

No. 1 of 1993. *Misuse of Drugs (Amendment) Act, 1993.*

ANTIGUA
AND
BARBUDA

L.S.

I Assent,

Wilfred Jacobs,
Governor-General.

17th February, 1993.

ANTIGUA AND BARBUDA

No. 1 of 1993

AN ACT to amend the Misuse of Drugs Act, 1973 (No. 21 of 1973).

[18th February, 1993]

ENACTED by the Parliament of Antigua and Barbuda as follows —

1. This Act may be cited as the Misuse of Drugs (Amendment) Act, 1993. **Short title.**

2. The Misuse of Drugs Act, 1973 in this Act referred to as the principal Act is amended in section 2 by inserting the following at their appropriate places— **Amendment of section 2 of Act 21 of 1973.**

"drug trafficking" means doing or being concerned in any of the following, whether in Antigua and Barbuda or elsewhere —

- (a) producing or supplying a controlled drug where the production or supply contravenes section 5 (1) or a corresponding law;
- (b) transporting or storing a controlled drug where possession of the drug contravenes section 6 (1) or a corresponding law;

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- (c) importing or exporting a controlled drug where the importation and exportation is prohibited by section 4 (1) or a corresponding law; and
- (d) entering into or being otherwise concerned in an arrangement whereby —
 - (i) the retention or control by or on behalf of another of the proceeds of drug trafficking by him is facilitated; or
 - (ii) the proceeds of drug trafficking by another are used to secure that funds are placed at his disposal or are used for his benefit to acquire property by way of investment;

"drug trafficking offence" means any of the following —

- (a) an offence under section 5 (2) or (3) or 6 (2) or (3);
- (b) an offence under the customs law in connection with a prohibition or a restriction on importation or exportation having effect by virtue of section 4;
- (c) an offence under section **19A**;
- (d) conspiracy to commit any of the offences in paragraphs (a) to (c) above;
- (e) an offence of attempting to commit any of those offences;
- (f) an offence of ~~inciting~~ **inciting** another to commit any of those offences in paragraphs (a) to (e); and
- (g) aiding, abetting, counselling or procuring the commission of those offences in paragraphs (a) to (e);".

Insertion of section
19A and 19B.

3. The principal Act is amended by inserting after section 19 the following —

"Drug trafficking.

19A. A person who is guilty of the offence of drug trafficking or of being in possession of a controlled drug for the purpose of drug trafficking is liable —

- (a) on summary conviction —
- (i) to a fine of two hundred and fifty thousand dollars or where there is evidence of a street value of the controlled drug, three times the street value of the controlled drug whichever is the greater; and
 - (ii) to imprisonment for a term of ten years but shall not be less than five years; or
- (b) upon conviction on indictment to imprisonment for life.

(2) A person who is guilty of the offence of drug 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 twenty-five thousand dollars and to imprisonment for two years; or
- (b) upon conviction on indictment to a fine of fifty thousand dollars and to imprisonment for two years.

(3) Subject to any regulation under section 9 for the time being in force a person found in possession of a controlled drug in any school premises is deemed to have the controlled drug for the purposes of drug trafficking, unless the contrary is proved, the burden of proof being on the accused.

(4) In subsection (3) "school premises" includes buildings, playing fields or other premises established and maintained by a school for the benefit of its pupils whether or not such buildings, playing fields or other premises are within the curtilage of the school.

Assisting another
to retain the benefit
of drug trafficking.

19B.(1) If a person enters into or otherwise concerned in an arrangement whereby —

- (a) the retention or control by or on behalf of another (call him "A") of the proceeds of drug trafficking by "A" is facilitated (whether by concealment, removal from jurisdiction, transfer to nominees or otherwise);
- (b) the proceeds of drug trafficking by "A"—
 - (i) are used to secure that funds are placed at "A"s disposal; or
 - (ii) are used for "A"s benefit to acquire property by way of investment;

knowing or suspecting or having reasonable grounds to suspect that "A" is a person who carries on or has carried on drug trafficking, he is guilty of an offence.

(2) In this section, references to the proceeds of drug trafficking by any person include a reference to any property which directly or indirectly represented in his hands the proceeds of drug trafficking by him.

(3) In proceedings against a person for an offence under this section, it is a defence to prove —

- (a) that he did not know or suspect that the arrangement related to the proceeds of drug trafficking by "A"; or
- (b) that he did not know or suspect that by the arrangement the retention or control by or on behalf of "A" of those proceeds was facilitated or, as the case may be, that by the arrangement those proceeds were used as mentioned in subsection (1).

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(4) A person guilty of an offence under this section is liable —

- (a) on summary conviction to a ~~fine of twenty-five thousand dollars~~ and to imprisonment for two years; or
- (b) on conviction and indictment to a fine of fifty thousand dollars and to ~~imprisonment~~ for ~~fifteen~~ years."

4. The Schedule to the principal Act is repealed and replaced by the following —

Repeal and replacement of second schedule.

SECOND SCHEDULE (section 26)

Prosecution and Punishment of Offences

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Section Creating Offences	General Nature of Offence	Model of Prosecution	Punishment			
			Class A drug involved	Class B drug involved	Class C drug involved	General
Section 5(2)	Production or being concerned in the production of a controlled drug.	(a) Summary	3 years and not less than \$50,000 nor exceeding \$500,000	3 years and not less than \$50,000 nor exceeding \$500,000	3 years and not less than \$50,000 nor exceeding \$500,000	
		(b) On indictment	14 years and fine of \$200,000	14 years and fine of \$200,000	14 years and fine of \$300,000	
Section 5(3)	Supplying or offering to supply a controlled drug or being con- cerned in the doing of either activity by another.	(a) Summary	3 years and not less than \$50,000 nor exceeding \$500,000	3 years and not less than \$50,000 nor exceeding \$500,000	2 years and not less than \$50,000 nor exceeding \$500,000	
		On indictment	14 years and fine of \$200,000	14 years and fine of \$200,000	14 years and fine of \$200,000	

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SECOND SCHEDULE (section 26)

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Section Creating Offences	General Nature of Offence	Model of Prosecution	Punishment			
			Class A drug involved	Class B drug involved	Class C drug involved	General
Section 6(2)	Having possession of a controlled drug.	(a) Summary	2 years and not less than \$5,000 nor exceeding \$200,000	2 years and not less than \$5,000 nor exceeding \$200,000	2 years and not less than \$5,000 nor exceeding \$200,000	
		(b) On indictment	7 years and not less than \$5,000 nor exceeding \$200,000	7 years and not less than \$5,000 nor exceeding \$200,000	4 years and not less than \$5,000 nor exceeding \$200,000.	
Section 6(3)	Having possession of a controlled drug with intent to supply it to another.	(a) Summary	3 years and not less than \$50,000 nor exceeding \$300,000	3 years and not less than \$50,000 nor exceeding \$300,000	3 years and not less than \$50,000 nor exceeding \$300,000	
		(b) On indictment	14 years and a fine	14 years and a fine	10 years and a fine	

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SECOND SCHEDULE (section 26)

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Section Creating Offences	General Nature of Offence	Model of Prosecution	Punishment			
			Class A drug involved	Class B drug involved	Class C drug involved	General
Section 8(2)	Cultivation of Cannabis Plant	(a) Summary (b) On indictment				3 years and not less than \$50,000 nor more than \$500,000
Section 10	Being the Owner, occupier or concerned in the management of premises and permitting or suffering certain activities to take place there.	(a) Summary (b) On indictment	3 years and not less than \$50,000 nor exceeding \$500,000	3 years and not less than \$50,000 nor exceeding \$500,000	3 years and not less than \$50,000 nor exceeding \$500,000	14 years and a fine
Section 11(1)	Offences relating to opium	(a) Summary	14 years and a fine.	14 years and a fine.	10 years and a fine.	3 years and not less than \$50,000

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SECOND SCHEDULE (section 26)

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Section Creating Offences	General Nature of Offence	Model of Prosecution	Punishment			
			Class A drug involved	Class B drug involved	Class C drug involved	General
		(b)On indictment				14 years and a fine
Section 12(1)	Having possession of a controlled drug in certain circumstances with intent to sell or transfer it to another.	(a)Summary	5 years and not less than \$50,000 nor exceeding \$500,000	3 years and not less than \$50,000 nor exceeding \$500,000	3 years and not less than \$50,000 nor exceeding \$500,000	
		(b)On indictment	14 years and a fine	14 years and a fine	10 years and a fine	
Section 15(2)	Contravention of directions relating to safe custody of controlled drugs.	(a)Summary				3 years and \$50,000
		(b)On indictment				3 years and a fine.

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Prosecution and Punishment of Offences

Section Creating Offences	General Nature of Offence	Model of Prosecution	Punishment			
			Class A drug involved	Class B drug involved	Class C drug involved	General
Section 16(5)	Contravention of direction prohibiting practitioner, etc. from prescribing, supplying, etc. controlled drugs.	(a) Summary	3 years and not less than \$25,000 nor exceeding \$300,000	3 years and not less than \$25,000 nor exceeding \$300,000	3 years and not less than \$25,000 nor exceeding \$300,000	
		(b) On indictment	14 years and a fine of \$200,000	14 years and a fine of \$200,000	10 years and a fine of \$200,000	
Section 17(3)	Contravention of direction prohibiting practitioner, etc. from prescribing, supplying, etc. controlled drugs.	(a) Summary	3 years and not less than \$50,000 nor exceeding \$300,000	3 years and not less than \$50,000 nor exceeding \$300,000	3 years and not less than \$50,000 nor exceeding \$300,000	

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SECOND SCHEDULE (section 26)

Prosecution and Punishment of Offences

Section Creating Offences	General Nature of Offence	Model of Prosecution	Punishment			
			Class A drug involved	Class B drug involved	Class C drug involved	General
		(b) On indictment	14 years and a fine	14 years and a fine	10 years and a fine.	
Section 18(3)	Failure to comply with notice requiring information relating to prescribing, supplying, etc., of drugs.	Summary				\$20,000
Section 18(4)	Giving false information in purported compliance with notice requiring information relating to prescribing, supply, etc., of drugs.	(a) Summary				2 years and a fine
		(b) On indictment				5 years and fine of \$300,00

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Prosecution and Punishment of Offences

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Section Creating Offences	General Nature of Offence	Model of Prosecution	Punishment			
			Class A drug involved	Class B drug involved	Class C drug involved	General
Section 19(1)	Contravention of regulations (other than regulations relating to addicts).	(a) Summary				3 years and a fine.
		(b) On indictment				3 years and a fine.
Section 19(2)	Contravention of terms of li- cence or other authority.	(a) Summary				5 years and \$100,000
		(b) On indictment				10 years and a fine.
Section 19(3)	Giving false information in purported compliance with ob- ligation to give information imposed under or by virtue of regulations.	(a) Summary				3 years and \$100,000

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Prosecution and Punishment of Offences

Section Creating Offences	General Nature of Offence	Model of Prosecution	Punishment			
			Class A drug involved	Class B drug involved	Class C drug involved	General
		(b) On indictment				10 years and a fine.
Section 19(4)	Giving false information, or producing document, etc., containing false statement, etc., for purposes of obtaining issue or renewal of a licence or other authority.	(a) Summary				5 years and \$100,000
		(b) On indictment				14 years and a fine.
Section 21(2)	Assisting in or inducing commission outside the State of an offence punishable under a corresponding law.	(a) Summary				3 years and \$100,000

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Section Creating Offences	General Nature of Offence	Model of Prosecution	Punishment				
			Class A drug involved	Class B drug involved	Class C drug involved	General	
		(h) On indictment				14 years and a fine.	ANTIGUA AND BARBUDA 14 Misuse of Drugs (Amendment Act, 1993.
Section 24 (4)	Obstructing exercise of powers of search etc., failing to stop, preventing the person in charge from stopping, leaving a stopped vehicle, etc., or concealing books, drugs, etc.	(a) Summary				5 years and \$100,000	
		(b) On indictment				14 years and a fine.	
Section 29 (4)	Re-entry or attempted re-entry into the State of person on whom a removal order has been effected.	(a) Summary				5 years and \$100,000	
		(b) On indictment				3 years and a fine of \$100,000"	

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Passed the House of Representatives this
21st day of January, 1993.

Passed the Senate this 9th day
of February, 1993.

C.L. Murray,
Speaker.

B.T. Carrott,
President.

L.A. Dowe,
Clerk to the House of Representatives.

L.A. Dowe,
Clerk to the Senate.

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