical practitioner under this section or make any order as it may consider appropriate.

Subsection (1B) inserted by s 2(e)(ii) of Act 3 of 2014 with effect from 14 April 2014.

(2) If as a result of a medical examination or observation under subsection (1) it appears to the Commissioner of Police or the chief officer of the NDEA or person appointed by the Minister under subsection (1) that it is necessary for the person to undergo treatment or rehabilitation or both at an approved institution, the Commissioner of Police, or the chief officer of the NDEA or the person appointed by the Minister under subsection (1), may, after consultation with the Attorney-General, make an order in writing requiring the person to be admitted to the approved institution specified in the order for the purpose specified in the order.

Subsection (2) amended by s 2(e)(i) of Act 3 of 2014 with effect from 14 April 2014.

(3) The Commissioner of Police or the chief officer of the NDEA or the person appointed by the Minister under subsection (1) may delegate the power vested in him under this section to -

- (a) in the case of the Commissioner of Police, a Deputy Commissioner of Police;
- (b) in the case of the person appointed by the Minister, his deputy or such other person who usually acts in his place during his absence;
- (c) in the case of the chief officer of the NDEA, an NDEA agent.

Subsection (3) amended by s 2(e)(iii) of Act 3 of 2014 with effect from 14 April 2014.

(4) A person who is a drug addict may volunteer to undergo treatment or rehabilitation or both at an approved institution and the approved institution may admit the drug addict for treatment or rehabilitation or both on such terms and conditions as may be prescribed.

(5) A statement made by a drug addict or any other person for the purpose of obtaining voluntary admission to an approved institution for the purpose of undergoing treatment or rehabilitation shall not be admissible in evidence against that person in connection with an offence in relation to section 5 or section 6.

(6) A drug addict or any other person who has been admitted to an approved institution under this section shall be detained in the institution for a period of six months unless earlier discharged by a court or the person in charge of the institution.

(7) If the person in charge of an approved institution or two medical officers are of the opinion that the period of detention of a person detained in an approved institution under this section is about to expire but that the person detained requires further treatment or rehabilitation or both, the person in charge of the institution or the two medical practitioners may by an order in

writing direct that the person detained be detained in the institution for a further period of six months or further periods of six months: Provided that the aggregate periods of detention shall not exceed three years.

Order of treatment by court

39. (1) Where a person has been convicted of an offence in relation to section 5 or section 6, the court may, if it reasonably suspects that the person is a drug addict, order that the person be medically examined or observed by a medical practitioner.

(2) If as a result of a medical examination or observation under subsection (1) it appears to the court that it is necessary for the person examined or observed to undergo treatment or rehabilitation or both in an approved institution, the court may make an order that the person be admitted for treatment or rehabilitation or both to the approved institution specified in the order for such period of his term of imprisonment for the offence as the court may specify in the order.

(3) The court may at any time amend an order made under subsection (2).

(4) Where a person has been admitted under this section, he shall not be discharged or transferred from the approved institution specified in the order without an order of the court.

(5) Any period served by a person in an institution pursuant to subsection (2) shall be counted as a similar period of imprisonment served by the offender pursuant to a sentence for the offence for which he has been convicted.

Discharge from approved institution

40. (1) The court or the person in charge of an approved institution may at any time by an order in writing -

(a) discharge a person detained in an approved institution under section 37; or

(b) transfer a person detained under section 37 from one approved institution to another.

(2) A person detained in an approved institution under section 38, a member of his family or the Attorney-General may at any time apply to the court for an order -

(a) discharging the person detained from an approved institution; or

(b) transferring a person detained from one approved institution to another but the court shall not, except for reasons which it thinks to be exceptional, entertain an application made within three months from the date of a similar application.

Arrest of drug addicts without warrant

41. (1) Where a person in respect of whom an order has been made under section 38(1) fails or neglects to appear for medical examination or observation, a police officer may arrest him without a warrant and produce him before the medical practitioner specified in the order.

(2) Where a person who has been admitted to an approved institution under section 38(2)

or (4) or under section 39 has escaped from the approved institution, a police officer may, without a warrant, arrest the person and deliver him to the custody of the approved institution.

PART VI - GENERAL

Jurisdiction

42. Notwithstanding any other written law, the Magistrates' Court shall have -

(a) jurisdiction to hear and determine all proceedings, and

(b) power to impose the full penalty or punishment in respect of any offence,

under this Act.

Indemnity

43. (1) The Government shall not be liable to make good any damage caused to any goods or property as a result of any entry, search, seizure, detention, forfeiture, sale or otherwise under this Act unless the damage is caused by an act done or omitted to be done in bad faith or without reasonable care of a person appointed or employed under this Act, or a public officer, in the exercise or purported exercise of his functions under this Act.

(2) A person shall not be subject to any criminal or civil liability in respect of an act done or omitted to be done -

(a) in the exercise or purported exercise of his functions under this Act, or

(b) in lawfully giving assistance to a person referred to in paragraph (a),

unless he acted or omitted to act in bad faith or without reasonable care.

Regulations

44. (1) The Minister may make regulations for carrying into effect the purposes and provisions of this Act and, without limiting the generality of the foregoing, may make regulations -

(a) authorising the possession, sale, supply, prescription or other dealing in, or the manufacture or importation or exportation of, a controlled drug and prescribing the circumstances and conditions under which the controlled drug may be possessed, sold, supplied, prescribed or otherwise dealt with or manufactured or imported or exported;

(b) as to the packaging, labelling, storage or transportation of, and the keeping of records and the making of returns in respect of, a controlled drug;

(c) declaring an institution or place to be an approved institution for the treatment and rehabilitation of drug addicts and other persons under this Act and providing for the management, maintenance and inspection of approved institutions;

(d) providing for the control, discipline, occupation, supervision, release on temporary leave and after care of drug addicts and persons undergoing or who have undergone treatment or rehabilitation in an approved institution;

(e) prescribing any form or other document to be used under this Act or any fees or other payment required to be paid in respect of any matter under this Act;

(f) the manner of inspection of a person or establishment who produces, manufactures, imports, exports, transports, trades or distributes any precursors, equipment or material.

Subsection (1)(f) amended by s 2(f)(i) of Act 3 of 2014 with effect from 14 April 2014.

(2) The Minister may by regulations amend the First Schedule or Third Schedule.

Subsection (2) amended by s 2(f)(ii) of Act 3 of 2014 with effect from 14 April 2014.

Note: Sections 45 and 46 of this chapter as enacted were consequential and transitional provisions. They were omitted from the 1996 Ed.

FIRST SCHEDULE – CONTROLLED DRUGS

(Section 2)

PART I - CLASS A DRUGS

1.

(a) Acetorphine.

(m) Betameprodine.

(b) Acetylmethadol.

(n) Betamethadol.

(c) Allylprodine.

(o) Betaproline.

(d) Alphacetylmethadol.

(p) Bezitramide.

(e) Alphameprodine.

(q) Bufotenine.

(f) Alphamethadol.

(r) Cannabinol, except where contained in cannabis or cannabis resin.

(g) Alphaproline.

(s) Cannabinol derivatives.

(h) 2-amino-1-(2, dimethoxy-4- tetrahydro-6,-methyl) phenylpropane.

(t) Clonitazene.

(i) Anileridine.

(u) Coca leaf

(j) Benzethidine.

(v) Cocaine.

(k) Benzylmorphine (3-benzylmorphine).

(w) Codoxime.

(l) Betacetylmethadol.

(x) Desomorphine.

- (y) Dextromoramide.
- (z) Diamorphine.
- (aa) Diampromide.
- (ab) Diethylthiambutene.
- (ac) Difenoxin.
- (ad) Dihydromorphine.
- (add) Dihydrodesoxymorphine, commonly known as Krokodil.
- (ae) Dimenoxadole.
- (af) Dimepheptanol
- (ag) 3-(1,2-dimethylheptyl)-1- hydroxyl-7, 8, 9, 10 6,9-trimethyl-6-Hdibenzo [b, d] pyran.
- (ah) Dimethylthiambutene.
- (ai) Dioxaphetyl butyrate.
- (aj) Diphenoxylate.
- (ak) Dipipanone
- (al) Drotebanol.
- (am) Ecgonine, and any derivative of ecgonine which is convertible to ecgonine or to cocaine
- (an) Ethylmethylthiambutene.
- (ao) Etonneitazene.
- (ap) Etorphine.
- (aq) Etoxeridine.
- (ar) Fentanyl.
- (as) Furethidine.
- (at) Hydrocodone.
- (au) Hydromorphinol.
- (av) Hydromorphone.
- (aw) Hydroxypethidine.
- (ax) Isomethadone.
- (ay) Ketobemidone.
- (az) Levomethorphan.
- (ba) Levomoramide.
- (bb) Levophenacymorphan.
- (bc) Levorphanol.
- (bd) Lysergamide.
- (be) Lysergide and other N-alkyl derivatives of lysergamide.
- (bf) Mescaline.
- (bg) Metazocine.
- (bh) Methadone.
- (bi) Methadyl acetate.
- (bj) Methyldesorphine
- (bk) Methyldihydromorphine. (16-methyldidydromorphine).
- (bl) Metopon.
- (bm) Morpheridine.
- (bn) Morphine.
- (bo) Morphine methobromide, morphine N-oxide and other pentavalent nitrogen morphine derivatives.
- (bp) Myrophine.
- (bq) Nicomorphine 3,6- dinicotinoylmorphine.
- (br) Noracymethadol.
- (bs) Norlevorphanol.
- (bt) Normethadone.
- (bu) Normorphine.

(bv) Norpipanone.	(cn) Racemethorphan.
(bw) Opium, whether raw, or medicinal.	(co) Racemoramide..
(bx) Oxycodone.	(cp) Racemorphan
(by) Oxymorphone.	(cq) Thebacon.
(bz) Parahexyl (3-hexyl-1 hydroxyl-7, 8, 9, 10 tetrahydro-6, 6, 9- trimethyl 6H-dibenzo	(cr) Thebaine.
(ca) Pethidine.	(cs) Trimeperidine.
(cb) Phenadoxone.	(ct) 4-Cyano-2-dimethylamino-4 4-diphenylbutane.
(cc) Phenampromide.	(cu) 4-Cyano-1-methyl-4-phenyl piperidine.
(cd) Phenazocine.	(cv) N,N-Dimethyltryptamine
(ce) Phenomorphan.	(cw) N, N-Dimethyltryptamine.
(cg) Piminodine.	(cx) 2,5-Dimethoxy-, 4-dimethyl phenethylamine
(ch) Piritramide.	(cy) 1-Hydroxy-3-pentyl-6a,7,10, 10a-tetra hydro-6,6 9- trimethyl-6-H-dibenzo [b,d] pyran.
(ci) Poppy-straw and concentrate of poppy straw.	(cz) 1-Methyl-4-phenylpiperidine-4 carboxylic acid.
(cj) Proheptazine.	(da) 2-Methyl-3-morpholino-1, 1-diphenylpropane- carboxylic acid.
(ck) Properidine (1-methyl-4 phenyl-piperidine-4-carboxylic acid isopropyl ester).	(db) 4-Phenylpiperidine-4-carboxylic acid ethyl ester
(cl) Psilocin.	
(cm) Psilocybine.	

Paragraph 1 of Part I amended by s 2(g)(i) of Act 3 of 2014 with effect from 14 April 2014.

- Any stereoisomeric form of a substance for the time being specified in paragraph 1 not being dextromethorphan or dextrorphan.
- 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 II of this Schedule.
- Any salt of a substance for the time being specified in any of paragraphs 1 to 3.
- Any preparation or other products containing a substance or product for the time being specified in any of paragraphs 1 to 4.
- 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 of this Schedule.

PART II - CLASS B DRUGS

1.

- | | |
|---------------------------------------|---------------------------|
| (a) Acetyldihydrocodeine. | (i) Methylphenidate. |
| (b) Amphetamine. | (j) Nicocodine. |
| (c) Cannabis and cannabis resin. | (k) Nicodicodine. |
| (d) Codeine. | (l) Norcodeine. |
| (e) Dexamphetamine. | (m) Phenmetrazine. |
| (f) Dihydrocodeine. | (n) Pholcodine. |
| (g) Ethylmorphine (3-ethyl-morphine). | (o) Propiram. |
| (h) Methylamphetamine. | (p) Buprenorphine. |
| (hA) Methylenedioxymethamphetamine. | (q) Tetrahydrocannabinol. |

Paragraph 1 of Part II amended by s 2(f) and s 2(g) of Act 3 of 2014 with effect from 14 April 2014.

2. Any stereoisomeric form of a substance for the time being specified in paragraph 1.

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

4. Any preparation or other product containing a substance or product for the time being specified in any of paragraphs 1 to 3, not being a preparation falling within paragraph 6 of Part 1 of this Schedule.

PART III - CLASS C DRUGS

1.

- | | |
|-----------------------|----------------------|
| (a) Benzphetamine | (e) Methaqualone. |
| (b) Chlorphentermine. | (f) Phendimetrazine. |
| (c) Flunitrazepam. | (g) Pipradrol. |
| (d) Maphentermine. | |

2. Any stereoisomeric form of a substance for the time being specified in paragraph 1.

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

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

PART IV - MEANING OF CERTAIN EXPRESSIONS USED IN THIS SCHEDULE

For the purpose of this Schedule -

"Cannabinol derivatives" means, except where contained in cannabis or cannabis resin, 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;

"preparation" means a mixture, solid or liquid, containing a controlled drug;

"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.

SECOND SCHEDULE

(Section 29)

Second Schedule repealed and substituted by s 2(g) of Act 4 of 2012 with effect from 6 August 2012; amended by s 2(h) of Act 3 of 2014 with effect from 14 April 2014.

Penalties

1	2	3	4	5	6	7
Section creating offence	General nature of offence	Punishment in respect of Class A drug	Punishment in respect of Class B drug	Punishment in respect of Class C drug	Punishment for unauthorised import, export or manufacture of or traffic in controlled drug	Punishment for offences not involving a controlled drug or irrespective of nature of controlled drug
3 read with 26(1)(a)	unauthorised import or export of a controlled drug				life imprisonment;	
4 read with 26(1)(a)	unauthorised manufacture of a controlled drug				life imprisonment;	
5 read with 26(1)(a)	unauthorised traffic in a controlled drug except as otherwise provided in this Schedule	maximum 60 years and SCR500,000; minimum 20 years for the first offence and 25 years for second or subsequent offence;	maximum 50 years and SCR500,000; minimum 16 years for the first offence and 18 years for second or subsequent offence;	maximum 40 years and SCR500,000; minimum 16 years for the first offence and 18 years for second or subsequent offence;		
5 read with 26(1)(a)	unauthorised traffic in a controlled drug where the quantity				life imprisonment;	

	is more than 250 grammes					
6(a) read with 26(1)(a)	unauthorised possession of a controlled drug except as otherwise provided in this Schedule					maximum 15 years and SCR300,000; subject to section 29(3), minimum 8 years for second or subsequent offence;
6(a) read with 26(1)(a)	unauthorised possession of not more than 25 grammes of cannabis or cannabis resin					maximum 10 years; subject to 29(3), minimum 3 years for the third offence of possession of not more than 25 grammes of cannabis or cannabis resin or for the first such offence subsequent to - (i) 2 previous offence of smoking, consuming or self administering of cannabis or cannabis resin; (ii) any other offence under this Act;
6(b) read with 26(1)(a)	unauthorised smoking, consuming or self-administering a controlled drug except as					maximum 15 years and SCR300,000; subject to section 29(3), minimum 5 years for first offence and 10 years for second or subsequent offence;

	otherwise provided in this Schedule					
6(b) read with 26(1)(a)	unauthorised smoking , consuming or self-administering of cannabis or cannabis resin					<p>maximum 10 years; subject to 29(3), minimum 3 years for the third offence of unauthorised smoking, consuming or self-administering of cannabis or cannabis resin or for the first such offence subsequent to -</p> <p>(i) 2 previous offences of possession of not more than 25 grammes of cannabis or cannabis resin; or</p> <p>(ii) any other offence under this Act:</p>
7(1) read with 26(1)(a)	possession of pipe, syringe, utensil, apparatus or other article intended for smoking, consumption or administration of controlled drug					<p>maximum 5 years and SCR100,000; minimum 3 years for first offence and 5 years for second or subsequent offence;</p>
7(2) read with 26(1)(a)	possession of instrument, utensil, apparatus or equipment intended for the manufacture					<p>maximum 30 years and SCR500,000; minimum 10 years;</p>

	of controlled drug					
8 read with 26(1)(a)	cultivation of cannabis, a plant of species papaver somniferum or genus erythroxyton from which cocaine may be extracted or prepared or any plant specified by the Minister in a Notice in the <i>Gazette</i>					maximum 30 years and SCR500,000; minimum 10 years;
8A read with 26(1)(a)	production, manufacture, import, export, transport, offer, sell, distribute, deliver in any terms whatsoever, consign, dispatch, purchase or hold precursors, equipment or materials					maximum 30 years and SCR500,000; minimum 10 years
8AA read with 26(1)(a)	non compliance of maintaining register or not notifying suspected order or purchase of precursors				maximum 5 years and SCR200,000	

8AB read with 26(1)(a)	non compliance with requirement of inspection				maximum 5 years and SCR200,000	
8B read with 26(1)(a)	cultivation by enhanced indoor means a plant of the genus cannabis, a plant of the species papaver somniferum, a plant of the genus erythrocydon from which cocaine may be extracted or prepared or any other plant specified by the Minister in a notice in the <i>Gazette</i>					maximum 30 years and SCR500,000; minimum 10 years;
8C read with 26(1)(a)	driving a motor powered vehicle, steering a motor-powered marine craft or fly a motor-powered aircraft while under the influence of a controlled drug					maximum 10 years and SCR100,000; minimum 2 years;
9 read with 26(1)(a)	owner, occupier or person in charge of or concerned with the management of land, place or	maximum 30 years and SCR500,000; minimum 8 years;	maximum 10 years and SCR200,000; minimum 5 years;	maximum 10 years and SCR200,000; minimum 5 years;		

	premises who permits or suffers the land, place or premises to be used for certain activities in relation to controlled drug					
10 read with 26(1)(a)	aiding, abetting counselling, inciting or procuring the commission of an offence outside Seychelles which is punishable under a corresponding law or doing an act preparatory to, or in furtherance of, an act outside Seychelles which is an offence under this Act					maximum 10 years and SCR200,000;
11 read with 26(1)(a)	assisting another to retain the benefit of drug trafficking.					maximum 10 years and SCR200,000;
11A(1) read with 26(1)(a)	forging or altering of prescription or possession thereof	maximum 5 years and SCR200,000	maximum 5 years and SCR200,000	maximum 5 years and SCR200,000		
11A(2) read with 26(1)(a)	Obtaining or attempting to obtain a controlled	maximum 5 years and SCR200,000	maximum 5 years and SCR200,000	maximum 5 years and SCR200,000		

	drug by means of forged or altered prescription					
24A(4) read with 26(1)(a)	failure by an authorised person who is not a police officer or NDEA agent to deliver controlled drug to a police officer or NDEA agent					maximum 5 years and SCR200,000;
26(1)(b)	obstructing a person in exercise of his functions					maximum 5 years and SCR100,000;
26(1)(c)	making false declaration or giving false information					maximum 5 years and SCR100,000;
*26(1)(d)	disposing of any property or asset contrary to an order of forfeiture or order of prohibition or failing to comply with an order of the court					maximum 30 years and SCR500,000
26(1)(e)	failing to provide specimen of urine or blood					maximum 5 years and SCR100,000;

26(1)(f)	failing to provide information, return or other document					maximum 5 years and SCR100,000;
26(1)(g)	contravening any regulations					maximum 5 years and SCR100,000;

*Note: Reference to s 26(1)(d) in this Schedule was repealed by s 66 of Act 5 of 2006 (as amended by Act 18 of 2008) but subsequently re-inserted by Act 4 of 2012.

THIRD SCHEDULE

(Section 2)

Third Schedule inserted by s 2(i) of Act 3 of 2014 with effect from 14 April 2014.

Precursors

1. Acetic anhydride acetone
 2. N-Acetylanthranilic acid
 3. Anthranilic acid
 4. Ephedrine ethyl ether
 5. Ergometrine hydrochloric acid
 6. Ergotamine methyl ethyl ketone
 7. Isosafrole piperidine
 8. Lysergic acid
 9. Sulphuric acid
 10. 3,4-Methylenedioxyphenyl-2-propanone toluene
 11. Norephedrine
 12. Phenylacetic acid
 13. 1-Phenyl-2-propanone
 14. Piperonal
 15. Potassium permanganate
 16. Pseudoephedrine
 17. Safrole
 18. The salt of a substance in this Schedule whenever the existence of such salt is possible.
-

LAWS OF SEYCHELLES

CHAPTER 133

MISUSE OF DRUGS ACT

SUBSIDIARY LEGISLATION: SECTION 44(1): MISUSE OF DRUGS REGULATIONS

(22 May 1995)

SI. 53 of 1995

Citation

1. These Regulations may be cited as the Misuse of Drugs Regulations.

Republic bound by Regulations

2. These Regulations shall bind the Republic.

Interpretation

3. In these Regulations -

"holder of a licence" means the holder of a licence under the Licences Act;

"international convention" means in an international convention relating to dealings in a controlled drug;

"medical services" means medical services as a medical practitioner, dentist or pharmacist;

"specified controlled drug" means a controlled drug in terms of the Act as specified in the Schedule to these Regulations.

Importation of controlled drugs

4. (1) The Government, acting through its Ministry responsible for health, may import in raw form the specified controlled drugs morphine and cocaine and in finished dosage form any specified controlled drug and shall cause to be kept, in respect of each consignment of a specified controlled drug so imported, a register which shall specify -

(a) the date of the arrival of the consignment in Seychelles;

(b) the form and quantity of the specified controlled drug and the trade name or brand, if any, under which the specified controlled drug is imported;

(c) the country from which the drug was imported;

(d) the name of the exporter in that country, and

(e) where an export certificate is required under an international convention for the export of the drug, the particulars of that certificate.

(2) The Division of the Ministry responsible for the provision of veterinary services or a person who is the holder of a licence to provide medical services or services as a veterinary surgeon may -

(a) with and subject to the prior written authorisation of the Ministry responsible for health -

(i) in the case of the holder of a licence to provide medical services, import in finished dosage form a controlled drug specified in Part 1 of the Schedule, other than diphenoxylate;

(ii) in the case of the Division of the Ministry responsible for the provision of veterinary services or the holder of a licence to provide services as a veterinary surgeon, import in finished dosage form the specified controlled drugs fentanyl and pethidine;

(b) import in finished dosage -

(i) in the case of the holder of a licence to provide medical services, the specified controlled drug diphenoxylate when contained in a medical preparation, a controlled drug specified in Part II of the Schedule, other than amphetamine, and a controlled drug specified in Part III of the Schedule;

(ii) in the case of the Division of the Ministry responsible for the provision of veterinary services or the holder of a licence to provide services as a veterinary surgeon, the specified controlled drug codeine, and

shall keep a register in a form acceptable to the Ministry responsible for health which shall give the particulars referred to in subregulation (1)(a) to (e).

(3) A person entering Seychelles may -

(a) where the person is in possession of a certificate for a controlled drug specified in Part 1 of the Schedule, other than fentanyl or cocaine, or the controlled drug amphetamine issued to that person by a medical practitioner in the country where the person comes from, import for the person's own consumption the controlled drug specified in the certificate in finished dosage form in an amount which constitutes a normal course of treatment;

(b) import for the person's own consumption in finished dosage form an amount which constitutes a normal course of treatment of a medical preparation containing the controlled drug diphenoxylate, a controlled drug specified in Part II of the Schedule, other than amphetamine or a controlled drug specified in Part III of the Schedule.

(4) A body or person authorised to import a specified controlled drug under subregulation (2) shall -

(a) keep the specified controlled drug in a safe and secure place satisfactory to the Ministry responsible for health;

(b) in the case of a controlled drug specified in Part I or Part III of the Schedule -

(i) retain each prescription or a copy thereof issued by the body or person or against which a specified controlled drug was dispensed or sold;

(ii) at the end of every three months beginning with the date of the coming into force of these Regulations or, where a person commences to provide medical services or services as a veterinary surgeon after the coming into force of these Regulations, beginning with the date the person commences to provide the services, submit to the Ministry responsible for health a return in respect of the controlled drug in a form acceptable to that Ministry;

(c) account to the Ministry responsible for health of the disposal, use or otherwise of a specified controlled drug imported under these Regulations and forthwith advise the Ministry responsible for health and the police of any loss, disappearance or theft of a specified controlled drug which was in the possession of that body or person.

Manufacture of controlled drugs

5. (1) The Government may manufacture a specified controlled drug and any mixture or preparation containing a specified controlled drug.

(2) The Government shall cause to be kept proper record of any specified controlled drug or any mixture or preparation containing a specified controlled drug which it manufactures.

(3) A person who is employed by the Government for the purposes of subregulation (1) shall, while manufacturing a specified controlled drug or a mixture or preparation containing a specified controlled drug at the premises used by the Government for the purpose of manufacturing medicinal preparations, be presumed, subject to proof to the contrary, to be manufacturing the drug, mixture or preparation for the Government.

Sale or dispensing of controlled drugs

6. (1) The Government or a person employed by the Government for this purpose in the course of that employment or a person licensed to provide medical services or services as a veterinary surgeon in the course of the provision of these services may, where a specified controlled drug has been imported, purchased or, in the case of Government, manufactured in accordance with these Regulations, sell or dispense in finished dosage form -

(a) to a person who is authorised to sell or dispense specified controlled drugs under this regulation, a specified controlled drug;

(b) to a person, other than a person referred to in paragraph (a), who -

(i) in the case of a specified controlled drug referred to in Part I or Part III of the Schedule, is in possession of a prescription for the drug issued by a medical practitioner or dentist registered as such under the laws of

Seychelles or a veterinary surgeon licensed to provide services as such under the laws of Seychelles or employed by the Government;

(ii) in the case of any other specified controlled drug, other than amphetamine, requires the drug for treatment.

(2) A body or person authorised to sell or dispense a controlled drug under this regulation shall, in the case of a controlled drug specified in Part I or Part III of the Schedule, maintain a register in which shall be entered the name and address of the person to whom the drug was sold, the name including the brand or trade name and quantity of the drug sold, the date and time when the drug was sold.

(3) Except in the case of an emergency, a person authorised to sell or dispense a specified controlled drug under this regulation shall not sell or dispense a specified controlled drug, other than the specified controlled drug codeine, pholcodine or dihydrocodeine when contained in a medical preparation, to a person who is less than 18 years.

Possession

7. (1) A person employed by the Ministry responsible for health as a medical practitioner, dentist, pharmacist or veterinary surgeon or to perform a function which requires the person to handle or have in the person's custody at any time in the course of the person's employment a specified controlled drug or a substance containing a specified controlled drug may, in the course of the performance of the person's employment and for and in connection with the person's functions, have in the person's possession a specified controlled drug.

(2) A person who is the holder of a licence to provide medical services or services as a veterinary surgeon may, for or in connection with the provision of those services and where the specified controlled drug has been imported or purchased in accordance with these Regulations, have in that person's possession a specified controlled drug in finished dosage form.

(3) A person who is undergoing medical treatment may -

(a) where another person who -

(i) is licensed to provide medical services; or

(ii) is employed by the Ministry responsible for health and is authorised in the course of that person's employment to prescribe or dispense specified controlled drugs,

has prescribed or dispensed a controlled drug specified in Part I or Part III of the Schedule or the controlled drug amphetamine to the first-mentioned person;

(b) where a controlled drug specified in Part I or Part III of the Schedule or the controlled drug amphetamine has been lawfully prescribed and dispensed to the first-mentioned person in connection with the treatment of that person in a place outside Seychelles,

have in that person's possession an amount, which constitutes a normal course of treatment, of a controlled drug, in finished dosage form, specified in Part I or Part III of the Schedule or the controlled drug amphetamine.

(4) A person may, for medicinal purposes, have in the person's possession an amount which constitutes a normal course of treatment of a controlled drug, in finished dosage form, specified in Part II of the Schedule.

Inspection

8. A person authorised by the Ministry responsible for health or a police officer may at all reasonable time call for, inspect and take copies or extract from the register kept under regulation 4(2) or regulation 6(2) or of any prescription or copy thereof retained under regulation 4(4).

SCHEDULE - SPECIFIED CONTROLLED DRUGS

(reg 2)

PART I - CLASS A DRUGS

- (a) Cocaine
- (b) Diphenoxylate
- (c) Fentanyl
- (d) Methadone
- (e) Morphine
- (f) Pethidine
- (g) Phenazocine

PART II - CLASS B DRUGS

- (h) Amphetamine
- (i) Codeine
- (j) Dihydrocodine
- (k) Pholcodeine

PART III - CLASS C DRUGS

- (l) Flunitrazepam
-

SUBSIDIARY LEGISLATION: SECTION 44(1)(C): MISUSE OF DRUGS (CENTRE MONT ROYAL) REGULATIONS

(9 April 2001)

SI. 9 of 2001

PART 1 - PRELIMINARY

Citation

1. These Regulations may be cited as the Misuse of Drugs (Centre Mont Royal) Regulations, 2001.

Declaration of approved institution

2. It is hereby declared that the Centre Mont Royal established by regulation 4 is an approved institution for the treatment and rehabilitation of substance dependant persons.

Interpretation

3. In these Regulations -

“Centre” means the Centre Mont Royal;

“member” means a member of the Board.

PART 2 - THE CENTRE

Establishment of the Board

4. There shall be an institution called the Centre Mont Royal which will provide treatment and rehabilitation of alcohol and drug dependant persons.

Objects of the Centre

5. The objects of the Centre shall be -

(a) to provide treatment for alcohol and drug dependant persons in order to help them effectively manage their condition so as to be able to live a healthy and productive life;

(b) to equip such persons with the knowledge and skills to help them adopt a responsible and socially acceptable life style;

(c) to collaborate with other agencies to facilitate the reintegration of such persons into the society.

Composition of the Board

6. (1) The Centre shall be administered by a Board consisting of the Director of the Centre

and such number of members as the Minister may appoint from amongst persons who, in the opinion of the Minister have been actively involved in the promotion of education against drug and alcohol abuse and in the rehabilitation and welfare of alcohol and drug dependant persons.

(2) The members of the Board shall hold office for such term and on such conditions as the Minister may specify in the instrument of appointment and shall be eligible for re-appointment at the end of a term of office.

(3) The Minister shall appoint one of the members of the Board to be Chairperson of the Board.

Functions of the Board

7. (1) The functions of the Board are -

(a) to formulate policies and strategies for the development and achievement of the objects of the Centre;

(b) to approve the programme of action and budget of the Centre;

(c) to co-operate with public or private organisations having objects in common with the Centre so as to develop a sense of shared responsibility and a common vision;

(d) to supervise the management of the assets of the Centre;

(e) to obtain support and resources of the Centre;

(f) to advise Government on all matters concerning the rehabilitation of substance dependant persons.

(2) For furtherance of the functions of the Board, the Board may -

(a) receive grants or donations;

(b) raise funds in Seychelles or elsewhere.

Meetings of the Board

8. (1) The Board shall meet at such place as the Chairperson thinks fit -

(a) not less than once every three months;

(b) at such other times as the Chairperson or not less than four other members may request.

(2) The Chairperson, or in the absence of the Chairperson any other member elected by the Board for the purpose shall preside at any meeting of the Board.

(3) One half of the number of members of the Board shall constitute a quorum for any meeting of the Board.

(4) Subject to this Act, the Board shall regulate its own proceedings.

PART 3 - STAFF OF THE CENTRE

Director

9. The Director of the Centre shall be the Chief Executive Officer of the Centre and -
- (a) shall be responsible for the execution of the policy of the Centre and for the control and management of the day to day business of the Centre;
 - (b) may subject to the direction of the Board sign documents on behalf of the Centre;
 - (c) may subject to the direction of the Board delegate any of the functions of the Director to any other employee of the Centre;
 - (d) may issue sick leave or attendance certificates to persons undergoing treatment at the Centre;
 - (e) may issue progress reports of persons undergoing treatment at the Centre with their consent.

Staff of the Centre

10. (1) The Centre may employ such persons as are necessary for the Centre to perform its functions on such terms and conditions as it deems fit.
- (2) Every employee of the Centre shall be under the administrative control of the Director.
- (3) The members of the Board and the employees of the Centre shall be deemed to be employed in the public service for purposes of sections 91 to 96 of the Penal Code.
- (4) Subject to subsection (3), the Centre, members of the Board and the employees of the Centre shall not be liable civilly or criminally in respect of any loss arising from the exercise in good faith by any of them of the functions of the Centre.

PART 4 - FINANCE

Funds of the Board

11. (1) The Funds of the Centre shall consist of -
- (a) moneys appropriated by an Appropriation Act paid to the Centre;
 - (b) moneys paid to the Centre by way of fees;
 - (c) moneys received or raised under regulation 7(2).
- (2) The funds of the Centre shall be applied for the management and functioning of the

Centre and for any purposes in connection with or for the furtherance of, the objects of the Centre.

Accounts and audit

12. (1) The Centre shall keep proper accounts and records of the funds of the Centre and shall prepare for each financial year a statement of accounts.

(2) The accounts and statements of accounts of the Centre shall be audited by an auditor qualified for appointment as an auditor under the Companies Act and appointed by the Board.

(3) As soon as the accounts of the Centre have been audited under subsection (1), the Centre shall send to the Minister a copy of the statement of accounts together with a copy of any report made by the auditor on the statement or on the accounts of the Centre.

(4) The financial year of the Centre shall be a period of 12 months ending on the 31st December of any year but the first financial year of the Centre shall end on the 31st December next following the date of commencement of these regulations.
