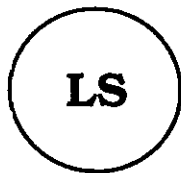


COMMONWEALTH OF DOMINICA

ACT NO. 3 OF 1993

I assent

C.A. SEIGNORET
President

18th June, 1993.

AN ACT TO AMEND THE DRUGS (PREVENTION OF MIS-
USE) ACT, CHAP. 40:07.

(Gazetted 24th June, 1993.)

BE IT ENACTED by the Parliament of the Commonwealth of
Dominica as follows:

1. This Act may be cited as the –

Short title.

**DRUGS (PREVENTION OF MISUSE) (AMENDMENT)
ACT 1993.**2. In this Act the Drugs (Prevention of Misuse) Act is referred
to as “the Act”. Interpretation.
Ch. 40:07.

Amendment of
section 2 of the Act.

3. Section 2 of the Act is amended by deleting the definition of “drug trafficking offence” in subsection (1) thereof and substituting therefor the following –

““drug trafficking offence” means –

- (a) an offence under section 5(3), 6(2) or (3) or 7(2) (where subsection (4) applies) or 7(3);
- (b) an offence under section 17;
- (c) an offence under section 21;
- Ch. 69:01. (d) an offence under section 30 or section 38 of the Customs (Control and Management) Act;
- (e) a conspiracy to commit any of the offences in paragraphs (a) to (d) above;
- (f) an offence of attempting to commit any of those offences in paragraphs (a) to (d);
- (g) an offence of inciting another to commit any of those offences in paragraphs (a) to (d);
- (h) aiding, abetting, counselling or procuring the commission of those offences in paragraphs (a) to (d);”.

Amendment of
section 5 of the Act.

4. Section 5 of the Act is amended by repealing subsection (3) thereof and substituting therefor the following –

“(3) Any person who imports or exports controlled drugs contrary to subsection (1) is guilty of an offence and is liable to the penalties laid down in section 16.”.

Amendment of
section 16 of the Act.

5. Section 16 of the Act is amended –

- (a) by repealing subsections (1) and (2) thereof and substituting therefor the following –

"Drug
trafficking.

16. (1) A person who commits a drug trafficking offence or the offence of being in possession of a controlled drug for the purpose of drug trafficking in any school, prison or military premises is liable –

(a) on summary conviction –

- (i) to a fine of one hundred and fifty thousand dollars or where there is evidence of the street value of the controlled drug, three times the street value of the controlled drug whichever is greater; and
- (ii) to imprisonment for a term which may extend to fifteen years but which shall not be less than seven years; or

(b) upon conviction on indictment –

- (i) to a fine of two hundred thousand dollars or where there is evidence of the street value of the controlled drug, three times the value of the controlled drug whichever is the greater; and
- (ii) to imprisonment for life.

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

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

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

- (b) in subsection (4) thereof by deleting the words "In subsections (2) and (3)" and substituting therefor the words "In subsections (1) and (3)".

Amendment of
section 25 of the Act.

6. Section 25 of the Act is amended –

- (a) by deleting the marginal note thereof and substituting the following –

"Power of arrest and protection of informants.";

- (b) by inserting the following subsections immediately after subsection (3) thereof –

"(4) In any proceedings under this Act, no witness shall be obliged –

- (a) to disclose the name and address of any informer who has given information with respect to any matter relating to or leading to an arrest or to any proceedings under this Act; or

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

(5) Where any book, document or paper which is in evidence or liable to inspection in any proceedings under this Act contains 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."

Amendment of
section 27 of the Act.

7. Section 27 of the Act is amended in subsection (5) thereof by deleting the words "section 62" and substituting therefor the words "section 68".

8. Section 28 of the Act is amended –

Amendment of
section 28 of the
Act.

- (a) by inserting in subsection (1) thereof the words “Subject to subsection (6),” immediately before the opening words “Where a person is convicted”;
- (b) by inserting in subsection (2) thereof the words “but subject to subsection (6),” immediately after the words “Without prejudice to subsection (1),”;
- (c) by inserting immediately after subsection (5) thereof the following subsections –

“(6) Notwithstanding the provisions of subsections (1), (2) and (3), a court before which a person is convicted for an offence under this Act, shall not order anything to be forfeited where a person claiming to be the owner or otherwise interested in it applies to be heard by the Court, unless an opportunity has been given to him to show cause why the order should not be made.

(7) A forfeiture order made under this section by any court or, on an appeal from a subordinate court, by the Court of Appeal, shall not take effect until the expiration of the ordinary time within which an appeal in the matter of the proceedings in which the order was made may be lodged (whether by giving notice of appeal or by applying for a case to be stated for the opinion of the Court) or, where such an appeal is duly lodged, until the appeal is finally decided or abandoned.

(8) If, upon the application of a person prejudiced by a forfeiture order made by the Court under this Act, the Court is satisfied that it is just to revoke such order, the Court may upon such terms and conditions, (if any) as it deems fit, revoke the order.

(9) Any application to the Court under subsection (8) for the revocation of an order shall be made within six weeks of the date of the order; however,

where the applicant satisfies the Court that, in the special circumstances of the case it was not reasonably practicable for him to make such application within the period of six weeks aforesaid, the time (whether expired or not) for making the application may be extended by the Court as it thinks just.”.

Amendment of the Fourth Schedule to the Act.

9. The Fourth Schedule to the Act is amended by deleting the following items –

"Section 5(3)	Importation or exportation of controlled drug	(a) Summary	3 years and \$100,000	3 years and \$100,000	2 years and \$75,000
		(b) On Indictment	14 years and \$200,000	14 years and \$200,000	14 years and \$200,000
Section 6(2)	Production or being concerned in the production of a controlled drug	(a) Summary	3 years and \$100,000	3 years and \$100,000	2 years and \$75,000
		(b) On Indictment	14 years and \$200,000	14 years and \$200,000	14 years and \$200,000
Section 6(3)	Supplying or offering to supply a controlled drug or being concerned in the doing of either activity by another	(a) Summary	3 years and \$100,000	3 years and \$100,000	2 years and \$75,000
		(b) On Indictment	14 years and \$200,000	14 years and \$200,000	10 years and \$200,000

Section 7(3) Having possession of a controlled drug with intent to supply it to another	(a) Summary	3 years and \$100,000	3 years and \$100,000	2 years and \$75,000
	(b) On Indictment	14 years and \$200,000	14 years and \$200,000	10 years and \$200,000".

Passed in the House of Assembly this 12th day of May, 1993.

M. ALBERTHA JNO. BAPTISTE
Clerk of the House of Assembly.

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