

ANTIGUA AND BARBUDA



MISUSE OF DRUGS (AMENDMENT) ACT, 2018

No. 3 of 2018

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ANTIGUA AND BARBUDA
MISUSE OF DRUGS (AMENDMENT) ACT, 2018
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[L.S.]



I Assent,

Rodney Williams,
Governor-General.

1st March, 2018.

ANTIGUA AND BARBUDA

THE MISUSE OF DRUGS (AMENDMENT) ACT, 2018

No. 3 of 2018

AN ACT to amend the Misuse of Drugs Act, Cap. 283.

ENACTED by the Parliament of Antigua and Barbuda as follows:

1. Short title

This Act may be cited as the Misuse of Drugs (Amendment) Act, 2018.

2. Interpretation

In this Act, “principal Act” means the Misuse of Drugs Act, Cap. 283.

3. Amendment of section 2 – Interpretation

The principal Act is amended in section 2 by inserting in its correct alphabetical position the following —

“household” means a house and its occupants regarded as a unit;

“property” means land and house on which the person lawfully resides;

“public place”:

- (a) means any—
 - (i) structure;
 - (ii) facility;
 - (iii) space used for gathering by individuals;
 - (iv) other place,

for the use of, or open to, the public, or any other similar space accessible to the public;

- (b) includes—
 - (i) bars (drinking places), restaurants and clubs;
 - (ii) tourist establishments, except for such open areas forming part of a tourist establishment, as may be specifically identified by the management of the establishment as areas where smoking is permitted;
 - (iii) Government offices; and
 - (iv) other places or buildings of all types, accessible to the public;
- (c) does not include privately occupied residences not used for commercial purposes;

“violation ticket” means a ticket issued pursuant to section 13A to a person in possession of 15 grams or less of Cannabis or Cannabis resin contrary to the Act;

4. Insertion of sections 6A, 6B, 6C and 6D in the principal Act

The principal Act is amended by inserting after section 6, sections 6A, 6B, 6C and 6D to read as follows –

“6A. Exemption from criminal liability

(1) Notwithstanding section 6, a person who is in possession of a maximum of 15 grams of the drug Cannabis or Cannabis resin is not guilty of an offence.

(2) Subject to section 6B no penalty capable of being imposed under this Act shall apply where the controlled drug is Cannabis or Cannabis resin of a quantity of 15 grams or less.

6B. Restriction on possession

(1) Notwithstanding section 6A, a person who –

- (a) smokes any part of the plant genus Cannabis in a public place; or
- (b) being the owner, occupier or concerned with the management of premises that falls within the definition of public place knowingly permits another to sell, supply or smoke Cannabis or Cannabis resin,

commits an offence.

(2) A person who contravenes this section—

- (a) on the first occasion liable to a warning from the police;
- (b) on a second occasion shall be issued with a violation ticket of \$500.00 pursuant to section 13A and failing to pay the prescribed penalty, a case may be filed in the appropriate magistrate court relating to the non-payment of the penalty and the magistrate may order the person to perform community service for such period as the magistrate determines;
- (c) on a third or subsequent occasion be liable on summary conviction to a fine not exceeding \$1,500.

(3) A penalty imposed under subsection (2) shall not form a part of the criminal record of the person.

6C. Treatment and programmes for child offenders

(1) In this section, “child” means a person under the age of 18 years old.

(2) Where a person found in possession of Cannabis or Cannabis resin is a child, he shall be required to participate in a drug counseling programme approved by the Minister, and the child or his parent or guardian may be required to make such financial contribution to the programme as the Minister may determine.

6D. Application of proceeds

The Minister may, by order published in the *Gazette*, prescribe the penalty fees specified under this Act to be applied for the purpose of strengthening the capacity and programmes—

- (a) specified by the Minister responsible for Social Transformation for public education programmes to discourage the use of Cannabis by persons with a mental disorder, pregnant women, youth and other vulnerable groups; and
- (b) specified by the Minister responsible for Health for programmes to treat and rehabilitate persons suffering from drug-related illnesses.”

5. Amendment of section 8 – Restriction of cultivation of the plant genus Cannabis

Section 8 of the principal Act is amended—

- (a) by repealing section 8(1) and substituting therefor the following –

“8 (1) Subject to section 9, it shall not be lawful for a person to cultivate any plant of the genus Cannabis, except as provided in subsection (1A);”

- (b) by inserting a new subsection (1A) to read as follows—

8 “(1A) it shall be lawful for the head of a household, owner, lessee, tenant or other person having actual control of the property to cultivate not more than four plants of the genus Cannabis per household on his property.”

6. Insertion of Section 13A into the principal Act

The principal Act is amended by inserting after section 13 the following section —

“13A. Regulations for violation tickets

The Minister may make regulations to provide for the issue of violation tickets, and without limiting the generality of the foregoing, the regulations may provide for all or any of the following matters –

- (a) the type of offences for which a violation ticket may be issued;
- (b) the form of the violation ticket;
- (c) the fine to be stated on the violation ticket;
- (d) persons by whom the violation ticket may be issued;
- (e) the place or places where the fine stated on the violation ticket may be paid;
- (f) the time for paying such fines;

- (g) the penalty for failure to pay the fine within the time specified;
- (h) the procedure for bringing an offender before the court.”

7. Insertion of a new Section 39 into the principal Act

The principal Act is amended by inserting after section 38, a new section 39 to read as follows –

“39. Expungement of criminal records

Notwithstanding the provisions of the Criminal Records (Rehabilitation of Offenders) Act 2013, No. 19 of 2013, any notation on the criminal record of a person prior to the passing of this Act for conviction of offences involving the drug Cannabis or Cannabis resin in a quantity of 15 grams or less, shall be regarded as spent and expunged accordingly.”

Passed by the House of Representatives on
the 6th day of February, 2018.

Passed by the Senate on the 15th day of
February, 2018.

Gerald Watt Q.C.,
Speaker.

Alicia Williams Grant,
President.

Ramona Small,
Clerk to the House of Representatives.

Ramona Small,
Clerk to the Senate.