

SAINT LUCIA

No. 8 of 1993.

AN ACT to amend the Drugs (Prevention of Misuse) Act, 1988 1/ (No. 22 of 1988).

[May, 1993.]

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

1. Short Title.

This Act may be cited as the Drugs (Prevention of Misuse) (Amendment) Act, 1993 and shall be read as one with the Drugs (Prevention of Misuse) Act, 1988 hereinafter referred to as the principal Act).

[22 of 1988]

2. Principal Act amended. (Insertion of Fifth Schedule.)

The principal Act is amended by inserting as the Fifth Schedule, the Schedule to this Act.

3. Section 2 amended. (Interpretation.)

Section 2 of the principal Act is amended by inserting in their appropriate alphabetical position the following definitions —
"authorised officer"

means a person duly authorised by the Minister;

" child"

means a person under the age of fourteen years;

" controlled delivery"

means the techniques of allowing controlled drugs to pass out of, through or into the territory of one or more countries with the knowledge and under the supervision of the Minister or other authorised officer with a view to

identifying persons involved in the commission of an offence under this Act;

"convention"

means a convention mentioned in the Fifth Schedule, and any convention or final protocol amending, supplementing or in substitution for the same;

"young person"

means a person who is fourteen years of age or upwards and under the age of eighteen years."

4. Section 6 amended.

Section 6 of the principal Act is hereby amended as follows —

(a) by substituting for the fullstop in paragraph (b) the word " ; or" and

(b) by inserting immediately after paragraph (b) the following paragraph (c):

"(c) to trade in material and equipment for the production or manufacture of a controlled drug."

5. Section 6A inserted.

The principal Act is amended by inserting the following after section 6 :

6A. "Handling of controlled drug.

(1) A person commits an offence if he knowingly handles a controlled drug which is intended, whether by him or some other person, for supply in contravention of section 5 (1).

(2) A person handles a controlled drug for the purposes of this section if —

(a) he is in any way concerned in carrying, removing, harbouring, keeping or concealing the controlled drug or anything containing the controlled drug; or

(b) he deals in any manner with the controlled drug."

6. Principal Act amended. (Insertion of sections 10A—10G.)

The principal Act is amended by inserting the following after section 10 —

10A. "Possession of a controlled drug on or near school premises.

(1) Subject to any regulations under section 12, it shall not be lawful for a person to have a controlled drug in his possession in or within a radius of one hundred yards of any school premises.

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

(3) Subject to section 30, it is an offence for a person to have a controlled drug in his possession in or within a radius of one hundred yards of any school premises, which is intended, whether by him or some other person for supply in contravention of section 6 (1).

(4) For the purposes of subsection (3), a person found in possession of a controlled drug in contravention of subsection (1) is deemed to have the controlled drug for the purpose of supplying the same to another unless the contrary is proved; the burden of proof being on the accused.

(5) In this section, "school premises" means any nursery school, primary or secondary school, technical institution, training centre, teachers' college, university or any other educational institution for children or young persons and includes buildings, playing fields or other premises established or maintained by such institutions for the benefit of its pupils or students whether or not such buildings, playing fields or other premises are within the curtilage of the institution.

10B.— Employment, hire or use of children and young persons in drug trade.

(1) It shall be unlawful for any person to knowingly and intentionally —

(a) employ, hire, use, persuade, induce, entice or coerce a child or young person to contravene any provision of this Act ;

(b) employ, hire, use, persuade, induce, entice, or coerce a child or young person to assist in avoiding detection or apprehension for any offence under this Act ;

(c) receive a controlled drug from a child or young person in contravention of any provision of this Act.

(2) Subject to section 30, any person who contravenes subsection (1) is guilty of an offence under this Act.

10C. Supply of controlled drug to child or young person.

Subject to section 30, any person who contravenes section 10B (1) by knowingly supplying a controlled drug to a child or young person in contravention of section 6 (1) is guilty of an offence under this Act.

10D. Controlled drugs in transit.

(1) No controlled drug may be brought into Saint Lucia in transit unless —

(a) in the course of transit from a country from which it may lawfully be exported to another country into which it may lawfully be imported ; and

(b) except where it comes from a country not a party to a Convention, and it is accompanied by a valid and subsisting export authorisation or diversion certificate, as the case may be.

(2) Where a controlled drug in transit is accompanied by an export authorisation or diversion certificate and the Comptroller has reasonable grounds for believing that the authorisation or certificate is false or has been obtained by fraud or wilful misrepresentation of a material particular, he may seize that drug and detain it until he is satisfied that the authorisation or certificate is valid or has not been obtained by fraud or misrepresentation of a material particular.

(3) Where a controlled drug in transit is not accompanied by an export authorisation or diversion certificate because it comes from a country not a party to a Convention, and the Comptroller has reasonable grounds for believing that drug is being conveyed in an unlawful manner or for an unlawful purpose or is in the course of transit for the purpose of being imported into another country contrary to the laws of that country, he may seize and detain that drug.

(4) Where a controlled drug brought into Saint Lucia in transit is landed or trans-shipped in Saint Lucia, it shall remain under the control of the Comptroller and shall be moved only under the authority and in accordance with the conditions of a removal licence.

(5) Nothing in this section applies to a controlled drug in transit by post or in transit by air if the aircraft passes over Saint Lucia without landing or to such quantities of controlled drugs as may bona fide reasonably form part of the medical stores of any ship or aircraft.

(6) A person who contravenes any of the provisions of subsection (1) is guilty of an offence under this Act.

10E .— Removal licences.

(1) No person may

(a) remove a controlled drug from the conveyance by which it is brought into Saint Lucia in transit; or

(b) in any way move a controlled drug in Saint Lucia at any time after it is removed from the conveyance by which it was brought into Saint Lucia in transit,

except under the authority of a licence in the prescribed form granted by the Minister.

(2) The Minister shall not issue a removal licence unless there is produced to him a valid and subsisting export authorisation or diversion certificate relating to the controlled drug in respect of which the removal licence is sought.

(3) Subsection (2) does not apply where the drug in respect of which a removal licence is sought comes from a country not a party to a convention.

(4) This section does not apply to controlled drugs in transit by post.

(5) A person who contravenes any of the provisions of subsection (1) is guilty of an offence under this Act.

10F .— Tampering with controlled drugs in transit.

A person who —

(a) causes any controlled drug in transit to be subjected to any process which would alter its nature ; or

(b) wilfully opens or breaks any package containing a controlled drug in transit without the instructions or otherwise than in accordance with the directions of the Minister, is guilty of an offence under this Act.

10G. Diversion of controlled drugs in transit.

(1) No person may, except under the authority of a diversion certificate in the prescribed form issued by the Minister, cause or procure any controlled drug brought into Saint Lucia in transit to be diverted to any destination other than that to which it was originally consigned.

(2) In the case of a controlled drug in transit accompanied by an export authorisation or diversion certificate issued by a competent authority in a country outside Saint Lucia, the country stated in that authorisation or certificate to be the country of destination shall be deemed to be the country of the original destination of that drug.

(3) The Minister may not issue a diversion certificate under subsection (1) unless there is produced to him a valid and subsisting import certificate issued by the competent authority in the country to which it is proposed to divert the drug or, if that country is not a party to a convention, he is satisfied that the drug is to be sent in a lawful manner and for a proper purpose.

(4) A diversion certificate shall be issued in duplicate ; one copy thereof shall accompany the controlled drug when it is exported from Saint Lucia and the other copy shall be sent by or on behalf of the Minister direct to the competent authority in the country to which the drug is diverted.

(5) Upon the issue of a diversion certificate, the export authorisation or diversion certificate, if any, accompanying the controlled drug on its arrival in Saint Lucia shall be detained by the Minister and returned to the authority issuing it together with a notification of the name of the country to which the drug is diverted.

(6) A person who contravenes any of the provisions of subsection (1) is guilty of an offence under this Act.

(7) In this section "competent authority" means such authority, person or department as the Minister may, by Order published in the Gazette, designate as the competent authority for the purposes of this section. "

7. Insertion of section 11A.

The principal Act is amended by inserting the following after section 11 —

11A. "Prohibition of supply etc. of articles for administering or preparing controlled drugs.

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

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

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

(4) For the purposes of this section, any administration of a controlled drug is unlawful except —

(a) the administration by any person of a controlled drug to another in circumstances where the administration of the drug is not unlawful under section 6 (1) ; or

(b) the administration by any person of a controlled drug to himself in circumstances where having the controlled drug in his possession is not unlawful under section 7 (1).

(5) In this section, references to administration by any person of a controlled drug to himself include a reference to his administering it to himself with the assistance of another."

8. Section 17 amended. (Assisting another to retain the benefit of drug trafficking.)

Section 17 of the principal Act is amended —

(i) by renumbering subsections (2) to (4) as sub-sections (3) to (5) ; and

(ii) by inserting the following as subsection (2) —

"(2)Where a person discloses to a member of the Police Force a suspicion or belief that any funds or investments are derived from or used in connection with drug trafficking or any matter on which a suspicion or belief is based —

(a) the disclosure is not a breach of any restriction upon the disclosure of information imposed by contract ;

(b) if he does any act in contravention of sub-section (1) and the disclosure relates to the arrangement concerned, he does not commit an offence against this section if the disclosure is made in accordance with this paragraph, that is to say,

(i) it is made before he does the act concerned, being an act done with the consent of the member of the Police Force ; or

(ii) it is made after he does the act, but is made on his own initiative and as soon as it is reasonable for him to make it. "

9. Insertion of section 24A.

The principal Act is amended by inserting the following after section 24 —
24A "Controlled delivery.

The Minister may enter into agreements or make arrangements with any State for the controlled delivery of controlled drugs with a view to identifying persons involved in offences under this Act and to institute legal proceedings against such persons."

10. Section 28 amended. (Forfeiture.)

Section 28 of the principal Act is amended —

(i) in subsection (1), by inserting the words "Subject to subsection (6)" before the word "Where" occurring in line one ; and by substituting the word "where" for the word "Where" in the said line ; and

(ii) by inserting the following as subsection (6) —

"(6) Before making an order for forfeiture under this section the Court shall summon any person who is the owner or agent of any article, vehicle or other means of conveyance to show cause why the article, ship, vessel boat, aircraft, vehicle, or other means of conveyance should not be forfeited. "

11. Insertion of section 30A.

The principal Act is amended by inserting the following after section 30 —

30A .— " Presumptions of possession and knowledge of controlled drug.

(1) Without prejudice to any other provision of this Act —

(a) Where it is proved that a person imported anything containing a controlled drug it shall be presumed until the contrary is proved, that such person knew that such drug was contained in such thing ;

(b) where it is proved that a person had in his possession or custody or under his control anything containing a controlled drug, it shall be presumed until the contrary is proved, that such person was in possession of such drug ;

(c) where it is proved that a person supplied to any other person anything containing a controlled drug, it shall be presumed, until the contrary is proved that such first-mentioned person knew that such drug was contained in such thing ;

(d) where it is proved that a person handled, within the meaning of section 6A, anything containing a controlled drug, it shall be presumed, until the contrary is proved, that such person knew that such drug was contained in such thing ;

(e) where it is proved that a person had in his possession or custody or under his control —

(i) any document of title relating to anything containing a controlled drug; or

(ii) any other document or written or printed matter including a dock warrant, warehouse warrant or order, baggage receipt or baggage claim, relating to anything containing a controlled drug, it shall be presumed, until the contrary is proved, that such person was in possession of such drug.

(2) The presumptions provided by this section shall not be rebutted by proof that a person never had physical possession of the controlled drug.

(3) The presumptions provided by this section shall not be construed as requiring the prosecution to prove any fact which, by virtue of any other provision of this Act, the prosecution does not have to prove.

30B.— Presumptions relating to places used for drug misuse.

(1) Whenever any pipe, equipment or apparatus fit and intended for use in connection with the misuse of a controlled drug is found in any premises or place it shall be presumed, until the contrary is proved, that such premises or place is used for the purpose of misusing a controlled drug therein.

(2) Any person who is in or is found escaping from any premises or place used for the purpose of misusing a controlled drug shall, until the contrary is proved, be presumed to have been misusing a controlled drug therein. "

12. New section 34A inserted.

The principal Act is amended by inserting the following after section 34 —
34A. "Time for proceedings.

Notwithstanding anything to the contrary in any other law no investigation or proceedings in respect of an offence, under this Act shall be subject to any limitation of time prescribed by law for the commencement of such investigation or proceedings."

13. Second Schedule amended.

The Second Schedule to the principal Act is amended —

(i) in Part I —

(a) by inserting in their appropriate alphabetical position the following —

Alfentanil

Difenoxin (1-(3-cyano-3, 3-diphenylpropyl-) 4-phenylpiperidine-4-carboxylic acid

Drotebanol (3, 4-dimethoxy-17-methylmor-phinan-6, 14-diol

Eticyclidine

Phencyclidine

Rolicyclidine

Sufentanil

Tenocyclidine

Tilidate

4-Bromo-2, 5-dimethoxy- -methylphenethylamine" ;

(b) by lettering paragraph 1 as 1

(a) and inserting the following thereto —

"(b) any compound (not being a compound for the time being specified in sub-paragraph (a) above) structurally derived from tryptamine or from a ringhydroxy trptamine by substitution at the nitrogen atom of the sidechain with one or more alkyl substituents but no other substituent ;

(c) any compound (not being methoxphenamine or a compound for the time being specified in sub-paragraph (a) above) structurally derived from phenethylamine, an N-alklphenethylamine, methylphenethylamine, an N-alkyl- -methylphenethylamine, -ethylphenethylamine, or an N-alkyl- -ethylphenethylamine by substitution in the ring to any extent with alkyl, alkoxy, alkylenedioxy or halide substituents, whether or not further substituted in the ring by one or more other univalent substituents."

(ii) in Part II —

(a) by inserting in their appropriate alphabetical positions the following:

Glutephimide

Lefetamine

Mecloqualone

Metahaqualone

Methylphenobarbitone

Nicodicodine (6-nicotinoyldihydrocodeine)

Pentazocine

Propiram " ;

(b) by relettering paragraph 1 as 1

(a) and inserting the following thereto :

(b) any 5,5 disubstituted barbituric acid."

(iii) in Part III, by inserting in their appropriate alphabetical positions the following —

Alprazolam	Halazepam
Bromazepam	Haloxazolam
Camazepam	Ktazolam
Chlordiazepoxide	Leoprazolam
Clobazam	Lorazepam

Clonazepam	Lormetazepam
Clorazepic acid	Mazindol
Clotiazepam	Medazepam
Cloxazolam	Meprobamate
Delorazepam	Methyprylone
Dextropropoxyphene	Nimetazepam
Diazepam	Nitrazepam
Diethylpropion	Nordazepam
Estazolam	Oxazepam
Ethchlorvynol	Oxazolam
Ethinamate	Phentermine
Ethyl loflazepate	Pinazepam
Fludiazepam	Prazepam
Flunitrazepam	Temazepam
Flurazepam	Tetrazepam
	Triazolam."

SCHEDULE

FIFTH SCHEDULE

(Sections 2, 10D, 10E, 10G)

1. The International Opium Convention [., The Hague Convention] signed at the Hague on 23rd January, 1912.
2. The International Opium Convention [., The Geneva Convention (No. 1)] signed at Geneva on 19th February, 1925.
3. The International Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs [., The Geneva Convention (No. 2)] signed at Geneva on 13th July, 1931.
4. The Protocol on Narcotic Drugs signed at Lake Success, New York, on 11th December, 1946.
5. The Single Convention on Narcotic Drugs signed at New York on 30th March, 1961.
6. The Convention on Psychotropic Substances signed at Vienna on 21st February, 1971.

7. The Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances signed at Vienna on 16th December, 1988.

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

W. ST. CLAIR-DANIEL

Speaker.

Passed in the Senate this 19th day of March, 1993.

CHARMAINE GARDNER,

Deputy President